



**CITY OF SOUTH PASADENA
NATURAL RESOURCES AND ENVIRONMENTAL COMMISSION
SPECIAL MEETING AGENDA**

TUESDAY, November 22, 2016 7:00 p.m.
AMEDEE O. "DICK" RICHARDS, JR. COUNCIL CHAMBERS
1424 Mission Street, South Pasadena, CA 91030

Commissioners: Al Benzoni, Hailey Bugg, Kay Findley, William Kelly, Scott Kuhn, Stephen Leider,
Noah Puni, and Nancy Wilms
City Council Liaison: Council Member Robert S. Joe
Staff Liaison: Jennifer Shimmin

Roll Call

Approval of Minutes from Regular Meeting: September 27 and October 18, 2016.

PUBLIC COMMENTS AND SUGGESTIONS

Time reserved for those in attendance who wish to address the Commission. All attendees should be aware that the Commission may not discuss details or vote on non-agenda items. Your concerns may be referred to staff or placed on a future agenda. Note: public input will also be taken during all agenda items.

BUSINESS ITEMS

- 1) **Use of pesticides and fertilizers at City parks (Shimmin)** – Review information from Public Works.(15 minutes)
- 2) **Graywater (Benzoni)** - Discussion of sample language for an update of city municipal building code. (10 minutes)
- 3) **Tree Ordinance Review (Kelly)** – Further discuss potential recommended revisions to city tree ordinance. (15 minutes)
- 4) **Organic Waste Ordinance (Shimmin)** – Review of an ordinance being brought before Council on December 7th regarding organic waste diversion. (10 Minutes)
- 5) **Water Conservation Programs and Drought Update (Shimmin)** - City had a total water reduction of 24% for October 2016 versus 2013.
- 6) **December Meeting (Shimmin)** – Discuss December meeting date.

INFORMATION ONLY (No Discussion Required) (15 minutes)

- 7) **Urban Forest Update (Shimmin)**
- 8) **Upcoming Events** – Mayor’s State of the City Address, December 14th.

- CHAIR COMMUNICATIONS**
- COMMISSIONER COMMUNICATIONS**
- STAFF LIAISON COMMUNICATIONS**
- COUNCIL LIAISON COMMUNICATIONS**

ADJOURNMENT – Next Regular Meeting – December 27, 2016

STATE OF CALIFORNIA)
CITY OF SOUTH PASADENA)
COUNTY OF LOS ANGELES)

I declare under penalty of perjury, that I am an employee of the City of South Pasadena, and that I posted this Agenda on the bulletin board in the courtyard of the City Hall at 1414 Mission Street, South Pasadena on 11/16/16, as required by Law.

Date: November 16, 2016 Signature: 

**CITY OF SOUTH PASADENA
NATURAL RESOURCES AND ENVIRONMENTAL COMMISSION
MINUTES - September 27, 2016**

Roll Call – The meeting was called to order at 7:05p.m. Present were Commissioners: Chair William Kelly, Vice-Chair Scott Kuhn, Al Benzoni, Kay Findley, and Nancy Wilms. Commissioner Al Benzoni arrived at 7:33pm. Absent were Commissioners Stephen Leider and Noah Puni. Also present were Council Liaison Robert Joe (arrived at 7:42pm), and Staff Liaison Jenna Shimmin.

Minutes – Minutes from August 23, 2016 were approved with minor language updates from Chair Kelly (Benzoni, Kuhn 5-0; Absent: Leider and Puni).

Public Comments and Suggestions – None.

BUSINESS ITEMS

1. **Renewable Energy Council Report Presentation (Kelly)** – Chair Kelly gave a brief overview of how the Renewable Energy Council (REC) was formed, the timeline for the report it developed, and the key recommendations of the report. He then introduced Dan Snowden-Ifft, a REC council member, who gave a presentation regarding those recommendations. The recommendations included two solar projects, one at Wilson Reservoir and the other over the City Hall parking lots, an electric vehicle charging station at a public parking lot, update of energy efficiency audits, promotion of solar energy at the Clean Air Car Show, the addition of an energy storage battery at City Hall, and the creation of a Green Fund, which would consist of the money generated from the energy savings from all these measures.

Snowden-Ifft also discussed the savings, energy generation and cost of the solar projects. He then explained why the specific locations were selected, and the importance of connecting solar systems to the highest energy using locations. Also, these sites would give the community a firsthand look at what solar systems look like, in order to promote solar use in the community.

Staff Comments: The City is currently working on a Request for Proposal to get the site audits completed in order to assess where we can implement these recommendations, and their cost. The EV charging station project is under development, but is currently facing an issue with finding a company to do the infrastructure work. Staff plans to review and update the existing fleet policy in the next few months. Public Works staff is currently developing a Green Purchasing Policy. Staff is currently working with the San Gabriel Valley Council of Governments to get efficiency audits done of all facilities not addressed in the recommendations, including available rebates.

Dan Snowden-Ifft: Discussed the financial incentives and loan/financing opportunities available currently.

Kuhn: Asked whether the City would own the system or if a third party would. Snowden-Ifft responded that the way the REC designed its recommendations, the City would own the system.

2. **Tree Removal Appeal (Courdy)**- Kristine Courdy, the Public Works Operation Manager, gave a brief background on the tree removal appeal, including a timeline and outcome as it currently stands per the staff report.

Present to represent Hill Dr. Properties, LLC was Alain Romero (Manager) and Miguel Diaz. Mr. Romero gave background on the property in question. He stated they were told that the property at 1701 Hill Dr. was a “shovel ready” project, per the property listing and interaction with the selling agent. They were under the impression that all permits and conditions had been disclosed, and explained that they were not made aware of special tree removal procedures when they obtained their building and grading permits.

Wilms: Asked Courdy for clarification on how new developers would find out about special notes or conditions on existing permits/projects.

Courdy: explained that it would be in all of the paperwork associated with the property as it is public record.

Benzoni: pointed out a typographical error on the letter from the developer’s landscaper which was erroneously dated 2014. Also clarified with the developer that they aren’t contesting the quantity of trees or that the removal was found to be “unintentional”; which they are not contesting. He later clarified that it is the additional “penalty” trees, and their cost, that the developer is contesting; which it is.

Findley: Asked if the site had a tree removal plan, and if so, did the developer follow it?

Courdy: The plan was acknowledged by the Planning Commission, and it was used to create a tree removal condition on the permit.

Developers: explained they followed the removal plan, but weren’t aware they needed to apply for separate permits.

Chair Kelly: Asked if the developer was given the resolution created by the Planning Commission? Staff wasn’t sure if the Building department included it in the packet.

Developer: Showed the Commission the documents they obtained (Building Permit Applications, receipts for payment, and the Grading Permit), as well as the sales flyer.

Kuhn: Asked staff to clarify how many trees were in need of replacement, 97 or 86? (86 with current removals, 97 if they remove the additional trees they’ve requested) Also, asked the developer if they have title insurance, and if they’ve spoken with the prior owner regarding the lack of disclosure of the tree permit issue?

Developer: responded that the prior owner is the structural engineer, and so the talks are sensitive because of the relationship.

Kuhn: Referenced two cases of a similar nature where a LA County court found that it is the buyer/developers responsibility to follow the law, and the buyer/developer could have accessed applicable laws/requirements.

General commission consensus that it is unfortunate that the developer may have been misled by the prior owner/seller, but it is ultimately their responsibility to do their due diligence when purchasing a property. Since no exemptions to the rules can be found, a motion was made by Scott Kuhn to deny the appeal on the grounds that the NREC does not have the authority to overturn the Public Works Department's finding, and was seconded by Kay Findley (5-0; Absent: Leider and Puni).

Courdy advised the developer that they can contest this decision with the City Council.

- 3. South Pasadena Polystyrene Ban (Shimmin)** – Jenna Shimmin reviewed the letter of support from the Chamber of Commerce, which is in support of a ban on Expanded Polystyrene (EPS), but not Polystyrene 6 (P6) as a whole. This is because of the comments made by the business community regarding the difficulty of finding alternatives to P6 products. The business community seems to be ok with the increased cost of EPS alternatives, but not the increased cost of P6 alternatives, if even available.

Shimmin also provided an update that the School District does not use EPS products in its facilities, and neither do any of its vendors. In fact it is actually working on a green purchasing policy for all items.

Chair Kelly: Asked that the language regarding "coolers" be expanded to clarify the coolers are encased. Also, asked Council Liaison Joe if the council gives direction on policy review and outreach status updates. Councilmember Joe replied that they can request that be part of the approval conditions and can also ask for regular updates from staff.

Wilms: Had some comments on the language, on page 1, section C. Also, advised staff to look at the staff cost to ensure the fine is relevant to the penalty.

Chair Kelly: Would like the ordinance to have a provision of review 18 month after adoption (6 months after businesses would need to be in full compliance). Would also like staff to present council with an outreach plan and a timeline with a mock flyer.

Council Liaison Joe: Advised staff to include the outreach plan and efforts in the staff report; and that regular updates will be provided to the council about the status of compliance, outreach efforts, as well EPS and P6 alternative research.

A motion was made to accept the ordinance language and recommend its adoption to the City Council by Al Benzoni, and was seconded by Scott Kuhn (5-0; Absent: Leider and Puni).

4. **Use of pesticides and fertilizers at City parks (Shimmin)** – The City Council has requested that the NREC look into what pesticides are used in City Parks and landscaping in order to make recommendations and ensure they are environmentally friendly.

Chair Kelly recommended making a subcommittee to research the City's use and possible alternatives. He and staff members (Jenna Shimmin and Amber Duran) will begin researching in order to bring more information back to the Commission.

5. **Graywater (Benzoni)** – Staff advised the Commission that Planning Department staff are in need of more clarification based on plans provided by Commissioner Benzoni at the August meeting. They are unsure if the intent is for installation at new properties, or renovation at existing properties. Staff to forward the email to Commissioner Benzoni for his comment.
6. **Water Conservation Programs and Drought Actions (Shimmin)** – The City had a total water reduction of 30% for August 2016 versus the same month in 2013. This gives the City a cumulative reduction of 27.2% since June 2015. The Commission reviewed the staff report that was approved by Council on September 21st that transitioned the City to Stage 1 of the water shortage supply plan, allowing for outdoor irrigation of landscapes three days a week versus the two days allowed under Stage 2. Staff advised the Commission that they would notify residents through the City website, Facebook, E-neighbors newsletter, a press release, and some sort of mailer. The Commission also thought it was important to advise residents of proper tree watering techniques in this messaging.
7. **October Meeting Date Change (Shimmin)** – Due to staffing issues, Jenna Shimmin asked the commissioners to consider cancelling the regular meeting, and holding a special meeting the week prior. A motion to cancel the October 25, 2016 meeting and hold a special meeting on October 18, 2016 was made by Nancy Wilms, and was seconded by Kay Findley (5-0; Absent: Leider and Puni).

INFORMATION ONLY

8. **Urban Forest Update** – Kristine Courdy provided an update that with the new fiscal year trimming has begun in the following grids: Grid 9 south east side of City, Grid 8B eastern side of the City. Staff is currently in the process of planning the remaining grid pruning, tree removals and replacements. With it being the end of the California Live Oak trimming season, all Oaks left untrimmed will be at the top of the list for next season. She reported that trees removed in May of this year will be the first to be replaced; and that staff is working with an Urban Horticulturist to ensure that the right tree is put in the right place. Once the planting plan map is completed it will be provided for review. Commissioner Findley inquired about palm tree removal procedures and Courdy responded that only dead trees are removed, and those requested by Southern California Edison that are interfering with power lines.

9. **Upcoming Events** – Fall Garden Workshop at Eddie Park on October 8th (co-hosted by South Pasadena Beautiful); 2016 Waterfest at Arcadia County Park (put on by USGVMWD) and the Dumpster and Donation Day (on Arroyo Dr south of Mission) on October 15th.

Chair Communications- Chair Kelly had no updates at this time.

Commissioner Communications-

Commissioner Wilms: Advised the Commission that she spoke with Anteneh Tesfaye regarding water quality and avoiding an incident similar to what occurred in Flint, Michigan. He advised her that South Pasadena’s water supply is regularly tested for copper and lead, and that pipe replacement is happening as needed.

Commissioner Findley: No updates at this time.

Commissioner Kuhn: No updates at this time.

Commissioner Benzoni: Asked for an update to his question regarding Cool Roofs. Staff advised the Commission that the Planning department has determined there is overlap between the Cultural Heritage Commission (CHC) and the Fire Department (FD). The CHC has jurisdiction over all dwellings that are on the Historic Inventory, and the FD requires fire resistant roof coverings. If the Commission is able to coordinate with both the CHC and the FD on an agreeable amendment, the Planning department will take it to Council for formal adoption. South Pasadena would make a finding that climatic condition exist to warrant the need for a cool roof requirement, similar to the finding described in the City of Los Angeles’ ordinance.

Council Liaison Communications- No updates at this time.

Staff Liaison Communications- Staff advised the Commission that the South Coast Air Quality Management District Advisory Group is having a meeting on September 28, at 10am, regarding the 2016 Air Quality Management Plan.

Adjournment – Commissioner Findley motioned to adjourn the meeting at 9:51 p.m., Commissioner Benzoni seconded. Ayes: All (Absent – Leider and Puni), Nays: None.

NEXT MEETING – The next meeting of the Natural Resources and Environmental Commission will be held on October 18, 2016 at 7:00 p.m.

William Kelly, Chair

**CITY OF SOUTH PASADENA
NATURAL RESOURCES AND ENVIRONMENTAL COMMISSION
MINUTES – October 18, 2016**

Roll Call – The meeting was called to order at 7:04p.m. Present were Commissioners: Chair William Kelly, Vice-Chair Scott Kuhn, Al Benzoni, Stephen Leider, Noah Puni (arrived 7:36pm) and Nancy Wilms. Commissioner Al Benzoni arrived at 7:33pm. Absent was Commissioner Kay Findley. Also present were Council Liaison Robert Joe (arrived at 7:25pm), Student Commission Hailey Bugg, and Staff Liaison Jenna Shimmin.

Opening- The new student commissioner, Hailey Bugg was introduced and welcomed by all.

Minutes – Approval of the minutes from September 27, 2016 were tabled until the November meeting.

Public Comments and Suggestions – None.

BUSINESS ITEMS

1. **Use of pesticides and fertilizers at City parks (Shimmin)** – Jenna Shimmin reviewed the 2014 Public Works staff report that details the pesticides and fertilizers used throughout the City, and comments from Amber Duran regarding the potential toxicity of certain product, with the level of risk differing with the frequency and time of application.

Chair Kelly: Review materials he sent out regarding various studies done in other areas, including Malibu, Irvine, Maryland County (Maryland), Reno (Nevada), and Connecticut. He also reviewed a media outlet, Beyond Pesticides, which gathers studies and other relative data regarding pesticide use and their effects. All these sources have very comprehensive information on policies.

One of them in particular, Tacoma Park, Maryland County, is similar to South Pasadena. Montgomery County, Maryland requires a sign to be displayed for 72 hours after spraying. The city of Portland, OR organized volunteer weed pulling events, as an alternative to chemical treatments. This required about 107 hours of volunteer time per park each year, and roughly \$3600/year per park in City costs.

Need to have the following questions answered by Public Works staff:

- Is this list correct? Are they all still used, if not what is used instead?
- How often are the pesticides used?
 - o How are they used?
 - o Where?
- How often are the fertilizers used?
 - o How are they used?
 - o Where?

- How often is the weed control used?
 - o How are they used?
 - o Where?
- Are the pest truly a problem? Or are these measures more preventative?
 - o Are we able to stop using any of the products currently in use?
- Is runoff a potential issue?
- Do we know what is used at the golf course? And the stables?

Commission agrees that we should look to promote more green practices where possible to ensure we don't cause undue concern. Will discuss further once Public Works responds.

2. **Gray Water (Benzoni)** – Commissioner Benzoni has replied to Craig Melicher regarding language clarification, and ordinance intent. Staff is awaiting his response to move forward. Benzoni also provided draft language developed in 2015. This includes the language for climatic allowance. The language also clarifies that the system doesn't have to be connected, the home owner can do this at their leisure. Hoping to bring this back for formal recommendation in January.

Reviewed other cities that are being proactive in their ordinances. Discussed "zero water" or "water neutrality" currently being developed in Santa Monica. It is having a hard time finding existing data to support and guide its ordinance. The City of San Francisco has a fairly aggressive gray water ordinance.

3. **Tree Ordinance review (Kelly)** – The Commissioners discussed issues they've seen around the city with trees being trimmed improperly, which are not a violation of the tree ordinance, but possibly should be. Asked staff to have someone from Public Works attend the next meeting to discuss this issue, along with a more in depth urban forest update. The following questions came of the discussion for Public Works:

- Who approves tree removal applications, and where is it codified?
- Should Building Permit applications come through the NREC when they relate to tree removal?
- Is there a new system for permits coming online?
- Can the tree removal permit applications be tracked in an Excel spreadsheet?
- Where is the list of heritage trees?
- Language of SPMC Chapter 36, Article VI needs to be cleaned up.
- Does the Police Department add the cost of damaged tree replacement (from car accidents, etc.) to the police report/claim for property damage?

4. **Water Conservation Programs and Drought Actions (Shimmin)** – The City had a total water reduction of 28% for September 2016 versus the same month in 2013. This gives the City a cumulative reduction of 27.2% since June 2015.

INFORMATION ONLY

5. **Urban Forest Update** – Jenna Shimmin provided an update that trimming has begun in the following grids: Grid 9 south east side of City, Grid 8B eastern side of the City. Staff is currently in the process of planning the remaining grid pruning, tree removals and replacements.
6. **Upcoming Events** – Meeting with Mayor and Restaurant Association regarding the Expanded Polystyrene Ordinance on October 28th; Arroyo Seco Ecosystem Restoration Feasibility Study Workshop on November 15th; and the Mayor’s State of the City Address on December 14th.

Chair Communications- Discussed the Expanded Polystyrene Ban and outreach efforts.

Commissioner Communications-

Commissioner Puni: Discussed the Health Expo held at Grassroots on October 1st; event was a success and widely attended by a large group.

Commissioner Benzoni, Leider, and Wilms: No updates at this time.

Commissioner Kuhn: Attended the Grassroots Health Expo, and echoed the success of the event.

Council Liaison Communications- Advised the commission that he will work with Public Works to put together a tour for the NREC of all parks and landscape areas, so the Commission can have a better idea of what the City’s landscape areas looks like.

Staff Liaison Communications- Recapped the landscape workshop, as well as the dumpster day event.

Adjournment – Commissioner Leider motioned to adjourn the meeting at 8:24 p.m., Commissioner Puni seconded. Ayes: All (Absent – Findley), Nays: None.

NEXT MEETING – The next meeting of the Natural Resources and Environmental Commission will be held on November 22, 2016 at 7:00 p.m.

William Kelly, Chair

Jennifer Shimmin

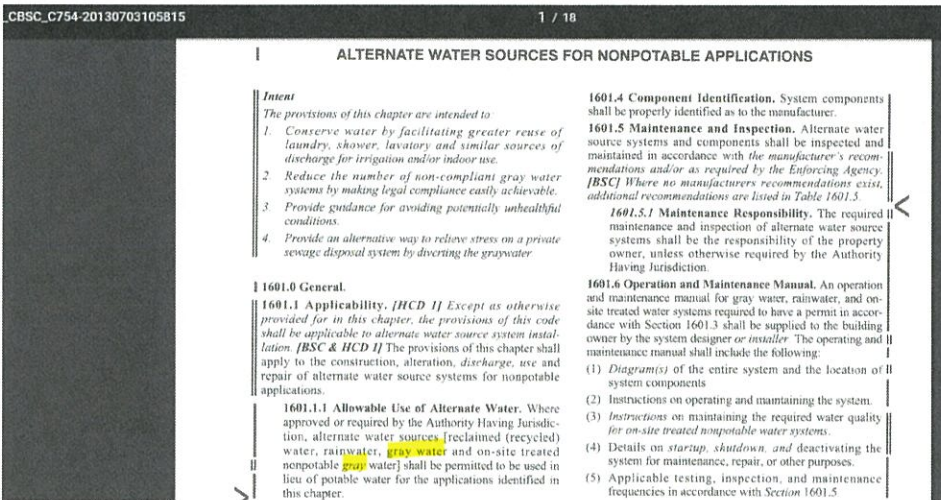
From: Al Benzoni <albenzoni@gmail.com>
Sent: Friday, November 04, 2016 9:49 PM
To: Jennifer Shimmin; Bill Kelly NREC
Subject: Re: Greywater Provisions

Jenna,

Please see NREC DRAFT exclusion language - which included an offset measure by required. I think this should be included to ensure exclusions will include a commensurate neutrality measure.

A graywater system shall not be required when it can be satisfactorily demonstrated to the Building Official that it would create undue hardship (add proper legalese) and/or can be replaced with an equivalent water savings measure.

A **completely** minor point - wonder if Craig has way to determine gray or grey water spelling. Please Original CA plumbing code (prior to 2016 code) used gray, and many places also use "grey". It appears the 2016 code (hilariously) put a single reference to "grey". Below is from 2013 code.



On Fri, Nov 4, 2016 at 9:38 PM, Al Benzoni <albenzoni@gmail.com> wrote:
Jenna,

I agree with all of Bill's statement's

Applicability

The issue of **what all to include under/applicability of** the graywater code is a debatable topic and it would be great to get other's input (Planning and Building, City Council, Public..) to help determine this, the two cases we did not include were: i) major remodel of single family or any (duplex up) residential houses, and ii) commercial (including office), iii) new residential dwelling of >2 (triplex & up). We did not find other CA City's that had existing ordinances written to cover both residential and commercial (less San Francisco 's for >40k ft^2 structures _ that apply to all residential and commercial).

Other Ca City's are addressing this water use expansion limitation for new construction through a *Water Neutrality Ordinance* whereby all new construction must not add a net burden to the City's water usage and the new proposed property would be required to pay fees to purchase watersaving devices implemented elsewhere in the City to offset their calculated water use. Perhaps the City Council should be made aware of this neutrality option/approach as part of an overview.

We/NREC were being less aggressive in not requiring implementation of the full graywater system and only required the stubout as we felt this was minimally imposing on the property owners and was what would be the most difficult work to later implement (post construction) and easier to have the ordinance pass as a first step in reuse of non-potable water. With that said, I **fully support Craig's draft** of this including the graywater system, let's see what other relevant bodies feedback is.

The inclusion of this graywater requirement in major remodels was something we discussed and wanted to include but were uncertain where to draw the line. We also discussed making the requirement apply to commercial properties as Mr. Michael Cacciotti posed this question to NREC. For commercial (and all) we felt if it would be useful to include and limit the amount of graywater plumbing fixtures required to be connected to the graywater system to only be sufficient to irrigate the landscape on the property and not more than this, as some say apartment complexes would generate much more graywater than the site's landscape could utilize. **Perhaps the ordinance should not discriminate between commercial and residential at all for new construction (?)** _ again it would useful to hear what other parties feedback regarding the applicability.

Limitations

NREC felt is was NOT necessary to require bathroom sinks as a required graywater plumbing fixture, and purposefully excluded them due to concerns that we felt residents use bathroom sinks primarily for teeth brushing and shaving, and thus the low volume of water would be fairly undesirable effluent and would require use of filtering more than say bath/shower and clothes washing. I think we should still NOT require bathroom sinks as a graywater fixture.

I recall the NREC draft included an exclusion option whereby the Director of Planning/Building (whomever the authorized City agent/commission) could grant a waiver for unique situations whereby it was highly impractical to implement a graywater system and the owner requests a waiver. (I am in Copenhagen right now and don't have the actual NREC draft available to review the actual language).

I think Nancy and Scott may also have some feedback and if you can share my feedback with them it would be useful.

Al



On Fri, Nov 4, 2016 at 11:25 AM, William Kelly <bandmk@earthlink.net> wrote:

This looks fine with me, but I'll defer to Al. I agree that the water should be used as long as its new construction. I have always favored including the greywater requirement for substantial remodels as well as new construction, so if it were me I'd add that. I see a lot of homes being torn down to the studs or substantially gutted and added onto and it seems it would be easy enough to add greywater plumbing in these cases as well and would provide more water conservation benefits to the city since remodels seem to greatly outnumber wholly new construction. My two cents. –Bill Kelly

From: Jennifer Shimmin [mailto:jshimmin@southpasadenaca.gov]

Sent: Friday, November 4, 2016 9:28 AM

To: Al Benzoni; William Kelly

Subject: Fwd: Greywater Provisions

Good Morning,

Please see Craig's email below regarding ordinance language. Please let me know your thoughts as soon as possible.

Is there anyone else I should ask input from? I'll email them separately.

Thank you,

Jenna Shimmin

Sr. Management Analyst

City of South Pasadena

Sent from my iPhone

Begin forwarded message:

From: Craig Melicher <craig.melicher@transtech.org>
Date: November 4, 2016 at 6:44:57 AM PDT
To: Jennifer Shimmin <jshimmin@southpasadenaca.gov>
Cc: "David Watkins (DWatkins@SouthPasadenaCA.gov)"
<DWatkins@SouthPasadenaCA.gov>
Subject: Greywater Provisions

Jenna,

As I was writing the greywater requirements (and since we going to add the requirement because they are very low risk), I came to the conclusion that if they get the greywater to the exterior of the building, there is really no reason not to use the water, so I rewrote the provision to actually require the use of greywater. If there is any pushback from anyone at the NREC, let me know right away. The language below is currently included in the draft ordinance that is scheduled for CC this month. I picked 60 gallons because that is approximately 4 laundry loads from an Energy Star approved clothes washer. I am not emotionally tied to this number or the 30 gallon number. If someone from the committee preferred a different number, no issue with me. If the

NREC would prefer just to stub out at the exterior of the dwelling, I can go back to that. Let me know.

SECTION 3. The City of South Pasadena Municipal Code is hereby amended by adding a new Article V (Greywater Provisions):

**ARTICLE V
GREYWATER PROVISIONS**

Greywater systems shall be installed in accordance with current Health Department and current City Plumbing Code requirements in all new one- and two-family dwellings. Such greywater systems shall be plumbed from all permitted residential greywater plumbing fixtures to at least one discharge location on an exterior wall that is capable of supplying a landscape irrigation system with nonpotable water.

Landscape areas, where provided, shall be capable of accepting, storing and percolating not less than 60 gallons of discharged greywater in any single 24-hour period of time and not less than 30 gallons within any 90-minute period of time, or storage tanks with a capacity of not less than 100 gallons shall be provided. Where storage tanks are provided, pumps or other means shall be provided to discharge the greywater into landscape areas at a rate not greater than the actual capacity of the landscape area.

At no time shall greywater be permitted to flow beyond the defined boundary of the landscape area or across a property line.

Exceptions: 1) Greywater systems shall not be required for individual lots that have a net irrigable landscape area of less than 200 square feet.

2) Greywater piping shall not be required from interior residential fixtures where the invert elevation of the greywater piping cannot terminate at least 6 inches above adjacent grade at an exterior wall without the use of a pump.

3) Use of greywater for irrigation of parkways in the public right of way shall be at the sole discretion of the Director of Public Works.

Craig Melicher
Vice President
Transtech Engineers, Inc.
(626) 217-3748



Please consider the environment before printing this email.

This electronic mail ("email") message, including any attachments, is privileged, confidential, and is intended only for the person or entity to which it has been addressed. Any disclosure, distribution, re-distribution, dissemination, reproduction, review or use of any portion of this email message including any attachments is prohibited. No action may be taken based on any portion of this email message including any attachments without specific written approval from the sender. If you received this email message in error and/or are not the intended recipient or the employee or agent authorized to receive and deliver this email to the intended recipient, please contact me immediately by telephone or by reply email message, then delete and/or destroy all forms of this email message.

This email message may contain undetected viruses or other potentially harmful content. The recipient is solely responsible for insuring that all receiving hardware is properly protected from any harmful electronic content unknowingly transmitted with this email message.

Jennifer Shimmin

From: Craig Melicher <craig.melicher@transtech.org>
Sent: Thursday, November 03, 2016 8:53 AM
To: Jennifer Shimmin
Cc: David Watkins; Ayla Jefferson; Dennis Tarango
Subject: FW: FW: Grey Water and Cool Roofs

Jenna,

Did you get an answer yet on the code language that I proposed in the email below? We plan to send the Code Adoption Ordinance to the City Attorney today, so I need an answer as soon as possible.

Let me know if you have any questions.

Craig Melicher
Vice President
Transtech Engineers, Inc.
(626) 217-3748



Please consider the environment before printing this email.

This electronic mail ("email") message, including any attachments, is privileged, confidential, and is intended only for the person or entity to which it has been addressed. Any disclosure, distribution, re-distribution, dissemination, reproduction, review or use of any portion of this email message including any attachments is prohibited. No action may be taken based on any portion of this email message including any attachments without specific written approval from the sender. If you received this email message in error and/or are not the intended recipient or the employee or agent authorized to receive and deliver this email to the intended recipient, please contact me immediately by telephone or by reply email message, then delete and/or destroy all forms of this email message.

This email message may contain undetected viruses or other potentially harmful content. The recipient is solely responsible for insuring that all receiving hardware is properly protected from any harmful electronic content unknowingly transmitted with this email message.

From: Craig Melicher
Sent: Thursday, October 20, 2016 9:38 AM
To: 'Jennifer Shimmin' <jshimmin@southpasadenaca.gov>
Cc: David Watkins (DWatkins@SouthPasadenaCA.gov) <DWatkins@SouthPasadenaCA.gov>
Subject: RE: FW: Grey Water and Cool Roofs

Jenna,

The current draft Ordinance covers laundry fixtures only which I think is consistent with LACO Health Dept. requirements. We're reviewing the process now to see how and when an ordinance can be sent to council.

Regarding Exception (c) to subparagraph (b) of Section Two, I am proposing the language below in place of the language proposed by the NREC.

(c) A greywater system shall not be required where the greywater stub out invert elevation cannot terminate at least 6 inches above adjacent grade at an exterior wall without the use of a pump when the greywater piping is installed in accordance with the DWV piping requirements of the current California Plumbing Code.

Basically, this exception says that if it is physically possible to install the system based on floor plan and site topography, then a system has to be installed. And if it is not possible to install without a pump, then no greywater system is required. Can you get an indication from the NREC about whether this language is acceptable to them?

Thanks,

Craig Melicher
Vice President
Transtech Engineers, Inc.
(626) 217-3748



Please consider the environment before printing this email.

This electronic mail ("email") message, including any attachments, is privileged, confidential, and is intended only for the person or entity to which it has been addressed. Any disclosure, distribution, re-distribution, dissemination, reproduction, review or use of any portion of this email message including any attachments is prohibited. No action may be taken based on any portion of this email message including any attachments without specific written approval from the sender. If you received this email message in error and/or are not the intended recipient or the employee or agent authorized to receive and deliver this email to the intended recipient, please contact me immediately by telephone or by reply email message, then delete and/or destroy all forms of this email message.

This email message may contain undetected viruses or other potentially harmful content. The recipient is solely responsible for insuring that all receiving hardware is properly protected from any harmful electronic content unknowingly transmitted with this email message.

From: Jennifer Shimmin [<mailto:jshimmin@southpasadenaca.gov>]
Sent: Tuesday, October 18, 2016 4:20 PM
To: Craig Melicher <craig.melicher@transtech.org>
Cc: David Watkins <dwatkins@southpasadenaca.gov>; Ayla Jefferson <Ayla.Jefferson@TRANSTECH.ORG>; Dennis Tarango <dennis.tarango@transtech.org>
Subject: FW: FW: Grey Water and Cool Roofs

Hi Craig,

Please see the attached documents and his email below. As far as the last question, I responded that we're waiting on your response as the next step, and there's no timeline as of now. Please let me know if you have any questions.

Thanks,

Jenna Shimmin

Senior Management Analyst
Water Conservation and Environmental Programs
City of South Pasadena
(626)403-7311



From: Al Benzoni [<mailto:albenzoni@gmail.com>]
Sent: Tuesday, October 18, 2016 11:08 AM
To: Jennifer Shimmin; William Kelly; Scott Kuhn
Subject: Re: FW: Grey Water and Cool Roofs

Hi Jenna,

I have attached my embedded response to Craig's email. I think there maybe some misunderstanding about what we suggested with the Draft ordinance and what it applies to.

Overall I agree/understand with most of his feedback and believe the points have been addressed. I have attached the Draft proposed ordinance NREC submitted to Debby in December 2015. Perhaps Craig could review this response, clarify what is meant by "where" and state if there are remaining unaddressed concerns.

When might this go before City Council ? Please outline the steps and associated timeframes.

Regards,

Al

On Wed, Oct 12, 2016 at 10:18 AM, Jennifer Shimmin <jshimmin@southpasadenaca.gov> wrote:

Good Morning Al,

I can't remember if I sent this to you or not. Below is Craig's email and my response. If you provide clarification or answers to his questions, I can forward on to him for further comment/input. Let me know if you have any questions.

Thanks,

Jenna Shimmin

Senior Management Analyst

Water Conservation and Environmental Programs

City of South Pasadena

[\(626\)403-7311](tel:(626)403-7311)



From: Jennifer Shimmin
Sent: Tuesday, September 27, 2016 5:24 PM
To: Craig Melicher - TransTech
Cc: David Watkins; Ayla Jefferson; Dennis Tarango; John Mayer
Subject: RE: Grey Water and Cool Roofs

Hi Craig,

In looking at the minutes from the meeting these plans were presented at, the commissioner discussed ways to convert washing machines over to a gray water system, and showed pictures of converted systems, but did not provide any plans. The plans he did provide were, as you said, for new construction. However, the intent was that the system would have stub-out so that if the first owners didn't want to use system they wouldn't have to, but future owners would be able to. Hopefully I'm explaining that properly. We have this item on our agenda tonight, so I'll get some clarification on what they exactly were looking for. Also, I'll give them the update you provided on the State Plumbing Code, and the requirement to prove there is a reason for the city to make these systems mandatory. I'll let you know their thoughts and any questions.

I'll also talk to them about Cool Roofs. I'll get back to you on this as well.

Thank you,

Jenna Shimmin

Senior Management Analyst

Water Conservation and Environmental Programs

City of South Pasadena

[\(626\)403-7311](tel:(626)403-7311)



From: Craig Melicher [<mailto:craig.melicher@transtech.org>]
Sent: Friday, September 23, 2016 12:28 PM
To: Jennifer Shimmin
Cc: David Watkins; Ayla Jefferson; Dennis Tarango; John Mayer
Subject: Grey Water and Cool Roofs

Jennifer,

I reviewed the attachment that you sent in the email dated September 7, but I'm confused. The details provided by the NREC appear to show 'hard-piped' greywater systems, meaning that the piping for a greywater system is installed at the time of construction. But the written comments refer to 'stub outs,' which for me are locations where a future system could be installed at a later date. I think a stub out is only feasible for one plumbing fixture if the fixture (including a washing machine) is located on an exterior wall, or for plumbing fixtures located on the first floor of a dwelling with a raised floor. I don't believe there is any feasible way to provide stub-outs for an entire grey water system as shown in the attachment provided by the NREC.

California has a State Plumbing Code, and cities are only allowed to amend the Code where the City can make a finding that there is a climatic, geologic or topographic condition local to the City that justifies the amendment. Neither the current state plumbing code (2013) nor the 2016 Plumbing Code (which takes effect next year) require the mandatory installation of a grey water system. Chapter 15 of the State Plumbing Code regulates Grey Water Systems by providing requirements if a grey water system is installed. To make grey water systems mandatory, the City would have to make a finding that there is a local climatic condition unique to South Pasadena that affects water use. Because water use is a state-wide issue, I think this is more problematic than for the cool roof issue below.

If the NREC wants to require mandatory stub outs, they need to be clear how and where the stub outs are to be feasibly provided. If the NREC wants to make grey water system installation mandatory, then this issue needs to be referred to the City Attorney for a determination on whether the City can or cannot legally require mandatory grey water systems.

To be clear, there are no restrictions on anybody who wants to voluntarily install a grey water system today. So long as their proposed system complies with the applicable codes and has Health Department approval where required, a plumbing permit will be issued.

Also, for reference, I've attached the current LA County Health Department policy of residential greywater systems: <https://dpw.lacounty.gov/wwd/web/Documents/Graywater%20System.pdf>

++++

Regarding your question on Cool Roofs, there is overlap on this issue between the CHC which has jurisdiction on all dwellings that are on the Historic Inventory, and the Fire Department which requires fire resistant roof coverings. If the NREC can coordinate with both CHC and Fire on an agreeable amendment, I think this could be adopted. The City can make a finding that climatic conditions within Los Angeles County justify the need for a cool roof requirement. Realistically we could just copy the finding made by the City of Los Angeles in their Ordinance.

Feel free to call me if you have any questions on any of this. Or you can always email me back.

Have a good weekend.

Craig Melicher
Vice President
Transtech Engineers, Inc.
(626) 217-3748



Please consider the environment before printing this email.

This electronic mail ("email") message, including any attachments, is privileged, confidential, and is intended only for the person or entity to which it has been addressed. Any disclosure, distribution, re-distribution, dissemination, reproduction, review or use of any portion of this email message including any attachments is prohibited. No action may be taken based on any portion of this email message including any attachments without specific written approval from the sender. If you received this email message in error and/or are not the intended recipient or the employee or agent authorized to receive and deliver this email to the intended recipient, please contact me immediately by telephone or by reply email message, then delete and/or destroy all forms of this email message.

This email message may contain undetected viruses or other potentially harmful content. The recipient is solely responsible for insuring that all receiving hardware is properly protected from any harmful electronic content unknowingly transmitted with this email message.

Item No. 2

ORDINANCE 2016-xx

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SOUTH PASADENA, CALIFORNIA AMENDING SECTION ~~23-12-050 9.3.1~~ (PLUMBING CODE) AND SECTION ~~23-12-080(A)~~ **xx OF THE ~~ENCINITAS-SOUTH PASADENA~~ MUNICIPAL CODE RELATED TO GRAYWATER SYSTEMS**

WHEREAS, the State of California, and other areas of the Southwestern United States where water for California originates, have been in a state of extreme drought for several years; and

WHEREAS, there is a declared State of Emergency in California due to current drought conditions; and

~~**WHEREAS**, the City's adopted Climate Action Plan includes water strategy W-2 of the City's Climate Action Plan, which calls for reduced water consumption for landscaping, and educating and incentivizing the community on water conservation practices for landscaping; and~~

Commented [amb1]: Removed per NREC Dec 2015 mtghttp://www.encinitasca.gov/index.aspx?page=222
Formatted: Highlight
Formatted: Highlight
Formatted: Highlight

WHEREAS, residential potable water use for landscape irrigation can amount to more than half of the total potable water use for a home; and

WHEREAS, a typical family of four produces around 160 gallons of graywater per day that could be diverted through a graywater system to be used for landscape irrigation, replacing up to 60,000 gallons of potable water use per year; and

WHEREAS, the California Department of Public Health, the Department of Housing and Community Development, and several other environmental and water health agencies cooperated in the development of graywater standards found in Chapter 16 of the current, 2013 California Plumbing Code and declared the developed standards are protective of public health; and

WHEREAS, graywater use in conformance with the 2013 California Plumbing Code provides a safe method of reducing potable water demand; and

WHEREAS, the installation of plumbing, including a stub out for connection to landscape irrigation, at the time of construction of new home greatly facilitates the use of graywater in residences; and

WHEREAS, the City Council specifically and expressly finds and declares that adding Section ~~23-12-050(B)~~ to the Municipal Code is necessary due to local climatic conditions. As a result of prolonged drought exacerbated by climate change, water supplies from imported sources are reduced and local water suppliers have been directed to achieve significant reductions in potable water use, while population and economic growth are expected to increase demand for water. Requiring plumbing for graywater stub out in new residential development facilitates the use of graywater for irrigation, which in turn helps address drought-related water supply impacts.

Formatted: Highlight
Formatted: Highlight

NOW, THEREFORE, the City Council of the City of ~~Encinitas-South Pasadena~~ hereby ordains as follows:

SECTION ONE:

Section 23.12.050(B) 9.3.1 is added to the Municipal Code as follows:

Formatted: Highlight

B. Additions to the California Plumbing Code, 2013 Edition, shall be as follows:

Section 1602.1.1 (143?) is added to the California Plumbing Code to read:

(14) A Clothes Washer System consists solely of one single ~~domestic~~ clothes washing machine in a ~~one single-~~ or two-family (duplex) dwelling.

SECTION TWO:

Section 23.12.080(A) is added to the Municipal Code as follows:

Formatted: Highlight

A. Additions to the California Green Building Standards Code, 2013 Edition, shall be as follows:

Section 4.304.1.1(1)(b) is added to the California Green Building Standards Code to read:

(b) Newly constructed single-family and duplex dwelling units shall be pre-plumbed for a graywater system permitted and constructed in accordance with Chapter 16 of the California Plumbing Code and including a stub-out in a convenient location for integration of the graywater system with landscape irrigation systems and accepting graywater from all sources not including bathroom sinks, permissible in conformance with the definition of graywater as per Section 14876 of the California Water Code.

Exception: a) A graywater system shall not be permitted where a percolation test shows the absorption capacity of the soil is unable to accommodate the discharge of a graywater irrigation system.

b) A graywater system shall not be required for properties that have a net irrigable landscape area less than 200 square feet.

c) A graywater system shall not be required when it can be satisfactorily demonstrated to the Building Official that it would create undue hardship (add proper legalese) and/or can be replaced with an equivalent water savings measure.

Formatted: Highlight

Formatted: Highlight

SECTION THREE:

ENVIRONMENTAL FINDING. The City Council finds in its independent judgment that the proposed amendment to the Municipal Code is exempt from environmental review as per Section 15308 of the California Environmental Quality Act (CEQA) Guidelines, which exempts actions taken by regulatory agency for protection of the environment where the regulatory process provides procedures for protection of the environment. None of the exceptions in CEQA Guidelines Section 15300.2 exist. Notwithstanding the exemption as per Section 15308, the City Council further finds that there is no possibility that the activity may have a significant effect on the environment; therefore pursuant to Section 15061(b)(3) of the CEQA Guidelines the activity is exempt from the provisions of CEQA.

SECTION FOUR:

This ordinance was introduced on **month, day, 2016**

Formatted: Highlight

PASSED AND ADOPTED this **xxth** day of **xx**, 201**65** by the following vote to wit:

AYES:

NAYS: None.

ABSTAIN: None.

ABSENT: None.

, Mayor
City of ~~Encinitas~~ South Pasadena

ATTESTATION AND CERTIFICATION:

I hereby certify that this is a true and correct copy of Ordinance No. **2016-xx** which has been published pursuant to law.

Formatted: Highlight

~~xy~~, City Clerk

Recycling – it's fun, it's easy, it saves money ... and it's the law!

School recycling programs offer local, regional and global environmental benefits. These range from decreasing the amount of waste sent to landfills and saving energy to conserving natural resources and reducing greenhouse gas emissions that contribute to global climate change. Did you know for most schools it is also a state requirement to recycle?

Mandatory Commercial Recycling (2012):

Businesses and public entities, including schools and school districts, that generate 4 cubic yards or more of waste per week are required to recycle.

Mandatory Commercial Organics Recycling (2016):

Starting in April 2016, businesses and public entities, including schools and school districts, are required to divert their organic solid waste according to the following tiered timeline:

- **4/1/2016:** Entities that generate 8 cubic yards of organic waste per week must arrange for organic waste recycling services.
- **1/1/2017:** Entities that generate 4 cubic yards of organic waste per week must arrange for organic waste recycling services.
- **1/1/2019:** Entities that generate 4 cubic yards of solid waste per week must arrange for organic waste recycling services.

Schools and districts can take one or any combination of the following steps to recycle their organics:

- Separate organics from other waste on-site and subscribe to service through a waste hauler that includes the collection and recycling of organic waste.*
- Subscribe to an organics recycling service that may include mixed-waste processing.
- Recycle organics on site, or self-haul organics off-site for recycling, and/or donate organic material.

More information about these requirements and related assistance is available at <http://www.calrecycle.ca.gov/ReduceWaste/Schools/>. Look up CalRecycle and local jurisdiction staff by city/county that can assist in addressing school waste reduction questions at <http://www.calrecycle.ca.gov/LGCentral/Reports/Contacts.aspx>.

*If the school's waste material is collected in one container and sorted for recycling, ensure that the organic portion is being recycled rather than disposed.



Item No. 4

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF SOUTH PASADENA
ADDING A NEW ARTICLE V (BUSINESS AND MULTI-FAMILY RECYCLING AND
ORGANICS RECYCLING) TO CHAPTER 16 (GARBAGE AND WASTE)
OF THE SOUTH PASADENA MUNICIPAL CODE**

WHEREAS, the California Integrated Waste Management Act of 1989 (AB 939) requires all jurisdictions within California to divert a minimum of 50% of municipal solid waste generated annually from landfill disposal through resource reduction, recycling and composting programs; and

WHEREAS, Assembly Bill 1826 (AB 1826) was enacted in 2014 to add Chapter 12.9 to Part 3 of Division 30 of the Public Resources Code, relating to solid waste; and

WHEREAS, AB 1826 provides for mandatory commercial and multifamily organics recycling to be phased in starting April 1, 2016; and

WHEREAS, beginning January 1, 2017, all commercial and multifamily customers generating more than 4 cubic yards of organic waste are mandated to recycle this organic waste; and

WHEREAS, it is in the interest of the health and sanitation of the City to implement these state requirements through an ordinance requiring compliance with these new organics recycling standards by January 1, 2017 and thereby also generate sufficient data regarding these organics recycling efforts to complete an annual report to CalRecycle beginning August 1, 2017, identifying the number of regulated businesses and multifamily developments which are recycling organics and the progress achieved in implementing the program; and

WHEREAS, Government Code Section 36937(b) authorizes the City to adopt an ordinance as an urgency measure to protect the public peace, health or safety, containing a declaration of facts constituting the urgency and passed by a four-fifths vote of the City Council.

THE CITY COUNCIL OF THE CITY OF SOUTH PASADENA DOES ORDAIN AS FOLLOWS:

SECTION 1. A new Article V (Business and Multi-Family Recycling and Organics Recycling) is added to Chapter 16 (Garbage and Waste) to read as follows:

**ARTICLE V. BUSINESS AND MULTIFAMILY RECYCLING AND ORGANICS
RECYCLING**

- 16-50 Purpose and declarations.**
- 16-51 Definitions.**
- 16-53 Threshold for covered generators.**
- 16-54 Requirements for covered generators.**

- 16-55 Special requirements.
- 16-56 Designation of recyclable materials.
- 16-57 Requirements for franchised waste haulers.
- 16-58 Requirements for service agreements.
- 16-59 Requirements for recycling plans.
- 16-60 Requirements for authorized recyclers.
- 16-61 Requirements for multi-family residential properties.
- 16-62 Requirements for self-hauling.
- 16-63 Appeal from denial of certificate of operation or self-haul certificate.
- 16-64 Reporting.
- 16-65 Exemptions from recycling standards.
- 16-66 City rules and regulations.
- 16-67 Rights reserved to city.
- 16-68 Administration and costs.
- 16-69 Unlawful acts.
- 16-70 Implementation and enforcement.
- 16-71 Posting of notice.
- 16-72 Notice of violation.
- 16-73 Notice of violation—contents.
- 16-74 Delivery of notice.
- 16-75 Penalties.

16-50 Purpose and declarations.

(a) It is the intent and purpose of this article to promote recycling and organics recycling by:

- (1) Requiring businesses and multi-family residential properties in the City of South Pasadena to keep recyclable materials and organic recyclable materials separate from all other solid waste for recycling and organics recycling;
- (2) Requiring businesses and multi-family residential properties to provide signs and labeled containers for the storage and collection of recyclable materials and organic recyclable materials; and
- (3) Requiring businesses and multi-family residential properties to either self-haul or enter into a written service agreement for the collection and subsequent delivery of recyclable materials and/or organic recyclable materials to a recycling facility.

(b) It is further the purpose of this article to provide a mechanism to require the implementation of recycling programs and organics recycling programs for businesses and multi-family residential properties within the city to thereby enable the city to meet and maintain the 50 percent waste diversion requirements set forth in the Public Resources Code § 41780(a)(2).

16-51 Definitions.

“Authorization” means the process of approving a recycler for collection and removal of recyclable materials from businesses and multi-family residential properties by the city manager and/or his or her designee.

“Authorized recycler” means any person or business entity who lawfully collects, accepts, transports or otherwise processes recyclable materials from businesses and multi-family properties for financial gain or profit, and has been certified and approved by the city manager and/or his or her designee.

“Business” means:

- (1) A commercial entity, proprietorship, firm, partnership, person in representative or fiduciary capacity, association, venture, trust, or corporation that is organized for financial gain or profit, including but not limited to, offices, retail stores, markets, manufacturing facilities, warehouse and distribution facilities, restaurants, motels and hotels, theaters, medical offices, and gas stations and automotive facilities; and
- (2) Not-for profit organizations, including but not limited to, churches, hospitals, and social service organizations.

“Certificate of operation” means the license that an authorized recycler must obtain from the city before it may collect recyclable materials within the city boundaries.

“Collection” means the act of collecting and removing solid waste or recyclable materials or organic recyclable materials at the place of generation.

“Commercial hauler” or “hauler” means any person who collects, hauls, or transports commercial solid waste for a fee by use of any means, including but not limited to, a dumpster truck, roll-off truck, a side-load, front-load, or rear-load garbage truck, or a trailer.

“Commercial solid waste” means all solid waste as defined below and generated by commercial and industrial sources and multi-family residential properties, and that is collected by a franchised waste hauler.

“Covered generator” means all businesses and multi-family residential properties defined as covered generators in section 16-5274-128 of this article. A covered generator may include a business or multi-family residential property owner or generator, and is dependent on whomever executes a contract(s) for solid waste removal and recycling collection services.

“Customer” means a business or multi-family residential property owner or generator who contracts for solid waste removal services and enters into a service agreement with a franchised waste hauler or an authorized recycler for recycling services and/or organics recycling services. Where several businesses or multi-family residential properties share garbage containers and service, “customer” refers only to the party whom enters into a contract for solid waste collection services.

“Designated green materials” or “green materials” means materials that are required to be separated by covered generators from solid waste and designated recyclable materials prior to disposal and returned for use or reuse in the form of raw materials for new, used or reconstituted products. Green materials include, but are not limited to: yard trimmings, grass, weeds, leaves, prunings, branches, dead plants, brush, tree trimmings, dead trees, small wood pieces and other types of organic yard waste. Green materials excludes food scraps and paper contaminated with food scraps.

Comment [TLH1]: I don't know if you need this section. Not sure if Athens is the franchise holder for recycling in South Pasadena for commercial service or if you permit competition for this, as I have not reviewed your solid waste agreement w/Athens.

Comment [TLH2]: If this commercial service is ONLY provided by the exclusive franchisee then we would say that here.

“Designated organic recyclable materials” or “organic recyclable materials” means materials that are required to be separated by covered generators from solid waste and designated recyclable materials prior to disposal and returned for use or reuse in the form of raw materials for new, used or reconstituted products. Organic recyclable materials include, but are not limited to: yard trimmings and food scraps such as green trimmings, grass, weeds, leaves, prunings, branches, dead plants, brush, tree trimmings, dead trees, small wood pieces, other types of organic yard waste, vegetable waste, fruit waste, dairy waste, meat waste, fish waste, and paper contaminated with food scraps. The term “organic recyclable materials” solely means “designated green materials” when referencing multifamily residential property requirements.

“Designated recyclable materials” or “recyclable materials” means materials, as designated by the city manager and/or his or her designee, that are required to be separated by covered generators from solid waste prior to disposal and returned for use or reuse in the form of raw materials for new, used or reconstituted products.

“Franchise agreement” means a commercial solid waste collection franchise agreement issued to a commercial hauler by the city.

“Franchised waste hauler” means a commercial waste hauler or hauler holding a franchise agreement issued by the city pursuant to section 16-57 of this code. A franchised waste hauler may also collect, haul, or transport recyclable materials.

“Generator” means each business or multi-family residential property that generates one or more designated recyclable materials or one or more designated organic recyclable materials as a result of its business activities or multi-family residential property activities.

“Implementation period” means the period of time between the effective date of this article and January 1, 2017.

“Multi-family residential property” means five or more residential dwelling units located on a single parcel of land, and any mobile home park, located within the city.

“National contracts” means contracts between waste management companies and multi-sited waste generating companies that operate throughout the country.

“Organics recycling” means the process of collecting, sorting and treating organic recyclable materials and/or designated green materials that would have otherwise become solid waste and returning them to a safe, nuisance-free compost product by treating the materials to a controlled biological decomposition.

“Owner” means the person who owns a business or multi-family residential property. An owner may also be a generator.

“Recycling” means the process of collecting, sorting, cleansing, treating and reconstituting materials that would otherwise become solid waste and returning them for use or reuse in the form of raw materials for new, used or reconstituted products which meet the quality standard necessary to be used in the market place. Recycling does not include transformation as defined in

Comment [TLH3]: If there is no mobile home park and never will be, we can delete this reference.

Comment [TLH4]: Depending on what your franchise agreement says about commercial hauling and recycling, we may not need this provision.

Public Resources Code § 40201. The term recycling may be used to include source separated materials.

“Recycling facility” means those facilities or operations that receive, process, and transfer to market recyclable materials or organic recyclable materials that have been source separated from the solid waste stream.

“Recyclable materials” container means any box, tub, cart, or other container placed inside each individual multi-family residential unit and in maintenance or work areas on the premises of covered generators that is made of metal, hard plastic or other similar material and is suitable for the collection of designated recyclable materials and designated organic recyclable materials pursuant to this article. Recycling materials containers must be approved by the city.

“Recycling plan” means the plan to be presented to all covered generators by their franchised waste hauler to document understanding of the requirements of this article and record the selected compliance option for each designated recyclable material and/or each designated organic recyclable material.

“Removal: means the act of removing solid wastes, recyclable material or organic recyclable material from the place of waste generation.

“Self-haul” means a covered generator, or employee designated by the covered generator, who collects, transports and hauls recyclable materials or organic recyclable materials from the business or multi-family residential property, in a vehicle owned by either an employee or the entity, to a recycling facility rather than hiring a franchised waste hauler or an franchised waste hauler to perform this function.

“Self-hauling” form means the form provided by the city manager, and/or his or her designee, on which a business or multi-family residential property, owner or generator, certifies that all self-hauling activities will be completed in accordance with the provisions of this article or any other applicable law or regulation.

Comment [TLH5]: Do you even permit self-hauling? If you do, do you have a form to certify it? If not, this can be deleted.

“Service agreement” means a written agreement between a franchised waste hauler or franchised waste hauler and a covered generator concerning the collection of designated recyclable materials and/or designated organic recyclable materials.

“Solid waste” means all putrescible and non-putrescible solid, semi-solid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, 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 semi-solid wastes. Solid waste does not include hazardous waste or low-level radioactive waste regulated under Chapter 7.6 (commencing with § 25800) of Division 20 of the Health & Safety Code or medical waste. Solid waste does not include recyclable materials or organic recyclable materials set out for separate collection for the purposes of recycling or organics recycling, and that are not landfilled.

“Source separate” or “source separated” means the process of removing recyclable materials or organic recyclable materials from solid waste for the purpose of recycling and/or organics recycling.

16-52 Threshold for covered generators

- (a) Recycling requirements – Each business or multi-family residential property owner or generator that generates four or more cubic yards of commercial solid waste per week or a multi-family residential property of five or more dwelling units is a covered generator and shall obtain and maintain recycling collection services as specified in this article.
- (b) Business organics recycling requirements – Covered generators that are businesses and meet or exceed the following thresholds shall obtain and maintain organics recycling collection services by the date listed:
 - 1. April 1, 2016: Eight cubic yards or more of organic recyclable materials per week.
 - 2. January 1, 2017: Four cubic yards or more of organic recyclable materials per week.
 - 3. January 1, 2019: Four cubic yards or more of solid waste per week.
- (c) Multi-family residential property organics recycling requirements – Multi-family residential properties are not required to separate food scraps for organics recycling. Covered generators that are multi-family residential properties and meet or exceed the following thresholds shall obtain and maintain organics recycling collection services by the date listed:
 - 1. April 1, 2016: Eight cubic yards or more of green materials per week.
 - 2. January 1, 2017: Four cubic yards or more of green materials per week.
 - 3. January 1, 2019: Four cubic yards or more of solid waste per week.

Comment [TLH6]: If you have separation of food scraps for organics recycling, we can delete this provision.

16-53 Requirements for covered generators.

- (a) Each covered generator shall be responsible for ensuring and demonstrating its compliance with the following requirements:
 - (1) Source separate designated recyclable and/or designated organic recyclable and/or designated green materials from solid waste;
 - (2) Provide for a basic level of recycling service and/or organics recycling service that includes, at a minimum, the collection of designated recyclable materials and/or designated organic recyclable materials and/or designated green materials; and
 - (3) Enter into a written service agreement with a franchised waste hauler or authorized recycler for the collection of designated recyclable materials and/or designated organic recyclable materials and/or designated green materials; or
 - (4) Complete and retain on-site a self-hauling form certifying that all self-hauling activities will be completed in accordance with the provisions of this article or any other applicable law or regulation. A copy of such form shall be made available to the city manager, and/or his or her designee, upon request.

Comment [TLH7]: This is only applicable if you allow self-hauling and if you provide a form to authorize it.

- (b) Each covered generator shall provide recyclable materials containers for designated recyclable materials and/or designated organic recyclable materials and/or designated green materials in multi-family residential rental units and in maintenance and work areas where recyclable materials and organic recyclable materials and/or green materials may be collected and/or stored.
- (c) Each covered generator shall prominently post and maintain one or more signs where designated recyclable materials and/or designated organic recyclable materials and/or designated green materials are collected and/or stored that set forth what materials are required to be source separated, in addition to collection procedures for such materials.
- (d) Each covered generator shall notify and instruct employees and tenants, in writing, of applicable source separation requirements, including a list of designated recyclable materials and/or designated organic recyclable materials and/or designated green materials that are required to be source separated for recycling. A copy of such instructions shall be provided to the city manager, and/or his or her designee, upon request.
- (e) Each covered generator shall ensure that designated recyclable materials and/or designated organic recyclable materials and/or designated green materials generated at their site will be taken only to a recycling facility, and not to a landfill for disposal, by complying with all requirements under this article.
- (f) The recycling plan, service agreement, and self-haul form, or other documents pertaining to this article, shall be available for inspection by the city manager, and/or his or her designee, at the principal location of the covered generator during normal business hours.
- (g) Nothing in this article shall abridge the right of any covered generator, or any other person, to sell or exchange at fair market value its own recyclable materials or organic recyclable materials or green materials which are source separated for reuse and recycling.
- (h) No franchised waste hauler or authorized recycler shall be held liable for the failure of its customers to comply with such regulations.
- (i) No covered generator shall be liable for the failure of their franchised waste hauler or authorized recycler to deliver designated recyclable materials or designated organic recyclable materials or designated green materials to a recycling or processing facility.

Comment [TLH8]: If applicable

16-54 Special requirements.

In addition to any and all requirements that apply to the recycling and/or organics recycling of designated recyclable materials and/or designated organic recyclable materials throughout the city listed above, collection service received or provided in the city shall be subject to the following additional special requirements:

- (1) No recycling, automatic lift containers or bins within the collection area of the city shall be placed or located in such a manner that blocks or impedes passage through an alley or through any doorway of any building adjoining an alley, notwithstanding that such building may be abandoned or otherwise out of use.
- (2) Compliance with the above special requirements shall be the sole responsibility of the covered generator.

16-55 Designation of recyclable materials.

- (a) Designated recyclable materials and/or designated organic recyclable materials shall be source separated from solid waste before collection, removal, transportation or disposal pursuant to this article. The city manager, and/or his or her designee, shall specify designated recyclable materials and designated organic recyclable materials that must be source separated by all covered generators pursuant to section 16-53. The specifications for designated recyclable materials shall consider materials market conditions and the availability of a cost-effective system for recycling such materials.
- (b) Furthermore, all covered generators are encouraged to recycle additional materials, whether or not they have been specified as designated recyclable materials.

16-56 Ownership of recyclable materials.

- (a) All designated recyclable materials and designated organic recyclable materials placed in automatic lift containers, bins or roll-off bins shall be considered owned by and be the responsibility of either the franchised waste hauler or authorized recycler. Without permission of either the franchised waste hauler or authorized recycler, no person shall collect designated recyclable materials or designated organic recyclable materials placed in automatic lift containers, bins or roll-off bins for recyclable materials or organic recyclable materials by customers.
- (b) Except as authorized by section 16-62 (self-hauling) below, it shall be unlawful for any person to engage in the business of collecting, removing or transporting, or to otherwise organize, direct or sponsor the collection, removal or transportation of designated recyclable materials or designated organic recyclable materials who is not either a franchised waste hauler or an authorized recycler.

Comment [TLH9]: Will you allow self-hauling? If not, we will delete all references to it throughout this ordinance.

16-57 Requirements for franchised waste haulers.

- (a) Commercial waste haulers shall be "franchised" pursuant to the provisions of chapter 16, article I of this Code, and such "franchise agreement" shall be in full force and effect.
- (b) Franchised waste haulers shall offer collection service and automatic lift containers, bins or roll-off bins for designated recyclable materials and designated organic recyclable materials sufficient to accommodate the quantity and types of designated recyclable materials and designated organic recyclable materials to all its solid waste customers.
- (c) Franchised waste haulers shall equip and provide automatic lift containers, bins and roll off bins for designated recyclable materials with locks and/or other suitable features to prevent theft of recyclable materials.
- (d) Franchised waste haulers may subcontract for collection of designated recyclable materials and designated organic recyclable materials, so long as the subcontractor holds a current franchise agreement or is an authorized recycler.
- (e) Franchised waste haulers shall conduct all activities in accordance with all applicable state and local laws and best management practices. Vehicles, equipment and containers shall be kept in a clean and well-maintained condition.
- (f) Franchised waste haulers shall not take a customer's designated recyclable materials or designated organic recyclable materials to a landfill or other disposal site, but to a recycling facility.
- (g) Franchised waste haulers, upon request, shall provide the city manager, and/or his or her designee, with a copy of a service agreement, recycling plan or other document

(e.g., receipt from a recycling facility) demonstrating that the covered generator's designated recyclable materials and/or designated organic recyclable materials are being taken to a recycling facility. The service agreement, recycling plan or other documents shall be available for inspection by the city manager, and/or his or her designee, at the franchised waste haulers' place of business during normal business hours.

- (h) City staff may audit all franchised waste haulers' records.

16-58 Requirements for service agreements.

- (a) Franchised waste haulers and authorized recyclers shall execute a written service agreement with all covered generators, as required in section 16-53 of this article, before the franchised waste hauler or authorized recycler begins to collect solid waste and/or designated recyclable materials and/or designated organic recyclable materials.

- (b) Service agreements shall incorporate, but are not limited to, the following terms and conditions:

- (1) Be clearly labeled as a service agreement;
- (2) Describe the solid waste and/or recycling collection services and/or organics recycling collection services to be provided by the franchised waste hauler or authorized recycler, and the cost for providing such services to the customer;
- (3) Clearly state the initial term and renewal terms;
- (4) Allow for any term that is mutually agreed to by the customer and the franchised waste hauler, but recognizing that the hauler's franchise or recyclers authorization granted by the city must remain in full force and effect throughout the term of the agreement;
- (5) May contain automatic renewal for successive periods of no longer than one year, unless either party gives written notice of termination by certified or registered mail at least 60 days prior to termination date of the current agreement;
- (6) May be amended as mutually agreed upon by the customer and the franchised waste hauler or authorized recycler;
- (7) Customers are to receive a written notice of price increases not less than 30 days prior to the effective date of such price increase;
- (8) Franchised waste haulers and authorized recyclers shall respond to customer inquiries regarding the service agreement within 30 days;
- (9) Include language stating that collection containers will be removed from the property of a customer within 30 days of final termination of services to the customer;
- (10) Not require customers to pay over three months' liquidated damages during the renewal term and over six months' liquidated damages during the initial term of the service agreement;
- (11) Not require a customer to give a franchised waste hauler the exclusive right to provide recycling collection services or organics recycling collection services as a condition of a service agreement, unless the customer affirmatively indicates that is its desire;
- (12) Not require customers to give notice of any offer by a competitor or require customers to give franchised waste haulers the right to respond to such an offer;
- (13) Franchise agreements must be in full force and effect for the service agreement to be effective.

- (c) The requirements for service agreements contained in this section shall be incorporated into all new service agreements upon enactment of this article. Existing service agreements between a franchised waste hauler and a customer executed before the effective date of this article shall remain in force for the remainder of the existing contract and shall be governed by the terms and conditions specified in the existing service agreement, provided that such existing service agreements shall comply, to the extent allowable by law, with the new recycling and organics recycling programs established by this article.
- (d) National contracts or agreements are exempt from the requirements of contract length and renewal terms.

Comment [TLH10]: I don't know if you want to get into this much detail about what has to be in the service agreement between the franchised waste hauler (e.g., Athens) and the commercial business and multi-family residence. If not, we can delete everything after subsection a, and maybe even subsection a, if everyone is required to contract with Athens, per SPMC 16-5

16-59 Requirements for recycling plans.

- (a) The city manager, and/or his or her designee, shall provide a recycling plan template to each franchised waste hauler in order to document compliance with this article for each covered generator.
- (b) Franchised waste haulers shall present, complete, and sign a recycling plan for each covered generator located in the city.
- (c) Franchised waste haulers shall maintain a copy of each completed recycling plan, and submit to the city manager, and/or his or her designee, for audit purposes within five days of receipt of a written request.
- (d) Franchised waste haulers shall complete and file recycling plans for 100 percent of their customers that must comply with and are subject to the recycling requirements of this chapter by the date at which those customers must first comply with the requirements.
- (e) Franchised waste haulers shall complete and file recycling plans for 100 percent of their customers that must comply with and are subject to the organics recycling requirements of this chapter by the date at which those customers must first comply with the requirements, or by another deadline established by the public works director.
- (f) Franchised waste haulers that fail to comply with the requirements of this section shall be subject to penalties specified in this article.

Comment [TLH11]: This is one way to ensure the City's compliance with your annual reporting requirements, which start on August 1, 2017. Do you want to keep this provision and create a template? Basically, what you want the franchisee to report is how many commercial businesses and multi-family residences are in compliance and how much organic waste is being diverted from the landfill.

16-60 Requirements for authorized recyclers.

- (a) No person shall provide service as a franchised waste hauler or authorized recycler within the city without having obtained a certificate of operation and becoming an "authorized recycler." All authorized recyclers shall file a certificate of operation application form approved by the city manager, and/or his or her designee, providing the information and documentation that is requested by the city manager, and/or his or her designee, including, but not limited to, the following:
 - (1) The name, address and telephone number of the applicant;
 - (2) A description of the vehicles that the applicant will use to collect recyclable materials and/or organic recyclable materials, including the make, model, and serial number or vehicle identification number (VIN) of each vehicle; and
 - (3) Authorized recyclers shall indemnify, defend with counsel selected by the city, and hold harmless the city and its officials, officers, employees, agents, and volunteers from and against any and all losses, liability, claims, suits, actions, damages, causes of action and the payment of all attorneys fees and other related costs and expenses arising out of any

Comment [TLH12]: Do you want this, or do you know whether Athens will provide 100% of this service under its franchise agreement?

personal injury, bodily injury, loss of life, or damage to property, or any violation of any federal, state, or municipal law or ordinance, to the extent caused, in whole or in part, by the willful misconduct or negligent acts or omissions of authorized recycler or its employees, subcontractors, or agents, by acts for which they could be held strictly liable, or by the quality or character of their work to the maximum as allowed by applicable law.

- (4) Authorized recyclers shall defend, indemnify and hold harmless the city, including, but not limited to, elected officials, officers, directors, agents, employees and volunteers from and against any and all demands, claims, actions, losses, liabilities, damages, and costs, including reasonable attorneys' fees, arising out of or resulting from, the authorized recycler's activities pursuant to this article to the maximum as allowed by applicable law. Authorized recyclers shall defend with counsel selected by the city.
 - (5) Without limiting the authorized hauler's indemnification, the authorized hauler shall maintain in force at all times during the term of this authorization certificate and any extensions or modifications thereto, insurance as specified in the addendum of the certificate of operation agreement. It is the responsibility of the authorized recycler to notify its insurance advisor or insurance carrier(s) regarding coverage, limits, forms and other insurance requirements specified in the addendum of the certificate of operation agreement.
 - (6) A written statement certifying that the applicant has reviewed and will comply with all of the requirements in the certificate of operation and this article.
-
- (b) If the city manager, and/or his or her designee, determines that the applicant complies with the terms of this article, the city manager, and/or his or her designee, shall grant a certificate of operation. The city manager, and/or his or her designee, shall deny an application for a certificate of operation if the city manager, and/or his or her designee, determines that the applicant does not comply with the terms of this article.
 - (c) The certificate of operation shall remain in effect for a period of five years.
 - (d) The city manager, and/or his or her designee, may revoke a certificate of operation if the city manager, and/or his or her designee, determines after providing 30 days' written notice and an opportunity for a hearing, that an authorized recycler has violated the provisions in the certificate of operation or any applicable law.
 - (e) Authorized recyclers shall offer collection service and automatic lift containers, bins or roll-off bins for designated recyclable materials and/or designated organic recyclable materials sufficient to accommodate the quantity and types of recyclable materials and organic recyclable materials to all its customers.
 - (f) Authorized recyclers may subcontract for collection of designated recyclable materials and/or designated organic recyclable materials so long the subcontractor is a franchised waste hauler or authorized recycler.
 - (g) Authorized recyclers shall conduct all activities in accordance with all applicable laws, the City's Municipal Code and best management practices. An authorized recycler's vehicles, equipment and containers shall be kept in a clean and well-maintained condition.
 - (h) An authorized recycler's automatic lift containers, bins or roll-off bins for recyclable materials and/or organic recyclable materials shall be clearly identified with the name, or recognizable corporate or company logo, and phone number of the authorized recycler that is legible from a distance of 50 feet.

Comment [TLH13]: This provision would be eliminated if your contract with Athens includes organic recycling.

- (i) Authorized recyclers shall equip and provide to all recycling, automatic lift containers, bins or roll-off bins for designated recyclable materials locks and/or other suitable features to prevent scavenging of recyclable materials and/or organic recyclable materials.
- (j) Authorized recyclers shall deliver a customer's recyclable materials and/or organic recyclable materials to a recycling facility, and not to a landfill or other site for disposal.
- (k) Authorized recyclers, upon request, shall provide the city manager, and/or his or her designee, with a copy of a service agreement or other document (e.g., receipt from a recycling facility) demonstrating that the covered generator's designated recyclable materials are being delivered to a recycling facility. The service agreement or other document shall be available for inspection by the city manager, and/or his or her designee, at the franchised waste haulers' place of business during normal business hours.
- (l) The city manager, and/or his or her designee, may audit all authorized recyclers' recycling records.

16-61 Requirements for multi-family residential properties.

- (a) Multi-family residential tenants shall be responsible for compliance with the requirement to source-separate designated recyclable materials and/or designated green materials from solid waste pursuant to subsection 16-53(a)(1).
- (b) No multi-family residential property owner who is a covered generator pursuant this article shall be cited for noncompliance with this article as a result of the failure of his or her rental property tenants to source separate designated recyclable materials or designated green materials from solid waste pursuant to subsection 16-53(a)(1).
- (c) Multi-family residential property owners who are covered generators pursuant to this article shall be responsible for compliance with subsections 16-53(a)(2)(3) and (4), as well as subsections 16-53(b)(c)(d)(e) and (f).
- (d) Every multi-family residential unit shall have a recyclable materials container provided by either the multi-family residential property owner who is a covered generator pursuant to this article, or by the multi-family residential tenant as part of their rental agreement.

16-62 Requirements for self-hauling.

- (a) A covered generator may haul or transport designated recyclable materials and/or designated organic recyclable materials generated and collected at its business or multi-family residential property to a recycling facility, rather than hiring a franchised waste hauler or authorized recycler, only if an owner, generator or employee of the entity completes this activity by utilizing a vehicle owned by either an employee or the entity.
- (b) A covered generator that hauls or transports designated recyclable materials and/or designated organic recyclable materials generated and collected at its business or multi-family residential property to a recycling facility without the utilization of a franchised waste hauler or authorized recycler must complete and retain on-site a self-hauling form that certifies that all self-hauling activities will be completed in accordance with the provisions of all applicable laws or regulations. The self-hauling form shall be made available to the city manager, and/or his or her designee, upon request. At a minimum, the covered generator shall provide the following information on the self-hauling form:

Comment [TLH14]: Do you want to permit self-hauling? If not, we can delete this section.

- (1) The name, address and telephone number of the covered generator that is signing the self-hauling form;
 - (2) A list of the types of recyclable materials and/or organic recyclable materials being self-hauled;
 - (3) For each type of recyclable material and/or organic recyclable material, the amount that is being taken from the business and multi-family residential property to a recycling facility quarterly;
 - (4) The name and address of the recycling facility(s).
- (c) The self-hauling form shall contain a written statement signed by the business or multi-family residential property, owner or generator, certifying that the owner or generator is in compliance with the requirements of this article.
- (d) The city manager, and/or his or her designee, may restrict or prohibit self-hauling by a person if the city manager, and/or his or her designee, determines, after providing 30-day written notice and an opportunity for a hearing, that the person's self-hauling activities violate the provisions of this article or any other applicable law or regulation.

16-63 Appeal upon denial of certificate of operation or self-haul certificate.

- (a) Within 30 days of written notification of denial, or within 60 days of city manager's and/or his or her designee's failure to act on the certificate, applicant has the right to meet with the city manager, and/or his or her designee, to review the items cited in the written notice and provide any additional evidence to support an approval. Within 15 days of such meeting, the city manager, and/or his or her designee, will make a final, written determination of the application based on the reviews of additional evidence, together with the original application. The City manager, and/or his or her designee, will send a copy of all final, written determinations, including reasons for denial, if any, to both applicant and the city manager.
- (b) Applicant may, within ten days after receiving the final denial from the city manager, and/or his or her designee's, request a public hearing before the city council by submitting to the city clerk a written petition for an appeal hearing. If a public hearing is requested, the city clerk shall set the matter for hearing at the next possible regularly scheduled city council meeting or any later date as agreed upon by the applicant and city clerk. At such hearing, applicant may present evidence in writing and through testimony of its employees and others relevant to the application. During such hearing, the city council may demand from the applicant such additional information as the city council may deem relevant and necessary. Standard rules of evidence are not in effect at such public hearing, and the applicant shall have the burden of proof to show facts demonstrating that the applicant does, in fact, meet the requirements of this article. Any hearing may be continued or adjourned to a stated time and place without the giving of further notice. The city council will provide applicant with a written explanation of its determination on the application within 30 days of such hearing. The city council's decision is final.

Comment [TLH15]: If you do not want to allow self-hauling and can simply require the City's franchisee to provide this service, then we can delete this provision.

16-64 Reporting.

(a) Franchised waste haulers shall provide the following reports to the city, no later than the last day of the month for the preceding reporting period. Reporting shall occur on a quarterly basis, or as requested by the city manager and/or his or her designee. Reports shall include, at a minimum, the following information:

- (1) The total number of covered generators in the city that are in compliance with this article and for which a completed recycling plan is on-file;
- (2) The total number of covered generators that are customers of the franchised waste hauler in the city;
- (3) The total number of covered generators that have completed a recycling plan but remain in violation of this article for any reason;
- (4) The total weekly cubic yardage of solid waste collection service and designated recyclable materials and/or designated organic recyclable materials collection service provided to covered generators during the reporting period.

Due dates for reporting are:

Reporting Period	Due Date
January 1—March 31	April 30
April 1—June 30	July 31
July 1—September 30	October 31
October 1—December 31	February 1

(b) If the quarterly report is not filed by the due dates above, the report shall be deemed delinquent and the franchised waste hauler shall pay to the city a delinquent report charge in the amount of \$50.00 per day. If the report remains delinquent for more than 15 days, the franchised waste hauler shall pay to the city a delinquent report charge in the amount of \$100.00 per day.

(c) Franchised waste haulers' failure to file the reports required by this article shall constitute cause for termination or suspension the hauler's franchise pursuant to chapter 16, article 1 of the City Municipal Code.

(d) Self-haulers shall prepare quarterly reports to be kept on site identifying, at a minimum, the following:

- (1) The recyclable materials and/or organic recyclable materials tonnage collected and removed within the city region during the previous quarter.
- (2) The location of the recycling facility(s) to which the recyclable materials and/or organic recyclable materials were taken during the previous quarter.

(e) The city manager, and/or his or her designee, shall provide and establish guidelines, forms and other appropriate material to assist franchised waste haulers, authorized recyclers and self-haulers in preparing the reports required by this article.

Comment [TLH16]: We do NOT have to have a penalty for non-compliance by Athens or our franchisee under AB 1826. Do you want to have one? Perhaps it would be better to refer to what the franchise agreement says about failure to comply. If you do not want to have a penalty provision, we can delete subsection b.

Comment [TLH17]: If you do not want to have a self-hauler provision, we can delete this section d

Comment [TLH18]: The City may want to develop the form (you can even get Athens' help) to show the information you need to be able to report annually to CalRecycle.

16-65 Exemptions from recycling standards.

- (a) Notwithstanding any other provision herein, a business or multi-family property, owner or generator, shall be exempt from the recycling requirements of this article if the owner or generator subscribes to less than four (4) cubic yards of solid waste collection service per week.
- (b) Notwithstanding any other provision herein, a covered generator shall not be required to source separate recyclable materials and/or organic recyclable materials if the business or multi-family residential property, owner or generator, demonstrates to the city manager and/or his or her designee that there is no collection service or other system available for recycling such material.
- (c) Notwithstanding any other provision herein, a covered generator shall be exempt from the recycling and/or organics recycling requirements in section 16-53 if all of the generators on the owner's business or multi-family property are exempt from or not required to comply with the provisions of section 16-53, or if designated recyclable materials are not being generated by any activities occurring on the covered generator's property.
- (d) Covered generators may be exempted by the city manager, and/or his or her designee, if it is determined through a site visit requested by the covered generator: 1) that there is not adequate storage space for automatic lift containers, rolling carts, bins or roll-off bins for designated recyclable and/or designated organic recyclable materials on site and that it is infeasible for the covered generator to share automatic lift containers, rolling carts, bins or roll-off bins for designated recyclable materials and/or designated organic recyclable materials with another covered generator on an adjoining property; or 2) that compliance with this article results in a violation of the city's zoning code, including city zoning regulations for minimum parking spaces. If the city manager, and/or his or her designee, determines that it is feasible for recycling containers to be placed on site or shared with an adjoining generator, the covered generator will be responsible for compliance with this article.
- (e) An application for an exemption shall be submitted to the city manager, and/or his or her designee, on a form prescribed by the city manager, and/or his or her designee. After reviewing the request, the city manager, and/or his or her designee, shall either approve or disapprove the exemption request.
- (f) The following persons shall automatically be exempt from the requirements of this article:
 - (1) The United States, State of California, a city, the county, a special district or other local public agency, or any employee or member of the Armed Forces thereof, when collecting or transporting designated recyclable materials produced by operation of the public entity under a system of recyclable materials' collection and transportation operated and maintained by the public agency within the city region as specified herein and in chapter 16, article 1 of this code.
 - (2) Municipal corporations and other governmental agencies using their own vehicles and employees engaged in the collection, transportation or disposal of designated recyclable materials within the city.

16-66 City rules and regulations.

- (a) The city manager, and/or his or her designee, is authorized to make and enforce administrative rules and regulations governing recycling and organics recycling at businesses and multi-family residential properties, and all related activities including recycling and commercial solid waste generation, storage, recovery, accumulation, collection, removal, transportation and disposal; the manner in which commercial solid waste and recycling and organics recycling services are provided; types of commercial solid waste and recycling containers and vehicles used for the operation and maintenance of sanitary methods of commercial solid waste and recycling and organics recycling disposal; reporting requirements for franchised waste haulers, authorized recyclers and self-haulers; and for the effective administration of this article. All such rules and regulations shall be consistent with the provisions of the City Municipal Code and shall be effective on the thirtieth day following the filing of any such rules and regulations with the city clerk.
- (b) The city council may, and is hereby empowered to, grant to a qualified applicant a non-exclusive franchise to engage in the business of collecting, transporting or disposing of commercial solid waste or recyclable materials or organic recyclable materials kept, accumulated or generated in the city region.
- (c) The city council may, directly or by delegating such authority by ordinance or resolution, grant franchises based on compliance with this article. Any grant of a franchise by the city council may be subject to such terms, conditions, rules, regulations, restrictions, and limitations, as the city council deems necessary to protect the public health, safety, or welfare.
- (d) The city council hereby empowers and grants to the city manager, and/or his or her designee, the authority to enter into commercial non-exclusive collection service agreements (commercial non-exclusive franchises) with franchised waste haulers, to make administrative and non-substantive changes to certificates of operation forms, to specify designated recyclable materials and designated organic recyclable materials, and make administrative rules and regulations governing covered generators.
- (e) The city council hereby empowers and grants to the city manager, and/or his or her designee, the authority to administer, implement and enforce this article and administrative rules and regulations governing business and multi-family residential property recycling and organics recycling thereafter.
- (f) It shall be unlawful and constitute a violation of this article for any person to violate or otherwise fail to comply with any rule or regulation issued pursuant to this article.

Comment [TLH19]: If you do not plan to have any additions policies, rules or regulations other than the ordinance, you can delete this section entirely.

16-67 Rights reserved to city.

In addition to all other rights reserved to the city, the following shall apply:

- (1) There is hereby reserved to the city every right and power, and the exercise thereof, which is reserved or authorized by any provision of any lawful code, title or resolution of the city, whether enacted before or after the effective date of this article.
- (2) Neither the granting of any franchise or authorization, nor any provision of any franchise or authorization, shall constitute a waiver of or a bar to exercise of any governmental right or power of the city.
- (3) The grantee receiving any type of franchise agreement, license or certificate to collect recyclable materials shall have no recourse whatsoever against the city, its officers, employees or agents, or any of the city member entities, their officers, employees, or

agents for any loss, cost, expense or damage arising out of any provision or requirement of this article, or of any franchised waste hauler or franchised waste hauler's certificate of operation issued under this article or because of the enforcement of this article.

- (4) There is hereby expressly reserved to the city the power and authority to amend any section of this article so as to require additional or greater standards on the part of the franchised waste hauler, commercial hauler or covered generator.

16-68 Administration and costs.

- (a) The administration of this article is the duty of the city manager, and/or his or her designee. The city manager, and/or his or her designee, is authorized and directed by the city council to administer this article.
- (b) Commercial franchise fees may be used to fund solid waste administration, implementation and enforcement costs.

16-69 Unlawful acts.

- (a) It shall be unlawful to combine designated recyclable materials and organic recyclable materials with other solid waste. Failure of covered generators to source separate designated recyclable materials or organic recyclable materials for recycling or organics recycling is a violation of this article.
- (b) It shall be unlawful for franchised waste haulers or authorized recyclers to commingle materials in solid waste bins or carts with materials in recycling bins or carts in one collection vehicle.
- (c) It shall be the responsibility of the covered generator whose solid waste was not removed because it contained designated recyclable materials to properly separate designated recyclable materials from the uncollected solid waste for proper recycling. Allowing such unseparated solid waste to accumulate will be considered a violation of this article.

16-70 Implementation and enforcement.

The implementation and enforcement of article V is the duty of the city manager, and/or his or her designee, of the city's public works department. The city manager, and/or his or her designee, is authorized and directed by the city council to implement and enforce this article.

16-71 Posting of notices.

- (a) The city manager, and/or his or her designee, may post notices on automatic lift containers, bins and roll-off bins that are used for solid waste collection and the collection of designated recyclable materials, and the collection of designated organic recyclable materials within the city if the owner of the automatic lift containers, bins and roll-off bins is in violation of this article, including, but not limited to, any regulation, franchise requirement, franchise agreement, information request, order, variance, or other requirement that the City manager, and/or his or her designee, is authorized to enforce or implement pursuant to this article.

- (b) A notice shall remain on automatic lift containers, bins and roll-off bins that are used for solid waste collection within the city so long as the owner of the automatic lift containers, bins and roll-off bins is in violation of this article. The notice shall be posted on the automatic lift container, bin, and/or roll-off bin so as to be clearly visible to the general public and include all of the following information:
- (1) The date the notice was posted on the container.
 - (2) The address or location of the property, including the identification of any dwelling unit, room number, apartment number, business or multi-family residential property.
 - (3) The name and contact telephone number of the agency posting the notice on the property.
 - (4) The City Municipal Code section that has been violated.
 - (5) A statement that it is unlawful for any person to engage in the business of collecting, transporting or disposing of commercial solid waste kept, accumulated or generated in the city, or to engage in the business of soliciting accounts or invoicing customers for commercial solid waste service in the city unless a franchise has first been granted pursuant to the provisions of this article and such a franchise is in full force and effect.
- (c) A statement that a person violating the posted notice is subject to criminal penalties pursuant to City Code and administrative civil penalties in an amount of up to \$1,000.00 per day for each violation.
- (d) A statement that a person disturbing or destroying the posted notice is subject to administrative civil penalties in an amount of up to \$1,000.00, in addition to any other remedies provided by this article.

16-72 Notice of violation.

The city manager, and/or his or her designee, may issue a notice of violation to any person found to be in violation of a provision of this article, including, but not limited to, any regulation, franchise requirement, franchise agreement, information request, order, variance, or other requirement that the city manager, and/or his or her designee, is authorized to enforce or implement pursuant to this article. Issuance of a notice of violation may also result in the issuance of a notice of administrative enforcement citation pursuant to this article.

16-73 Notice of violation—Content.

- (a) In addition to any other content, a notice of violation shall contain the following elements:
- (1) A statement of the city manager, and/or his or her designee, that indicates a violation has occurred.
 - (2) A citation of the provision of this article, including any regulation, franchise requirement, franchise agreement, information request, order, variance, or other requirement that has been violated.
 - (3) A date by which any person must be in compliance with this article including any regulation, franchise requirement, franchise agreement, information request, order, variance, or other requirement, or a date by which an action plan must be submitted by the person to propose a means and time frame by which to correct violations. The

city manager, and/or his or her designee, may extend the compliance date when good cause exists for such an extension.

- (4) Notification that continued non-compliance may result in additional enforcement action being taken against the business, facility, or any responsible persons.
 - (5) Notification that the city may recover any costs incurred by the city as a result of the violation.
 - (6) Notification that a violation of this article may result in an administrative civil penalty or in criminal penalties.
 - (7) Notification that the correction of any alleged violation(s) within the specified deadline date(s) will not necessarily prevent the city manager, and/or his or her designee, from issuing an administrative enforcement citation and imposing administrative civil penalties relating to the alleged violation(s).
- (b) In addition to any other content, a notice of violation may establish required corrective actions, including the following:
- (1) Terms, conditions, and requirements reasonably related to the provisions of this article, including the following:
 - a. Cessation of prohibited actions.
 - b. Correction of prohibited conditions.
 - c. A requirement for submittal of a written action plan for achieving and maintaining compliance with this article.
 - d. Reporting requirements to demonstrate ongoing compliance.
 - (2) A requirement that the person receiving same shall submit written certification to the general services director, and/or his or her designee, that the necessary corrective actions have been completed. As appropriate for the type of correction action taken, the notice of violation may require documentation that substantiates the certification, including but not limited to, receipts, contracts, or photographs.
 - (3) Any other terms or conditions reasonably calculated to prevent additional violations of this article.
- (c) An administrative enforcement citation may be issued separately, but only after issuance of a notice of violation, or in combination with a notice and order, for the same violations or set of related violations.

16-74 Administrative enforcement citation.

If the city manager, and/or his or her designee, determines that a person, covered generator, franchised waste hauler or authorized recycler, has committed or is committing, a violation of any provision of this article, the city manager, and/or his or her designee, may issue an administrative enforcement citation, requiring that the violation be corrected and imposing an administrative penalty, pursuant to the provisions of chapter 1A.

16-75 Delivery of notice.

Any notice of violation, franchise agreement revocation, administrative enforcement citation or other enforcement action pursuant to the requirements of this article shall be subject to the following requirements:

- (1) Delivery shall be deemed complete upon either personal delivery to the recipient or by certified mail.
- (2) Where the recipient of the notice or order is the owner of the premises, the address for notice or order shall be the address from the most recently issued equalized assessment roll for the premises.
- (3) Where the owner or occupant of any premises cannot be located after reasonable efforts of the city manager, and/or his or her designee, the notice or order shall be deemed delivered after posting on the premises for a period of ten business days.

16-76 Penalties.

In addition to the administrative penalties imposed by section 16-74 of this article, the city may seek all other legal remedies available under state law and under this Code, including, but not limited to, criminal sanctions.

SECTION 2. CEQA. This Ordinance is not a "project" for purposes of the California Environmental Quality Act (CEQA), as that term is defined in CEQA Guidelines Section 15378. Because it is not a "project," this Ordinance is not subject to CEQA's requirements. Further, even if this Ordinance is deemed a "project" and therefore subject to CEQA, the Ordinance is exempt for the following reasons: 1) under CEQA Guidelines Section 15061(b)(3), it is not a project which has the potential for causing a significant effect on the environment, and 2) under CEQA Guidelines Section 15308, it is an authorized action by an agency with regulatory authority for the purpose of assuring the maintenance, restoration, enhancement or protection of the environment.

SECTION 3. Severability. If any part of this chapter is declared to be invalid or unenforceable, the city council declares that such invalidity shall be severable, and that it would have adopted every other provision hereof without regard to such invalidity.

SECTION 4. Effective Date. This Urgency Ordinance is adopted by 4/5 vote of the City Council and shall take effect immediately pursuant to Government Code section 36937. The City Clerk of the City of South Pasadena shall certify to the passage and adoption of this ordinance and to its approval by the Mayor and City Council and shall cause the same to be published in a newspaper in the manner required by law.

PASSED, APPROVED, AND ADOPTED this 2nd day of November, 2016.

Diana Mahmud, Mayor

ATTEST:

APPROVED AS TO FORM:

Evelyn G. Zneimer, City Clerk
(seal)

Teresa L. Highsmith, City Attorney

Date: _____

I HEREBY CERTIFY the foregoing ordinance was duly adopted by the City Council of the City of South Pasadena, California, at a regular meeting held on the 2nd day of November, 2016, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

Evelyn G. Zneimer, City Clerk
(seal)