

ORDINANCE NO. 827 (2003)

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAKEPORT
AMENDING CHAPTER 8.16 OF THE LAKEPORT MUNICIPAL CODE
IN IT'S ENTIRETY RELATIVE TO SOLID WASTE,
GARBAGE COLLECTION AND DISPOSAL SERVICES**

WHEREAS, The periodic collection of solid waste from all properties within the City of Lakeport benefits all the people who live or do business within the City; and

WHEREAS, the Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989 ("AB 939"), has declared that it is within the public interest to authorize and require local agencies to make adequate provisions for solid waste and construction debris handling within their jurisdictions; and

WHEREAS, pursuant to California Public Resources Code Section 40059(a)(1), the City Council of the City of Lakeport has determined that the public health, safety, and well-being require that an exclusive franchise be awarded to a qualified enterprise for the collection, transportation, recycling, composting, and disposal of solid waste and construction debris and for providing temporary bin/rolloff services in residential, commercial, construction, and industrial areas in the City of Lakeport; and

WHEREAS, it has been determined that it is in the best interest of the Citizens of the City of Lakeport and the Community in general that mandatory garbage service be implemented on both Residential and Commercial/Industrial service; and

WHEREAS, because of such benefit, all of the people who live or do business within the City of Lakeport should share proportionately in the cost of solid waste collection services; and

WHEREAS, the City Council of the City of Lakeport declares its intention of maintaining reasonable rates for the collection, transportation, recycling and disposal of solid waste and construction debris and for providing temporary bin/rolloff service within the City limits.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF
LAKEPORT DOES ORDAIN AS FOLLOWS:**

SECTION 1. Chapter 8.16 of the City of Lakeport Municipal Code is hereby amended to read as follows:

Chapter 8.16

Solid Waste, Garbage Collection and Disposal

Sections:

8.16.010	Purpose.
8.16.020	Definitions.
8.16.030	Solid waste accumulations.
8.16.040	Solid waste containers.
8.16.050	Placement of containers.
8.16.060	Interference with solid waste.
8.16.070	Contact and payment for solid waste collection and service.
8.16.080	Solid waste collection.
8.16.090	Franchises for solid waste collection.
8.16.100	Collection and transportation times and days.
8.16.110	Solid waste disposal.

8.16.010 Purpose.

The purpose of this chapter is to provide for the collection and transportation of solid waste to a city-designated disposal site. The City has determined that public health and safety require the collection, transportation and disposal of solid waste to be controlled and regulated.

8.16.020 Definitions.

For purposes of this chapter the following words and phrases shall mean as follows:

“Bin” means a solid waste container satisfying the requirements of Section 8.16.040C.

“Bulky Items” means and includes, but not by way of limitation, discarded items such as white goods (i.e. major household appliances) water heaters, furniture, tires, carpets, mattresses and similar large items which have weights or volumes greater than the capacity of an allowed covered container, but excluding construction waste and special waste.

“City” means the city of Lakeport.

“City Manager” means the city manager of Lakeport.

“Commercial Collector” means any person or persons, natural or legal, other than as an employee, authorized by license, franchise, contract, operations agreement or otherwise with the city to collect, transport and dispose of solid waste from commercial customers within the city.

“Commercial occupant” means any person or persons, natural or legal, who owns property used for commercial, industrial, or school purposes or developed as an apartment or a duplex, triplex, condominium, or townhome complex or mobile home park for which the conditions, covenants, and restrictions or operating documents of such

complex or park require bin service. A commercial occupant shall mean the owner of such property. For the purposes of this chapter, an apartment shall contain four (4) or more units. With the city manager's approval, a residential occupant who owns a business within the city and disposes of residentially generated solid waste at the business shall be deemed a part of the commercial occupant and not a residential occupant. A commercial occupant shall be deemed a commercial customer.

"Combustible trash" is defined to be all waste and refuse, capable of burning readily, from and incidental to the use of homes and places of business, such as coffee grounds, egg shells, newspapers, magazines, wrappings, discarded clothing, empty packing cases, packing materials such as paper, hay straw, shavings, excelsior and sawdust; also lawn and tree trimmings and cuttings, weed and leaves from property used for residential purposes; provided, that all such trimmings, weeds and leaves, in order to be classified either as "trash" or as "combustible trash" and collected under the provisions of this chapter and shall cut in lengths no longer than 48" and be placed in the appropriate "green waste bin"; "combustible trash" shall not include or be construed to include any of the following: dead animals, dirt or earth, ashes, or any waste materials, including construction, alteration or repairs, or resulting from manufacturing processes.

"Discards" means all putrescible and non-putrescible waste materials which have been abandoned or discarded and placed for collection by residential or commercial customers including all trash; refuse; animal feces; food waste; waste paper; garbage; household goods; ashes; wearing apparel; and all worthless, useless, unused, rejected or cast-off solid or semi-solid matter, including street sweeping waste; construction waste; and any other material not otherwise defined in this chapter.

"Disposal site" means any recycle center, materials recovery facility, intermediate processing center, incineration facility or landfill where solid waste may be taken for intermediate processing or final disposal-as approved by the city manager.

"Drop box" means a solid waste container satisfying the requirements of Section 8.16.040C.

"Drop box transporter" means any person or persons, natural or legal, other than as an employee, authorized by license, franchise, contract, operations agreement or otherwise with the city to rent drop boxes for use in the city.

"Garbage" shall mean to include all refuse, fruit and vegetable material that attend the preparation, use, cooking dealing in or storage of meats, fish, fowl, fruits or vegetables and any other materials used for foodstuffs.

"Hazardous materials" means any material defined as hazardous in the State Health and Safety Code, as may be amended from time to time; a waste that is hazardous according to the criteria set forth in the California Code of Regulations, as may be amended from time to time, or any waste that must be disposed of in a hazardous waste landfill.

"Noncombustible trash" is defined to be all waste and refuse from residences and places of business such as metals, tin cans, bottles, broken glass, ashes and any other materials not capable of burning readily. "Noncombustible trash" does not include any of the following: dead animals, dirt or earth, rocks, stones or any waste materials, including plaster, resulting from building construction, alteration or repair, or resulting from manufacturing processes. No individual piece of noncombustible materials shall be considered "noncombustible trash" within the definition hereof, as prescribed in this

chapter, nor shall be subject to collection as herein provided, which is of a size in excess of two feet by one foot by five feet and/or a weight of fifty pounds.

“Receptacle” means a solid waste container satisfying the requirements of Section 8.16.040A.

“Recyclables” means paper, newspaper, glass aluminum and bi-metal cans, cardboard, plastic, bulky items, and other material that is to be recycled.

“Recycling” means the process of collecting, sorting, cleansing, treating, and reconstituting solid waste that would otherwise be disposed of, and returning them to the economic mainstream in the form of products which meet the quality standards necessary to be used in the marketplace.

“Residential collector” means any person or persons, natural or legal, other than as an employee, authorized by license, franchise, contract, operations agreement or otherwise with the city to collect, transport and dispose of solid waste from residential customers within the city.

“Residential occupant” means any person or persons, natural or legal, who owns a dwelling unit, notwithstanding the fact that there is a valid home occupation permit issued to the address of the dwelling unit. A dwelling unit is a single-family dwelling or a duplex, triplex, condominium or townhome or mobile home for which the conditions, covenants, and restrictions or other operation documents of the complex or park do not require bin service. A residential occupant shall mean the owner of such property regardless of whether such person or persons resides at such property. If approved by the city manager, occupants of a duplex or triplex on one parcel may share solid waste collection services, as long as the weekly set-out capacity does not exceed the single-family service limitations identified in the resolution setting residential collection fees, and if so approved shall be deemed one residential occupant. A residential occupant shall be deemed a residential customer.

“Solid waste” means discards; recyclables; bulky items; yard waste; any or all of which may contain small amounts of consumer products with the characteristics of hazardous substances; excluding special wastes.

“Special waste” means but is not limited to, flammable waste; containerized waste (e.g., a drum, barrel, portable tank, box, pail, etc); waste transported in a bulk tanker; liquid waste; sewage sludge; waste from a pollution control process; residue and debris from the cleanup of a spill or release of chemical substances, or reclamation; dead animals; waste water; explosive substances; radioactive materials; materials which have been exposed to highly infectious or contagious diseases; hazardous materials; and hazardous waste.

“Toter” shall mean a solid waste, green waste or recycling container satisfying the requirements of Section 8.16.040A.

“Trash” means and includes all those items and things included within the definition of the terms “combustible and noncombustible trash” as defined in this section and limited, and ashes; provided, that the term “trash” does not mean or include any of the following: dead animals, dirt or broken concrete, or any waste materials, including plaster, resulting from manufacturing processes.

“Yard waste” means materials generated from the maintenance or alteration of public, commercial, or residential landscapes, including grass clippings, tree and

shrubby trimmings and pruning, vegetative cuttings, leaves, brush, weeds, and related compostable materials.

8.16.030 Solid waste accumulations.

A. No person, natural or legal, shall accumulate, keep or deposit solid waste upon any sidewalk, street, roadway, alley or driveway or upon any real property, whether public or private, other than in bins, totes, drop boxes or receptacles and in accordance with Sections 8.16.040 and 8.16.050. Solid waste shall be kept free of all hazardous materials and special wastes, and placed in a closed tote, receptacle, bin or drop box.

B. No person, natural or legal, shall place or cause to be placed solid waste in any tote, bin, drop box, or receptacle located on any sidewalk, street, roadway, alley or driveway or upon any real property, whether public or private, other than real property owned or leased by such person.

C. No person, natural or legal, shall set out or cause to be set out for collection any solid waste other than solid waste originating on the abutting premises.

D. No person, natural or legal, shall dispose of solid waste in or near litter receptacles placed by the city in public places for the incidental use of pedestrian or motorists.

E. No person, natural or legal, shall accumulate, keep or deposit any solid waste in such a manner that a public nuisance is created, including, but not limited to, allowing fires, mosquitoes or rodents to breed therein.

8.16.040 Solid waste containers.

A. Receptacles (totes) shall be made of metal or plastic if barrels, or plastic if bags, and of sufficient strength to prevent them from being broken under ordinary conditions. They shall have a maximum capacity of Thirty-two (32) gallons for solid waste and ninety-five (95) gallons for Recyclables, unless issued by the commercial collector, in which case they may have a maximum capacity as approved by the hauler. Receptacles (totes) shall be equipped with a vermin and animal resistant cover or seal, which shall be utilized at all times. Receptacles shall be in a condition such that their contents can be fully enclosed and such that they shall stand upright and leave no sharp, jagged or otherwise dangerous corners or edges.

B. Bins which shall be utilized at all times, the top of which shall not exceed sixty (60) inches in height from the surface of the ground. They shall have a capacity of at least one (1) cubic yard but not more than six (6) cubic yards. Bins shall be constructed of metal or other material as approved by the city. All bins must be rented or purchased from the city or a commercial collector or residential collector.

C. Drop boxes shall have a capacity of at least ten (10) cubic yards. They shall be constructed of metal or other material as approved by the city. All drop boxes must be rented or purchased from the city of a commercial collector or residential collector or from a drop box transporter.

D. Receptacles, totes, drop boxes and bins shall be maintained in a clean, safe and sanitary condition. Customer will be responsible for general and routine cleaning of receptacles (totes).

1. Inspection of receptacles, totes, bins or drop boxes – The city health officer shall cause to be inspected at regular intervals, the receptacles, totes, drop boxes or bins used in depositing solid waste in the city and such inspector shall be the sole judge of the condition of such receptacles, as to their fitness for such use.

2. The city health officer shall cause to be placed, red tags on each and every receptacle which he deems inadequate, either by reason of its condition or size, to hold the garbage in the prescribed manner for any of the other reasons set forth in this chapter.

3. The residential or commercial collector or drop box transporter shall replace the tagged receptacle within five (5) days for residential totes with a suitable replacement receptacle. For commercial bins, the time period is thirty (30) days for a suitable replacement.

4. The city may assess a penalty fee to the residential or commercial collector or drop box transporter for failure to replace a tagged receptacle in the allotted time as outlined in this chapter.

8.16.050 Placement of containers.

A. Any bin, or drop box shall be placed for collection on any street, roadway or alley only as provided in this chapter.

B. Any receptacle or tote shall be placed for collection on a sidewalk, parkway, or alley only on the day established for the collection of solid waste on the particular route or after five-thirty (5:30) pm on the day immediately prior to such collection, and shall not remain thereon for more than eighteen (18) hours after it has been emptied.

C. Any receptacle or tote placed for collection on a sidewalk or parkway shall be placed between the curb line and the property line as close to the curb line or edge of the street or roadway as practicable.

D. Any receptacle, tote, bin or drop box placed for collection in any alley shall be placed as close to the property line as practicable.

E. Any bin or drop box placed in any street, roadway or alley shall require an encroachment permit from the city pursuant to this code, with the exception of a temporary drop box or bin.

F. No receptacle, tote or bin shall be stored in any required side yard that abuts any public street or in any required front yard. Every receptacle or bin shall be stored in a manner such that it is screened from public view and not visible from the sidewalk, street roadway or alley. The only exception would be a temporary roll-off drop box or bin for the purposes of clean up.

8.16.060 Interference with solid waste.

No person other than a residential or commercial collector, or customer shall interfere in any manner with any receptacle, tote bin or drop box or the contents thereof, remove any receptacle, tote, bin or drop box from the location where it was placed by the residential or commercial collector or customer, or remove the contents of any receptacle, tote, bin or drop box.

8.16.070 Contract and payment for solid waste collection service.

A. The city shall provide for the weekly collection, transportation and disposal of solid waste generated on private property in the city. Every commercial occupant and residential occupant shall contract for solid waste collection service (mandatory service). With the city manager approval, the obligation to contract for solid waste collection service may be waived due to extraordinary financial costs as a result of physical access limitations. Every commercial occupant and residential occupant who is required to contract for solid waste collection service shall pay a collection fee, established by resolution of the Lakeport City Council, for the maximum amount of solid waste to be collected at any one time from the subject property without the imposition of additional service charges. The collection fee shall be a civil debt owing to the city, except that if the city provides for solid waste collection by means of a license, franchise, or contract then the civil debt shall be owed to the licensee, franchisee, or contractor. It shall be unlawful for any commercial occupant or residential occupant to fail to pay the collection fee within the time period specified on the billing statement, which time period shall not be less than thirty (30) days from the date notice is mailed.

B. The failure of any occupant to promptly remit the collection fee when due and payable shall entitle the city or, in the case of a license, franchise, or contract, the licensee, franchisee, or contractor to collect a late fee from that occupant. The maximum amount of the late fee shall be established by resolution of the Lakeport City Council. The maximum amount of solid waste to be collected at any one time from the property of commercial and residential occupants without the imposition of any additional service charges shall be determined by resolution of the Lakeport City Council. The occupant shall be charged an additional service charge for all solid waste in excess of the above limits on any given collection day.

C. Pursuant to applicable Government and Health and Safety Codes, and upon the direction of the Lakeport City Council, any debt and all penalties shall be collected and annually transferred to the County Auditor for inclusion on the next year's tax bill of the respective property owner. An action in the name of the city may be commenced in any court of competent jurisdiction for the amount of any delinquent fees or charges and if legal action is brought by the city or its designee to enforce the collection of any amount charged and due under this section, any judgment rendered in favor of the city shall include costs of suit incurred by the city or its designee including a reasonable attorney's fee if allowable by statute.

8.16.080 Solid waste collection.

No person or persons, natural or legal, other than as an employee, shall collect, enter into an agreement to collect, or provide for the collection, transportation or disposal of solid waste, unless such person or persons is authorized by the City of Lakeport to operate within the city by means of a license, franchise, contract, operations agreement or otherwise.

8.16.090 Franchises for solid waste collection.

The city reserves the right to grant an exclusive or non-exclusive license, franchise, contract, operations agreement or otherwise for the collection, transportation, or disposal of solid waste from sources and for the rental of drop boxes within the city under such terms and conditions as are contained in this chapter and as may be prescribed by the city council. The city may require monetary compensation from commercial and residential collectors and drop box transporters, in exchange for the license, franchise, contract, operations agreement or otherwise. A written agreement between the city and the commercial or residential collector or drop box transporter shall be required when the city exercises its right to license, franchise or otherwise contract for the collection, transportation, and disposal of solid waste.

8.16.100 Collection and transportation times and days

A. No residential collector or drop box transporter servicing a residential customer shall collect solid waste in the city or pick up or deliver drop boxes except between the hours of five (5:00) a.m. and six (6:00) p.m., Monday through Friday, nor at any time on Saturdays or Sundays except as provided in subsection D.

B. No commercial collector or drop box transporter servicing a commercial customer shall collect solid waste in the city except between the hours of five (5:00) a.m. and six (6:00) p.m., Monday through Friday and between the hours of seven (7:00) a.m. and three (3:00) p.m., on Saturdays, nor at any time on Sundays except as provided in subsection D.

C. No residential or commercial collector or drop box transporter shall collect or transport solid waste within two hundred (200) feet of a public or private elementary, middle, or high school during the one-half (1/2) hour before the commencement of the regular school day and one-half (1/2) hour following the conclusion of the regular school day. It shall be the responsibility of the collector or drop box transporter to ascertain the various starting and ending times for schools in the city.

D. Whenever a holiday recognized by the city or any disposal site falls upon a regularly scheduled collection day, the solid waste scheduled for collection that day, and for the remainder of the week, may be picked up one day later than scheduled. The collector or drop box transporter shall provide the city with at least seven (7) days prior written notice of the collection schedule for each applicable holiday and the collector shall place advertisements in one (1) daily newspaper servicing the city notifying customers of the same.

8.16.110 Solid waste disposal.

A. The city shall approve where solid waste generated in the city is transported for disposal. No collector or drop box transporter shall dispose of solid waste at a disposal site owned or controlled by the collector or its parent or holding company unless expressly granted by the city.

B. No person, including a collector or drop box transporter, shall burn any solid waste within the city at any time, except as otherwise permitted by law.

C. No person, including a collector or drop box transporter, shall bury or dump any solid waste within the city, except at a designated disposal site and then only in accordance with the rules and regulations governing the use of such disposal site.

D. No residential collector shall provide less than weekly collection of solid waste from residential customers in the city when such solid waste is properly placed for collection on the day of collection.

E. No commercial collector or drop box transporter shall fail to collect solid waste accumulated by each customer, as many times as requested by the customer or once per week, whichever is more frequent.

F. No residential collector collection or transporting solid waste within the city shall create noise levels in excess of sixty-five (65) decibels. No commercial collector or box transporter collecting or transporting solid waste within the city shall create noise levels in excess of seventy (70) decibels.

G. No collector or drop box transporter shall fail to maintain bins, totes and boxes other than in good repair.

SECTION 2. If any section, subsection, sentence, clause, phrase, part of the portion of this ordinance is in any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The Lakeport City Council declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, part of the portion of this ordinance, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, parts or portions be declared invalid or unconstitutional.

SECTION 3. This ordinance shall become effective January 1, 2004.

SECTION 4. The City Clerk shall certify to the passage and adoption of this ordinance; shall enter the same in the book of original ordinances of the City of Lakeport; shall make a minute of the passage and adoption thereof in the records of the proceedings of the Lakeport City Council at which the same is passed and adopted; and shall, within fifteen (15) days after the passage and adoption hereof, cause the same to be published once in a newspaper of general circulation designated for that purpose.

The above ordinance was introduced on October 22, 2003, and approved and adopted at a regular meeting of the City Council of the City of Lakeport held November 12, 2003.

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