ORDINANCE NO. 2019-12

AN ORDINANCE OF THE CITY COUNCIL OF THE CHARTERED CITY OF VISTA, CALIFORNIA, AMENDING AND RESTATING CHAPTER 13.16 OF THE VISTA MUNICIPAL CODE REGARDING SOLID WASTE COLLECTION AND DISPOSAL

The City Council of the City of Vista does ordain as follows:

1. **Findings.** The City Council hereby finds and declares all of the following:

   A. Regional Water Quality Control Boards (RWQCBs) have been directed to implement a statewide mandate requiring the control, collection, and disposal of solid waste (excluding green and hazardous wastes) from the right-of-way prior to entering surface waters.

   B. The San Diego RWQCB issued Order No. R9-2017-0077 (Order), requiring permittees, which includes the City of Vista, to submit an implementation plan, adhering to specific framework described within the Order, to demonstrate compliance.

   C. The City Council desires to provide for a California Mandated Trash Clean-Up (CMTC) fee for all trash generators in order to comply with the RWQCB mandate.

   D. The City Council further desires to revise language in Chapter 13.16 to conform to current terminology and to restore collection procedures previously included in Chapter 13.16.

   E. The City Council desires to amend and restate Chapter 13.16 of the Vista Municipal Code relating to solid waste collection and disposal in its entirety in order to incorporate these additions and revisions.

2. **Code Amendment.**

   A. Chapter 13.16 of the Vista Municipal Code is amended and restated as shown in Exhibit A to this Resolution.

3. **Severability.** If any word, sentence, paragraph, or other portion of this ordinance is deemed to be invalid or unenforceable for any reason by a court of competent jurisdiction, the City Council declares its intent that all remaining words, sentences, paragraphs or portions of the ordinance not held to be invalid or unenforceable shall remain in full force and effect, and shall, be so construed, as if the original ordinance did not contain the invalid or unenforceable language.

4. **Effective Date.** This Ordinance shall be in full force and effect on the thirty-first day following the date of its adoption.

[Continued on page 2.]
ORDINANCE NO. 2019-12
CITY COUNCIL OF THE CHARTERED CITY OF VISTA
PAGE 2

5. Adoption. INTRODUCED AND ADOPTED at a meeting of the City Council held on September 10, 2019 by the following vote:

AYES: Mayor Ritter, Rigby, Franklin, Green, Contreras

NOES: None

ABSTAIN: None

JUDY RITTER, MAYOR

APPROVED AS TO FORM:
DAROLD PIEPER, CITY ATTORNEY

ATTEST:
KATHY VALDEZ, CITY CLERK

By: ____________________________

By: ____________________________

APPROVED
Darold Pieper
20190903121213

00075961 2
EXHIBIT A

“Chapter 13.16

Solid Waste Management

Sections:

13.16.010 Purpose
13.16.020 Definitions
13.16.030 Burying Prohibited Generally
13.16.040 Burying Permitted-Procedure - Effect of Health Officer’s Order Prohibiting
13.16.050 Burning Prohibited Generally
13.16.060 Solid Waste Collection Mandatory
13.16.070 Frequency and Scheduling of Collection
13.16.080 Special Collections
13.16.090 Exemption from Mandatory Collection
13.16.100 Exemption from Payment - Economic Hardship
13.16.110 Unlawful Collection
13.16.120 Solid Waste Containers - Type and Construction
13.16.130 Solid Waste Containers - Volume/Weight Limitations
13.16.140 Special Methods of Collection and Disposal
13.16.150 Placement of Containers for Collection
13.16.160 Transporting Vehicles - Body Requirements
13.16.170 Transporting Vehicles - Covering When Not In Use
13.16.180 Unlawful Transportation through Public Streets
13.16.190 Unlawful to Place Infectious or Hazardous Waste in Solid Waste Containers
13.16.200 Unsafe or Offensive Accumulation of Solid Waste Prohibited
13.16.210 Interference with Solid Waste Containers Prohibited
13.16.220 Spilling of Solid Waste Prohibited
13.16.230 No Parking of Loaded Trucks Overnight
13.16.240 Franchise Agreement between Contractor and City
13.16.250 Contract Authority - Bond Required
13.16.260 Indemnification to City
13.16.270 Basis for Letting
13.16.280 Authority to Terminate, Relet Contract
13.16.290 Assignment or Transfer of Rights
13.16.300 Solid Waste Collection, Spillage and Cleanup
13.16.310 Solid Waste Disposal
13.16.320 Collection from Public Parks and Government Buildings
13.16.330 Contractor Participation in Special Cleanup Activities
13.16.340 Compliance with Motor Vehicle Code
13.16.350 Compliance with Local and California Laws and Regulations
13.16.360 Continuance of Service in the Event of Nonpayment
13.16.370 Council to Establish Charges
13.16.380 Basis for Charges
13.16.390 Liability for Payment
13.16.400 Direct Payment to Contractor
13.16.410 Failure to Pay Contractor for Solid Waste Collection
13.16.420 Special Assessment Collection
Section 13.16.010 Purpose

The City Council finds that the storage, accumulation, collection and disposal of solid waste is a matter of public concern, in that improper control of such matters creates a public nuisance, can lead to air pollution, fire hazards, illegal dumping, insect breeding, rodent infestation, pollution to surface waters and other problems affecting the health, welfare, and safety of the residents of this and surrounding cities. The City Council further finds that the periodic collection of solid waste from all real properties with Generators in the City benefits all persons in the City as well as the greater community. Accordingly, the collection of solid waste in the City is a mandatory service and all owners of real property with Generators as defined in Section 13.16.020 are made liable for the payment of such fees as may be charged from time to time by the City’s Contractor. The City Council further declares that the regulations provided in this chapter are designated to eliminate or alleviate such problems and to provide procedures complying with requirements placed upon the City by other regulatory bodies.

Section 13.16.020 Definitions

For the purpose of this chapter, the following words and phrases are defined as follows, unless it is apparent from the context that they have a different meaning:

“Agent” means any employee or agent of the City designated by the City Manager or City Council as being responsible for directing, collecting, or providing for the collection, disposal and transportation of solid waste.

“Animal Waste” means manure, fertilizer or any form of excrement produced by any and all forms of domestic animals or commercial livestock.

“City” means the City of Vista as its boundaries now exist or may exist during the term of this chapter.

“City Council” means the Mayor and City Council of the City.

“City Manager” means the City Manager or the City Manager’s designee.

“Collection” when used singly in this chapter, means the collection, transportation and disposal of any and all forms of solid waste, as defined in this section.

“Combustible Rubbish” includes paper, rags, discarded household bedding, packing materials, cartons, boxes, containers, grass, plants, shrubs, trees, vines, and the prunings thereof, shavings, sawdust, chips, lumber scraps, or other articles from lumberyards, mills or factories and other articles which will burn upon contact with flames of ordinary temperature. Combustible rubbish does not include those materials listed under “construction and demolition debris,” in this section.

“Compost” has the meaning established by California Public Resources Codes Section 40116.
“Construction and Demolition Debris” includes dirt, sweepings, bricks, mortar, plaster, and other building materials, whether combustible or noncombustible, resulting from the repair, remodeling, demolition, or construction of buildings.

“Contractor” means the solid waste collection contractor with whom the City Council has entered into written agreement for the collection, transportation and disposal of solid waste within the City.

“County” means the County of San Diego.

“Dwelling” has the meaning established by Vista Development Code 18.02.270.

“Generator” means any persons, place of business, or dwelling that creates, produces, or accumulates solid waste.

“Green Waste” includes vegetative matter and plant debris, such as grass clippings, leaves, pruning, weeds, branches, brush, holiday trees, and other forms of organic waste, all as further defined and limited by the Contractor.

“Hazardous Waste” waste has the meaning established by California Public Resources Code Section 40141. “Littering” means the willful or negligent throwing, tossing, dropping, placing, depositing, sweeping, or blowing with a mechanical device of any solid waste or recyclable on public sidewalk, street, alleys, walkway, waters, waterway, water course, gutter, storm drain, park, railroad right-of-way, open space, or other public property whether open to the public or not, except in a receptacle designed for solid waste collection, recycling, or disposal.

“Miscellaneous and Bulky Debris” means all solid waste not otherwise provided for in the foregoing or following definitions including appliances, furniture, large auto parts, trees, branches, stumps, or amounts of solid waste collected at each collection in excess of the maximum amounts permitted by this chapter, and other solid waste the size, weight, or volume of which precludes or complicates their handling by normal collection methods.

“Noncombustible Solid Waste” includes, among other things ashes, bottles, broken glass, crockery, earthenware, metal cans, metalware, wire products, other articles of discarded metal or stone of less than 20 pounds in weight each, automobile tires, inner tubes, batteries, and metal kegs, barrels, or casks. Noncombustible solid waste shall not include those materials listed under “construction and demolition debris,” in this section.

“Occupants” means and includes every owner of, and every tenant or person who is in possession of, is the inhabitant of, or has the care and control of, an inhabited residence or place of business.

“Organic Waste” waste has the meaning established by California Public Resources Code Section 42649.8.

“Owner” mean the legal owner or owners of real property with a Generator.

“Person” as used in this chapter, means any individual, firm, corporation, association, or group, or combination acting as a unit.

“Place of Business” means any hotel, motel, lodging house, trailer court, restaurant, cafeteria, market, hospital, or any educational, institutional, professional, commercial, or industrial establishment where there is an accumulation of solid waste.

“Single Family Dwelling” has the meaning established by Vista Development Code 18.02.280.

“Solid Waste” has the meaning established by the California Public Resources Code section 40191. In addition, solid waste includes any material that may be recycled.

“Streets” means the public streets, ways, alleys, and places, except state freeways, as the same now or may hereafter exist within the City.

“Truck” means any truck, trailer, semitrailer, conveyance or vehicle used or intended to be used for the purpose of collecting solid waste or to haul or transport solid waste.
Section 13.16.030  Burying Prohibited Generally

Except as provided in Section 13.16.040, no person shall bury any solid waste on any real property within the City.

Section 13.16.040  Burying Permitted - Procedure-Effect of Health Officer's Order Prohibiting

Organic Waste may be buried in the ground as part of ordinary non-commercial gardening activity if the same is at once securely covered with earth to a depth of at least 12 inches in such a manner as to prevent noticeable odors at adjoining property lines or attraction of rodents or disease vectors; provided, such burial occurs no closer than 60 feet to any dwelling; provided, further, that no person deposits any Organic Waste in such a manner that the same is or may become a nuisance or endanger the public health, and that an order from the County Health Officer prohibiting such deposit is final.

Section 13.16.050  Burning Prohibited Generally

The burning of any and all types of solid waste within the City is prohibited, with the exception that agricultural crop wastes may be burned pursuant to permits issued by the Fire Chief, or the Fire Chief’s designee in accord with Section 41855 of the Health and Safety Code.

Section 13.16.060  Solid Waste Collection Mandatory

It shall be the duty of every Owner to cause the provision of solid waste collection services by the Contractor to the Generator.

Section 13.16.070  Frequency and Scheduling of Collection

All solid waste from a Generator shall be collected at least once each week. The City Manager may, at the City Manager’s discretion, or upon recommendation of the Contractor or the County Health Officer, require more frequent pick-ups should the nature of a particular Generator so require. The Contractor shall arrange collection routes so that pick-ups will be made on the same day of each succeeding week, with the following exception: No collection will occur on Memorial, Independence, Labor, Thanksgiving, Christmas, and New Year’s Day, contingent upon advance notice to all those affected, in a manner satisfactory to the City Manager.

Section 13.16.080  Special Collections

A. Availability and Payment for Services. Any Generator desiring to have solid waste collections more frequently than provided by this chapter or who has accumulated solid waste of any type exceeding the maximum amount permitted per collection, or who has accumulated miscellaneous, bulky, construction, or demolition debris shall enter in an agreement with the Contractor for special collection service. Such service is rendered on terms mutually agreeable to both parties and payment for service is made directly to the Contractor.

B. Payment under Protest. Any Generator billed for special collection services and who desires to contest the extent or reasonableness of the charge billed, shall make payment of such charges under protest and, at the same time, file a written statement of protest with the City Manager. Within 30 days after the date of filing, the City Manager shall notify the protesting party of the decision and adjustment in the matter.
Section 13.16.090  Exemption from Mandatory Collection

A. Any Generator may request exemption from the requirement of Section 13.16.060, on condition that proof of the consent of the Owner and regular use of a county-authorized solid waste facility is shown. Such proof of regular use shall consist of the following:
   1. Single Family Dwellings. A minimum of 48 disposal receipts from a county-authorized solid waste facility. Receipts shall have been issued during that calendar year for which exemption is requested and at intervals no greater than eight days;
   2. Non-Dwelling Occupancies. Generally, the same requirements as specified for Single Family Dwellings, above, with the following exception: the City Manager may, at the City Manager’s discretion or upon recommendation of the County Health Officer, require a greater number of disposal receipts, issued at lesser intervals than specified above, should the nature of the business in question demand more frequent disposal.
B. Applications for exemption shall be filed in writing with the City no later than January 1 of each year, for approval or disapproval by the City Manager. First year exemptions are granted upon proof of advance purchase of 24 dump passes or regular weekly self-disposal. Subsequent applications by the same occupant shall be accompanied by proof of disposal during the preceding year, as required above. This exemption status is revocable upon continued violation of this chapter and upon recommendation of City Manager.
C. An exemption from the mandatory collection requirements of Section 13.16.060 may be granted to the owner of any property that is vacant for a period of 30 consecutive days or more. Such exemption may be granted by the City Manager, or person authorized and designated by him/her, upon receipt of a written notice of other evidence in writing from the legal owner of the property that the property that the property is vacant and such additional information or evidence that the City Manager or the City Manager’s designee may require. Failure of the property owner to give written notice of the vacancy in such time and in such manner as the City Manager may require shall provide reasonable grounds for ineligibility or disallowance of the exemption until such time as proper notice has been given. The City Manager shall establish the time and manner requirements for proper notice by adoption of an administrative procedure.

Section 13.16.100  Exemption from Payment - Economic Hardship

A. Any occupant of a Single Family Dwelling in the City may request exemption from payment for mandatory collection services on grounds of economic hardship. For purposes of this section, “economic hardship” means inability to pay, based on a combined family income falling at or below poverty level in the calendar year preceding that in which exemption is requested. Eligibility for exemption shall be determined based on the most recent figures for “Income at Poverty Level by Family Size” published by the U.S. Bureau of Census. All requests for exemption shall be accompanied by such certification of income deemed appropriate by the City Manager and are decided by the City Manager. No person contracting for special collection services pursuant to Section 13.16.080 of this chapter, is exempt from payment for such services.
B. There is created in the general fund an account for the payment of refuse collection subsidies. It is debited for payment to the Contractor of regular monthly charges incurred for provision of collection services to persons exempted pursuant to Subsection A of this section.

Section 13.16.110  Unlawful Collection

It is unlawful for any person to collect solid waste within the City unless such person is under written contract with the City to perform collection services or is exempted as outlined in Subsections A, B, C, D, E, F, and G of this section. It is further unlawful for any person to permit,
allow, or enter into any agreement whatsoever for the collection of solid waste with any person not
the Contractor as defined in Section 13.16.020, except as permitted in Subsections A, B, C, D, E,
F, and G of this section.

A. Subcontractors to the Contractor may perform such collection services as are
approved in writing by the City Manager.

B. The occupant of any premises may remove solid waste accumulated on premises
owned, occupied or controlled by that person and may dispose of the same in a lawful manner.
Except as provided in Section 13.16.090, exercise of this right does not exempt such person from
payment of the mandatory solid waste collection fee due the Contractor as provided for under
terms of this chapter.

C. The collection and removal of lawn clippings, shrub and tree trimmings and other
vegetative matter by individual residents and by persons doing business as professional
landscapers, when such activity is directly related to their work, is exempt from provisions of this
section.

D. The Contractor is not required to collect hazardous or dangerous materials as part
of regular collection activity. Liquid and dry caustics, acids, biohazardous, flammable, or explosive
materials, insecticides, and similar substances shall instead be handled and disposed of under
separate agreement between Generator and Contractor or a designated subcontractor approved
by the City, under arrangements made with the City and in accord with provisions of the California
Health and Safety Code. Such agreements are exempt from the provisions of this section.

E. The Contractor is not required to collect infectious medical waste, as defined in
Section 25117.5 of the California Health and Safety Code. Institutions producing and storing such
wastes and any person handling or disposing of such material shall do so only in the manner
approved by the County Health Officer or their designee and in accord with provisions of the
California Health and Safety Code. Such activity is exempt from the provisions of this section.

F. Individual residents and City-recognized nonprofit organizations may collect
recyclable materials including, but not limited to, glass, newspaper, aluminum, and cardboard for
transport to a City-approved or City-recognized recycling center, subject to the following
restrictions:

1. Collection of recyclables by residents is limited to premises owned,
occupied, or controlled by such persons.

2. This provision does not apply to recyclable building materials generated by
the repair, demolition, or construction of buildings, the rights to collection of which shall remain
with the Contractor or its designated subcontractor.

G. An entity described in California Public Resource Code Section 40059.4 may
contract to haul solid waste meeting all of the requirements of Subsection 40059.4(b), provided
that the hauler has a City of Vista Business License and complies with the requirements of

Section 13.16.120 Solid Waste Containers - Type and Construction

It is the duty of all occupants to provide containers for the accumulation and disposal of
solid waste as follows:

A. Residential Occupancies

1. Residential Solid Waste. The Contractor shall provide one (1) waste
disposal cart per dwelling unit for the storage of rubbish or garbage as herein defined. Two (2)
additional waste disposal carts may be rented by a resident, if such resident generates more than
95 gallons of municipal solid waste weekly, for a monthly fee determined by the Contractor.
Residents may not co-mingle either recyclables or green waste or with municipal solid waste.
Material placed outside the cart will not be collected by the Contractor.
2. Residential Recyclables. The Contractor shall provide one (1) recycling cart per dwelling unit for the storage and disposal of recycling material as defined by the Contractor. The carts provided will be either 35-gallon or 65-gallon in capacity. Residents may request two (2) additional recycling carts at no additional charge. Recycling material that may be stored for weekly collection include: glass bottles and jars, aluminum and steel cans, plastic beverage containers, all plastic containers marked with a 1-7 recycling symbol on the bottom of the container, cardboard, cardboard food containers (cartons), newspaper, mixed paper, block Styrofoam and other materials designated as recyclable by the Contractor. Residents may not co-mingle rubbish, garbage, or green waste with recycling materials. Material placed outside the cart will not be collected by the Contractor.

3. Residential Green Waste. The Contractor shall provide one green waste disposal cart per dwelling unit for the storage of green waste or other organic material as required by the Contractor. The carts provided will be 35-gallon, 65-gallon or 95-gallon in capacity depending on the individual need of the residence. Residents may request up to two (2) additional green waste carts at no additional cost. Additional green waste disposal carts may be rented by a resident, if such resident generates more than 285 gallons of green waste weekly, for a monthly fee determined by the Contractor. Green waste material that may be stored for weekly collection include: grass clippings, weeds, brush, tree trimmings, leaves, flowers and other materials that may be designated as recyclable by the Contractor. Residents may not co-mingle rubbish, garbage or recyclables with green waste. The use of plastic bags for the storage or disposal of green waste is prohibited. Material placed outside the cart will not be collected by the Contractor.

Section 13.16.130 Solid Waste Containers - Volume/Weight Limitations

The following volume/weight restrictions apply to solid waste and solid waste containers placed for collection by the Contractor:

A. Residential Occupancies.
   1. The following limitations shall apply:
      a. Weight of Container: The container weight may not exceed the maximum weight as defined by the cart manufacturer and stamped on the lid of the cart. The Contractor has no obligation to serve an overweight cart.
      b. Volume of Container: Residents may not overload the container and are required to close all lids prior to the collection of the cart. Material sticking outside the top of the cart is overloaded and the Contractor has no obligation to service an overloaded cart. The Contractor is not obligated to collect any material that is placed outside of the cart on collection day.

Section 13.16.140 Special Methods of Collection and Disposal

A. The removal of wearing apparel, bedding, or other solid waste from homes, hospitals, or other places where highly infectious or contagious diseases have prevailed, shall be performed at the occupant's expense, under the supervision and direction of the County Health Officer and such solid waste shall neither be placed in solid waste containers nor left for regular collection and disposal.

B. Highly inflammable or explosive or radioactive refuse shall not be placed in containers or receptacles for regular collection and disposal, but shall be removed under the supervision of the Fire Chief, or the Fire Chief's designee at the expense of the owner or possessor of the material.

C. Hazardous wastes as defined in Section 13.16.020, shall not be placed in refuse containers or left for regular collection and disposal. Such items shall be removed at the
occupant’s expense only after arrangements have been made with the City or its agent for such removal.

D. Solid waste containing water or other liquids shall be drained before being placed in a container or receptacle. Matter which is subject to decomposition shall be wrapped in paper or other material before being placed in a container or receptacle.

E. Animal wastes, as defined in Section 13.16.020, shall not be placed in containers, or receptacles for regular collection and disposal, but shall be removed at the occupant’s expense.

Section 13.16.150 Placement of Containers for Collection

It is the duty of all occupants to set out containers for the collection of solid waste as follows:

A. Location.
   1. Residential Occupancies. All solid waste containers shall be placed at the curb on the nearest public street fronting the premises occupied by the person depositing the same, there to be collected by the Contractor; provided that the Contractor may designate some other location for the placement of containers when such placement will expedite collection.
   2. Business and Multiple Dwelling Occupancies. All solid containers shall be placed within a permanently constructed trash enclosure, when available on premises. Should such enclosure not exist and not be required by law, the Contractor shall designate some other freely accessible location to expedite collection; provided that placement of containers at such alternative location does not result in a hindrance to vehicle movement nor constitute a visual nuisance.

B. Restrictions on Time of Placement. It is unlawful to place or permit to remain any solid waste containers on the curbings, parkways, or sidewalks of any public street before 4:00 p.m. on the day prior to collection, or after 6:00 p.m. on the day following collection, after materials have been removed or collected.

C. Generally. All occupants shall maintain supervision and surveillance over solid waste containers on their premises and shall maintain the same in a sanitary manner. Should containers be placed for collection as required above and not be emptied on the date scheduled by the Contractor, they should immediately notify the Contractor, whose duty it is to arrange for the collection and disposal of such solid waste forthwith.

Section 13.16.160 Transporting Vehicles - Body Requirements

No person shall collect, remove, transport, or carry solid waste over the public streets of the City except in vehicles having a metallic-lined, watertight body.

Section 13.16.170 Transporting Vehicles - Covering When Not in Use

When not actually collecting solid waste, the body of the vehicle used to collect such material shall be covered with a tight-fitting tarpaulin or other suitable covering to eliminate offensive odors, flies, leakage, or loss of solid waste.

Section 13.16.180 Unlawful Transportation through Public Streets

It is unlawful for anyone other than the Contractor pursuant to this chapter or those persons as specifically permitted in this chapter to carry or transport solid waste in any manner or amount within the City on or through any public street in the City.
Section 13.16.190 Unlawful to Place Infectious or Hazardous Waste in Solid Waste Containers

It is unlawful for any person to place in any solid waste container for collection pursuant to this chapter, operable hypodermic needles, drugs, poisons, or any infectious waste material, liquid or dry caustics, or acids, bio-hazardous, radioactive, flammable or explosive materials, insecticides, or any other hazardous wastes as defined in this chapter. Such materials may be (i) collected only by the Contractor, its subcontractor, or as provided in Section 13.16.110 of this chapter, and in the manner specified in Section 13.16.140 of this chapter; or (ii) personally delivered by the Owner or Generator for self-disposal at a licensed hazardous waste disposal facility.

Section 13.16.200 Unsafe or Offensive Accumulation of Solid Waste Prohibited

It is unlawful for any person to permit the accumulation of solid waste to become or remain offensive, unsightly, unsafe to the public health or hazardous from fire.

Section 13.16.210 Interference with Solid Waste Containers Prohibited

No person shall interfere with or disturb any solid waste container, or remove the same from where it has been placed for collection by its owner without having a written contract with the City to collect and dispose of solid waste.

Section 13.16.220 Spilling of Solid Waste Prohibited

No person, including the Contractor authorized to collect solid waste, shall place, sweep, spill or permit solid waste to fall upon any private grounds or public streets within the City.

Section 13.16.230 No Parking of Loaded Trucks Overnight

No person shall leave trucks or other transport loaded with solid waste parked for over a twenty-four-hour period on City streets.

Section 13.16.240 Franchise Agreement between Contractor and City

A. Contracts or franchise agreements executed to provide for solid waste disposal shall conform to the terms of this chapter.

B. Provisions of this chapter do not preempt or negate terms of the franchise agreement for solid waste collection and disposal services currently existing between the City and the Contractor, unless such provisions of this chapter specifically conflict with terms of said agreement. All terms of the franchise agreement not in specific conflict with this chapter are saved from repeal and are continued in full force and effect.

Section 13.16.250 Contract Authority - Bond Required

The City Council has the power to let contracts for the removal, transportation and disposal of solid waste as provided in this chapter, and may, as a condition of granting such contracts, require a bond from any contractor, the amount of which shall be determined by the City Attorney and set forth in the franchise agreement.
Section 13.16.260  Indemnification to City

Any grantee shall indemnify the City, its officers, and its employees against all claims, demands, actions, suits, and proceedings resulting from the actions or operations of the Contractor under terms of the franchise agreement by filing with the City Clerk, certificates of liability insurance, property damage insurance, workers compensation insurance or other instrument(s) acceptable to the City Attorney and set forth in the franchise agreement.

Section 13.16.270  Basis for Letting

In letting contracts authorized by this chapter, the Council is not required to let contracts to the lowest bidder, but is free to let such contracts to the person deemed best fitted to comply with the terms of this chapter and the contract.

Section 13.16.280  Authority to Terminate, Relet Contract

Should the Contractor fail or refuse to comply with the conditions of this chapter and of its contract to remove, transport, and dispose of solid waste and the Contractor has been given written notice of noncompliance by the City Manager and the Contractor has further been given 30 days to correct such deficiencies, the Council may, at its option and after a hearing, of which the Contractor shall have ten days written notice, terminate the contract and let, the contract to another contractor deemed more capable of carrying out its terms.

Section 13.16.290  Assignment or Transfer of Rights

No assignment or transfer of any right conferred by contract shall be made in whole or in part by the Contractor without express written consent of the City. Should any assignment or transfer be authorized by the City Council, the assignee shall assume the liability and such other obligations of the contractors as maybe related to the service performed.

Section 13.16.300  Solid Waste Collection, Spillage, and Cleanup

The Contractor shall exercise all reasonable care and diligence in collecting solid waste to prevent spilling, scattering, or dropping of solid waste, and shall at the time of occurrence clean up any spillage.

Section 13.16.310  Solid Waste Disposal

The Contractor shall dispose of collected wastes, at Contractor’s expense, at an authorized solid waste facility in a manner satisfactory to the City and in accordance with all state and local laws and regulations.

Section 13.16320  Collection from Public Parks and Government Buildings

The Contractor shall without charge, collect solid waste from City-controlled public parks, playgrounds, City government buildings, and other City-controlled facilities, from the receptacles in which the same is confined, and any receptacle in the business district belonging to the City, on a service frequency and day(s) of collection to be determined by the City Manager.
Section 13.16.330 Contractor Participation in Special Cleanup Activities

The Contractor shall participate with the City in any annual cleanup activity upon request of the City Manager as may be necessary to supplement the City’s available manpower and equipment resources, and shall otherwise cooperate with the City Manager in resolving special disposal related problems.

Section 13.16.340 Vehicle Compliance with Codes and Regulations

The Contractor’s trucks shall comply with the regulations as set forth in the California Motor Vehicle Code, San Diego Air Pollution Control District, all other applicable California codes and regulations, and this chapter.

Section 13.16.350 Compliance with Local and California Laws and Regulations

The Contractor shall operate in such a manner as to comply with all applicable local and state laws and regulations pertaining to the collection, storage, and transportation of solid waste. The Contractor shall also comply with all other ordinances and regulations of the City and applicable laws and regulations of the County of San Diego and State of California, and shall obtain and keep in force all required permits and business licenses.

Section 13.16.360 Continuance of Service in the Event of Nonpayment

In the event of nonpayment for collection service rendered to any person, the Contractor shall continue to provide such service, subject to reimbursement as provided in Section 13.16.410 of this chapter. This section does not apply to special collection services.

Section 13.16.370 Establishment of Charges

For the solid waste collection services described in this chapter, and for the making available of such services, there shall be charged to each Generator the sums necessary to cover the costs of such services, as such sums may be established pursuant to the City’s contract with the Contractor. This section shall not apply to the CMTC Service Charge established in Section 13.16.620 of this chapter.

Section 13.16.380 Basis for Charges

All charges provided for in this chapter shall be fair, reasonable, and consistent with the scope of services rendered by the Contractor, as described and required by this chapter.

Section 13.16.390 Liability for Payment

The obligation to pay the charges provided in this chapter is upon the Owner of the dwelling or business so served. Nothing in this section, however, shall prevent an arrangement or the continuance of an arrangement under which payments for solid waste collection services are made by a tenant or tenants, or any agent, on behalf of the Owner; provided, any such arrangement shall not affect the Owner’s obligation for payment of said charges for services rendered.
Section 13.16.400  Direct Bill by Contractor and Payment to Contractor

Contract shall direct bill all Generators and all charges billed for solid waste collection services, pursuant to Section 13.16.360 of this chapter, shall be paid directly to the Contractor.

Section 13.16.410  Failure to Pay Contractor for Solid Waste Collection

A. An account is deemed delinquent if payment for collection services has not been received within 15 days after the last day of the normal billing period for which service was rendered. Upon determination of delinquency, the Contractor shall give written notice to the delinquent account holder and the Owner that the bill, including service fees and delinquency charges, is now overdue and payable in full and shall attempt to collect payment through all available means, within 30 days of the date of such notice.

B. Provided adequate arrangements for payment have been made between the contractor and delinquent account holder within 60 days of the end of the earliest unpaid billing period, the Contractor may tender the total unpaid bill amount to the City Manager for payment by the City. The tender shall provide all pertinent date including the name and address of the delinquent account holder and the Owner, address and parcel number of the property billed, dates of the period of service unpaid, amount due and certification that the billing procedures pursuant to Subsection A of this section, has been fulfilled.

C. The delinquent bill presented by the Contractor to the delinquent account holder and the Owner pursuant to Subsection A of this section, shall include a written notice warning that nonpayment within 60 days of the end of the earliest unpaid period may result in tender of the debt to the City for payment, and that this may result in collection efforts by the City and the recordation of a lien against the property to which service was rendered.

D. Upon receipt of tender of the debt, the City Manager, or the City Manager's designee, shall advise the delinquent account holder and the Owner in writing of the tender, and that 30 days' notice is given to permit payment of the debt to the City to avoid a special assessment against the real property in the amount of the debt.

E. Debts tendered to the City shall be paid to the Contractor on a quarterly basis as they are collected by the City.

Section 13.16.420  Special Assessment Collection

A. The City Manager may initiate proceedings to make delinquent solid waste collection debts a special assessment against the real properties for which such debts were tendered to the City for payment.

B. A report of delinquent charges shall be transmitted to the City Council, which shall fix a time, date, and place for hearing the report and any protests or objections thereto.

C. The City Council shall cause notice of hearing to be mailed to the owner of real property to which service was rendered not less than ten days prior to the date of hearing. At the time fixed for said hearing, the City Council shall hear any objections of the owner liable to be assessed for delinquent accounts. The City Council may make such revisions to the report as it deems just and if satisfied with the correctness of the report as submitted or revised shall confirm or reject it by resolution. The decision of the City Council on the report and on all protests or objections thereto are final and conclusive.

D. Upon confirmation of the report by the City Council, the delinquent charges contained therein shall constitute a special assessment against the property and shall be forwarded to the San Diego County Auditor as provided by sections 39580 through 39586, inclusive, of the Government Code of the State of California, to be collected at the same time and in the same manner as ordinary real property taxes are collected and shall be subject to the same
penalties and procedure of sale as provided for delinquent, ordinary real property taxes. The assessments are subordinate to all existing special assessment liens previously imposed upon the property and paramount to all other liens except those for state, county and municipal taxes with which it has parity. The lien shall continue until the assessment and all interest and penalties due and payable thereon are paid. All laws applicable to the levy, collection and enforcement of municipal taxes are applicable to such special assessments.

E. The City Clerk may accept payment of any amount due at any time prior to the City Council hearing, as called for in Subsection C.

F. There is created in the general fund an account entitled “Property Owners’ Delinquencies for Refuse Collection Service.” This account shall be credited with such delinquencies as are collected by the County Tax Collector or otherwise collected for release of lien remitted to the City. The City will, in turn, debit the account for payment to the contractor of tendered debts.

Section 13.16.430 Duties Regarding Collection and Removal

A. The City Manager shall have the authority to administer the contract which provides for the collection and removal of solid waste and shall approve routes and days for such activities, as proposed by the Contractor in accordance with provisions of this chapter.

B. The City Manager shall have the authority to act on behalf of the City to effect changes in routes and days of collection in cooperation with the Contractor, contingent upon notice to all affected thereby, in a manner deemed most appropriate by the Manager.

Section 13.16.440 City Manager to Settle Controversies

The City Manager is authorized and empowered to negotiate and settle any charge required or made under the contract between the City and the Contractor.

Section 13.16.450 City Manager to Regulate and Approve Vehicles and Methods of Hauling

The type and construction of vehicles transporting or carrying solid waste over public streets and the method of hauling solid waste in vehicles is subject to the regulation and approval of the City Manager.

Section 13.16.460 Making of Rules and Regulations

The City Manager shall have the authority to make other reasonable rules and regulations concerning individual collection, transportation and disposal of solid waste over City streets by the Contractor, subcontractors, other contractors, and private persons, as are found necessary.

Section 13.16.470 Notice of Violation

The City Manager is authorized and empowered to notify the owner, their authorized representative or the lawful occupant of any premises described in this chapter, of violations of this chapter, and of the corrective steps necessary to conform to this chapter. Notice shall be given in writing and may be made to any person held responsible under this section by mail or hand delivery.
Section 13.16.480 Violations of Certain Sections - Infraction

Except as provided in Section 13.16.490, any violation of this chapter is unlawful and constitutes an infraction, punishable according to the provisions of Section 1.16.010 of this code. The third infraction within a 12 month period constitutes a misdemeanor.

Section 13.16.490 Violations of Section 13.16.190 - Misdemeanor

Disposal of infectious or hazardous wastes, in violation of Section 13.16.190 of this chapter, is unlawful and a misdemeanor, punishable as provided in Section 25189 of the California Health and Safety Code.

13.16.500 California Mandated Trash Clean-Up Revenue Fund

A California Mandated Trash Clean-Up (CMTC) Fund of the City is hereby established. The purposes of the CMTC Fund is to provide for the operation, maintenance, construction or reconstruction, replacement costs, and debt service expense, and retirement, if any, for the control, collection, and disposal of solid waste, excluding green wastes, not placed in a proper solid waste container, prior to entering surface waters. All revenues received from service charges and other revenues not specifically allocated to other funds shall be deposited initially to the CMTC Revenue Fund.

13.16.510 California Mandated Trash Clean-Up Capital Fund

The California Mandated Trash Clean-Up (CMTC) Capital Fund is hereby established. The purposes of the CMTC Capital Fund is to provide for the construction or reconstruction, installation, repairs and replacement of existing capital facilities, equipment, and appurtenances necessary for the control, collection, and disposal of solid waste, excluding green wastes, not placed in a proper solid waste container, prior to entering surface waters. Transfers to the CMTC Capital Fund shall be authorized from revenues received in the CMTC Revenue Fund, including portions of the CMTC Service Charges, as directed by the City Council with approval of the budget. The City Council may transfer such additional funds to the CMTC Capital Fund as it deems prudent or necessary from any available sources in such amounts as the City Council shall determine.

13.16.520 California Mandated Trash Clean-Up Service Charge

There is hereby levied upon every solid waste Generator within the City limits of the City of Vista a mandated trash clean-up service charge known as the CMTC Service Charge. Revenues derived from CMTC Service Charges may be used for the operation, construction or reconstruction, maintenance, repair, including debt service payment, and enforcement of regulation for the control, collection, and disposal of solid waste not placed in a proper solid waste container, prior to entering surface waters in the City of Vista.

13.16.530 California Mandated Trash Clean-Up Adoption of Rates

The City Council shall by resolution, from time to time, establish the CMTC Service Charge upon each solid waste Generator based upon the actual or imputed type and size of the Generator’s containers and the frequency of collection.
13.16.540 California Mandated Trash Clean-Up Method of Collection

The CMTC Service Charge shall be collected by the City’s Contractor and remitted to the City as provided in the City’s contract with the Contractor.”
CERTIFICATION

I, Kathy Valdez, City Clerk of the City of Vista, California, certify that I caused the foregoing Ordinance No. 2019-12 to be posted on September 11, 2019, at the following locations within the City of Vista: 1) the Reference Desk of the Vista Branch of the San Diego County Public Library, 700 Eucalyptus Avenue; 2) the Lobby Counter at the Gloria McClellan Adult Activity & Resource Center, 1400 Vale Terrace Drive; and 3) the City Clerk’s Office, 200 Civic Center Drive.

Kathy Valdez, City Clerk