

**ORDINANCE NO. 540
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LINDSAY
MAKING COMPREHENSIVE AMENDMENTS TO CHAPTER 8.12 OF THE
LINDSAY MUNICIPAL CODE PERTAINING TO SOLID WASTE**

THE CITY COUNCIL OF THE CITY OF LINDSAY DOES ORDAIN AS FOLLOWS:

ARTICLE 1: Chapter 8.12, Sections 8.12.010 through 8.12.190 of the City of Lindsay Municipal Code are hereby repealed and replaced in their entirety with Chapter 8.12, Sections 8.12.010 through 8.12.220, to read as follows:

**Chapter 8.12
SOLID WASTE**

Sections:

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8.12.035	General Provisions.
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8.12.080	Charges-Billing and collection
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8.12.100	(Reserved)
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8.12.120	(Reserved)
8.12.130	Waste tire hauler's business license required
8.12.140	(Reserved)
8.12.150	Display of waste tire hauler's business license
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8.12.180	Unlawful Acts
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8.12.200	Penalty for Contamination of Yard Waste
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8.12.010 Purpose.

The city, in order to more effectively promote and protect the public health and safety and reduce the danger and hazards of fires and conflagrations, reserves unto itself the exclusive right and power to collect, transport and dispose of, or to authorize, regulate, permit and control the collection, transportation and disposition of solid waste produced or found within the corporate limits of the city. Further, it is the purpose of this chapter to regulate the collection and disposition of recyclables generated within the city and to minimize the amount of such recyclables deposited into landfills.

8.12.020 Definitions.

For the purposes of this chapter, certain words and phrases used in this chapter are defined as follows:

ALLEY SERVICE; means the service where solid waste containers are placed in through alleys at the property line at designated locations.

APPLICANT; means the individual, partnership, association or corporation that will operate and conduct a business for which a license is required pursuant to the provisions of this chapter.

ASSOCIATION; means every club, syndicate, joint venture and every other group of individuals who are united together for some common purpose but are not organized as a partnership or corporation.

BUSINESS; means the operation or carrying on of any activity, whether for profit or gratuitously, for which a license is required by this or other chapters in the Lindsay Municipal Code.

BUSINESS PREMISES; means the office, building, location or place in which or from which a business is conducted or carried on.

COLLECTION SERVICE; means all service furnished by the city for the collection and disposal of solid waste within the city limits.

COMPACTED WASTE; means solid waste which is mechanically compressed to reduce the dimensions of the waste.

CONSTRUCTION AND DEMOLITION WASTES; means and includes the waste building materials, packaging, and rubble resulting from construction, remodeling, repair, and demolition of pavements and structures.

CONTAINERIZED SERVICE; means service approved by the solid waste superintendent wherein the city or city's private contractor provides a vehicle equipped for the mechanical handling of one, two or three cubic yard containers with casters or skids. The containers shall be furnished by the city or city's private contractor, of a type approved by the solid waste superintendent.

CURB SERVICE; means service where the solid waste containers are picked up by the city at the front curb line of the customer's property.

DISCARDED; means thrown away, abandoned, worthless, or having lack of economic value.

DISPOSITION; means the removal of waste tires from the business premises or other location used by the dealer in its business.

GARBAGE; means animal and vegetable waste resulting from the handling, preparation and use of foods, including discarded food containers and wrappers and all other abandoned putrescible organic matter.

HOUSEHOLD HAZARDOUS WASTE: Those wastes resulting from products purchased by the general public for household use which, because of their quantity, concentration, or physical, chemical, or infectious characteristics, may pose a substantial known or potential hazard to human health or the environment when improperly treated, disposed, or otherwise managed. The city manager or his designee shall determine those substances deemed hazardous for the purpose of the city's disposal system.

INDUSTRIAL WASTE: Solid wastes or waste material resulting or left over from industrial processes and manufacturing operations, including, but not limited to, fibers, fabrics, plastics, styrofoam, rubber, resins, metals, slag, wood products such as sawdust and shavings, packing materials, putrescible material from food processing plants and slaughterhouses, condemned foods, cinders and ashes from power plants and incinerators, and miscellaneous manufacturing wastes. Such industrial waste is distinguished from ordinary commercial refuse or so called trade wastes which emanate from stores, hotels, restaurants, and markets.

MULTIPLE-FAMILY DWELLING: A building designed for residential occupancy and shall include duplexes, triplexes, apartments of five (5) or more units, bungalows in a bungalow court, apartment houses, flats, condominium units, and mobile homes.

RECYCLABLES: Shall include those materials that have value and can be diverted from landfill disposal. "Recyclables" can further be defined as those materials that by collecting, sorting, cleansing, treating, reconstituting, and processing can be returned to the economic mainstream in the form of raw materials for new, reused, or reconstituted products.

REFUSE: Rags, household ashes, wearing apparel, household goods and such worthless, useless, unused, rejected and cast off matter produced by and as the result of human habitation and the transaction of business within the city that can be properly and safely collected and transported in a collection vehicle.

SINGLE-FAMILY DWELLING: Any detached building used exclusively for occupancy by one family, excluding bungalows in a bungalow court, residential condominium units, and mobile homes.

SOLID WASTE: All putrescible and nonputrescible solid and semisolid wastes; including garbage, trash, refuse, paper, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes. "Solid waste" does not include hazardous, low level radioactive, or medical wastes. "Solid waste" as herein defined shall not include materials source-separated by the generator for the purpose of recycling, reuse, repair or composting.

SOLID WASTE SUPERINTENDANT; means the Director of City Services of the city, or such person designated by him to oversee the solid waste collection and disposal service for the city.

SPECIAL HAUL; means the collection of solid waste in excess of the maximum amounts of solid waste to be collected by the city at a single collection, as set forth in this chapter, or any materials not defined in this section as solid waste.

STANDARD RESIDENTIAL OR COMMERCIAL CONTAINER OR CART: Roll out container(s) provided by city or city's private contractor, also known as automatic refuse carts.

TAX COLLECTOR; means the tax collector for the County of Tulare.

TIRE; means a pneumatic tire or solid tire manufactured for use on any type of vehicle.

TIRE DEALER; means any person who engages in the business of selling, trading or dealing in tires for profit.

WASTE MATTER: Solid waste such as heavy or bulk materials which can be properly and safely collected and transported by special pick up vehicles. The city manager or his designee shall determine those materials suitable for special pick up service.

WASTE TIRE; means a tire that has been removed from the wheel and is no longer suitable for its originally intended purpose due to wear, damage or defect.

WASTE TIRE HAULER; means any person who engages in the collection and/or transportation of waste tires for compensation.

WASTE TIRE HAULER BUSINESS LICENSE; means a license to engage in the collection and/or transportation or waste tires for compensation as required by section 6172 of the Ordinance Code of Tulare County found at article 2.6 of chapter 2, part VI of said Code.

YARD WASTE: Lawn clippings, tree and shrubbery trimmings, and leaves that can be properly and safely collected and transported in a collection vehicle

8.12.030 Collection service required.

All dwellings, apartment houses and places of business in which solid waste accumulates within the city shall be required to use the solid waste collection service of the city and to pay the charges as set forth in this chapter, except those industrial businesses whose volume of waste might exceed the services the city could offer (as determined by the City and set by resolution).

8.12.035 General Provisions.

A. Where commercial collections are made from private alleys and access ways, said approaches shall be maintained in such a manner as not to be a hazard to collection personnel and equipment, and provide a safe and convenient entrance to and through the premises for the purpose of collecting refuse.

B. The approach to containers furnished by the city or its private contractor must be kept clear. An inaccessible container will not be dumped at the scheduled time. There will be an extra charge to dump a container other than at the regularly scheduled time, or if it is necessary to return to the collection site due to inaccessibility of the collection container.

C. Overfilled containers and excess trash on top of containers pose a hazard to collection vehicles and personnel and may not be dumped at the scheduled time. If an overfilled container is able to be dumped, it shall constitute a special haul and will require an extra charge.

D. Compacted commercial waste requires special handling due to increased weight associated with compaction. Compacted waste will be subject to increased collection charges and may require restrictions on the volume of waste accumulated between collection days.

E. All persons or businesses utilizing automatic refuse carts are responsible for the sanitary conditions of each container or receptacle and the proximity thereof and must keep lids and doors closed when not in use. A charge may be assessed when steam cleaning of containers is requested by customers. All persons and businesses will be responsible for burned or damaged containers due to other than normal wear and tear and will be charged for necessary repairs or replacement. Bin containers may be fitted with lid locks at the request of the customer. A charge will be assessed for installation and repair of such locks.

F. Items that are likely to cause damage to automatic refuse carts or the collection vehicles will not be regularly picked up. Such examples are, but are not limited to, timbers or tree trunks larger than four inches (4") in diameter or longer than five feet (5'), engine blocks, heads, transmissions, axles, spring assemblies, tires or draft shafts, all of which shall constitute a special haul.

8.12.040 (Reserved).

8.12.050 Residential Collection.

A. Collection Procedures. The city, or its private contractor, shall provide automatic refuse carts for the use of each residential unit in the city. All carts shall remain the property of the city or its private contractor. The city or its private contractor shall, once weekly, collect and dispose of materials from each cart placed at the curbside in front of each residence, or in the alley at the designated location. The total solid waste placed in each cart shall not exceed two hundred twenty pounds. Once emptied, carts shall be removed from the curbside as soon as possible.

B. Responsibilities of Curb Service Customers. All residential curb service customers shall place their automatic refuse carts at the curb not earlier than seven p.m. the day prior to collection, and shall remove the empty containers from the curb not later than ten p.m. the day of collection.

C. Responsibilities of Alley Service Customers. All residential alley service customers shall place their automatic refuse carts on the side of the alley designated by the city, or its private contractor in order to facilitate one-trip refuse collection in the alleys.

D. Repair and Replacement of Carts. The city or its private contractor shall repair, at no additional cost, any cart that is damaged, when the damage, as determined by the city or its private contractor is not due to customer misuse or negligence. If the damage is determined to be due to customer misuse or negligence, the customer shall reimburse the city or its private contractor at the current invoice cost for replacement. The city or its private contractor shall replace any cart that is determined to be lost or stolen at the current invoice cost for replacement.

E. Special Handling Provided for the Disabled. The city or its private contractor, at the request of the customer, shall wheel out and return the cart for disabled households. There will be no additional charge for this service. For the purpose of this subsection, "disabled households" means those households composed entirely of persons who, by reason of permanent disability, are unable to wheel the cart to the curbside for weekly collection. Upon notification, a city representative or its private contractor will personally interview the individual to verify their disability status and determine whether there is another individual residing in the household who is capable of wheeling the automatic refuse carts to curb or alley service location. Once their disability has been verified and there is no other person in the household capable of wheeling the automatic refuse carts, a location acceptable to the customer and the city will be chosen where the automatic refuse carts will be picked up and returned.

F. Additional Carts Provided. The city, or its private contractor, upon request of the customer, shall provide an additional automatic refuse cart. An additional monthly fee will be assessed for extra carts.

8.12.060 Commercial Collection.

Collection of solid waste from commercial establishments receiving solid waste collection service from the city or its private contractor shall be made as many times per week as the 'solid waste superintendent may order. Automatic refuse cart or bins may be provided for apartment complexes consisting of five or more residential units. Automatic refuse carts may be provided for each unit at apartment complexes consisting of four or less units. Minimum volume for multiple unit residences requiring bin service shall be one-half yard per residential unit per week. If a commercial establishment repeatedly accumulates refuse beyond the capacity of their existing service, then that establishment shall be required to obtain additional bin capacity or more frequent pickups per week.

8.12.065 Commercial and Multi Family Recycling

A business that generates more than four (4) cubic yards of commercial solid waste per week or is a multi-family residential dwelling of five units or more shall arrange for recycling services. It is highly recommended that all businesses and multi family dwellings engage in the City's recycling efforts.

A commercial waste generator shall source separate recyclable materials from solid waste and shall subscribe to a basic level of recycling service that includes collection from the city.

A property owner of a commercial business or multi-family residential dwelling may require tenants to source separate their recyclable materials to aid in compliance with this section.

8.12.068 Special Pick Up, Disposal and Event Collection Services.

A. The removal of dirt, sod, tree stumps, stones, broken concrete, furniture and appliances and other building materials is not considered to be normal household solid waste service. Periodic collection of accumulations of excess solid waste within the city, in addition to that provided for above, shall be made on the request of a resident. These services will be handled on a special pick up basis for which an extra fee is charged. Tree and shrub trimmings which cannot be accommodated in the city provided automatic refuse cart shall be handled on a special pick up basis for which an extra fee will be charged.

B. The following services are considered "special requests" and will be charged an additional fee as determined by city council and set by resolution. "Special requests" include, but are not limited to: extra

pick up of residential, commercial, and industrial containers; same day delivery, emptying, or removal of temporary bins; same day delivery, emptying, removal or relocation of temporary or permanent roll off containers; standby time of collection personnel at customer request or to accommodate customer needs; same day return to empty a container or bin that was inaccessible, overfilled, or contaminated.

C. The disposal of substances determined to be household hazardous materials shall be restricted to special collection events or sites as approved by solid waste superintendent.

D. The solid waste superintendent shall determine those waste materials suitable for special pick up service.

E. Temporary bin service may be provided at a residential or commercial site at the request of the customer for short term cleanup activities and do not require a bin enclosure. Temporary bin service shall not be utilized in lieu of permanent solid waste service. Temporary bin location and on site duration may be limited so as not to constitute a public nuisance. Temporary bins determined to constitute a public nuisance may be immediately removed at the discretion of the solid waste superintendent.

8.12.070 (Reserved)

8.12.080 Charges; Billing and collection.

A. Fees and charges for the collection and disposal of solid waste collection by the city will be fixed by resolution of the city council.

B. Charges for collection and disposal of solid waste shall be billed to the person, business establishment, firm or premises serviced, as an additional charge on the water bill.

C. All charges for solid waste service included on utility bills shall be due and payable at the same time as other utility charges. If a bill for solid waste service is not paid within the time stipulated, the city may discontinue water service to the premises. In the event the owner, occupant or lessee of the premises having solid waste service fails to pay the refuse service charges following presentation of a bill therefore, the city may, in addition to all of the remedies it may have, discontinue furnishing solid waste service and may discontinue water service, and shall not resume the water service until all delinquent charges and penalties, together with any service charge necessitated by the resumption of solid waste service, have been fully paid.

D. When the solid waste customer does not have city water service, a separate bill for solid waste service shall be mailed to the customer who owns or controls the premises serviced.

E. All solid waste collection service bills, whether part of another city utility bill or not, shall become delinquent and assessed a penalty charge at the same time as other city utility charges. If a bill for solid waste collection service is not paid within such time, the city may discontinue service for nonpayment of the bill in which case service shall not be restored until the bill is paid.

F. All solid waste charges are the responsibility of the customer whose name appears on the utility billing for the service. If unpaid by the customer billed who controls the premises, they shall be secured at any time by filing for record in the office of the county recorder of any county, a certificate specifying the amount of such charges and the name and address of the customer liable therefor. From the time of recordation of the certificate, the amount required to be paid, together with interest and penalty, constitutes a lien upon all real property in the county owned by the customer or afterwards, and before the lien expires, acquired by him. The lien has the force, priority, and effect of an shall be regarded as a judgment lien, which may be extended, if unpaid, by the recording of a renewal certificate before the expiration of ten (10) years of the previously recorded certificate.

8.12.090 (Reserved)

8.12.100 (Reserved)

8.12.110 Enforcement.

A. The city manager or his designee shall supervise the collection and removal of all solid waste by the city or its private contractor and shall enforce the provisions of this chapter. He shall have the right to inspect any and all premises for the purpose of determining whether the provisions of this chapter are being observed. Any person denying or obstructing such inspection shall be subject to the penalties herein provided.

B. The city manager or his designee shall establish routes and days for collection and may change same from time to time. When such routes and days are established or changed, he shall give such notice thereof as he may deem advisable.

C. In all cases where he shall find practical difficulty in complying with the requirements of this chapter as to the placing of solid waste for collection by the city or its private contractor, he shall designate where such solid waste shall be placed or kept for collection by the city or its private contractor and the conditions under which it shall be collected.

D. The city manager or his designee, with the approval of the city manager, shall make such rules and regulations not inconsistent with the provisions of this chapter as may be necessary, reasonable and proper to effect the expeditious, economical and efficient collection and removal of solid waste by the city or its private contractor. Such rules and regulations may also relate to the required frequency of solid waste collection at various locations, the type and number of solid waste containers required, and the vehicles used in making such collections. The determination of the city manager or his designee shall be conclusive.

8.12.120 (Reserved)

8.12.130 Waste tire hauler's business license required.

Any person engaging in, and any vehicle used in, the business of a waste tire hauler within or from the city shall have a valid waste tire hauler's business license as well as a valid city business license to engage in or be used in such business.

8.12.140 (Reserved)

8.12.150 Display of waste tire hauler's business license.

It is unlawful for any person to violate any of the following requirements concerning business license:

- A. Any vehicle used to collect and/or transport waste tires within the city must bear on both sides the name of the licensee and the words "Waste Tire Hauler License No. _____" with the applicable license number in contrasting letters not less than two inches in height.
- B. The waste tire hauler's business license shall be displayed at all times in a conspicuous place near the main entrance of the business premises.
- C. A waste tire hauler's business license issued for the use of a vehicle shall be carried at all times in the vehicle for which the license was issued.
- D. If a waste tire hauler's business license has been issued authorizing the licensee to conduct a business independent of a fixed location, the licensee shall carry the license upon his person at all times when conducting such business.
- E. A waste tire hauler's business license shall be displayed to the tax collector, any investigating officer or any peace officer on demand.
- F. Any waste tire hauler's business license that has been revoked or suspended shall be surrendered to the tax collector, any investigating officer or to any peace officer immediately after a demand for such surrender has been made.

8.12.160 Use of licensed waste tire hauler required.

It is unlawful for any tire dealer in the city to contract with or otherwise permit any person to collect and/or transport its waste tires unless that person holds a valid waste tire hauler business license.

8.12.170 (Reserved)

8.12.180 Unlawful Acts.

It is unlawful for any person to place or allow to be placed in any garbage or refuse containers designated for municipal pickup any dead animals, hot ashes or coals, wearing apparel or bedding or other refuse from a place where infectious or contagious disease has prevailed; explosive substance, radioactive materials, drugs or poisons. Upon notification to the city, such items will be disposed of in accordance with applicable health laws.

A. Prohibitions:

1. **Illegal Use of Containers:** It shall be unlawful for any person to deposit refuse into containers, bins, or roll off containers which are not assigned to the property at which the refuse is generated.
2. **Illegal Collection or Removal of Recyclables:** It shall be unlawful for any person, other than the city or the city's private contractor, to collect or remove materials which have been segregated for the purpose of recycling and placed in a designated recycling receptacle.
3. **Placing Prohibited Materials in Recycling Receptacles:** It shall be unlawful for any person to willingly place any materials in the recycling receptacles that do not meet the criteria defined under section 8.12.020 of this chapter.
4. **Taking or Pilfering Of Recyclables:** It shall be unlawful for any person to take or pilfer, for his/her own use or benefit:
 - a. The recyclables of any other person.
 - b. The recyclables from any city operated drop off facilities. Recyclables donated to the drop off facility are considered the property of the city.
5. **Refuse Disposal Into or Near Recycling Drop off Facilities:** It shall be unlawful for any person to dispose of "refuse", as defined under section 8.12.020 of this chapter, into or around city operated drop off facilities.
6. It is unlawful for any occupant or owner of any building, lot or premises in the city to allow, or permit to collect or remain on the premises any solid waste in such manner or quantities as is a fire or health menace to the people of the city.
7. It is unlawful for any person to bury, dump or burn or permit to be buried, dumped or burned any solid waste in any place within the city limits, and all solid waste in the city shall be placed in solid waste containers as defined in this chapter.
8. It is unlawful for any person to place or allow to be placed in any garbage or refuse containers designated for municipal pickup any dead animals, hot ashes or coals, wearing apparel or bedding or other refuse from a place where infectious or contagious disease has prevailed; explosive substance, radioactive materials, drugs or poisons. Upon notification to the city, such items will be disposed of in accordance with applicable health laws.

- B. Nuisance Declared:** Each and all of the conditions specified in subsection A of this section, as well as any other violations of this Chapter, constitute a public nuisance, and are unlawful, in violation of this chapter and are subject to immediate abatement by any officer of this city. Any costs associated with enforcement and abatement which the city incurs may be charged to the offending party or property owner for reimbursement.

C. Recycling Location an Individual Choice: Nothing herein shall prohibit a person from selling, giving away, or otherwise legally diverting their own recyclable materials to a location of their choice.

8.12.190 Building Design Requirements.

The design of any new, substantially remodeled or expanded building or other facility shall provide for proper storage or handling which will accommodate solid waste and recyclable material removal or collection. The design shall demonstrate to local land use and building permit issuing authorities that it includes the required provision.

8.12.200 Penalty for Contamination of Yard Waste.

Any customer whose yard waste container is contaminated with items other than "yard waste" as defined in section 8.12.020 of this chapter may be assessed an additional charge, the amount of which is set by resolution by the city council.

8.12.210 Penalties.

Any person who violates any provision of this chapter which is declared to be unlawful shall be guilty of a misdemeanor, subject to a penalty of imprisonment in the county jail for a term not exceeding six months, or by a fine not to exceed one thousand dollars (\$1,000.00) for each violation, or both. Notwithstanding the classification of a violation of this chapter as a misdemeanor, at the time an action is commenced to enforce the provisions of this chapter, the trial court, upon recommendation of the prosecuting attorney, may reduce the charged offense from a misdemeanor to an infraction. Any person convicted of an infraction under this chapter shall be punished by: (1) a fine not exceeding fifty dollars for a first violation; (2) a fine not exceeding one hundred dollars for the second violation of this chapter within one year; and (3) a fine not to exceed two hundred fifty dollars for each additional violation of this chapter within one year.

8.12.220 Conflict with other laws and regulations.

No provision of this chapter, nor any of the procedures set forth herein, nor the acceptance of an application, nor the subsequent issuance of a license under this chapter's provisions shall constitute a waiver of any of the requirements of any statutes or any provisions of this municipal code or any other ordinance of the county which are now in effect or which may hereafter be enacted.

ARTICLE 2: This ordinance shall be in full force and effect on or after the 30th day after its adoption by the City Council. Within 15 days after its adoption by the City Council, this Ordinance shall be published in full text or in summary in a newspaper of general circulation in the City of Lindsay.

The foregoing ordinance, read by title only with waiving of the reading in full was introduced at a regularly scheduled meeting on the 24th day of September 2013.

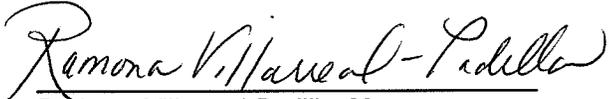
APPROVED at a regular meeting of the City Council held on the 24th day of September. 2013.

ATTEST:

CITY COUNCIL OF THE CITY OF LINDSAY



Carmela Wilson, City Clerk



Ramona Villarreal-Padilla, Mayor

CITY OF LINDSAY)
COUNTY OF TULARE)
STATE OF CALIFORNIA)

CITY CLERK CERTIFICATION

I, Carmela Wilson, City Clerk for he City of Lindsay, do hereby certify that the foregoing is a full, true and correct copy of the original Ordinance No. 540, introduced & approved by the City Council of the City of Lindsay at a Regular meeting duly held on the 24th day of September, 2013, on motion of KIMBALL, second of SALINAS, by the following vote, as the same appears of record and on file in my office:

AYES:	KIMBALL, SALINAS, PADILLA.
NOES:	None.
ABSENT:	SANCHEZ, MECUM.
ABSTAIN:	None.

WITNESS my hand and Corporate Seal of Lindsay this 24th of September 2013.

OFFICE OF THE CITY CLERK OF LINDSAY



Carmela Wilson, City Clerk