

RESOLUTION NO.16-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CUPERTINO
ESTABLISHING THE MAXIMUM SCHEDULE OF RATES AND CHARGES FOR
NONRESIDENTIAL AND MULTI-FAMILY SOLID WASTE COLLECTION SERVICE,
COMPOSTABLE MATERIALS SERVICE AND COMPACTOR SERVICE**

WHEREAS, the collection of solid waste, which includes garbage, non-organic recyclables, organic waste, is determined and declared to be a health, sanitary and safety measure necessary for the promotion, protection and preservation of the health, safety and general welfare of the people of the City of Cupertino; and

WHEREAS, the City Council of the City of Cupertino enacted Municipal Code Chapters 6.24 and 9.16, in part, to meet the City's mandated collection of solid waste and to satisfy applicable California Integrated Waste Management Act AB 939 and Assembly Bill 1826 requirements; and

WHEREAS, pursuant to Municipal Code Section 6.24.120 and applicable statutory authority, the provision of solid waste collection services in Cupertino is provided by a private solid waste collector pursuant to the terms of an exclusive franchise; and

WHEREAS, the City does not provide solid waste collection services, rather it regulates the private solid waste collection industry to protect public health, safety and welfare and ensure compliance with applicable laws; and

WHEREAS, as part of its regulatory role, pursuant to Municipal Code Section 6.24.150, the City reserved the right to establish a maximum schedule of rates and charges for all level of solid waste collection services to be rendered by the solid waste collector in order to avoid an abuse of the franchise rights granted; and

WHEREAS, the solid waste collector is solely responsible for setting and collecting such rates and charges at a level at or below the approved maximum schedule; and

WHEREAS, the Franchise Agreement dated May 18, 2010 between the City of Cupertino and Recology Cupertino for Collection and Processing Recyclable and Compostable Materials, and the Collection of and Disposal of Garbage awarded the exclusive franchise to Recology and established a process for Recology to request a rate adjustment if necessary to cover increased costs; and

WHEREAS, the First Amendment of the Franchise Agreement dated September 2, 2014 further provides that a compostable materials rate adjustment will be audited by the City to establish year 2010 and year 2014 Recology cost and revenue; and

WHEREAS, pursuant to the terms of the Franchise Agreement, as amended, on August 14, 2015 Recology submitted a written request and documentation in support of a maximum rate adjustment for nonresidential and multi-family solid waste collection service, compostable materials service and compactor service, which was subsequently amended by Recology on June 10, 2016; and

WHEREAS, an independent auditor has evaluated the requested maximum rate adjustment and made written findings that the requested adjustment is necessary to cover increased costs of processing organic materials (such as food and landscape waste) collected at commercial businesses and multi-family developments; and

WHEREAS, the City has determined that the rate increase is exempt from environmental review pursuant to the exemption in 14 Cal. Code Regs. §15601(b)(3) in that it can be seen with certainty that there is no possibility that this action will have a significant effect on the environment because approval of the rate adjustment is an administrative action and is not an activity subject to CEQA;

WHEREAS, the City Council, using its independent judgment, before taking action on this Resolution, determines that the action is exempt from CEQA as stated above;

WHEREAS, each and every nonresidential and multi-family solid waste service recipient was notified of a public hearing scheduled on the proposed adjustment to the maximum rate schedule by U.S. mail prior to said public hearing; and

WHEREAS, a public hearing notice regarding the proposed adjustment to the maximum rate schedule was posted on the City's website on June 14, 2016 and published in a newspaper of general circulation; and

WHEREAS, all documentation to support this maximum rate adjustment was placed on file with the City Clerk for public inspection and review;

WHEREAS, at its regular meeting on July 5, 2016, the City Council held a duly noticed public hearing to consider an increase in the maximum schedule of rates and charges for nonresidential and multi-family solid waste collection service, compostable materials service and compactor service; and

WHEREAS, at the public hearing, interested persons had the opportunity to testify regarding the increase in the maximum schedule of rates and charges; and

WHEREAS, the City Council of the City of Cupertino finds and determines as follows:

1. The above recitals are true and correct and material to the adoption of this Resolution.

2. After considering the maximum rate adjustment request and documentation from Recology, the report and findings of the City-directed audit, the public's written comments and testimony received at this public hearing, and the staff report and information presented at the hearing, the City Council determines that the evidence support that the adjustment is needed to cover increased costs, and therefore, it is appropriate to increase the maximum rate schedule by 5.28%.

3. The maximum rate for each service description, as set forth in the schedule labeled as Attachment A, which is attached hereto and incorporated by this reference, represents the effective maximum rate schedule for Nonresidential and Multi-Family Solid Waste Service, Compostable Materials Services and Compactor Service.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Cupertino, that:

1. Maximum Schedule of Rates and Charges. The maximum rate schedule for Nonresidential and Multi-Family Solid Waste Service, Compostable Materials Services and Compactor Service rates and charges shall be increased 5.28%, effective July 1, 2016, as is more particularly provided for in Attachment A.

2. Amendment. The Schedule of Approved Maximum Rates in the Franchise Agreement shall be amended to incorporate the maximum rate schedule approved by this Resolution.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Cupertino
this 5th day of July, 2016, by the following vote:

<u>Vote</u>	<u>Members of the City Council</u>
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AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Grace Schmidt, City Clerk

Barry Chang, Mayor

SCHEDULE OF APPROVED MAXIMUM RATES
Recology Maximum Rates for the City of Cupertino
Effective July 1, 2016

TABLE B.2.

**NON RESIDENTIAL AND MULTI-FAMILY GARBAGE SERVICE AND
NON RESIDENTIAL AND MULTI-FAMILY COMPOSTABLE MATERIALS
SERVICE ***

** Non-Residential & Multi-Family Garbage service and Non-Residential & Multi-Family
Compostable Materials service shall never cost more than the rates for Commercial Garbage
service for the same quantity of material*

Service Description	Frequency	Maximum Rate
FRONT LOADER CONTAINERS (Monthly Rate):		
1.5 CY Container	1X Week Service	\$ 147.80
1.5 CY Container	2X Week Service	\$ 295.65
1.5 CY Container	3X Week Service	\$ 443.45
1.5 CY Container	4X Week Service	\$ 591.28
1.5 CY Container	5X Week Service	\$ 739.10
1.5 CY Container	6X Week Service	\$ 886.88
1.5 CY Container	Extra Pick-up	\$ 45.84
2 CY Container	1X Week Service	\$ 177.41
2 CY Container	2X Week Service	\$ 354.74
2 CY Container	3X Week Service	\$ 532.16
2 CY Container	4X Week Service	\$ 709.49
2 CY Container	5X Week Service	\$ 886.88
2 CY Container	6X Week Service	\$ 1,064.26
2 CY Container	Extra Pick-up	\$ 57.29
3 CY Container	1X Week Service	\$ 236.50
3 CY Container	2X Week Service	\$ 473.01
3 CY Container	3X Week Service	\$ 709.49
3 CY Container	4X Week Service	\$ 946.04
3 CY Container	5X Week Service	\$ 1,182.53
3 CY Container	6X Week Service	\$ 1,419.03
3 CY Container	Extra Pick-up	\$ 62.65
4 CY Container	1X Week Service	\$ 295.65
4 CY Container	2X Week Service	\$ 591.28
4 CY Container	3X Week Service	\$ 886.88
4 CY Container	4X Week Service	\$ 1,182.53
4 CY Container	5X Week Service	\$ 1,478.19
4 CY Container	6X Week Service	\$ 1,773.79
4 CY Container	Extra Pick-up	\$ 78.12

TABLE B.2.

**NON RESIDENTIAL AND MULTI-FAMILY GARBAGE SERVICE AND
NON RESIDENTIAL AND MULTI-FAMILY COMPOSTABLE MATERIALS
SERVICE ***

** Non-Residential & Multi-Family Garbage service and Non-Residential & Multi-Family Compostable Materials service shall never cost more than the rates for Commercial Garbage service for the same quantity of material*

Service Description	Frequency	Maximum Rate
6 CY Container	1X Week Service	\$ 413.88
6 CY Container	2X Week Service	\$ 827.77
6 CY Container	3X Week Service	\$ 1,241.65
6 CY Container	4X Week Service	\$ 1,655.53
6 CY Container	5X Week Service	\$ 2,069.43
6 CY Container	6X Week Service	\$ 2,483.32
6 CY Container	Extra Pick-up	\$ 108.71
8 CY Container	1X Week Service	\$ 532.16
8 CY Container	2X Week Service	\$ 1,064.26
8 CY Container	3X Week Service	\$ 1,596.43
8 CY Container	4X Week Service	\$ 2,128.55
8 CY Container	5X Week Service	\$ 2,660.68
8 CY Container	6X Week Service	\$ 3,192.82
8 CY Container	Extra Pick-up	\$ 140.60
*Pushout Container	1X Week Service	\$ 52.04
Pushout Container	2X Week Service	\$ 104.36
Pushout Container	3X Week Service	\$ 156.26
Pushout Container	4X Week Service	\$ 208.46
Pushout Container	5X Week Service	\$ 260.62
Pushout Container	6X Week Service	\$ 312.90
* Container Pushout charges shall only apply to containers moved more than 25-feet to get them to the truck.		
Key Service (service includes unlocking and locking receptacle)		\$ 57.96
COMMERCIAL CART RATE:		
Per Cart Pickup		\$ 23.49
SPECIAL SERVICES:		
Steam cleaning and re-delivery of bin [shall be provided once each year without charge], Furnishing Chains (One Time Only)		
	Commercial	\$ 99.74
	Multi-Family	\$ 99.74
LATE CHARGE FEE: 1.2% Per Month Delinquent (Not Compounded)		

TABLE B.3.

COMPACTOR SERVICE

Service Description	Maximum Rate
GARBAGE COMPACTOR RATE (Per Cubic Yard) (Monthly Rate):	\$ 41.75
COMPACTOR RATE-MIXED RECYCLABLE:	
Hauling Only	\$ 383.27
Per Ton	\$ 59.33

GARBAGE AND RECYCLING COMPACTOR RATES

Description	Amount	Processor	Dirty
Garbage Compactor Rates Per Yard Per Pull	\$ 41.75	Newby	N/A
Mixed Recycling Compactor Rates Per Pull	\$ 383.27	BFI	\$ 506.89
Mixed Recycling Compactor Rates Per Ton	\$ 59.33	BFI	\$ 89.24

RATES SHALL BE REVISED TO REFLECT ANNUAL RATE ADJUSTMENTS PER THE CPI FORMULA SPECIFIED IN THE AMENDED FRANCHISE AGREEMENT SEPT '14