

## ARTICLE 9

### PROHIBITION OF SCAVENGING

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## ARTICLE 9

### PROHIBITION OF SCAVENGING

SEC. 5-9.00 PURPOSE AND INTENT. To reduce the waste stream generated by citizens of Hayward, the City has or intends to adopt certain residential recycling programs. Scavenging of recyclables from these programs undermines their economic viability and thereby undermines their success. The regulations in this article are intended to eliminate scavenging of recyclables.

SEC. 5-9.10 DEFINITIONS. Whenever the following words and phrases are used in this article, they shall have the definition or meaning established by this section, unless it is clearly apparent from the context in which the word or phrase appears, that a different definition or meaning is intended.

- a. City Agent means any person designated by the City Manager or City Council as being responsible for administering, directing, supervising, collecting, or providing for the disposal of recyclable material.
- b. Permittee means a recycling operator performing services pursuant to a permit issued by or a contract awarded by the City.
- c. Recyclable materials means paper, glass, cardboard, plastic, used motor oil, ferrous metal, aluminum, compostable yard matter, or other materials which may be recycled for use in an altered form that has been segregated from other solid waste and placed at a designated collection location for the purpose of collection and recycling.
- d. Recycling operator means a person or persons, firm, partnership, joint venture, association, or corporation engaged in the collection and recycling of waste and other discarded materials.
- e. Recycling shall have the meaning established by Government Code section 66716.5.

SEC. 5-9.20 OWNERSHIP OF RECYCLABLE MATERIALS. Recyclable materials placed at the curb of residential properties or placed for collection on residential properties for pick up by the City's permittee shall become the property of the permittee at the time of their placement in the City's recycling containers which are labeled "Hayward Recycles" or otherwise set out for collection under the City's recycling program. Such materials shall be deemed discarded by a property owner or occupant at the time of the material is placed in the container or otherwise set out for collection.

SEC. 5-9.30 SCAVENGING FROM RESIDENTIAL PROPERTY PROHIBITED. It shall be unlawful for any person to do the following with respect to the City's recycling containers (labeled "Hayward Recycles") used in the City's residential recycling program:

- a. Tamper or meddle with such a container;
- b. Tamper or meddle with the contents of any such container;

- c. Remove any such container for recyclable material from the location where the container has been placed for pick up by a permittee;
- d. Remove any recyclable materials from any such container.
- e. Remove any other recyclable materials set out for recycling collection under the City's recycling program.

Notwithstanding the foregoing, nothing in this section prohibits the permittee, owner or person in lawful possession of the residential property from which material is set out for recycling, the City, or the agents or employees of the foregoing from taking such actions necessary to accommodate the City's residential recycling program or the health and safety of the public. The permittee, the City, and their employees and agents are exempt from subsection d. of this section.

SEC. 5-9.40 INFRACTION. Any person violating any provision of this article shall be guilty of an infraction. Upon conviction of an infraction, a person shall be subject to payment of a fine, not to exceed the limits set forth in Government Code section 36900. After the third conviction for a violation of this article within any twelve-month period, any subsequent violation within the twelve-month period may be punished as a misdemeanor.

SEC. 5-9.50 PROCEDURE NOT EXCLUSIVE. The procedure provided in the provisions of this Article shall be cumulative and in addition to any other remedies provided in ordinances of this City or by State law and shall not prejudice or affect any other action, civil or criminal, to enforce any rights or prosecute or restrain any violations hereunder.