

CITY OF YUBA CITY
STAFF REPORT

Date: October 1, 2019

To: Honorable Mayor & Members of the City Council

From: Public Works Department

Presentation by: Benjamin Moody, Interim Assistant Public Works Director

Summary

Subject: Garden Refuse Ordinance Update

Recommendation: Introduce an Ordinance amending the Yuba City Municipal Code to allow for placement of garden refuse and defining violation as a nuisance, and waive the first reading.

Fiscal Impact: Staff time to administrate and enforce the ordinance.

Purpose:

To maintain a clean, safe, and attractive right-of-way throughout the City.

Background:

The current Municipal Code Section 6-4.03 – Placement of garden refuse was enacted by ordinance by City Council in 1969. As written, it allows for residents to place their garden refuse, including tree trimmings, shrub trimmings, grass clippings, and similar materials in the City's right-of-way as long as it is not impeding the flow of the gutter.

However, Section 6-4.03 is currently in conflict with Municipal Code Section 6-3.11 – Cuttings, which was established in 1999 and describes proper disposal of green waste in accordance with refuse service guidelines. According to this section, garden refuse should be disposed of in the appropriate refuse receptacle or neatly stacked beside it for pickup by the weekly garbage service.

Additionally, Municipal Code Section 4-21.62 – Solid waste disposal prohibitions, adopted in 2016, explicitly states that leaves, grass clippings, and organic waste are not to be deposited in the roadway, in order to protect the stormwater drainage system (Attachment 2). It does not make an exemption for garden refuse in any section of the roadway.

Municipal Code Section 4-8.130 – Public nuisances specified is the guiding code section for the City's Code Enforcement Division. It was last updated in 2009. As written, it does not provide a means to enforce against the improper disposal of garden refuse in the City right-of-way.

Analysis:

Staff from the Public Works Department's Street Maintenance Division and the Development Services Department's Code Enforcement Division have identified a number of issues with the garden refuse-related Municipal Code sections. Together, they recommend the attached ordinance which will address the concerns of the Departments as outlined below (Attachment 1).

For the Street Maintenance Division, the primary concerns are the effects on the condition and maintenance of the roadways and the storm-drain system. Refuse in the street can easily create traffic obstacles, increase maintenance needs, and create unsightly roadways that cannot be easily cleaned by the street sweeper. Refuse in the roadway is also at high risk of entering the storm-drain system, even if placed as directed by the current Section 6-4.03, as the street sweeper only sweeps each area of the City once per month. Traffic and weather can transfer gathered refuse into the gutters, where it can block drainage inlets or clog storm-drain pipes, requiring costly cleaning by Public Works maintenance crews and potentially damaging storm-drain infrastructure.

The Code Enforcement Division receives many complaints about the unattractive and dirty roadways, sidewalks, and bicycle lanes caused by garden refuse being placed in the City's right-of-way. The proposed language addition to Section 4-8.130 would provide a mechanism to help protect the City's right-of-way infrastructure,

Staff also consulted with Recology, the City's refuse service provider, who reviewed Section 6-3.11 – Cuttings. The section has been updated to match their current standards by eliminating the direction to place overflow cuttings into a cardboard box. Per their request, cuttings are only to be placed in the garden refuse bin or bundled neatly beside it.

Updating the three sections of Municipal Code will clarify the City's requirements for residents and give the City the ability to maintain a clean and safe right-of-way through Code Enforcement. The Code Enforcement Division would enforce the proposed ordinance by first working with the businesses and residents to gain voluntary compliance through one-on-one interaction. In the event that the business or resident continues to violate the ordinance, Code Enforcement will follow the Municipal Code and issue citations for non-compliance.

In order to provide local landscape businesses an opportunity to comment on this change, which would potentially affect their operations, Public Works staff contacted landscape contractors with City business licenses via letter with the proposed ordinance.

Fiscal Impact:

There is no immediate cost to enacting the ordinance outside of minimal staff time to develop and implement the changes to the Municipal Code. Ongoing staff time will be required of the Code Enforcement Division to enforce the implemented Municipal Code updates, with potential long-term cost savings due to reduced maintenance needs.

Alternatives:

1. Do not recommend one or all sections of the ordinance for future approval.
2. Provide staff with direction for modifying the proposed ordinance.

Recommendation:

Introduce an ordinance amending the Yuba City Municipal Code to allow for placement of garden refuse and defining violation as a nuisance, and waive the first reading.

Attachments:

1. Ordinance –Municipal Code Placement of Garden Refuse
2. Municipal Code Section 4-21.62 – Solid waste disposal prohibitions

Prepared by:

/s/ Scarlett Harris

Scarlett Harris
Administrative Assistant

Submitted by:

/s/ Michael Rock

Michael Rock
City Manager

Reviewed by:

Department Head

Finance

City Attorney

DL

RB

SLC by email

ATTACHMENT 1

ORDINANCE NO. _____

**ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YUBA CITY
AMENDING SECTION 4-8.130 OF ARTICLE II OF CHAPTER 8, OF TITLE 4,
AMENDING SECTION 6-3.11 OF CHAPTER 3 OF TITLE 6, AND AMENDING
SECTION 6-4.03 OF CHAPTER 4 OF TITLE 6 OF THE YUBA CITY
MUNICIPAL CODE TO ALLOW FOR PLACEMENT OF GARDEN REFUSE
AND DEFINING VIOLATION AS A NUISANCE**

WHEREAS, the City Council of Yuba City ("City") is authorized by the California Constitution, Article XI, Section 7 to make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws; and

WHEREAS, the City Council has adopted the Yuba City Municipal Code, which it periodically updates to protect the public health, safety and welfare; and

WHEREAS, City Council desires to update and amend the process for placement of garden refuse, and to define violation of said standards as a nuisance, within the City in a fair manner that best addresses the public health, safety and welfare.

NOW THEREFORE, the City Council of the City of Yuba City does ordain as follows:

Section 1. The above recitals are all true and correct and are hereby adopted as findings.

Section 2. The proposed ordinance was assessed in accordance with the authority and criteria contained in CEQA, the State CEQA Guidelines ("CEQA Guidelines"), and the environmental regulations of the City. The City Council finds and determines that the proposed ordinance is not a "project" for the purposes of CEQA and consistent with CEQA Guidelines Section 15378, as it promotes environmental conditions by providing a more environmentally sound process to ensure removal of garden refuse, etc., provides for administrative enforcement of the same, and will not result in direct or indirect substantial, adverse physical changes in the environment as compared to the current baseline. Additionally, the City Council finds and determines for the same reasons that even if the proposed ordinance were a project for the purposes of CEQA, there is no possibility that this project may have a significant adverse

effect on the environment pursuant to CEQA Guidelines, Section 15061(b)(3). Therefore, the proposed ordinance is not subject to CEQA.

Section 3. Section 4-8.130 of Chapter 8 of Title 4 (Public Safety) of the Yuba City Municipal Code hereby is amended to read in its entirety as follows:

Sec. 4-8.130. - Public nuisances specified.

It is declared a public nuisance for any person owning, leasing, subleasing, occupying, or having charge or possession of any property in this City to maintain such property in such a manner that any one or more of the following conditions or activities are found to exist.

- (a) The keeping, storage, depositing, or accumulation on the property of any personal property that is within the view of persons on adjacent or nearby real property or the public right-of-way when such personal property constitutes visual blight, reduces the aesthetic appearance of the neighborhood, is offensive to the senses, or is detrimental to nearby property or property values. For purposes of this section, "personal property" includes, but is not limited to, junk as defined in Section 4-8.020 of this chapter; abandoned, wrecked or dismantled automobiles, and recreational vehicles; abandoned, wrecked, dismantled, or not seaworthy boats or vessels; automotive parts and equipment; appliances; furniture; containers; packing materials; scrap metal; wood; building materials; rubbish and debris. Wood and building materials being used or to be used for a project of repair or renovation for which an active building permit is in existence may be stored for such period of time as is necessary to expeditiously complete the project. Upon finalization, expiration or cancellation of the permit, the wood and building materials of any nature for the project must be immediately removed.
- (b) The keeping, storage, depositing or accumulation on the property of any dead grass, weeds, brush, combustible materials, or rubbish of any kind in such a manner as to constitute a fire hazard, or any manure, dead animals, decayed vegetables, offal, or other similar matter that is in the view of persons on adjacent or nearby real property or the public right-of-way when such items constitutes visual blight, a danger to the health, safety or welfare of the public, reduces the aesthetic appearance of the neighborhood, or is offensive to the senses or is detrimental to nearby property or property values.
- (c) The keeping, storage, depositing or accumulation of dirt, sand, gravel, concrete or other similar materials that constitutes visual blight or reduces the aesthetic appearance of the neighborhood or is offensive to the senses or is detrimental to nearby property or property values.
- (d) The operation of a junk yard or automobile dismantling yard, except in an industrial zone pursuant to a use permit.

- (e) Any dangerous, unsightly or blighted condition that is detrimental to the health, safety or welfare of the public.
- (f) Any condition in violation of Chapter 12 of Article 4 (Animals) of the Yuba City Municipal Code.
- (g) Any condition in violation of Title 4 (Health and Safety) of the Yuba City Municipal Code or in violation of the California Fire Code.
- (h) Any condition in violation of Title 7 (Building Regulations) of the Yuba City Municipal Code, or in violation of the California Building Code, the Uniform Housing Code, the California Electrical Code, the California Plumbing Code or the California Mechanical Code.
- (i) Any condition in violation of Title 8 (Zoning) of the Yuba City Municipal Code.
- (j) Any condition specified in the Yuba City Municipal Code as a public nuisance.
- (k) Any condition recognized in law or in equity as constituting a public nuisance.
- (l) The maintenance of the exterior of any vacant or unoccupied building or the interior of any such building that is readily visible from any public street or adjacent parcel of property in a state of unsightliness so as to constitute a blighted condition detrimental to the property values in the neighborhood or otherwise detrimental to the public welfare.
- (m) The draining or allowing or suffering to be drained any sewage into or onto the ground of any property, whether or not occupied or improved, except that sewage may be properly disposed of in an adequate private sewage disposal system as otherwise permitted by law.
- (n) Any unimproved real property, or improved but unoccupied real property, that has become a dumping ground for litter, garbage, junk, debris, discarded vehicles, vehicle parts, and any real property which has been subject of two or more written requests by the City to remove litter, garbage, junk, debris, discarded vehicles, vehicle parts from the property within a 12-month time period or which has been subject to abatement action on one or more occasions by the City. Once proceedings have been commenced pursuant to this chapter to declare property a public nuisance under this subsection, no such property shall be deemed to be in compliance with this chapter solely because such property thereafter becomes occupied.
- (o) Depositing in the public right-of-way any garden refuse, tree trimmings, shrub trimmings, hedge cuttings, leaves, grass clippings, and similar materials in accordance with Municipal Code Section 6-4.03 – Placement of garden refuse.

Section 4. Section 6-3.11 (Cuttings) of Chapter 3 of Title 6 of the Yuba City Municipal Code is hereby amended to read in its entirety as follows:

Tree limbs, branches, hedge cuttings, leaves and similar materials may also be disposed of by placing them in refuse containers in such a manner that the lid can be secured and contents may be readily emptied. Larger branches from tree and shrub trimmings may also be placed on the ground at the place of collection providing they are

neatly stacked and securely tied into bundles four ft. or less in length and not more than 50 pounds in weight.

Section 5. Section 6-4.03 (Placement of garden refuse) of Chapter 4 of Title 6 of the Yuba City Municipal Code hereby is amended to read in its entirety as follows:

Sec. 6-4.03. - Placement of garden refuse.

No person shall deposit in the public right-of-way any garden refuse, including tree trimmings, shrub trimmings, grass clippings, and similar materials. Garden refuse shall be disposed of in accordance with Municipal Code Section 6-3.11 – Cuttings.

Section 6. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions thereof may be declared invalid or unconstitutional.

Section 7. This Ordinance shall take effect and be in full force and effect from and after thirty (30) calendar days after its final passage and adoption. Within fifteen (15) calendar days after its adoption, the Ordinance, or a summary of the Ordinance, shall be published once in a newspaper of general circulation.

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Introduced and read at a regular meeting of the City Council of the City of Yuba City on the ____th day of _____, 2019, and passed and adopted at a regular meeting held on the ____th day of _____, 2019.

AYES: _

NOES: _

ABSENT: _

ABSTAIN:

ATTEST:

Patricia Buckland, City Clerk

Shon Harris, Mayor

APPROVED AS TO FORM
COUNSEL FOR YUBA CITY

SHANNON CHAFFIN, City Attorney
Aleshire & Wynder, LLC

ATTACHMENT 2

Sec. 4-21.62. - Solid waste disposal prohibitions.

Except for pollutants lawfully disposed of by way of containers or at a licensed dumping ground, no person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, placed, left, or maintained, in or upon any public or private lot of land or other premises in the City, driveway, parking area, street, alley, sidewalk, business place, component of the storm drain system, or waters of the United States, any refuse, rubbish, garbage, litter or other discarded or abandoned objects, articles, and accumulations, so that the same might be or become a pollutant discharged to water or may cause or contribute to pollution. Wastes properly deposited in streets in proper waste receptacles or pursuant to a City sponsored program for the purposes of collection are exempted from this prohibition.

The occupant or tenant, or in the absence of occupant or tenant, the owner, lessee or proprietor of any premises, residential or commercial, in the City in front of which there is a paved sidewalk shall maintain said sidewalk free of dirt or litter to the maximum extent practicable. Sweepings from said sidewalk, including but not limited to the blowing or sweeping of leaves, grass clippings, or other organic wastes, shall not be swept or otherwise made or allowed to go into the gutter or roadway.

([Ord. No. 003-16](#), § 2, 2-16-2016)