



**CITY OF HEMET
Hemet, California
ORDINANCE BILL NO. 14-038**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF HEMET, CALIFORNIA, REPEALING AND RESTATING
CHAPTER 62 OF THE HEMET MUNICIPAL CODE [SOLID
WASTE MANAGEMENT].**

WHEREAS, Article XI, § 7 of the California Constitution authorizes cities to make and enforce within their limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws; and,

WHEREAS, the Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989, ("AB 939" or the "Act") (codified at Public Resources Code §§ 4000 et seq.) established a solid waste management process that requires cities and other local jurisdictions to adopt and implement plans to reduce the amount of solid waste generated within their jurisdiction and to maximize reuse and recycling; and,

WHEREAS, AB 939 states that the frequency of solid waste collection, the means of solid waste collection and transportation, levels of services, charges and fees for services, and the nature, location and extent of providing solid waste services, are matters of local concern; and,

WHEREAS, AB 939 expressly allows cities to provide solid waste services to its residents by its own forces or by authorizing a private entity to provide those services; and,

WHEREAS, when cities confer the authority to provide solid waste handling services on private entities, they may do so by the award of a franchise, contract, license or other means; and,

1 **WHEREAS**, Chapter 62 of the Hemet Municipal Code implements Article XI, § 7
2 of the California Constitution and AB 939 in the City of Hemet and protects public health
3 and safety by authorizing the City Council to provide solid waste handling service itself
4 or to award one or more franchises to private entities; and,

5 **WHEREAS**, the owner or other person in charge of a premises that is eligible for
6 cart service from a solid waste franchisee may elect to self-haul their solid waste,
7 recyclable materials and green waste to a disposal facility in lieu of arranging for solid
8 waste handling services from a franchisee; and,

9 **WHEREAS**, Chapter 62 of the Hemet Municipal Code was adopted on May 27,
10 1997 by Ordinance No. 1561, at a time when the City was providing solid waste
11 handling services by its own forces, and only discrete amendments have been made
12 since then; and,

13 **WHEREAS**, this Ordinance repeals and restates Chapter 62 of the Hemet
14 Municipal Code to reflect current City practices, changes in the law, and the fact that the
15 City has divested itself of its refuse enterprise and issued a franchise for solid waste
16 handling services to a private entity.

17 **NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF HEMET DOES**
18 **HEREBY ORDAIN AS FOLLOWS:**

19
20 **SECTION 1: REPEAL AND RESTATEMENT OF CHAPTER 62.**

21 Chapter 62 of the Hemet Municipal Code is hereby repealed and restated in its
22 entirety, as shown in Exhibit A hereto.

23 **SECTION 2: SEVERABILITY.**

24 If any section, subsection, subdivision, sentence, clause, phrase, or portion of
25 this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of
26 any court of competent jurisdiction, such decision shall not affect the validity of the
27 remaining portions of this Ordinance. The City Council hereby declares that it would
28

1 have adopted this Ordinance, and each section, subsection, subdivision, sentence,
2 clause, phrase, or portion thereof, irrespective of the fact that any one or more sections,
3 subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared
4 invalid or unconstitutional.

5
6 **SECTION 3: EFFECTIVE DATE.**

7 This Ordinance shall take effect thirty (30) days from its passage by the City
8 Council of the City of Hemet.

9 **SECTION 4: PUBLICATION.**

10 The City Clerk is authorized and directed to cause this Ordinance to be published
11 within fifteen (15) days after its passage in a newspaper of general circulation and
12 circulated within the City in accordance with Government Code Section 36933(a) or, to
13 cause this Ordinance to be published in the manner required by law using the
14 alternative summary and pasting procedure authorized under Government Code
15 Section 39633(c).

16
17 **INTRODUCED** at the regular meeting of Hemet City Council on _____ 2014.

18 **APPROVED AND ADOPTED** this ____ day of _____ 2014.

19
20
21 _____
22 **Larry Smith, Mayor**

23
24 **ATTEST:**

25 **APPROVED AS TO FORM:**

26 _____
27 **Sarah McComas, City Clerk**

28 _____
Eric S. Vail, City Attorney

1 State of California)
2 County of Riverside)
3 City of Hemet)

4 I, Sarah McComas, City Clerk of the City of Hemet, do hereby certify that the
5 foregoing Ordinance was introduced and first read on the ___ day of _____ 2014,
6 and had its second reading at the regular meeting of the Hemet City Council on the ___
7 day of _____, 2014, and was passed by the following vote:

- 8 **AYES:**
- 9 **NOES:**
- 10 **ABSTAIN:**
- 11 **ABSENT:**

12
13 _____
14 Sarah McComas, City Clerk

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EXHIBIT "A"

"Chapter 62 - SOLID WASTE MANAGEMENT"

ARTICLE I. – GENERAL PROVISIONS
ARTICLE II. – SOLID WASTE MANAGEMENT
ARTICLE III. – FRANCHISES
ARTICLE IV. – SELF HAULING
ARTICLE V. – RECYCLABLE MATERIALS, GREEN WASTE AND C&D MATERIALS
ARTICLE VI. – PROHIBITED ACTS
ARTICLE VII. – ENFORCEMENT

ARTICLE I. – GENERAL PROVISIONS

Sec. 62-1. – Purpose; Findings.
Sec. 62-2. – Definitions.

Sec. 62-1. – Purpose; Findings.

- A. Purpose. The management and proper disposal of Solid Waste is a matter of great importance to the City, its citizens, visitors, property owners and businesses. The City finds that the public health, safety, and well-being require the generation, accumulation, handling, collection, transportation, conversion and disposal of Solid Waste be controlled and regulated by the City through the comprehensive system provided in this Chapter. This Chapter is intended to ensure Solid Waste Handling Services are readily available, adhere to uniform standards, and are reliable, clean, and efficient. The City has a strong interest in reducing the harboring and breeding of rodents and insects, reducing the spread of disease, and preventing pollution and other unsightly degradation of the environment, which can occur with the improper handling of Solid Waste and the excess accumulation of Solid Waste.
- B. Findings. The City finds and declares:
1. Article XI, § 7 of the California Constitution authorizes cities to make and enforce within their limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws.
 2. The Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989, ("AB 939" or the "Act") (codified at Public Resources Code §§ 4000 et seq.) established a solid waste management process that requires cities and other local jurisdictions to adopt and implement plans to reduce the amount of solid waste generated within their jurisdiction and to maximize reuse and recycling.
 3. AB 939 states that the frequency of solid waste collection, the means of solid waste collection and transportation, levels of services, charges and fees for services, and the nature, location and extent of providing solid waste services, are matters of local concern.

4. AB 939 expressly allows cities to provide solid waste services to its residents by its own forces or by authorizing a private entity to provide those services.
5. This Chapter implements Article XI, § 7 of the California Constitution and AB 939 in the City of Hemet and protects public health and safety by authorizing the City Council to provide solid waste handling service itself or to award one or more franchises to private entities.

Sec. 62-2. – Definitions.

For the purposes of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section. Words and phrases not defined in this Chapter shall have the meaning ascribed by Section 1-2 of this Code, and if not defined therein, then as applicable, as in: Division 30, Part 1, Chapter 2 of the Public Resources Code, Sections 40100 *et seq.*; the regulations of the California Department of Resources Recycling and Recovery; the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. §§ 6901, *et seq.* and the regulations implementing RCRA, as they may be amended.

“**AB 939**” or “**Act**” means the California Integrated Waste Management Act of 1989, codified in part at Public Resources Code, §§ 40000 *et seq.* as it may be amended, and as implemented by the regulations of CalRecycle or its successor agency.

“**Account Holder**” means the persons or entities whose name(s) are on a Solid Waste Franchisee’s account for a Premises.

“**Bin**” means a Container, typically between one and eight cubic yards, provided by a Solid Waste Franchisee for the collection of Solid Waste, Recyclable Material and Green Waste.

“**Bulky Waste**” means Solid Waste that would not typically fit within a Container, including, but not limited to, large and small household appliances, furniture, carpets, mattresses, automobile tires, and oversized Green Waste such as tree trunks and large branches if no larger than two feet in diameter and four feet in length, and similar large items discarded from a Residential Premises. “Bulky Waste” does not include consumer electronics, such as televisions, radios, computers, monitors, and the like, which are regarded as Universal Waste, the disposal of which is governed by regulation of the Department of Toxic Substances Control.

“**CalRecycle**” means the California Department of Resources Recycling and Recovery.

“**Cart**” means a Container, typically between 64 and 96 gallons, provided by a Solid Waste Franchisee for the collection of Solid Waste, Recyclable Material, and Green Waste.

“**City**” means the City of Hemet, California, a municipal corporation, and all of the territory lying within the municipal boundaries of the City as presently existing and all geographic areas which may be added or annexed to the City.

“**City Manager**” means a person having that title in the employ of the City of Hemet, or the City Manager’s designated representative.

“City Premises” means City-owned or operated Premises where Solid Waste is generated or accumulated.

“Commercial Premises” means all Premises in the City, other than Single Family Residential Premises, Multifamily Residential Premises, and City Premises, where Solid Waste is generated or accumulated. The term “Commercial Premises” includes, but is not limited to, stores; offices; restaurants; boarding houses; hotels; motels; industrial and manufacturing, processing, or assembly shops or plants; hospitals, clinics, convalescent centers and nursing homes.

“Construction and Demolition Material” or **“C&D Material”** means discarded building materials, “inert wastes” as defined in Public Resources Code § 41821.3(a)(1) (e.g. rock, concrete, brick, sand, soil ceramics and cured asphalt), recyclable construction and demolition materials, packaging, plaster, drywall, rubble resulting from construction, remodeling, repair and demolition operations, but does not include asbestos-containing materials or Hazardous Waste.

“Container” means any Cart, Bin or Debris Box.

“Debris Box” means a Container, typically ten to forty cubic yards, provided by a Solid Waste Franchisee for the collection of Solid Waste that is normally tipped loaded onto a motor vehicle and transported to an appropriate facility.

“Green Waste” means leaves, grass clippings, brush, branches and other forms of organic materials generated from maintenance or alteration of landscapes or gardens including, but not limited to, tree trimmings, prunings, brush and weeds and incidental pieces of scrap lumber. “Green Waste” includes unadorned holiday trees (except such trees which are frosted, flocked or which contain tinsel or metal), but does not include stumps or branches exceeding four inches (4”) in diameter or four feet (4’) in length, or palm fronds, or yucca, which are not suitable for composting. “Green Waste” is not a “Recyclable Material”. “Green Waste” is Solid Waste if it is not segregated from Solid Waste and is discarded into the Solid Waste stream.

“Hazardous Waste” means any waste materials or mixture of wastes defined as a “hazardous substance” or “hazardous waste” pursuant to the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. §§ 6901 *et seq.*, the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”), 42 U.S.C. §§ 9601 *et seq.*, the Carpenter-Presley-Tanner Hazardous Substance Account Act (“HSAA”), codified at California Health & Safety Code §§ 25300 *et seq.*; the Electronic Waste Recycling Act of 2003, codified at California Health & Safety Code §§ 25214.9 *et seq.* and California Public Resources Code §§ 41516 *et seq.*, laws governing Universal Waste, all future amendments to any of them, or as defined by CalRecycle or the Department of Toxic Substances Control, or by their respective successor agencies. If there is a conflict in the definitions employed by two or more agencies having jurisdiction over hazardous or Solid Waste, the term “Hazardous Waste” shall be construed to have the broader, more encompassing definition.

“Household Hazardous Waste” means dry cell household batteries; cell phones and PDAs; used motor oil; used oil filters when contained in a sealed plastic bag; cooking oil; compact fluorescent light bulbs contained in a sealed plastic bag; cleaning products; pesticides; herbicides; insecticides; painting supplies; automotive products; solvents; stripes; and adhesives; auto batteries; and Universal Waste generated at a Single-Family or Multifamily Residential Premises.

“Multifamily Residential Premises” means a multi-family residential building with 5 or more units, including but not limited to mobile home parks, apartments, condominiums and town homes, which utilize Bins for the temporary accumulation and collection of Solid Waste. The City will have sole authority to resolve any ambiguity as to whether a particular Premise is a Single Family Residential Premises or a Multifamily Residential Premises.

“Owner” means the persons or entities listed on the last equalized assessment roll as the owner of a lot or parcel of real property within the City.

“Person in Charge” means an Owner, Account Holder, tenant, occupant or other person or persons responsible for the day to day operation of a Premises.

“Premises” means place where any person resides, or any business is carried on or conducted, or any other place upon which Solid Waste is generated or accumulated.

“Recyclable Material” means materials that can be reused or processed into a form suitable for reuse through reprocessing or remanufacture, consistent with the requirements of AB 939, including but not limited to the following:

1. Aluminum cans;
2. Glass jars and bottles;
3. Steel, bi-metal and tin cans, and empty aerosol containers;
4. Plastic soft drink bottles and other Type #1 containers (PET-polyethylene terephthalate);
5. Plastic milk and water jugs and other Type #2 containers (HDPE-high density polyethylene);
6. Type #3 plastic containers (V- polyvinyl chloride);
7. Type #4 plastic containers (LDPE-low density polyethylene);
8. Type #5 plastic containers (PP- polypropylene);
9. Type #6 plastic containers (PS- polystyrene);
10. Type #7 plastic containers (other and commingled);
11. Film plastic, e.g., plastic bags, shrink wrap; plastic toys and tools, and other plastic materials (if readily identifiable as being recyclable);
12. PVC pipe;
13. Juice boxes and milk cartons (aseptic packaging, Tetra Pak®, and waxed cardboard);
14. Detergent containers;
15. Scrap metal, coat hangers and metal foil;

16. Newspapers and telephone books;
17. Mixed paper (e.g., ledger, computer, junk mail, magazines, paperback books, cereal boxes, envelopes, paper shopping bags and non-metallic wrapping paper);
18. Corrugated cardboard and chipboard;
19. Chlorofluorocarbons (contained in Bulky Waste set out for collection under Section 7.I and Section 8.B);
20. Tires (if set out for collection as Bulky Waste to be collected under Section 7.I. and Section 8.B.); and
21. Wood (incidental scrap pieces if set out for collection with Green Waste, and larger quantities if set out for collection with Bulky Waste).

“Recyclable Materials” are Solid Waste if they are not segregated from Solid Waste and are discarded into the Solid Waste stream.

“Self Haul” means the transportation of Solid Waste, Recyclable Materials or Green Waste directly to a licensed or permitted landfill or other licensed or permitted disposal facility by a person who has received a Self Haul Permit.

“Self Haul Permit” means a permit issued by the City to Self Haul under Section 62-31 of this Chapter.

“Single-Family Residential Premises” means a detached single family dwelling unit, or each unit in a multifamily residential building with up to four units, such as a duplex, triplex, or quadraplex, a townhouse, a condominium, or a mobile home of permanent character placed in a permanent location, which utilizes one or more Carts, or a Bin, for the temporary accumulation and collection of Solid Waste. The City Manager will have sole authority to resolve any ambiguity as to whether a particular Premise is a Single Family Residential Premises or a Multifamily Residential Premises.

“Solid Waste” means and includes any materials defined as “solid waste” by Section 40191 of the California Public Resources Code, and specifically includes, without limitation, Recyclable Materials and Green Waste that has been disposed into the Solid Waste stream, Bulky Waste, Construction and Demolition Materials, and all other materials, excluding Universal Waste and Hazardous Waste, that are discarded into the Solid Waste stream, or collected in exchange for a fee or any other consideration, regardless of form or amount.

“Solid Waste Enterprise” means any individual, partnership, joint venture, unincorporated private organization, or private corporation, which is regularly engaged in the business of providing Solid Waste Handling Services.

“Solid Waste Franchisee” means a Solid Waste Enterprise that has been granted the right and privilege by the City, or by operation of law, to perform one or more Solid Waste Handling Services within the City or a portion thereof.

“Solid Waste Handling Services” means the collection, transportation, processing, recycling, composting, conversion, retention and disposal of Solid Waste, Green Waste, Recyclable Materials, Construction and Demolition Materials, Bulky Waste, Household Hazardous Waste, and/or Universal Waste.

“Spilled” means deposited, released, spilled, leaked, pumped, poured, emitted, emptied, discharged, injected, dumped or disposed into the environment, or which otherwise has come to be located outside an authorized Container. The term “disposed into the environment” shall include, but is not limited to, the abandonment or discarding of barrels, bags, cans and other closed receptacles containing Solid Waste, Recyclable Materials or Green Waste.

“Universal Waste” means and includes, but is not limited to, Universal Waste Electronic Devices” or “UWEDs,” (i.e., electronic devices subject to the regulation of the Department of Toxic Substances Control, 23 CCR §§ 66273.1, *et seq.*), and other Universal Wastes, including, but not limited to non-empty aerosol cans, fluorescent tubes, high intensity discharge lamps, sodium vapor lamps, and any other lamp exhibiting a characteristic of a hazardous waste, batteries (rechargeable nickel-cadmium batteries, silver button batteries, mercury batteries, small sealed lead acid batteries [burglar alarm and emergency light batteries] alkaline batteries, carbon-zinc batteries and any other batteries which exhibit the characteristic of a hazardous waste), mercury thermometers, and mercury-containing switches.

ARTICLE II. – SOLID WASTE MANAGEMENT

Sec. 62-10. – Disposal of Solid Waste Required.

Sec. 62-11. – Containers – Use, Placement for Collection, Storage.

Sec. 62-12. – Clean-Up.

Sec. 62-13. – Disposal Frequency.

Sec. 62-14. –AB 939 Fees.

Sec. 62-10. – Disposal of Solid Waste Required.

In order to protect the public health, safety and wellbeing, and to prevent the spread of vectors, the Owner or other Person in Charge of a Premises shall make arrangements with the City or the City’s Solid Waste Franchisee for Solid Waste Handling Services.

All Premises in the City must have the applicable Solid Waste Handling Services required under this Chapter.

A violation of this Section is a misdemeanor and punishable as provided in Article VII of this Chapter.

Sec. 62-11. – Containers – Use, Placement for Collection, Storage.

A. Use. Every Person in Charge of a Premises shall:

1. Keep on the Premises a sufficient number of Containers that will hold all Solid Waste, Recyclable Materials, and Green Waste that accumulates on the Premises each week without spilling, leaking, or emitting odors.
2. Deposit or cause to be deposited all Solid Waste, Recyclable Materials and Green Waste generated or accumulated on the Premises into Containers meeting the requirements of Section 62-11(A)(1).
3. Use those Containers:
 - a. Provided by the appropriate Solid Waste Franchisee; or

- b. Approved by the City under a valid Self Haul permit for the Premises.
- B. Placement for Collection. To minimize interference with public rights-of-way, no person shall place a Container in a public right-of-way for collection by the appropriate Solid Waste Franchisee more than 24 hours prior to the normal collection time. Containers placed in a public right-of-way for collection shall be removed from the right-of-way within 24 hours after collection.
- C. Storage. Except during the time a Cart or Bin is placed for collection, no Cart or Bin shall be visible from the public right of way. A Debris Box may be placed in a location that is visible from the public right of way at a Single-Family Residential Premises for up to thirty (30) consecutive days and for no more than sixty (60) total days during any twelve (12) month period.

Sec. 62-12. – Clean-Up.

- A. Until Solid Waste, Recyclable Materials or Green Waste has been picked up by the appropriate Solid Waste Franchisee, or is Self Hauled in accordance with a valid Self Haul Permit, each Person in Charge of a Premises shall be responsible for the cleanup of any and all Solid Waste, Recyclable Material, or Green Waste generated or accumulated on the Premises that is Spilled on, at, or in the Premises. This cleanup responsibility includes the cleanup of Solid Waste, Recyclable Materials and Green Waste Spilled for any reason, including but not limited to human or animal interference with a Container, wind or other natural forces, at any time during storage, collection, removal, or transfer of the materials.
- B. The City's Solid Waste Franchisee(s) shall clean up any Solid Waste, Recyclable Material, or Green Waste Spilled during its collection, removal, or transfer, as soon as the Spill occurs.

Sec. 62-13. – Disposal Frequency.

All Solid Waste accumulating upon a Premises must be disposed of as frequently as required to avoid an accumulation of Solid Waste in violation of Section 30-32 but in no case shall disposal occur less frequently than one (1) time per week, except that less than weekly disposal is permitted during any period of time the Premises is temporarily unoccupied and Solid Waste is not accumulating on the Premises due to out-of-town travel or other similar situations.

Sec. 62-14. – AB 939 Fees.

Pursuant to Division 30, Part 2, Chapter 8 of the Public Resources Code, Section 41900 *et seq.*, the City may impose fees on Premises in amounts sufficient to pay the costs of preparing, adopting, and implementing a countywide integrated waste management plan, including the costs of preparing, adopting and implementing the City's required Source Reduction and Recycling Element, Household Hazardous Waste Element, and Nondisposal Facility Element, and the costs of setting and collecting the fees.

ARTICLE III. – FRANCHISES

Sec. 62-20. – Findings.

Sec. 62-21. – Provision of Solid Waste Handling Service.

Sec. 62-22. – Solid Waste Franchises.

Sec. 62-23. – Manner, Time and Frequency of Collection

Sec. 62-24. – Liability for Solid Waste Collection Fees.

Sec. 62-20. – Findings.

- A. California Constitution Articles XIII(C) and XIII(D), commonly known as “Proposition 218,” regulates a public agency’s imposition of certain fees for property-related services provided by the public agency. Proposition 218 does not restrict or regulate what a private profit-making entity may charge for property-related services provided by a private entity.
- B. The rates and fees established by a Solid Waste Franchisee pursuant to this Article are not subject to Proposition 218 because, among other reasons, the Solid Waste Franchisee independently establishes, charges and collects the fees and rates for its service; Owners of Single-Family Residential Premises may avoid the imposition of such fees and rates by obtaining a Self Haul Permit; and Owners of any property in the City may avoid the imposition of such fees and rates by leaving their property undeveloped or unoccupied.

Sec. 62-21. – Provision of Solid Waste Handling Service.

- A. The City Council may grant franchises to one or more Solid Waste Enterprises to make arrangements with the Persons in Charge of Premises within the City for Solid Waste Handling Services, in accordance with Section 62-22.
- B. The City Council may determine Solid Waste collection categories, (e.g., single-family residential, multifamily residential, commercial, construction & demolition materials, household hazardous waste, universal waste, recyclable materials, green waste and others) and may make or impose franchise, license, contract or permit requirements which may vary for such categories.

Sec. 62-22. – Solid Waste Franchises.

- A. The City Council may award exclusive, partially exclusive, or non-exclusive franchises for one or more types of Solid Waste Handling Services for all or a portion of the Premises in the City. Any such franchise shall be in the form of a written agreement, approved by the City Council by written resolution, and shall be subject to all of the continuation rights, if any, held by any other Solid Waste Enterprise pursuant to Public Resources Code § 49520 et seq. Where a franchise agreement is silent on an issue, the provisions of this Chapter shall govern. Where a franchise agreement predates the effective date of this Chapter, the provisions of the franchise agreement shall govern over any inconsistent provisions contained in this Chapter.
- B. Any franchise granted pursuant to paragraph A of this section shall be granted on such terms and conditions as the City Council shall establish in its sole discretion. At a minimum, the franchise shall provide:
 - 1. The Solid Waste Franchisee shall comply with the provisions of this Chapter; and,

2. The Solid Waste Franchisee shall protect, defend, indemnify and hold the City harmless such acts, omissions, liabilities and damages related to the agreement as the City Attorney and City Manager determined to be reasonable necessary to adequately protect the City; and
3. The Solid Waste Franchisee shall be required to cooperate with City in Solid Waste disposal characterization studies and the preparation of waste stream audits, and to submit information required by the City to meet the reporting requirements of AB 939, or any other law or regulation, and to implement measures consistent with the City's Source Reduction and Recycling Element to reach the Solid Waste and recycling goals mandated by the California Integrated Waste Management Act of 1989, as it may be amended from time to time.

Sec. 62-23. – Manner, Time and Frequency of Collection.

- A. Regular Collection. The City's Solid Waste Franchisee(s) shall make arrangements with its Account Holders specifying the manner in which Solid Waste Handling Services are to be regularly provided, subject to the terms of its franchise.
- B. Special Collections. The City's Solid Waste Franchisee(s) shall provide on-call collection of Bulky Waste and Household Hazardous Waste to its Account Holders, and shall provide its Account Holders with Debris Boxes when requested and collect the Debris Box when the Account Holder no longer requires the Debris Box. The terms and conditions upon which such special collections are provided to Account Holders shall be arranged between the Solid Waste Franchisee and the Account Holder, subject to the terms of the Solid Waste Franchisee's franchise from the City.

Sec. 62-24. – Liability for Solid Waste Collection Fees.

- A. Joint and Several Liability. The Owner of a Premises and the Account Holder for a Premises are jointly and severally liable for Solid Waste Handling Services provided to the Premises by a Solid Waste Franchisee.
- B. Delinquencies - Single Family and Multifamily Residential Premises. An Account Holder for a Single Family or Multifamily Premises who has not remitted required payment for Solid Waste Handling Services within one hundred twenty (120) days after the date of billing shall be notified by the Solid Waste Franchisee servicing the Premises on forms that contain a statement that if payment is not received within fifteen (15) days from the date of the notice, a 10% penalty and 1.5% monthly interest will begin to accrue and the City will be informed of the delinquency in an annual report. The Solid Waste Franchisee will deliver a report of the delinquencies in May of each year with a request that the City place the delinquencies on the tax roll.

Pursuant to Sections 38790.1 and 25831 of the Government Code, or in the alternative Health & Safety Code Section 5473a, the City may collect delinquent fees or charges for Solid Waste Handling Services on the property tax roll for the Premises. If the City decides to collect delinquent Solid Waste Handling fees or charges on the property tax roll, it shall adhere to the following procedures:

1. City will fix a time, date and place for hearing the report of delinquencies submitted by the Solid Waste Franchisee and any objections and protests

to the report. The Solid Waste Franchisee shall mail notice of the hearing to the Owner of every Premises listed on the report not less than ten (10) days prior to the date of the hearing. At the hearing, City shall hear any objections or protests of Owners liable to be assessed for delinquent fees. The City may make revisions or corrections to the report as it deems just, after which, by resolution, the report shall be confirmed.

2. The delinquent fees set forth in the report as confirmed shall constitute special assessments against the Premises listed in the report and are a lien on the Premises for the amount of the delinquent fees. A certified copy of the confirmed report shall be filed with the Riverside County Auditor for the amounts of the respective assessments against the respective Premises as they appear on the current assessment roll. The lien created attaches upon recordation, in the office of the Riverside County Recorder, of a certified copy of the resolution of confirmation. The assessment may be collected at the same time and in the same manner as ordinary ad valorem property taxes are collected and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for those taxes.
3. City shall remit to its Solid Waste Franchisee(s) amounts collected pursuant to this process within thirty (30) days of receipt from the Riverside County Assessor. Solid Waste Franchisee(s) shall notify the City in the event any delinquency on the report for which a lien has been created is paid or otherwise resolved.

- C. Delinquencies - Commercial Premises. Solid Waste Franchisee(s) may discontinue service to a Commercial Premises if the Account Holder of the Commercial Premises has not remitted required payment for Solid Waste Handling Services within sixty (60) days after the date of billing. If a Solid Waste Franchisee terminates service to any non-paying Premises, the Solid Waste Franchisee may require as a condition precedent to re-establishment of such service, that the Owner of the Premises and the Account Holder must comply fully with all of the billing policies and practices of the Solid Waste Franchisee, including, but not limited to, requirement of payment by cash or cash equivalent, prepayment of one full billing cycle, a security deposit, payment of all costs of collection of monies owed to the Solid Waste Franchisee, and payment of a reinstatement fee. Delinquent Commercial Premises accounts shall be charged a 1.5% monthly late fee on the delinquent balance. If a Solid Waste Franchisee discontinues service for non-payment, the Solid Waste Franchisee shall, upon City request, give written notice to the City Manager of any discontinuance of service for nonpayment, giving the name and address of the Account Holders.

ARTICLE IV. – SELF HAULING

- Sec. 62-30. – Applicability.
- Sec. 62-31. – Self Haul Permit
- Sec. 62-32. – AB 939 Fees

Sec. 62-30. – Applicability

Self Haul Permits are available only to Single Family Residential Premises because it is more difficult to transport larger volumes of Solid Waste, Recyclables and Green Waste in a manner that is safe and sanitary. The difficulty posed by Self Hauling larger volumes of Solid Waste, Recyclables and Green Waste pose an unwarranted

threat to the public health, safety and welfare, as it could lead to increased illegal dumping and burning, failure to segregate Recyclables and Green Waste, unauthorized deposit of Solid Waste in the Containers of another, and the accumulation of Solid Waste at a Premises for more than one (1) week.

Sec. 62-31. – Self Haul Permit

- A. Permit required. The Person in Charge of a Single-Family Residential Premises may apply for and obtain a permit to Self Haul, and shall not Self Haul without a valid Self Haul Permit issued pursuant to this section. Every Person in Charge of a Single-Family Residential Premises who desires to Self Haul in lieu of making arrangements with the appropriate Solid Waste Franchisee for Solid Waste Handling Services shall obtain a Self Haul permit from the City's public works director or his or her designee prior to commencing Self Hauling.
- B. Term. A permit to Self Haul shall be good for one calendar year, or such part of the calendar year that is remaining after the issuance of the permit. All Self Haul permits shall expire on December 31, and may be renewed annually. Application for a renewal permit must be filed at least sixty (60) days prior to the expiration date of the permit to allow adequate time for processing, inspection and verifications required to issue the permit.
- C. Issuance of permit. An applicant for a Self Haul Permit shall submit a completed application, on a form approved by the City's public works director, to the public works department. The public works director or his or her designee shall determine whether the application is complete within five (5) working days of the receipt of the application. If the director or his or her designee finds the application incomplete, the applicant shall be given a list of further information needed to complete the application.

After it is determined that an application for a Self Haul Permit is complete, the applicant shall produce the items listed in numbers 1 through 7 below. The director of public works or his or her designee shall issue a Self Haul Permit within five (5) working days of the production of all of the required items.

- 1. The applicant produces for inspection the vehicle the applicant intends to use for Self Hauling, and the vehicle meets the following standards:
 - a. The vehicle is capable of safely hauling a minimum of 32 gallons (4.3 cubic feet) of Solid Waste, Recyclable Materials and Green Waste in a safe and sanitary manner so that such matter will not Spill; and
 - b. If the vehicle is not fully enclosed, the applicant produces a tarp or other material that is demonstrated to completely secure the materials being Self Hauled.
- 2. The applicant produces evidence that he or she owns or leases the vehicle produced for inspection or has a written agreement to use the vehicle for Self Hauling with the vehicle's owner or lessor;
- 3. The applicant produces evidence that he or she has a valid California driver's license to operate the vehicle produced for inspection and that the vehicle is registered in the State of California;

4. The applicant provides the City with a certificate of automobile insurance for the vehicle;
5. The vehicle is operational and meets all applicable Vehicle Code standards;
6. The applicant provides the City with proof that the applicant has Containers for the storage of Solid Waste, Recyclable Materials and Green Waste on the applicant's Premises before the materials are hauled to a disposal facility; and
7. The applicant provides proof that he/she is has no outstanding charges due to the City's Solid Waste Franchisee for Solid Waste Handling Services previously received at the Premises for which the Self Hauling Permit Application is being submitted; and
8. The applicant pays the fee for a Self Haul Permit authorized by resolution of the City Council. The fee shall reflect the City's reasonable costs of issuing and monitoring compliance with the permit. Permits issued between January 1 and March 31 shall pay one hundred percent (100%) of the permit fee; permits issued between April 1 and June 30 shall pay seventy-five percent (75%) of the permit fee; permits issued between July 1 and September 30 shall pay fifty percent (50%) of the permit fee; permits issued between October 1 and December 31 shall pay twenty-five percent (25%) of the permit fee.

D. Appeal of denial. An applicant whose application for a Self Haul permit has been denied may appeal that decision. An appeal may be filed within five (5) days of the date the applicant was notified of the denial. Appeals shall be heard by the City Manager. The decision of the City Manager is final.

E. Operational standards.

1. Permittees must dispose of Solid Waste weekly at a licensed or permitted landfill or disposal facility and shall procure and retain weekly receipts from such landfill or other disposal facility. Receipts shall be submitted to the City upon request. Failure to show proof of Solid Waste disposal for each week that a person is permitted to Self Haul shall constitute a public health and safety nuisance sufficient to permit City to revoke the permittees' Self Haul permit.
2. Permittees must notify the City of any change in the vehicle being used to haul Solid Waste by the permittee. Permittees must bring the new vehicle in for an inspection and demonstrate compliance with items 1 through 5 of paragraph B of this section before the new vehicle is used to haul any Solid Waste under the permit.
3. Permittee must keep on file with the City copies of the current automobile insurance and registration for the vehicle used to Self Haul and the permittee's current California driver's license. Permittee must provide proof to City of renewed automobile insurance, vehicle registration, and California driver's license within five days of expiration of respective document.

4. Permittees must separate and bag Solid Waste, Recyclable Materials and Green Waste. Recyclable Materials shall be disposed of at a licensed or permitted recycling center. Green Waste shall be disposed of at a licensed or permitted composting center or shall be composted on the Premises covered by the Self Haul Permit.
 5. Permittees are liable for any damages and clean-up costs resulting from any Solid Waste, Recyclable Materials or Green Waste Spills during the course of the permittees' Self Hauling activity.
- F. Revocation of permit. The Self Haul permit shall be subject to revocation if the permittee violates any provision of this chapter. A notice of revocation shall be mailed to the permittee informing them that their Self Haul permit is being revoked, identifying the violations of this chapter that have occurred, and informing the permittee that he or she has the right to dispute the revocation by an appeal to the City Manager. An appeal of a revocation must be filed within five (5) calendar days of the mailing of notice of the revocation. A revocation appeal hearing will be scheduled within five (5) days of the date the City receives the request for an appeal. The City Manager will issue a decision on the appeal within five (5) days of the hearing and provide the permittee written notice of the decision. The decision of the City Manager on the appeal shall be final. A person whose Self Haul permit has been revoked pursuant to this paragraph F may not obtain another Self Haul permit for one (1) year from the date of the revocation.

Sec. 62-32. – AB 939 Fees

Pursuant to Division 30, Part 2, Chapter 8 of the Public Resources Code, Section 41900 *et seq.*, the City may impose fees on persons with a Self Haul permit in amounts sufficient to pay the costs of preparing, adopting, and implementing a countywide integrated waste management plan, including the costs of preparing, adopting and implementing the City's required Source Reduction and Recycling Element, Household Hazardous Waste Element, and Nondisposal Facility Element, and the costs of setting and collecting the fees.

ARTICLE V. – RECYCLABLE MATERIALS, GREEN WASTE AND C&D MATERIALS

Sec. 62-40. – Recyclables – Ownership, Right to Dispose.

Sec. 62-41. – Landscapers – Disposal of Green Waste.

Sec. 62-42. – Licensed Contractors – Disposal of C&D Materials.

Sec. 62-40. – Recyclable Materials – Ownership, Right to Dispose.

- A. Upon placement by the owner of Recyclable Material at a designated recycling collection location, or placement of Recyclable Materials in a Container provided by the appropriate Solid Waste Franchisee, the Recyclable Material becomes the property of the recycler or Solid Waste Franchisee, by operation of state law.
- B. Nothing in this Chapter shall limit the right of any person, organization or other entity to donate, sell or otherwise dispose of any Recyclable Material segregated from the Solid Waste stream owned by that person, organization or other entity, provided that the person, organization or other entity does not pay the buyer or donee any consideration for collecting, processing or transporting such Recyclable Material, or a consulting or broker's fee for recycling services.

Sec. 62-41. – Landscapers – Disposal of Green Waste.

Landscapers may collect, transport and compost or dispose of Green Waste without obtaining a Self Haul permit, provided that any such Green Waste is transported to a site permitted by CalRecycle or exempt from permitting.

Landscapers shall not contract with a Solid Waste Enterprise to collect, transport and compost or dispose of Green Waste unless that Solid Waste Enterprise has a franchise from the City to perform said services.

Sec. 62-42. – Licensed Contractors – Disposal of C&D Materials.

Licensed contractors performing work within the scope of their licenses within the City may collect, transport and dispose or recycle self-generated Construction and Demolition Materials without obtaining a Self Haul permit, provided that the licensed contractor adheres to the standards for disposal of Construction and Demolition Material provided in the California Green Building Standards Code (California Code of Regulations Title 24, Part 11). Construction and Demolition Materials must be transported to a landfill or recycling facility permitted by CalRecycle or exempt from permitting.

Licensed contractors shall not contract with a Solid Waste Enterprise to collect, transport and dispose or recycle of Construction and Demolition Materials unless that Solid Waste Enterprise has a franchise from the City to perform said services.

ARTICLE VI. – PROHIBITED ACTS

- Sec. 62-50. – Use of Containers.
- Sec. 62-51. – Removal of Solid Waste.
- Sec. 62-52. – Bulky Waste.
- Sec. 62-53. – Hazardous Waste.
- Sec. 62-54. – Solid Waste Burning.
- Sec. 62-55. – Franchise Required.
- Sec. 62-56. – Public Nuisance.
- Sec. 62-57. – Unauthorized Disposal.
- Sec. 62-58. – Spills.
- Sec. 62-59. – Unlawful Dumping.
- Sec. 62-60. – Solid Waste Facilities

Sec. 62-50. – Use of Containers.

No Person in Charge of a Premises shall keep Solid Waste, Recyclable Materials or Green Waste in any Container other than a Container provided by the appropriate Solid Waste Franchisee or approved by the City pursuant to an approved Self Haul permit.

Any Container not provided by the appropriate Solid Waste Franchisee or approved by the City pursuant to an approved Self Haul permit is prima facie evidence that the owner of the Container is engaging in Solid Waste disposal in violation of this Chapter. Any such unauthorized container may be abated as a public nuisance and impounded as provided in Section 62-74.

Sec. 62-51. – Removal of Solid Waste.

No person other than the Person in Charge of any Premises or a City Solid Waste Franchisee shall:

1. Remove any Container from the location where the Container was placed for storage or collection by the Person in Charge of the Premises; or
2. Remove any Solid Waste, Recyclable Materials or Green Waste from any Container; or
3. Move a Container from the location in which it was placed for storage or collection without the prior written approval of the Person in Charge of the Premises.

Sec. 62-52. – Bulky Waste.

No person shall place Bulky Waste adjacent to or in a street or public right-of-way for collection or removal purposes without first making arrangements with the appropriate Solid Waste Franchisee for the collection or removal of such Bulky Waste.

Sec. 62-53. – Hazardous Waste.

No person shall place or deposit Hazardous Waste, Household Hazardous Waste, or Universal Waste in any Container provided by a Solid Waste Franchisee, or deposit, release, spill, leak, pump, pour, emit, empty, discharge, inject, dump or dispose into the environment any Hazardous Waste, Household Hazardous Waste or Universal Waste.

Sec. 62-54. – Solid Waste Burning.

No person shall burn any Solid Waste within the City, except in an approved incinerator or transformation facility or other device for which a permit has been issued, and which complies with all applicable permit and other regulations of air pollution control authorities, and provided any such act of burning in all respects complies with all other laws, rules and regulations.

Sec. 62-55. – Franchise Required.

No person except a Solid Waste Franchisee, a person with a Self Haul permit, a landscaper, or a licensed contractor performing work within the scope of that license, shall collect or remove any Solid Waste, Recyclable Materials or Green Waste from any Premises within the City.

Sec. 62-56. – Public Nuisance.

It is unlawful and a public nuisance if one of the following conditions exists at a Premises:

1. The Person in Charge of the Premises has not made arrangements with the appropriate Solid Waste Franchisee for Solid Waste Handling Services, and the Person in Charge of the Premises does not have a valid Self Haul Permit;

2. The Person in Charge of the Premises has made arrangements with the appropriate Solid Waste Franchisee for Solid Waste Handling Services, but the Solid Waste Franchisee has terminated services to the Premises due to the Account Holder's failure to pay for such services; and
3. The Person in Charge of the Premises has obtained a Self Haul Permit from the City, but the permittee has violated one or more of the operational standards contained in Section 62-31(E).

Sec. 62-57. – Unauthorized Disposal.

No person shall place anything in another person's Containers without the permission of such other person.

Sec. 62-58. – Spills.

It is unlawful for any person transporting Solid Waste, Recyclable Materials or Green Waste not to clean up, or arrange for the cleanup, of any Solid Waste, Recyclable Materials or Green Waste Spilled during removal or transport within the City by such person. If any person transporting Solid Waste, Recyclable Materials or Green Waste Spills any such materials and does not clean up or arrange for the cleanup of the Spill, the City may clean up the Spill and charge the person responsible for the Spill 100 percent of the costs the City incurred in cleaning up the Spill.

Sec. 62-59. – Unlawful Dumping.

It is unlawful for any person to negligently or intentionally Spill upon any property within the City any Solid Waste, Recyclable Materials or Green Waste, or to cause, suffer, or permit Solid Waste, Recyclable Materials or Green Waste to be located upon any property in the City, except as authorized by law.

Sec. 62-60. – Solid Waste Facilities.

No person shall construct or operate a Solid Waste management facility, including but not limited to a materials recovery facility, Solid Waste transfer or processing station, composting facility, a buy-back or drop-off center, disposal facility or a recycling center without first satisfying all City requirements for land use, environmental and other approvals.

ARTICLE VII. - ENFORCEMENT

- Sec. 62-70. – Enforcement.
- Sec. 62-71. – Violation.
- Sec. 62-72. – Misdemeanor.
- Sec. 62-73. – Attorney's fees.
- Sec. 62-74. – Impounding Containers

Sec. 62-70. – Enforcement.

- A. Pursuant to California Penal Code Section 836.5, any City code enforcement officer is authorized to enforce the provisions of this Chapter and as well as those of California Penal Code Sections 374, 374a, 374.2, 374.3, 374.4, 374d, 374.7, and 375; California Government Code Section 68055 et seq.; and California Vehicle Code Sections 23111 and 23112.

- B. Any violation of this Chapter may be enforced in any manner authorized by law, including but not limited to an administrative citation, criminal citation, nuisance abatement action, or civil action.

Sec. 62-71. – Violation.

Except as otherwise provided in this Chapter, violations of this Chapter are punishable as set out in Section 1-8 of this Code.

Sec. 62-72. – Misdemeanor.

Violation of this Chapter shall be a misdemeanor.

Sec. 62-73. – Attorney’s Fees.

In any action or proceeding brought to enforce a violation of this Chapter, including but not limited to a nuisance abatement action and an action to foreclose on a special assessment, the prevailing party shall recover its reasonable attorney’s fees and costs.

Sec. 62-74. – Impounding Containers

- A. Containers Subject to Impounding. Any Container within the City that is not provided by the appropriate Solid Waste Franchisee or approved by the City pursuant to an approved Self Haul permit may be impounded in accordance with this Section.
- B. Notice to Remove. The director may cause a notice to remove to be posted on the illegal Container. The notice to remove shall state that the Container must be removed from the Premises within three (3) calendar days from the date the notice is posted on the Container or it will be removed and stored by the City and the contents disposed of at the expense of the owner of the Container. The posting of the notice to remove constitutes constructive notice to the owner of the Container and the Person in Charge of the Premises that the Container must be removed from the Premises.
- C. Removal of Containers. If the Container is not removed within three (3) calendar days of the notice to remove, the director may direct the removal and storage of the Container and the disposal of its contents. The City may employ the services of its Solid Waste Franchisee(s) or any other contractor to remove said Containers. Any person whose duty it is to remove and store Containers may enter upon private property with the consent of the Owner or other Person in Charge of the Premises, or by authority of a warrant, or without consent or a warrant if exigent circumstances exist.
- D. Storage of Containers. After a Container is removed and placed in storage, the director shall mail to the owner of the Container a notice to claim the stored Container, if the identity of the owner of the Container is known. The director shall make reasonable efforts to identify the owner of a stored Container. If the Container is not claimed within thirty (30) calendar days after notice to the owner is mailed, or thirty (30) days after the Container is removed if the owner is not known, the Container shall be deemed abandoned property and may be disposed of accordingly.

- E. Release of Container. No Container shall be released to its owner unless the owner has paid the City for the actual costs of the removal, storage and disposal of contents, plus any administrative and ancillary fees, fines or penalties established by resolution of City Council. All amounts due to the City shall constitute a civil debt owed to the City by the owner of the Container.