

ORDINANCE NO. 2017-16

(Solid Waste Collection and Transportation)

The Contra Costa County Board of Supervisors ordains as follows:

SECTION I. SUMMARY. This ordinance amends Chapter 418-2 of the County Ordinance Code to establish permit requirements for the collection and transportation of Solid Waste in the unincorporated area of Contra Costa County.

SECTION II. AUTHORITY. This ordinance is adopted pursuant to Article 11, section 7 of the California Constitution, Public Resources Code section 40059 and Vehicle Code section 21100.

SECTION III. Chapter 418-2 of the County Ordinance Code is amended to read:

Chapter 418-2 Solid Waste Collection and Transportation

418-2.002 Definitions.

For purposes of this chapter, the following words and phrases have the following meanings:

(a) "Solid Waste" means all solid waste as defined in Public Resources Code section 40191 as may be amended from time to time.

(b) "Solid Waste facility" means a Solid Waste facility as defined in Public Resources Code section 40194 as maybe amended from time to time. (Ords. 2017-16 § 3, 91-26, 88-49, 82-42, 1443.)

418-2.004 Permit requirement.

Effective January 1, 2018, no person shall collect Solid Waste from any location in the unincorporated area and transport it over the public streets or highways of the unincorporated area except under a valid permit issued under this chapter, unless an exemption pursuant to subsection 2.008 below applies. (Ords. 2017-16 § 3, 91-26, 88-49, 82-42, 1443.)

418-2.006 Territorial limits; ~~solid waste types.~~

(a) A permit issued under this chapter authorizes the permittee to collect ~~specified types of~~ Solid Waste within a specified territory in the unincorporated area and to transport it over the public streets and highways of the unincorporated area.

(b) A person may obtain a permit under this chapter to collect Solid Waste from territory in the unincorporated area only to the extent that another person does not have an exclusive privilege or right to collect that Solid Waste from that territory under a valid franchise agreement. (Ords. 2017-16 § 3, 91-26, 88-49, 82-42, 1443.)

~~(b)(c)~~ Nothing in this chapter shall authorize or be construed to authorize any person to engage in the collection and transport of Solid Waste within (1) any territory, zone or region of the County that is subject to an exclusive franchise agreement between the County and a the franchised Solid Waste collection company, or (2) any territory, zone or region of any public agency, including a city, special district, community service district or joint powers authority

Formatted: Indent: Left: 0", First line: 0.31"

that is subject to an exclusive franchise agreement between the public agency and ~~the~~ franchised Solid Waste collection company.

418-2.008 Exemptions.

The requirement to obtain a permit under Section 418-2.004 does not apply to any of the following:

(a) The collection and transport of ~~S~~olid ~~W~~aste by the owner or occupant of the real property where the solid waste was generated.

(b) The collection and transport of ~~S~~olid ~~W~~aste that is generated on real property in the course of a service provided to the owner or tenant of that property by a building contractor or landscape contractor, if the ~~S~~olid ~~W~~aste is collected and transported by the contractor.

(c) The collection and transport of ~~S~~olid ~~W~~aste under a valid federal, state or other local agency permit.

(d) The collection and transport of ~~S~~olid ~~W~~aste under ~~an existing~~ valid franchise agreement ~~between the hauler and a public agency.~~

(e) The collection and transport of ~~S~~olid ~~W~~aste that is generated ~~in a mechanized manufacturing process or at a publicly operated treatment works.~~

(f) The use of personal vehicles or other non-commercial vehicles operated by persons transporting recyclable materials that are donated to a charitable organization or a non-profit organization. For purposes of this exemption, recyclable materials are donated only where no compensation is paid to the generator of the material for the removal or transport of the recyclable materials. Reduced or discounted costs charged to a generator for transport or handling fees shall not qualify as a donation.

~~(t) The collection and transport of source-separated recyclable material.~~ (Ords. 2017-16 § 3, 91-26, 88-49, 82-42, 1443.)

Commented [SWG1]: We do not believe haulers of source separated materials should be exempted. This could easily create a loophole where a non-compliant hauler claims to be transporting only "source separated" materials.

Formatted: Font: 11.5 pt, Font color: Custom Color(21,21,21)

Formatted: Justified, Right: 0.31", Tab stops: 5.5", 1.0"

Commented [SWG2]: This new subsection (f) fully recognizes and preserves the existing and accepted practices of donations to charitable and non-profit groups such as the Boy Scouts of America.

418-2.010 Application.

(a) A person may apply for a ~~S~~olid ~~W~~aste collection and transportation permit by submitting an application to the Contra Costa County Health Services Department, Environmental Health Division, and paying an application fee established by the board by resolution. The application must be made using a form approved by the health officer and include all of the following:

(1) The full name, address and telephone number(s) of the applicant.

(2) Identification of all vehicles proposed to be used in the collection and transport of ~~S~~olid ~~W~~aste under the permit, including legible copies of valid California registration cards for each vehicle.

(3) Documents showing that all individuals who will operate any of the vehicles described in Section 418-2.010(a)(2) have legal authority to operate those vehicles, including legible copies of valid California driver's licenses.

(4) Identification of the types of ~~S~~olid ~~W~~aste to be collected and transported.

(5) Identification of the types of locations where ~~S~~olid ~~W~~aste will be collected.

(6) Identification of the specific geographic territory to be served.

(7) Identification of the locations to which the ~~S~~olid ~~W~~aste will be transported.

(8) A description of any services to be provided to a customer related to the collection and transport of ~~S~~olid ~~W~~aste for that customer.

(b) A copy of the application will be provided by the health officer to the director of the

department of conservation and development for review to determine whether any other person has obtained an exclusive right or privilege from the County to collect and transport the same type of Solid Waste described in Section 418-2.010(a)(4) from the same territory described in Section 418-2.010(a)(6). The review will be conducted and completed no later than 30 calendar days following the date that the application is submitted.

(c) A copy of the application will be provided by the health officer to local public agencies that have jurisdiction over Solid Waste handling within the territory described in Section 418-2.010(a)(6), including sanitary districts and community services districts, for review to determine whether any other person has obtained an exclusive right or privilege from the agency to collect and transport the same type of Solid Waste described in Section 418-2.010(a)(4) from the same territory described in Section 418-2.010(a)(6). (Ords. 2017-16 § 3, 91-26, 88-49, 82-42, 1443.)

418-2.012 Vehicle Requirements and Inspections.

(a) All vehicles proposed to be used for collection and transport of Solid Waste under a permit issued under this chapter shall be made available for inspection by the health officer. Minimum vehicle requirements are as follows:

Commented [SWG3]: We think minimum vehicle requirements and/or container specifications may be appropriate and can be added here.

(b) Before a new or renewed permit is issued under this chapter, the health officer shall inspect all vehicles proposed to be used for collection and transport of Solid Waste under the permit to determine compliance with the following minimum standards:

- (1) The vehicle must be designed, constructed and configured for safe handling and to securely contain the type of Solid Waste proposed to be collected; and
- (2) The vehicle must be prominently marked with the name and telephone number of the applicant. (Ords. 2017-16 § 3, 91-26, 88-49, 82-42, 1443.)

418-2.014 Permit issuance; grounds for denial.

(a) After receipt of an application and payment of a permit fee established by the board by resolution, and following the review by the director of the department of conservation and development under Section 418-2.010(b), the health officer shall issue a Solid Waste collection and transportation permit unless any of the following grounds for denial exists:

- (1) The director of the department of conservation and development or a local public agency identified in Section 418-2.010(c) advises the health officer that another person has an exclusive right or privilege to collect and transport the same type of solid waste described in Section 418-2.010(a)(4) from the same territory described in Section 418-2.010(a)(6).
- (2) The application is incomplete or inaccurate.
- (3) A permit issued to the applicant under this Section 418-2.012 has been revoked within 12 months prior to the date of the application.
- (4) The applicant has failed to pay an outstanding fine.
- (5) The health officer determines that a vehicle proposed to be used in the collection and transport of Solid Waste under the permit does not conform to the minimum standards set forth in Section 418-2.012(b)(2).

(b) The health officer shall provide written notice to the applicant of any denial of a permit under this chapter and the reasons for the denial. (Ords. 2017-16 § 3, 91-26, 88-49, 82-42, 1443.)

418-2.016 Conditions.

The following requirements are conditions of operation under a permit issued under this chapter:

- (a) The permittee must comply with all applicable laws and regulations.
- (b) A copy of the permit must be kept in each vehicle used for Solid Waste collection and transportation under the permit and produced immediately in response to a demand of the health officer or any peace officer.
- (c) All Solid Waste must be transported only to:
 - (1) A Solid Waste facility that is lawfully operated under all required state and local permits, registrations and enforcement agency notifications; or
 - (2) A recycling facility that, as its principal function, receives only wastes that have already been separated for reuse and are not intended for disposal, and is lawfully operated in accordance with all applicable laws and regulations.
- (d) Each vehicle used for Solid Waste collection or transportation under the permit must prominently display, on the rear of the vehicle, a permit decal issued by the health officer.
- (e) Each vehicle used for Solid Waste collection or transportation under the permit must be marked with the name and telephone number of the permittee. Markings must be in sharp contrast to the background and of such size as to be readily visible during daylight hours from a distance of 50 feet. Markings must be applied to each sidewall of a vehicle.
- (f) Each vehicle used for Solid Waste collection or transportation under the permit must be regularly cleaned and maintained to prevent the creation of a nuisance.
- (g) The permittee must maintain, on a rolling basis, original records showing, for the immediately preceding 12 months, the type and weight of all Solid Waste collected, the location where each load of solid waste was collected, and the disposal site or other final destination of each load collected. Copies of these records must be submitted to the health officer upon request.
- (h) The permittee ~~must~~ shall submit quarterly reports to the health officer showing the type and weight of Solid Waste collected, the location where solid waste was collected, and the disposal site or other final destination of each load collected. (Ords. 2017-16 § 3, 91-26, 88-49, 82-42, 1443.)

418-2.018 Insurance and Bond Requirements.

- (a) A permittee must file with the county and maintain until permit expiration a performance bond or equivalent security of the type and in the amount set by the board by resolution.
- (b) Prior to engaging in any hauling activity, the permittee shall provide a certificate of insurance to the County and shall carry proof of insurance in any hauling vehicle, with limits of no less than \$1 million per claim, and \$3 million in the aggregate. The County shall be named as an additional insured on permittee's certificate of insurance. (Ords. 2017-16 § 3, 91-26, 88-49, 82-42, 1443.)

418-2.020 Permit expiration and renewal.

- (a) A permit issued under this chapter remains valid until the permit expires or is revoked under Section 418-2.022.
- (b) A permit expires on the last day of December unless it is renewed prior to expiration. A

permittee may apply for renewal of the permit by submitting an application that conforms to the requirements set forth in Section 418-2.010 and payment of a permit fee established by the board by resolution. (Ords. 2017-16 § 3, 91-26, 88-49, 82-42, 1443.)

418-2.022 Revocation.

(a) Grounds. A permit issued under Section 418-2.012 may be revoked by the health officer in accordance with the procedure set forth in this section if the health officer determines that (1) the permittee has failed to comply with a term or condition of operation under the permit following written notice and a reasonable opportunity to cure the violation; or (2) the permittee's conduct under the permit constitutes a nuisance.

(b) Notice. The health officer will provide written notice of intent to revoke a permit to the permittee at the address provided on the permittee's application. The notice will state an applicable grounds for the revocation and the permittee's right to a hearing under this section.

(c) Hearing. Within 15 ~~days~~ ~~after~~ ~~days after~~ the date of the notice of intent ~~to~~ revoke, the permittee may request a hearing before the health officer by completing and submitting a written hearing request form and ~~paying a fee established by the Board by resolution.~~ The hearing will be held no sooner than 20 days and no later than 45 days following the date of the written request for hearing.

(d) Effective date. If no hearing is timely requested, the revocation ~~shall become~~ ~~is~~ effective 15 days after the date of the notice of intent to revoke. If a hearing is held, a revocation order issued by the health officer ~~shall become~~ ~~will be~~ effective when the time to appeal under Chapter 14-4 expires, unless an appeal to the ~~Board~~ is timely filed under Chapter 14-4. (Ords. 2017-16 § 3, 91-26, 88-49, 82-42, 1443.)

418-2.024 Prohibition.

No person shall engage the service of a person for compensation to collect ~~S~~solid ~~W~~waste from any location in the unincorporated area and transport it over a public street or highway in the unincorporated area unless the person whose service is engaged has obtained and operates in compliance with a permit issued under this chapter or is exempt from the permit requirement as set forth in subsection 2.008. (Ords. 2017-16 § 3, 91-26, 88-49, 82-42, 1443.)

418-2.026 Investigations.

Whenever it is necessary to inspect a vehicle or other property to enforce the provisions of this chapter, or whenever the health officer has cause to believe that there exists on any property any violation of this chapter, the health officer may enter the property to inspect and gather evidence or perform the duties imposed on the health officer by this chapter. Entry may be made at any reasonable time upon advance notice to the owner or occupant of the property. If entry is refused, the health officer is authorized to proceed pursuant to Code of Civil Procedure section 1822.50 and following, as may be amended from time to time, and any and all other remedies provided by law to secure entry. (Ords. 2017-16 § 3, 91-26, 88-49, 82-42, 1443.)

418-2.028 Construction.

Nothing in this chapter shall be construed in a manner that conflicts with Vehicle Code section 21100, subdivision (b), as may be amended from time to time, or the requirements of other public agencies. (Ords. 2017-16 § 3, 91- 26, 88-49, 82-42, 1443.)

SECTION IV. EFFECTIVE DATE. This ordinance becomes effective 30 days after passage, and within 15 days after passage shall be published in the East Bay Times, a newspaper published in this County. This ordinance shall be published in a manner satisfying the requirements of Government Code section 25124, with the names of the supervisors voting for and against it.

PASSED on _____, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST: David J. Twa, Clerk of the Board of
Supervisors and County Administrator

By: _____
Deputy

_____. Board Chair

[seal]

LW/

H:\Ordinances\Ord.2017-16.docx