

Joint Hauler Comments to Ordinance 2017-16

- Define “Applicable laws and regulations” at section 418-2.002 (c); it is already used as a condition of the permit in section 418-2.016(b)(1) – “permittee must comply with applicable laws and regulations”
- Promote inclusion to the permit program to manage haulers within the county and obtain a credible source of meaningful hauling data:
 - Remove exemption for “solid waste generated at a manufacturing plant” at section 418-2.008(f)
 - Remove exemption for “collection and transport of source separated recyclables” at section 418-2.008(h)
- Remove the word “concurrent” from section 418-2.022(a)(3) as creating an unnecessary ambiguity
- Add a subsection (c) to the revocation section at 418-2.022(3)(C):

“(C) Give deference to the franchisor’s written interpretation of its franchise agreement.”

EXHIBIT A

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 may be amended from time to time. (Ords. 2017-16 § 3, 91-26, 88-49, 82-42, 1443.)

(c) "Applicable laws and regulations" means federal, state or local laws, regulations, ordinances, rules and final administrative action that affect or govern solid waste collection and transportation.

418-2.004 Permit requirement.

Effective March 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 under this chapter 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, in accordance with the terms and conditions of the permit.

(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.

(c) A permit issued under this chapter does not authorize, and shall not be construed to authorize, the permittee to collect solid waste within territory in the unincorporated area when another person has an exclusive privilege or right to collect that solid waste within that territory under a valid franchise agreement.

(d) A permit issued under this chapter does not authorize, and shall not be construed to authorize, the collection and transport of solid waste within any incorporated area. (Ords. 2017-16 § 3, 91-26, 88-49, 82-42, 1443.)

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 solid waste by the owner or occupant of the real property where the solid waste was generated.

(b) The collection and transport of solid waste 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 solid waste is collected and transported by the contractor.

(c) The collection and transport of solid waste under a valid federal or state permit if the federal or state permit requirement preempts the permit requirement under this chapter.

(d) The collection and transport of solid waste under a valid permit issued by the county under Chapter 413-3 or by a sanitary district, community services district, or joint powers authority with jurisdiction over solid waste handling.

(e) The collection and transport of solid waste by the franchisee under a valid franchise agreement.

~~(f) The collection and transport of solid waste generated at a manufacturing plant.~~

(g) The collection and transport of solid waste generated at a publicly operated treatment works.

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

418-2.010 Application.

(a) A person may apply for a solid waste 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 legal name, address and telephone number(s) of the applicant. If the applicant is a sole proprietor who will operate under a fictitious business name, the applicant must provide a copy of a valid fictitious business name statement for the business. If the applicant is a business entity, the applicant must provide written documentation that the entity may lawfully conduct business in the unincorporated area.

(2) Identification of all vehicles proposed to be used in the collection and transport of solid waste under the permit, including legible copies of valid California registration cards for each vehicle. If any of the vehicles is equipped to provide roll-off box services, that information must also be provided.

(3) Proof of possession of a valid motor carrier identification number in good standing issued under California Vehicle Code section 34507.5, if applicable.

(4) Identification of all individuals who will operate any of the vehicles described in Section 418-2.010(a)(2) and written documentation of their legal authority to operate those vehicles, including legible copies of valid California driver's licenses.

(5) Identification of the types of solid waste to be collected and transported.

(6) Identification of the types of locations where solid waste will be collected.

- (7) Identification of the specific territory to be served.
- (8) Identification of the location(s) to which the solid waste will be transported.
- (9) A description of any services to be provided to a customer related to the collection and transport of solid waste 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)(5) from the same territory described in Section 418-2.010(a)(7). 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)(7), 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)(5) from the same territory described in Section 418-2.010(a)(7). (Ords. 2017-16 § 3, 91-26, 88-49, 82-42, 1443.)

418-2.012 Vehicle 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.

(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, payment of a permit fee established by the board by resolution, and a valid certificate of liability insurance issued to the applicant that conforms to the coverage requirement set forth in Section 418-2.018(b), and following the review opportunities provided under Sections 418-2.010(b)-(c), the health officer shall issue a solid waste collection and transportation permit to the applicant 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 all of the types of solid waste described in Section 418-2.010(a)(5) within the same territory described in Section 418-2.010(a)(7).

(2) The application is incomplete or inaccurate.

(3) A permit issued to the applicant under this section 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).

(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 Terms and Conditions.

(a) Terms. A permit issued under this chapter will include all of the following:

- (1) Identification of the permittee.
- (2) Identification of all vehicles, by license plate and vehicle identification numbers, that may be used under the permit.
- (3) Identification of all individuals who may operate the vehicles described in Section 418-2.016(a)(2) under the permit.
- (4) Identification of all types of solid waste that may be collected and transported under the permit and, if applicable, the specific services that must be provided to customers in connection with the collection of specified types of solid waste.
- (5) Identification of all types of locations where specified types of solid waste may be collected under the permit.
- (6) Identification of the specific territory within which the permittee may collect specified types of solid waste under the permit. If another person has an exclusive privilege or right under a valid franchise agreement to collect a specified type of solid waste identified by the permit, the territory within which the specified type of solid waste may be collected will not include any portion of the franchise territory.
- (7) Effective and expiration dates of the permit.

(b) Conditions. The following requirements are conditions of operation under a permit issued under this chapter:

- (1) The permittee must comply with all applicable laws and regulations.
- (2) A copy of the permit must be kept in each motorized 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.
- (3) Each motorized vehicle used for solid waste collection or transportation under the permit must prominently display, on both sides and the rear of the vehicle, a permit decal issued by the health officer.
- (4) Each motorized 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 motorized vehicle.
- (5) 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.
- (6) In each vehicle described in Section 418-2.016(b)(2), the permittee shall carry proof of liability insurance coverage in the amounts set forth in Section 418-2.018(b).
- (7) Each container of one cubic yard or more that is used by the permittee in the course of operations under the permit must be marked with the name and telephone number of the permittee. All containers must be maintained in a clean and sound condition. For the purposes of this subsection, containers include trailers but do not include motorized vehicles.