

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

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

(c) "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.)

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 publicly operated treatment works. (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.
- (8) 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.

(9) The permittee must 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, and solid waste or recycling facility receipt number for, each load collected. (Ords. 2017-16 § 3, 91-26, 88-49, 82-42, 1443.)

418-2.018 Bond and insurance 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) A permittee must have and maintain until permit expiration liability insurance coverage with limits no less than \$1 million per claim and \$1 million in the aggregate. (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 418-2.014 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;

(2) The permittee's conduct under the permit constitutes a nuisance; or

(3) During the permit period, the permittee collected and transported solid waste in territory where another person has an exclusive right or privilege under a valid franchise agreement to collect and transport that solid waste. In evaluating the evidentiary basis for a revocation under this subsection, the health officer and, in the event of a hearing, the fact-finder, will do both of the following:

(A) Determine the nature and extent of exclusive rights and privileges under a franchise agreement based on the terms of the agreement, the franchisor's written interpretation of the agreement, if submitted, and any other relevant evidence;

(B) Give great weight to evidence of a final written administrative or judicial determination in which the permittee was found to have performed the act upon which the revocation is based; and

(C) Give great weight to a franchisor's written interpretation, as expressed by the franchisor's legislative body, regarding its franchise agreement.

(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 all applicable grounds for the revocation and the permittee's right to a hearing under this section.

(c) Hearing. Within 15 days after the date of the notice of intent to revoke, the permittee may request a hearing before the director of environmental health 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 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 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 Prohibitions.

(a) No person shall engage the service of a person for compensation to collect solid 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.

(b) No person subject to the permit requirement in this chapter shall transport solid waste to any location other than:

(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 wastes that have already been separated for recycling and are not intended for disposal, and is lawfully operated in accordance with all applicable laws and regulations. (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. (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 _December 5, 2017_, by the following vote:

AYES: Gioia, Burgis, Mitchoff, Glover

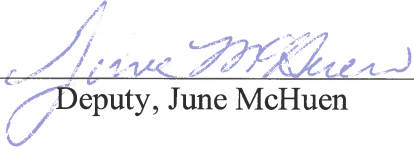
NOES: None

ABSENT: Andersen

ABSTAIN: None

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

By


Deputy, June McHuen



Board Chair, Federal D. Glover

[seal]

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