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Santa Barbara County Code Chapter 17

Article I. In General

Sec. 17-1. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings set forth in this section, and words and phrases not ascribed a meaning herein below shall be interpreted consistent with the definitions set forth in Public Resources Code, commencing with section 40100, the Health and Safety Code commencing with section 25110, and title 14 California Code of Regulations commencing with section 17225, as these sections may be amended from time to time:

“Act” means the California Integrated Waste Management Act of 1989, and all regulations adopted under that legislation, as they may be amended from time to time.

“Agricultural solid waste” means waste resulting from the production and processing of farm or agricultural products, including, but not limited to, manures, bedding straw, prunings and crop residues.

“Authorized recycling contractor” means a collector authorized by franchise or contract by the county to collect and transport recyclables in the unincorporated area of the county.

“Authorized solid waste facility” means any site, facility, location, or premises permitted by law to be used for the processing and/or disposal of solid waste, including but not limited to, a solid waste transfer or processing station, a landfill, a composting facility, a transformation facility, or a disposal facility.

“Board” means the Santa Barbara County board of supervisors.

“Collection” or “collect” means the act of collecting solid waste for transportation to an authorized solid waste facility by an approved collector, and may include the separate collection of recyclables and/or compostables.

“Collector” means the county, another local agency, a person, persons or other entity authorized by the county by franchise, contract, or permit to provide solid waste handling services within the unincorporated area of the county.

“Commercial bin” means a bin provided by a collector, usually two cubic yards or greater capacity, for the deposit of solid waste or recyclables for collection at commercial or multifamily residential premises.

“Commercial premises” means all premises in the county other than residential premises, including premises owned and operated by governmental entities, where solid waste is generated or accumulated.

“Compostables” means solid waste which is subject to being converted to compost, and which is source-separated from the solid waste stream or separated at a centralized facility, and includes vegetable, yard, paper, and wood wastes which are not hazardous waste.

“Container” means any bin, vessel, can, or receptacle approved by the Resource Recovery & Waste Management division to be used for collecting solid wastes or recyclables for removal, whether owned by the collector, property owner or

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tenant.

“County” means the unincorporated area of the County of Santa Barbara.

“Department” means the department of public works of the County of Santa Barbara.

“Designated recycling collection location” means the place where the board of supervisors has designated an authorized recycling contractor to pick up recyclables and will customarily be the curbside of residential premises and the service alley of commercial premises.

“Director” means the director of the department of public works or any person in the department authorized by the director or the board to act in his or her capacity.

“Disposal site” means the place, location, tract of land, area, or premises in use, intended to be used, or which has been used for the landfill of solid wastes.

“Disposal site” includes solid waste landfill, as defined in Public Resources Code section 40195.1.

“Environmental health officer” means the environmental health officer of Santa Barbara County.

“Farm” or “ranch” means property that is devoted primarily to commercial agricultural purposes, including, but not limited to, the feeding and raising of livestock or poultry.

“Franchise” means the right and privilege pursuant to a duly executed franchise agreement to collect and transport to a permitted transfer station, landfill or other authorized recycling, mulching or composting facility as determined by the county, all solid waste kept, generated and/or accumulated within the county, or a designated portion thereof, and may include the separate collection of recyclables, mulching and/or compostables.

“Green waste” means tree trimmings, grass cuttings, dead plants, leaves, branches, dead trees, and bedding straw.

“Gross revenues” shall have the meaning as defined in the franchise or contract between the county and a collector, or as otherwise determined by the board.

“Licensee” means a person who possesses a valid, unexpired license to collect, haul, or transport solid waste in the county issued by the board on or before December 31, 1994.

“Litter” means solid waste which is dumped, thrown, deposited or left on or about any street, highway, alley, road, right-of-way, park or other public place, or any lake, stream, watercourse, or other body of water, or private property.

“Permittee” means a person who has been granted a permit as described in this chapter to provide unscheduled solid waste handling services.

“Person” means every natural person, firm, partnership, association or corporation.

“Place” or “premises” means every dwelling house, dwelling unit, apartment house or multiple dwelling unit, trailer or mobile home park, store, restaurant, rooming house, hotel, motel, office building, department store, manufacturing, processing, or assembling shop or plant, and every other place or premises where any person resides, or any business is carried on or conducted within the county or any other site within the county upon which solid waste is produced or accumulates.

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“Putrescible solid waste” means waste that is capable of being decomposed by microorganisms with sufficient rapidity as to cause nuisances because of odors, gases or other offensive conditions, and includes but is not limited to, materials such as food wastes, offal and dead animals.

“Recyclables” means solid waste which is subject to recycling as determined by the Resource Recovery & Waste Management division.

“Refuse checker” means a county employee designated by the Resource Recovery & Waste Management division to determine and collect fees at a county-owned and/or operated solid waste facility.

“Regular solid waste handling services” means those services for the prearranged and scheduled.

“Residential” means single-family residences and multifamily residences, including apartments and condominiums, but does not include hotels or motels.

“Responsible party” means every owner, tenant, lessee, occupant or other person responsible for the day-to-day operation or otherwise in charge of any residential or commercial premises in the unincorporated area of the county, including the proprietor or manager of any commercial premises.

“Roll-off container” means a container which is designed to be loaded and unloaded from a truck, supported on casters, used to collect and transport solid waste from residential or commercial premises, and approved by the Resource Recovery & Waste Management division.

“Single-family residential” means single-family residences and any other residences that do not require commercial bin services.

“Solid waste” means all putrescible and nonputrescible solid, semisolid, and liquid wastes, including garbage, trash, papers, rubbish, ashes, industrial wastes, demolition and construction wastes, discarded home and industrial appliances, manure, vegetable or animal solid or semisolid wastes, and other discarded solid and semisolid wastes, and excepting medical waste, hazardous waste, low-level radioactive waste or sewer sludge, whether combustible or noncombustible. Depending upon the context in which it is used, solid waste may include recyclables.

In mandatory service areas, “solid waste” shall also include all indoor furniture and mattresses that are temporarily or permanently placed outside or beyond the exterior walls of any residential or commercial structures unless such furniture or mattress is placed in a lawful storage bin. For purposes of this section, “indoor furniture” means any upholstered couch, sofa, chair, footrest, ottoman or similar furniture and “mattress” means any bed, mattress, foam pad or box spring that is comprised in whole or in part of cloth, leather or synthetic coverings, springs, cushions or padding.

“Resource Recovery & Waste Management division” means the Resource Recovery & Waste Management division of the department of public works of Santa Barbara County.

“Solid waste enterprise” means any individual, partnership, joint venture, unincorporated private organization, or private corporation regularly engaged in the business of providing solid waste handling services.

“Solid waste handling service” means the collection, transportation, storage,

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transfer, or processing of solid wastes.

“Source separated” means the separation, at the place of generation or production, of solid wastes for separate collection, processing, recycling, reuse, recovery or disposal.

“Truck” means any truck, trailer, semi-trailer, conveyance, or vehicle approved by the county Resource Recovery & Waste Management division used to collect, hold, or transport solid waste, including recyclables and/or compostables upon and along the streets, roads, and highways of the county.

“Unscheduled solid waste handling services” means those services that are not regular solid waste handling services.

“Wood waste” means solid waste consisting of wood pieces or particles which are generated from the manufacturing or production of wood products, harvesting, processing or storage of raw wood materials, or construction and demolition activities.

“Zone” means a geographic territory established by the county pursuant to the provisions of this chapter for the collection, disposal, regulation, and control of solid waste. (Ord. No. 4188, § 2; Ord. No. 4224, §§ 1, 2; Ord. No. 4616, § 1)

Sec. 17-2. Findings and purpose.

Solid waste handling services, including the collection, transportation, storage, transfer, and processing of solid wastes, recyclables and compostables are so closely intertwined with the protection of the health, safety and welfare of the residents of this county that the board of supervisors finds that such solid waste handling services provided by private solid waste enterprises require government regulation and monitoring. The board further finds it is in the public interest to foster and encourage solid waste enterprises so that, at all times, there will continue to be competent enterprises willing and financially able to furnish needed solid waste handling services. The purpose of this chapter is to insure that solid waste handling services are continuously provided to the public in a safe, adequate, reliable and efficient manner. (Ord. No. 4188, § 2)

Sec. 17-3. Method and manner of providing solid waste handling services.

(a) The board shall establish the method and manner by which solid waste handling services are provided within the unincorporated areas of the county, including but not limited to, the hours, days and frequency of collection, means of collection and transportation, level of services, charges and fees, and nature, location, and extent of providing solid waste handling services.

(b) It is the intention of the county to assure the provision of solid waste handling services within the unincorporated area of the county in accordance with this chapter, and with such rules, regulations and specifications for solid waste handling services as may be recommended by the Resource Recovery & Waste Management division and adopted by the board, the provisions of any resolution of the board of supervisors, any condition and term of any collection franchise, contract, or permit granted by the county to a collector pursuant to this chapter, and all other applicable laws.

(c) The franchise, contract, or permit shall be granted on such terms and

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conditions as the board shall establish in its sole discretion.

(d) The collector authorized by franchise, contract, or permit may be required to assist the county in performing designated tasks in connection with solid waste generation studies, waste stream audits, preparation of state-mandated documents and to implement measures and recordkeeping to achieve the county's integrated solid waste management goals as mandated by the Act. (Ord. No. 4188, § 2)

Sec. 17-4. Rights and duties of licensees.

(a) This chapter is not intended to revoke, modify, amend, or affect any right or duty of a licensee who possesses a valid, unexpired license to collect, haul, or transport solid waste in the county issued by the board on or before December 31, 1994. Any such right or duty shall remain in full force and effect until the expiration of the license term or the cancellation, suspension, revocation, or termination of such license pursuant to the provisions of this chapter, or termination of such license pursuant to subsection (c) of this section.

(b) A licensee shall not be precluded from becoming a collector as authorized by this chapter.

(c) The county and a licensee may contract, upon mutually satisfactory terms, for the termination of the license before the expiration of the license period. (Ord. No. 4188, § 2)

Sec. 17-5. Business license required.

No collector shall provide regular or unscheduled solid waste handling services within the unincorporated areas of the county without possession of a valid business license provided such license is required pursuant to chapter 22 of this Code. In addition, the business entities listed in subsection (k), paragraphs (1) and (2) of section 17-44 of this Code shall also be required to possess such a business license provided such license is required pursuant to chapter 22 of this Code. (Ord. No. 4188, § 2)

Sec. 17-6. Authority to require collection arrangements.

The board of supervisors, by ordinance or resolution, may require that any person or responsible party residing in or occupying any dwelling unit or other premises located within any area of the unincorporated territory of the county which is within urban boundary lines or developed rural areas, as designated in the adopted county general plan as amended from time to time, shall subscribe to the service of an authorized collector. However, upon written application from the person or responsible party, the director, or his or her designee, may waive such requirement if it is found that it is infeasible or unnecessary to maintain the required service level. (Ord. No. 4188, § 2)

Sec. 17-7. Mandatory service in Isla Vista.

(a) Every owner of a multiple-unit dwelling in Isla Vista shall provide solid waste handling service for each unit in an amount equivalent to one 32-gallon container twice per week per bedroom per unit, however no more than seven 32-gallon containers shall be used to provide this level of service. If more than seven 32-

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gallon containers are required, then the owner or responsible party shall provide the equivalent container volume through the use of a commercial bin or bins. The owner or responsible party shall subscribe to the service of an authorized collector for this purpose.

(b) Every owner of a single-family dwelling in Isla Vista shall provide solid waste handling service in the amount equivalent to one 32-gallon container twice per week. The owner or responsible party shall subscribe to the service of an authorized collector for this purpose.

(c) The director may direct the authorized collector to provide the required level of service mandated by this section if the owner or responsible party fails to provide such service. The authorized collector shall bill the owner or responsible party for the cost of such service.

(d) Upon written request by the collector, the county is authorized to reimburse the collector for the costs of providing the required level of service mandated by subsections (a) and (b) of this section if the owner or responsible party fails to pay the collector within sixty days after payment is due. Any and all costs reimbursed to a collector pursuant to this subsection shall be recoverable against the owner or responsible party by the county pursuant to article VI of this chapter and any other applicable provision of law.

(e) Rates charged by the authorized collector in Isla Vista may be calculated to include the cost of any extra service required due to temporary increases in population or in the amount of solid waste generated in the area resulting from special events or other causes.

(f) The failure of the owner or responsible party to comply with this section shall constitute a public nuisance. The county may proceed against the owner or responsible party to abate such a public nuisance pursuant to article V of this chapter. (Ord. No. 4188, § 2)

Sec. 17-8. Containers.

(a) It is the duty of every responsible party to keep containers in good condition and in a suitable place readily accessible to the collector for removing and emptying the same. Excepting placement at the curbside pickup site on scheduled collection day(s), such containers shall be maintained on the property out of public view and not placed within the limits of any street, public right-of-way or other public place in the county or in such a place or manner as to constitute a nuisance.

(b) No container shall be placed adjacent to a street or public right-of-way for collection service more than twenty-four hours prior to the normal collection time, and shall be removed from said location within twelve hours after collection.

(c) Unless otherwise authorized by this chapter or by the terms of a franchise or contract between the county and a collector, in areas where the responsible party supplies the containers, no container shall exceed thirty-two gallons gross capacity nor sixty pounds when filled. Liquid, toxic, or hazardous waste shall not be disposed of in any container.

(d) Every responsible party shall deposit all solid waste or cause all solid waste generated on the premises to be deposited in containers or commercial bins with

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covers that fit tightly to keep flies and other insects out and as otherwise approved by the Resource Recovery & Waste Management division and/or the collector.

(e) No person shall maintain or place for collection any container not in conformance with the container or commercial bin approved by the Resource Recovery & Waste Management division and/or the collector.

(f) All persons occupying multifamily residences must mark their containers so that the ownership thereof will be known.

(g) The collector shall maintain in good repair and replace, as necessary, containers and commercial bins furnished to customers.

(h) Unless otherwise authorized by this chapter or by the terms of a franchise or contract between the county and collector, no person shall place in a commercial bin any liquid, toxic or hazardous waste, an object which weighs more than one hundred fifty pounds or prevents the closing of its cover, or a load in excess of five hundred pounds per cubic yard.

(i) All commercial bins must display "NO LIQUID, TOXIC OR HAZARDOUS WASTE" in letters at least four inches high, or a comparable display approved by the Resource Recovery & Waste Management division, clearly visible to any user. The required warning hereunder must be maintained in a legible condition at all times.

(j) Notwithstanding any language to the contrary in this chapter, the county reserves the right and authority to determine and impose appropriate terms and conditions upon collectors of regular residential and commercial solid waste in order to facilitate the implementation of automated solid waste collection services throughout all or portions of the unincorporated area of the county. (Ord. No. 4188, § 2)

Sec. 17-9. Owner or responsible party to maintain premises free of litter and solid waste.

(a) Except as otherwise provided in subsection (b) of this section, the owner or responsible party in control of any commercial or residential premises or private property shall at all times maintain the premises or private property free of litter or solid waste, provided however, this section shall not prohibit the storage of litter and solid waste in authorized containers or commercial bins.

(b) The owner or responsible party in control of any rural commercial or residential premises or private property shall not be responsible for the removal of litter or solid waste, excepting hazardous waste, low-level radioactive waste and sewer sludge, nor shall such owner or responsible party be subject to the provisions of article V, if the county public works director determines all of the following conditions exist:

(1) The litter or solid waste is located within one hundred feet of, or in steep areas, clearly originating from, a public roadway;

(2) The litter or solid waste has been dumped, thrown, deposited or left on the premises or private property of the owner or responsible party by another person or persons;

(3) The litter or solid waste has not been produced or created on the subject premises or private property of the owner or responsible party;

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- (4) The litter or solid waste has not been produced or created by the owner or responsible party, regardless of the situs or origin of the litter or solid waste;
- (5) The owner or responsible party provided the county reasonable ingress to and egress from the premises or private property to allow the county to abate the public nuisance.

For purposes of this section, the term “rural” shall have the same meaning as “inner-rural area” and “rural area” as defined in the Santa Barbara County comprehensive plan and “rural” as defined in the Santa Barbara County coastal plan, as these plans may be amended from time to time. (Ord. No. 4188, § 2; Ord. No. 4287, § 1)

Sec. 17-10. Unlawful acts.

It shall be unlawful for any person to:

- (a) Place solid waste in, or otherwise use the containers of another person, without the permission of such other person;
- (b) Remove or scavenge any solid waste recyclables from any container or commercial bin;
- (c) Place, keep or bury any solid waste, in or under any premises except in containers as provided in this chapter; nor shall any person deposit any solid waste in any county sewer or plumbing fixture or pipe connected thereto, except through a mechanical device which shreds and grinds putrescible solid waste;
- (d) Place or permit to be placed in any receptacle or container located in any public place and owned or maintained by the county, any residential or commercial solid waste. Such receptacles or containers shall be used only for occasional solid waste disposal to avoid the littering of streets and other public places;
- (e) Have on site at any one time, a backyard composting bin with more than fifteen cubic yards of any combination of green material feedstock, food processing residue feedstock, active compost, and stabilized compost;
- (f) Deliberately interfere with or prevent removal or transportation of solid waste from premises within the collector’s authorized zone to an authorized solid waste facility;
- (g) Throw or deposit litter on any open or vacant property, or private property within the county except that the owner or person in control of private property may maintain containers, commercial bins or roll-off boxes as provided in this chapter;
- (h) Burn solid waste on private or public property, including, but not limited to any, street, alley, park or other public place in violation of the provisions of the Santa Barbara County Code, or the rules and regulations of the air pollution control district and the county fire department as such provisions and rules and regulations may be amended from time to time;
- (i) Place, or allowed to be placed, animal carcass in a container;
- (j) Remove any container or commercial bin from the location in which it was placed for storage or collection of solid waste or recyclables, without the prior approval of the owner or person in control of the private property or the authorized collector. (Ord. No. 4188, § 2; Ord. No. 4616, § 2)

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Sec. 17-11. Scavenging prohibited.

(a) No person shall prowl through, search, sort, sift or examine the contents or deposits of solid waste at a county-owned and/or operated solid waste facility or remove from such solid waste facility any solid waste deposited therein without specific written authorization from the director.

(b) A collector authorized to engage in regular solid waste handling services pursuant to section 17-29 of this chapter shall be required to transport and process the solid waste pursuant to the requirements of this chapter and the terms and conditions of the franchise or contract. It is the intent of this subsection to prohibit a collector from removing solid waste collected pursuant to an exclusive franchise or contract from a container or a truck for the purpose of preventing such solid waste from being transported to or unloaded at an authorized solid waste facility. (Ord. No. 4188, § 2)

Sec. 17-12. Disposal sites and authorized solid waste facilities.

(a) The county shall provide disposal site(s) for the disposal of solid waste. The board may, by resolution or ordinance, establish regulations governing the use of any disposal site and the schedule of fees to be paid by persons using the disposal site.

(b) The operation of an authorized solid waste facility shall be governed by the provisions of the Act, the corresponding regulations adopted in title 14 California Code of Regulations, the provisions of this chapter, and all other applicable provisions of law.

(c) Nothing in this section shall be construed to preempt, limit or effect in any way the authority of the board to regulate solid waste facilities consistent with all other applicable provisions of law. (Ord. No. 4188, § 2)

Sec. 17-13. Records.

All collectors shall keep and maintain such operating records as the Resource Recovery & Waste Management division may require to ascertain the extent of compliance with this chapter and shall, if requested by the Resource Recovery & Waste Management division, submit periodic reports of such operation. All such records shall be available to the county during the term of the franchise, contract, or permit, and for four years following the termination of any such franchise, contract, or permit, for review and audit, by county employees or by its independent agents, during normal business hours. (Ord. No. 4188, § 2)

Sec. 17-14. Categories.

The board may determine and establish solid waste handling categories, including, but not limited to, residential, single-family residential, multifamily residential, commercial, industrial, special, or household hazardous waste, and may make or impose collection requirements and fees which vary among such categories. (Ord. No. 4188, § 2)

Sec. 17-15. Household hazardous waste collection.

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The board may award, with or without competitive bidding, one or more separate exclusive or nonexclusive franchises, contracts, or permits for household hazardous waste collection from residential properties. The franchise, contract, or permit shall be granted on such terms and conditions, including fees and method of collection, as the board shall establish in its sole discretion. (Ord. No. 4188, § 2)

Sec. 17-16. Right of person and responsible party to dispose of solid waste.

(a) Every person and responsible party shall have the right to dispose of his or her own solid waste at an authorized solid waste facility.

(b) Each person and responsible party collecting and/or disposing of solid waste shall deposit such solid waste only at authorized disposal sites, or recycling or composting facilities, and shall not deposit, leave, dump, drop, place or otherwise dispose of solid waste upon any street, alley, waterway, or other unauthorized location within the county. In transporting solid waste any such person shall take any and all necessary and reasonable steps to guarantee that solid waste is not scattered or spilled at any point between the place of collection and the place of disposal, including, but not limited to, securely tying and covering the load, and shall cause the cleanup of any solid waste spilled or scattered during collection or transport. (Ord. No. 4188, § 2)

Sec. 17-17. Ownership of solid waste placed for collection.

Upon placement of solid waste in a container or commercial bin for regular solid waste handling services pursuant to article II of this chapter, the solid waste shall become the property of the collector. (Ord. No. 4188, § 2)

Sec. 17-18. Ownership of recyclables.

Nothing in this section shall limit the right of a person, organization or other entity to donate or sell source separated recyclables generated by such person, organization, or entity before they are deposited in a container or a designated recycling collection location for collection by an authorized recycling contractor. Once recyclables are deposited in a container or commercial bin or a designated recycling collection location, the recyclables become the property of the authorized recycling contractor. (Ord. No. 4188, § 2; Ord. No. 4616, § 3)

Sec. 17-19. Compliance with regulations.

Any collector authorized by this chapter to provide solid waste handling services shall collect, haul and dispose of all such solid waste and household hazardous waste in strict compliance with all federal, state, and county health laws, ordinances, rules and regulations, and under the supervision and to the satisfaction of the board. (Ord. No. 4188, § 2)

Sec. 17-20. Bonds, indemnification and insurance.

(a) Collectors providing regular solid waste handling services shall deposit with the Resource Recovery & Waste Management division a cash bond in the minimum sum of one hundred thousand dollars or a valid surety bond in the same

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amount, or in any greater amount pursuant to the terms and conditions of the franchise or contract, furnished by a corporate surety admitted to do business in the state, payable to the county. The amount of the bond required of collectors providing unscheduled solid waste handling services shall be twelve thousand five hundred dollars. The bond shall be conditioned upon the full and faithful performance by the collector of his or her obligations under the applicable provisions of this chapter and shall be kept in full force and effect by the collector throughout the life of the franchise or contract.

(1) The bond shall guarantee payment to the county to defray costs incurred by the county to correct problems resulting from the negligent or intentional acts or omissions of the collector in violation of applicable provisions of this chapter.

(2) Such bond shall not limit the county's remedies with respect to any acts or omissions of the collector which damage the county.

(b) Each collector providing regular and unscheduled solid waste handling services shall appear and defend, indemnify and save the county, its officers, employees and agents harmless of and from all claims, demands, actions, or causes of action of every kind and description resulting directly or indirectly, arising out of, or in any way connected with activities of the collector or its employees, agents and subcontractors, or arising or resulting from the failure of collector or its employees, agents and subcontractors to comply in all respects with the provisions and requirements of this chapter, and all applicable laws. If the county is required to provide its own defense against any such action or suit, the collector shall reimburse the county for all attorney's fees and other costs incurred by the county. The county shall have the right to select its own counsel for such defense.

(c) Each collector providing regular and unscheduled solid waste handling services shall obtain and keep in force during the term of the franchise, contract, or permit single limit or equivalent public liability insurance for bodily injury or death and property damage arising or resulting from the operations of the collector, its employees, agents and subcontractors in conducting services covered by such franchise or contract in an amount not less than one million dollars and workers compensation insurance covering all employees of the holder. Copies of such policies, or certificates evidencing such policies, shall be approved by the county counsel and filed with the county clerk, and the county shall be named thereon as an additional insured. All policies shall contain provisions requiring a thirty-day notice to be given to the county prior to cancellation, modification or reduction of limits or failure to renew such insurance, whether by the insurer or the insured, and whether by nonpayment of insurance, false certification or otherwise. No franchise, contract, or permit shall be granted under the provisions of this chapter, nor shall any such franchise, contract, or permit be valid after issuance, unless there is at all times in full force and effect such described liability insurance. To the extent permitted by law, and if approved by the county, all or any part of any required insurance may be provided under a plan of self insurance. (Ord. No. 4188, § 2)

Sec. 17-21. Spills.

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A collector transporting solid waste for appropriate disposal shall take all necessary and reasonable steps to ensure that solid waste is not scattered or spilled at any point between the place of collection and the place of disposal, and shall clean up any solid waste scattered or spilled during collection or transport. (Ord. No. 4188, § 2)

Sec. 17-22. Authority of Resource Recovery & Waste Management division.

The Resource Recovery & Waste Management division is authorized to make all necessary and reasonable rules and regulations, subject to the approval of the board of supervisors, regarding all aspects of solid waste handling services as necessary for the effective and reasonable administration and enforcement of this chapter. (Ord. No. 4188, § 2)

Secs. 17-23 through 17-28. Reserved.

Article II. Regular Solid Waste Handling Services

Sec. 17-29. Exclusive franchise or contract for regular residential and commercial solid waste collection.

The board hereby finds and declares that it is necessary for the protection of the public health, safety, and welfare to provide regular residential and commercial solid waste handling services, which may include the collection and transportation of recyclables, by means of exclusive franchise or contract within specified zones or territories of the unincorporated area of the county. The board further finds that the provision of such solid waste handling services requires large capital investment in trucks, equipment, and the maintenance thereof, and that unrestricted competition for such services may result in the inability of a collector to provide efficient and timely service without an exclusive franchise or contract to operate within a specified geographic zone.

(a) All regular residential and commercial solid waste handling services shall be provided by a collector pursuant to an exclusive franchise or contract between a collector and the county, subject to the terms and conditions of this chapter, and the duly adopted rules, regulations and resolutions authorized by this chapter. Any person or solid waste enterprise receiving payment for providing regular solid waste handling services must have an exclusive franchise or contract with the county, unless such services are being provided by a person or solid waste enterprise on behalf of a collector pursuant to a written agreement or contract and provided that such services are authorized pursuant to the terms and conditions of the exclusive franchise or contract. Payment of services includes any type or manner of payment by a person or responsible party to a person or solid waste enterprise providing regular solid waste handling services, including, but not limited to, payment for the collection or transportation of solid waste, payment for the rent or lease of a container, or payment for the cost of disposal at an authorized disposal site. In addition, any person or responsible party who receives a discount of, or a reduction in, the collection service rate, or who pays a person or solid waste enterprise a consulting charge, fee or other tangible consideration

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shall be considered to be making a payment for purposes of this section. Regular residential and commercial solid waste handling services may include the collection and transportation of recyclables. The franchise or contract shall contain, at a minimum, the following:

- (1) Collection rates by categories, such as single-family, residential, multifamily residential and various commercial rate categories;
 - (2) A franchise fee to be paid to the county in an amount as may be determined by the board; provided, however, that a licensee who possesses a valid license to collect, haul, or transport solid waste in the county issued by the board on or before December 31, 1994, shall continue to pay a franchise fee in an amount equal to two percent of his or her total billings less refunds to customers for the previous month for regular and unscheduled solid waste handling services, excluding recyclables, until the expiration of the license term or the cancellation, suspension, revocation, or termination of such license pursuant to the provisions of this chapter, or termination of such license pursuant to subsection (c) of section 17-4 of this chapter.
- (b) A collector authorized by this section to provide collection and transportation of recyclables shall also be designated as the authorized recycling contractor.
- (1) In the event the board does not include the collection and transportation of recyclables in the exclusive franchise or contract for the provision of regular solid waste handling services as provided in this section, the board, by resolution, shall determine the following: whether such recycling services shall be provided, and whether the services are to be provided by means of nonexclusive franchise, contract, license, or permit, either with or without competitive bidding, or if in the opinion of the board, the public health, safety, and well-being so require, by partially exclusive or wholly exclusive franchise, contract, license, or permit, either with or without competitive bidding.
 - (2) Nothing in this section is intended to revoke, modify, amend, or affect any right or duty of any person who has a valid franchise, contract, license, or permit issued by the board, to collect and transport recyclables in the county.
- (c) The board shall establish, by resolution, five geographic zones or territories for the provision of regular residential and commercial solid waste handling services. The board shall specify in each exclusive franchise or contract the zone within which each collector shall operate, and no other person or collector shall provide regular solid waste handling services within such zone unless otherwise authorized by this chapter.
- (1) A collector authorized by this section shall not provide regular solid waste handling services in more than one zone or territory during the term of his or her franchise or contract, subject to the provisions of subsection (c)(5) of this section, unless otherwise authorized pursuant to this chapter.
 - (2) Notwithstanding any language to the contrary in this section, the board may authorize another collector or any other solid waste enterprise to provide emergency regular solid waste handling services for a period not to exceed one hundred eighty days when a collector's franchise or contract is terminated pursuant to section 17-86 of this chapter, or the public works director may authorize another collector or any other solid waste enterprise to provide

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emergency regular solid waste handling services for a period not to exceed sixty days when a collector, for any reason whatsoever, fails, refuses or is unable to provide regular solid waste handling services for a period of more than forty-eight hours, and the director determines there is a danger to the public health, safety, or welfare.

(3) A collector authorized by this section may also provide unscheduled solid waste handling services in any zone or zones pursuant to the terms and conditions of article III of this chapter.

(4) The board may, but shall not be required to, consider the following factors in determining the boundaries of the five geographic zones: the volume, density and distribution of commercial and residential development; proximity to authorized solid waste facilities; the relative efficiencies of potential collection routes; cost factors associated with collection, transportation, and disposal of solid waste; historical use; and other such factors as the board deems relevant to insure that regular solid waste handling services are continuously provided to the public in a safe, adequate, reliable and efficient manner.

(5) Notwithstanding any other provision of this chapter, a collector authorized by this section may provide regular solid waste handling services in a total of two, but not more than two zones where that collector has acquired, through sale, transfer, operation of law, or otherwise, all of the regular solid waste handling business of another collector in a second zone, and where the board's consent to the acquisition was first obtained. This right shall apply to any renewals or extensions of the exclusive franchise or contract. In the event the board elects to invoke the provisions of subsection (d) of this section pertaining to the call for bids, the rights created by this subsection shall not be available to a collector.

(d) The board may, by resolution, call for bids for the granting of an exclusive franchise(s) or contract(s) for regular commercial and residential solid waste handling services pursuant to division 30, part 8, chapter 3, commencing with section 49200 et seq., of the Public Resources Code, as it may be amended time to time.

(e) No person, other than an authorized recycling contractor, shall remove recyclables which have been placed at a designated recycling collection location. Any and each such collection in violation hereof shall constitute a separate and distinct offense punishable in accordance with this chapter.

(1) Nothing in this chapter shall limit the right of a person, organization or other entity to donate or sell source separated recyclables generated by such person, organization, or entity.

(2) Nothing in this chapter shall limit the right of a business or other commercial enterprise which maintains its own recycling operation to transport recyclables generated by such business or commercial enterprise to the location of such recycling operation.

(f) A collector providing regular solid waste handling services shall comply with the requirements of article I, section 17-20 of this chapter at all times during the term of the franchise or contract.

(g) All fees received pursuant to this section shall be deposited to the solid waste

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enterprise fund or to such other fund as the board may designate. (Ord. No. 4188, § 2; Ord. No. 4224, §§ 3, 4, 5)

Sec. 17-30. Regular solid waste handling services.

Regular solid waste handling services shall be provided as follows:

- (a) Solid waste shall be collected from regular residential and commercial premises not less frequently than once a week.
- (b) Solid waste shall be collected from commercial premises which involve food preparation not less frequently than twice a week.
- (c) Subject to the limitations of subsections (a) and (b) of this section, the board shall have sole authority to determine the frequency of collection of solid waste created, produced, or brought upon commercial, residential, or multifamily residential premises, and the size and number of bins required.
- (d) Except as provided under subsection (e) of this section, residential collection shall be made only between the hours of 6:00 A.M. and 6:00 P.M. of any day, Monday through Saturday, except that collection at commercial premises may begin at 5:00 A.M. on any day. An earlier or later collection time may be authorized only upon prior written approval of the director which shall include requirements for the collector to notify the affected customers prior to implementing the change.
- (e) In order to prevent problems of traffic, noise, wear and tear on the highway, or other problems having the potential to adversely affect health, safety, or the environment which may develop in any specific area as a result of solid waste collection, the board or its designee may regulate the routes, intervals, delivery points, and times for collection by collectors operating within the unincorporated area of the county. In the event a collector's costs associated with any changes authorized by this subsection are increased or decreased, the county and the collector or collectors shall have the right to amend or modify the franchise or contract accordingly. (Ord. No. 4188, § 2)

Sec. 17-31. Civil action by authorized recycling contractor.

Nothing in this chapter shall be deemed to limit the right of an authorized recycling contractor to bring a civil action against any person who violates section 17-29 of this Code, nor shall a conviction for such violation exempt any person from a civil action brought by an authorized recycling contractor. (Ord. No. 4188, § 2)

Sec. 17-32. Financial reports.

- (a) The accounting of a collector shall be conducted as an independent entity, and the assets, liabilities, revenues, expenses and net worth shall not be combined, consolidated or in any way incorporated with those of any other operation. The accounting records of a collector shall be kept on the accrual basis, and the operating year for financial and accounting purposes shall begin on July 1st and end June 30th, except as otherwise provided in writing by the Resource Recovery & Waste Management division.
- (b) A collector shall provide the Resource Recovery & Waste Management

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division an annual notarized statement of the collector's manager, or other responsible officer of the collector, showing in detail the gross revenues arising from operations pursuant to the franchise or contract for the previous year. (Ord. No. 4188, § 2)

Sec. 17-33. Authority to levy collection and transfer fees.

(a) Pursuant to the provisions of the Act, the county may levy fees upon collectors, persons, responsible parties, and premises for solid waste handling services, including, but not limited to, solid waste collection and transfer, and the collection and transfer of recyclables and/or compostables. Such fees may include charges for the costs of preparing, adopting and implementing source reduction and recycling elements and integrated waste management plans. The county may determine to collect all or part of such charges on the tax roll, or by such other means as the board may elect.

(b) Notwithstanding any other provision to the contrary, the board may waive any applicable fees for authorized recycling contractors and collectors of compostables.

(c) The board of supervisors may establish solid waste collection rates upon recommendation of the director.

(1) In establishing rates or in considering rate increases or decreases, the board must find that the rates will be just, fair, reasonable and sufficient to provide proper service to the public. The board may consider the rates charged by other persons performing the same or similar services in similar areas, and may allow for disparity of costs of providing services in the locality served.

(2) Factors to be considered shall include the investment in facilities; the services of management; local wage scales; the concentration of customers in the zone serviced; methods of storage, collection, transportation and disposal; the length of haul to disposal facilities; the cost of disposal; a reasonable return to the owner of the business; the future service demands of the area or site which must be anticipated in equipment, facilities, personnel or lands; extra charges for special collections or collections on days when service is not normally provided on a route; extra charges where the type or character of solid waste requires special handling or service; and other pertinent factors as the board may deem necessary to protect the public health, interest, and welfare.

(3) The director may make or may be required by the board to make an investigation of any proposed rate increases or decreases. Upon completion of this investigation, the director shall make recommendations to the board regarding the proposed rate.

(4) After considering the recommendation of the director, the board may establish uniform rates throughout the county or may establish uniform rates within zones based on the length of haul or other factors which may, in the opinion of the board, justify establishment of rate differentials.

(d) No collector subject to rate regulation hereunder shall give any rate preference to any person, locality or type of solid waste stored, collected, transported or deposited.

(e) Nothing in this section is intended to prevent the reasonable establishment of

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uniform classes of rates based upon length of haul, type of solid waste stored, collected, transported or deposited, or the number, type and location of customers served, or upon other factors as long as such rates are reasonably based upon costs of the particular service and are approved by the board.

(f) Rates to be charged for unscheduled service shall be arranged with the customer and shall not be subject to regulation by the county.

(g) Neither the county nor any of its officers or employees shall be liable for or in any way responsible for the payments of any service rates or charges due the collector for performing services for any person or entity other than the county.

(h) All fees received pursuant to this section shall be deposited to the solid waste enterprise fund or to such other fund as the board may designate. (Ord. No. 4188, § 2)

Sec. 17-34. Liability for fees.

(a) Except as provided in section 17-7, every person or responsible party receiving services of an authorized collector for solid waste handling services shall be liable for all fees and charges for such collection.

(b) All charges or fees for service by an authorized collector shall be uniform for the same services as fixed and approved by the board of supervisors, except as otherwise provided in this chapter. Any person or responsible party contending that he or she has been required to pay an unauthorized charge for any service may file a written complaint with the Resource Recovery & Waste Management division, setting forth the facts of such alleged unauthorized charge. The Resource Recovery & Waste Management division shall then notify the collector of such complaint and shall investigate the matter of the complaint and conduct a hearing, if necessary, to determine whether the allegations of the complaint are true. The decision of the Resource Recovery & Waste Management division may be appealed to the board of supervisors. (Ord. No. 4188, § 2; Ord. No. 4616, § 4)

Sec. 17-35. Minimum standards for collection trucks.

Any trucks used for the collection or transportation of solid waste shall be leakproof and equipped with a close-fitting cover or other mechanism which shall be affixed in a manner that will prevent spilling, dropping, or blowing of any solid waste upon the public right-of-way during collection or transportation. Any such trucks shall comply with the regulations as set forth in the State Vehicle Code and this chapter. (Ord. No. 4188, § 2)

Sec. 17-36. Maintenance of collection trucks.

All trucks used for collection or transportation of solid waste shall be maintained in a clean and sanitary condition, neatly and uniformly painted, shall carry a shovel, broom, and fire extinguisher, and shall be washed, cleaned, and disinfected both on the inside and outside at least weekly, or more frequently if necessary to protect public health. The outside of all such trucks shall be kept free from solid waste at all times. (Ord. No. 4188, § 2)

Sec. 17-37. Identification of collection trucks.

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Each collector shall ensure that each truck used for collection or transportation of solid waste shall have the collector's or owner's name, telephone number, and truck number printed on each side of all trucks in letters and numbers not less than three inches high. (Ord. No. 4188, § 2)

Sec. 17-38. Noise during compaction process.

The noise level for the collection trucks during the stationary compaction process shall not exceed seventy-five decibels at a distance of twenty-five feet from the collection truck and at an elevation of five feet from the horizontal base place of such trucks. (Ord. No. 4188, § 2)

Sec. 17-39. Collector's equipment.

Each collector shall provide sufficient collection equipment in accordance with the terms of the franchise or contract with the county authorizing such collector to provide solid waste handling services. (Ord. No. 4188, § 2)

Secs. 17-40 through 17-43. Reserved.

Article III. Unscheduled Solid Waste Handling Services

Sec. 17-44. Nonexclusive permit for unscheduled solid waste handling services.

(a) All unscheduled residential and commercial solid waste handling services shall be provided by a collector pursuant to a nonexclusive permit granted by the county, subject to the terms and conditions of this chapter, and the duly adopted rules, regulations and resolutions authorized by this chapter.

(b) The nonexclusive permit shall be granted on such terms and conditions as the board shall establish in its sole discretion. A collector authorized to provide unscheduled solid waste handling services may provide such services in any and all zones established pursuant to subsection (d) of section 17-29 of this chapter, unless the board limits the number of zones by designating the specific zones within which a collector may operate.

(c) A collector authorized to provide regular solid waste services pursuant to article II of this chapter shall be entitled to provide unscheduled solid waste services provided he or she complies with all the terms and conditions of this article.

(d) Applicants for a permit to provide unscheduled solid waste handling services shall file with the Resource Recovery & Waste Management division a verified application in writing on a form furnished by the Resource Recovery & Waste Management division which shall give the following information.

- (1) Full name of applicant;
- (2) Permanent home and business address of the applicant;
- (3) Trade and firm name;
- (4) If a joint venture, partnership or limited partnership, the names of all joint ventures or general partners, their percentage of participation and permanent addresses. If a corporation, the names and permanent business addresses of all of the directors and officers, and if a corporation with out-of-the-county

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headquarters, the name and permanent address of the local manager;

(d) (5) Facts showing applicant has arranged for the recycling of at least 50% of all waste collected. The Applicant must also state which solid waste handling facilities will be used for waste collected under this permit.

(6) The location of the authorized solid waste facility;

(7) Facts showing that the applicant is qualified to render efficient unscheduled solid waste handling services;

(8) Facts showing that the applicant owns or has under his or her control, in good mechanical condition, sufficient equipment to adequately conduct unscheduled solid waste handling services;

(d) (9) Other facts or information as the Resource Recovery & Waste Management division may require including but not limited to the documentation referred to in the Rules & Regulations Governing Chapter 17 of the County Code.

(e) Upon receipt of a completed application for a permit to provide unscheduled solid waste handling services the director shall determine if the applicant meets all the requirements of this chapter and all applicable state and federal laws and regulations.

(1) A decision to issue or not to issue the permit shall be made by the director within thirty days from the receipt of a complete application.

(2) If the director determines that a permit to provide unscheduled solid waste handling services shall not be issued or if the decision to issue or not issue the permit is not made as provided in subsection (e)(1) of this section, or if the director recommends the suspension, amendment, or revocation of a permit pursuant to subsection (f) of this section, the applicant shall have the right to a hearing before the board. A request for a hearing shall be made by the applicant in writing to the clerk of the board within fifteen calendar days after the period provided in subsection (e)(1) of this section has passed or within fifteen days after the date of notification of the proposed suspension, amendment, or revocation.

Upon receipt of the written request for a hearing, the clerk of the board shall set the matter for hearing not more than sixty days following the receipt of the written request, and shall give written notice of the time, date, and place of the hearing to the applicant and the director. At the hearing, the applicant shall have the burden of proof to show facts demonstrating that the applicant meets the requirements of this chapter and applicable state and federal laws and regulations and that either the granting of the permit is required by the public safety, health, welfare, convenience or necessity or that the proposed suspension, amendment, or revocation should not be sustained. The board shall render its decision in writing fifteen days after the close of the hearing on appeal. The decision of the board shall be final.

(f) The director shall notify the collector in writing of his or her decision to recommend to the board the suspension, amendment, or revocation of a permit. After the hearing in subsection (e) of this section, any permit may be suspended, amended, or revoked by the board for cause, including, but not limited to, any or all of the following:

(1) A violation of any term or condition of the permit;

(2) Having obtained the permit by misrepresentation or failing to disclose fully all

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relevant facts;

(3) A change in any condition that requires either a temporary or permanent modification, reduction, or elimination of the permitted unscheduled solid waste handling service to bring it into compliance with the requirements of this chapter;

(4) A finding that the operations of the collector pose a substantial threat to public health or the environment.

(g) A permittee issued a permit pursuant to this section shall be required to pay a fee in an amount as may be determined by the board. The amount of the fee shall not exceed an amount reasonably necessary to recover the cost of administering this article or the cost of enforcing the provisions of this chapter or any rule or regulation promulgated pursuant to this chapter.

(h) The term of a permit to provide unscheduled solid waste handling services shall be for a period of five years from the date of issue.

(i) Upon a written request of a collector prior to the expiration of a permit, such permit may be renewed by the director if the director finds from the facts that the permittee has, during the period of the unexpired permit, operated in conformity with the provisions of this chapter, all applicable laws, and the regulations of the Resource Recovery & Waste Management division, and that the permittee is capable of continuing operations in conformity with the provisions of this chapter, all applicable laws, and the regulations of the Resource Recovery & Waste Management division. In the event the director does not renew the permit, the collector shall have the right to a hearing pursuant to subsection (e)(2) of this section.

(j) To satisfy the minimum requirement of recycling 50% of all collected waste, the Permit holder shall deliver proof of compliance in accordance with the Rules and Regulations of Chapter 17, Section 3-308. This proof shall consist of an annual written summary and copies of related tipping fees receipts for the previous calendar year due by March 31, of the following year. The first summary will be due March 31 of 2009.

(k) This section shall not apply to the following entities:

(1) Any person engaged in the business of landscaping, gardening, or tree trimming;

(2) Any person engaged in the business of removing and disposing of shrubbery, grass, tree trimmings, garage cleanouts, agricultural debris, or other nonputrescible solid waste, provided such persons haul less than one hundred tons per month;

(3) Any person engaged in the business of disposing of hazardous or special wastes, authorized or licensed to engage in such business by the county and/or State of California;

(4) Any person removing and disposing of shrubbery, grass, tree trimmings, garage cleanouts, agricultural debris, or other solid waste from any residential property owned or occupied by the person;

(5) Any person engaged in farming or agricultural operations which produce agricultural solid waste, or any person engaged in the business of servicing such operations;

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- (6) Municipalities or public agencies;
- (7) A licensed building contractor hauling demolition and construction wastes as an incidental part of a total service offered by that contractor.
- (l) A collector providing unscheduled solid waste handling services shall comply with the requirements of article I, section 17-20 of this chapter at all times during the term of the permit.
- (m) All fees received pursuant to this section shall be deposited to the solid waste enterprise fund or to such other fund as the board may designate. (Ord. No. 4188, § 2; Ord. No. 4616, § 5)

Sec. 17-45. Unscheduled solid waste handling services.

Unscheduled solid waste handling services shall be provided as follows:

- (a) Unscheduled solid waste handling services may not be used for the collection of putrescible solid waste; provided, however, that nothing in this section shall preclude a collector authorized pursuant to article III of this chapter from providing unscheduled service for the collection of green waste or wood waste where that service is provided in strict compliance with title 14 of the California Code of Regulations, section 17331, pertaining to state minimum standards governing the frequency of removal of putrescible solid waste from residential or commercial premises, as such regulation may be amended time to time. It is the responsibility of the collector to insure that the requirements of this subsection are adhered to by a responsible party.
- (b) Unscheduled solid waste handling services, including the use of solid waste compactors, shall not be used as a substitute for or in lieu of regular solid waste handling services. The Resource Recovery & Waste Management division shall develop an enforcement program consisting of regulations necessary to implement this subsection. (Ord. No. 4188, § 2)
- (c) Unscheduled Solid Waste handling service providers are required to divert from landfills a minimum of 50% of all solid waste collected. An exemption to this requirement may be made by the Resource Recovery & Waste Management division if the permittee can demonstrate that the material collected was not recyclable.

Sec. 17-46. Financial reports.

The accounting of a collector shall be conducted as an independent entity, and the assets, liabilities, revenues, expenses and net worth shall not be combined, consolidated or in any way incorporated with those of any other operation. A collector may be required to provide the Resource Recovery & Waste Management division an annual notarized statement of the collector's manager, or other responsible officer of the collector, showing in detail the gross revenues arising from operations pursuant to the permit for the previous year. Other data such as related weight tickets will also be required in order to prove compliance with the 50% recycling requirement dictated by Section 17-45(c) and Chapter 3 Section 308 of the Rules & Regulations of this Chapter unless an alternative is agreed upon in writing by the Director of Public Works. Nothing in this section shall be construed to require a collector to establish a separate legal business

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entity in order to comply with the accounting requirements of this section. (Ord. No. 4188, § 2)

Sec. 17-47. ~~Operation without a permit.~~

~~A solid waste enterprise providing unscheduled service in the unincorporated area of the county on the date the ordinance codified in this chapter becomes effective may lawfully operate his or her enterprise up to a maximum of six months from such date without the possession of a valid permit issued pursuant to section 17-44 of this chapter. A solid waste enterprise will be presumed to be providing unscheduled service on the date the ordinance codified in this chapter becomes effective if the enterprise is actually providing such service for a fee to persons or businesses located within the unincorporated area of the county. (Ord. No. 4188, § 2) Reserved~~

Sec. 17-48. Minimum standards for containers.

All containers used for the provision of unscheduled solid waste handling services shall be leakproof and transported in a manner that will prevent spilling, dropping, or blowing of any solid waste upon the public right-of-way during collection or transportation. All containers shall be marked pursuant to the safety standards as established by ANSI (American National Standard Institute) for containers that are placed in public access areas as such standards may be amended time to time. (Ord. No. 4188, § 2)

Sec. 17-49. Maintenance of containers.

All containers used for the provision of unscheduled solid waste handling services shall be maintained in a clean and sanitary condition, neatly and uniformly painted and cleaned as frequently as necessary to protect public health. The outside of all such containers shall be kept free from solid waste at all times. (Ord. No. 4188, § 2)

Sec. 17-50. Identification of containers.

All containers used for the provision of unscheduled solid waste handling services shall have the collector's or owner's name, telephone number, and bin number printed on each side of the container in letters and numbers not less than three inches high. (Ord. No. 4188, § 2)

Secs. 17-51 through 17-54. Reserved.

Article IV. Fees for Use of County-Owned and/or Operated Solid Waste Facilities

Sec. 17-55. Options and rates.

The county retains the option in all cases (except as otherwise provided herein) to charge a fee for use of county-owned and/or operated solid waste facilities on either a yardage or tonnage basis, or both, as shall be prescribed from time to time in writing by the Resource Recovery & Waste Management division. Car bodies, stumps, large trees, lumber, concrete and any other type of material which by its

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inherent nature creates unusual disposal problems shall be charged by the yardage or tonnage rates as the Resource Recovery & Waste Management division shall designate. (Ord. No. 4188, § 2)

Sec. 17-56. Board to adjust fees.

The board of supervisors may by resolution change, adjust or otherwise alter the prices and regulations listed in this article as the board may deem necessary. (Ord. No. 4188, § 2)

Sec. 17-57. Receipt to be given; fee schedule to be posted.

All persons when using county-owned and/or operated solid waste facilities shall pay a fee as established in this article and shall be furnished a receipt therefor. Fee rates shall be conspicuously posted at all such solid waste facilities. (Ord. No. 4188, § 2)

Sec. 17-58. Refuse checker to set fee; protest and appeal.

It shall be the duty of the refuse checker on duty to designate the fee to be charged in accordance with this article.

(a) Should a person allege the fee charged is not the correct posted fee, such person may pay the fee under protest.

The refuse checker shall designate the location where the solid waste should be unloaded and shall then attempt to contact the director or his or her authorized representative. The director shall appraise the load and fee charged, and this decision on the fee shall be final except by appeal, as provided in subsection (b) of this section.

(b) Any person who is dissatisfied with the decision or ruling of the Resource Recovery & Waste Management division under this section may appeal in writing to the clerk of the board of supervisors within ten days of the director rendering his or her decision or ruling. The clerk of the board of supervisors shall set the appeal for hearing and give the appellant, by certified mail, return receipt requested, and the Resource Recovery & Waste Management division, five days' notice of the hearing. After the hearing, the board may affirm, modify or revoke the decision of the Resource Recovery & Waste Management division. (Ord. No. 4188, § 2)

Sec. 17-59. Late charges.

Any person or collector who has established a charge account with the county for payment of fees required of this section, shall be assessed a finance charge on all delinquent accounts of one and one-half percent per month or eighteen percent per year. An account shall be delinquent if not paid in full within thirty days from its designated due date. (Ord. No. 4188, § 2)

Secs. 17-60 through 17-64. Reserved.

Article V. Abatement of Nuisance

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Sec. 17-65. Applicability of article.

The provisions of this article shall be applicable within all areas of the unincorporated territory of the county. If any part of this article is in conflict with any other part, the more restrictive provisions shall be controlling. (Ord. No. 4188, § 2)

Sec. 17-66. Public nuisance declared.

The presence of solid waste, or other litter on a lot, or on land adjacent thereto, except when stored in a container approved for such storage under this chapter, shall constitute a public nuisance within the meaning of this article. (Ord. No. 4188, § 2)

Sec. 17-67. Notice to owner or responsible party.

(a) The director, or a person authorized by the director, may cause a notice in the form provided in subsection (c) of this section to be conspicuously posted in front of any lot or on any parcel upon which a public nuisance exists as provided in section 17-66 of this chapter. If such lot or parcel does not front upon any street, highway or road, then this notice may be posted upon the portion of such lot or parcel nearest to a street, highway or road or upon such portion that is likely to give actual notice to the owner or lawful possessor.

(b) Notice provided for in this section shall be posted at least ten days before the board meets to hear the report of the director, or his or her authorized representative, regarding the alleged public nuisance.

(c) The notice mentioned in this section shall be substantially in the following form:

NOTICE TO ABATE A PUBLIC NUISANCE

Notice is hereby given that solid waste, garbage, rubbish, or other litter is present upon this property described on the reverse side of this Notice and creates in the opinion of the Director of the County Department of Public Works or his or her authorized representative, a public nuisance.

On the _____ day of _____, 19_____, at 9:00 A.M., or as soon thereafter as possible, the Board of Supervisors of the County of Santa Barbara shall convene a public hearing at _____, California, to hear the report of the Department of Public Works regarding this alleged nuisance.

Any person may attend such meeting, and his or her objection, if any, to such report will be heard and given due consideration.

WARNING: If, at such hearing, the Board finds that a public nuisance does exist upon this property, it may direct the Director of Public Works or his/her agent to enter hereon and remove or abate such nuisance by collecting and removing such solid waste, garbage, rubbish, or other litter as is present on this property. **THE COST OF SUCH REMOVAL WILL BE COLLECTED BY ADDING IT ON TO THE TAXES ASSESSED AGAINST THIS PROPERTY. ANY OWNER INTENDING TO ABATE THIS NUISANCE AT HIS/HER OWN EXPENSE**

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SHOULD DO SO ON OR BEFORE THE DATE OF THE AFORESAID HEARING.

Dated: _____

SANTA BARBARA COUNTY DIRECTOR OF PUBLIC WORKS

By _____

Authorized Agent

(d) At least ten days before any hearing of a report to the board of supervisors requesting the removal or abatement of solid waste, garbage, rubbish, or other litter which constitutes a public nuisance, a notice of such hearing shall be posted in the office of the clerk of the board of supervisors and, in addition, mailed to the owner or person identified on the last assessment for the property in the records of the county assessor at the address indicated on the last assessment roll for the lot or parcel of real property.

(e) Notwithstanding any language to the contrary in this section, the director may authorize the abatement of a public nuisance for an amount not to exceed five thousand dollars if the director determines the nuisance is an immediate danger to the public, health, safety, or welfare. The director shall first proceed pursuant to the provisions of section 17-78 of this chapter and if possible, shall request the responsible party to immediately abate the nuisance. If the responsible party is unavailable, unwilling, or unable to immediately abate the nuisance, the director shall take whatever action is necessary to abate the nuisance.

(f) Nothing in this section shall preclude the Resource Recovery & Waste Management division from issuing a courtesy warning to the owner or responsible party prior to issuing the notice to abate a public nuisance as provided in this section. The issuance of courtesy notice is not a requirement of this section. (Ord. No. 4188, § 2)

Sec. 17-68. Hearing.

At the time and place stated in the notices, the board shall meet to hear the report of the director of public works or his authorized representative, and any objections thereto. The director or authorized representative shall attend, inform the board as to the alleged public nuisance, and supply the legal description of the lot upon which it exists, the name and address of the last known assessee thereof, and state what has been done in order to give notice of the hearing according to the provisions of this article. The board may continue such matters from time to time as may be appropriate. (Ord. No. 4188, § 2)

Sec. 17-69. Order to abate.

If, upon hearing the report of the director of public works or authorized representative thereof and any protests, the board determines that a public nuisance exists on a lot or parcel or land adjacent thereto, it may direct the director to abate the nuisance. The board shall maintain a record of its proceedings at such hearing and retain therewith the report of the director, a legal description of such a lot or parcel or land, and, where available, the name and address of its last known assessee. (Ord. No. 4188, § 2)

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Sec. 17-70. Cleanup procedure; director authorized to expend funds, contract, etc.

If the board directs the director to abate a public nuisance, the director shall proceed to abate such nuisance unless it has been abated, completely, before his or her agents arrive to begin such abatement. The director may expend appropriate funds for such abatement and may contract with a person or persons for the performance of the work of such abatement. (Ord. No. 4188, § 2)

Sec. 17-71. Account of expenses.

(a) The director shall keep an account of expenses when abating a public nuisance pursuant to an order of the board, and file a report thereof with the board, which report shall include the assessor's tax area and parcel numbers according to the county assessment roll of the lot or parcel or land upon which such public nuisance existed and, when available, the name and address of the last known assessee. Such report shall include a reasonable administrative cost in an amount to be fixed by the board of supervisors from time to time, based on administrative costs of carrying out these regulations.

(b) The report of expenses referred to in this section shall be maintained on file, open to public inspection, in the office of the clerk of the board for at least ten days before a hearing of the board to confirm such report. If any person shall, before the expiration of such ten days, file a written request for notice of the hearing upon such confirmation, the board shall mail such notice to the address supplied in any such written request. At the time fixed for such hearing, the board shall meet to hear any objections to the report of expenses filed by the director as required by this section. At such hearing, the board may make any modifications in the amount it deems just, after which the report shall be confirmed.

(c) The amount of expenses incurred by the director for abating a public nuisance pursuant to this article, when confirmed by the board under the provisions of this article, shall constitute a special assessment against the lot or parcel or land from which such nuisance was removed and a lien thereof for the amount of such assessment.

(d) The board shall deliver a copy of the expense report, as confirmed, to the auditor-controller of the county on or before August 1, following such confirmation.

(e) The county auditor-controller shall enter the amount stated in the report as a special assessment against the property described in the report. The tax collector of the county shall include the amount of the assessment on the bill for taxes levied against the property. All laws applicable to the levy, collection and enforcement of County taxes are applicable to such special assessments. All special assessments collected as provided in this article shall be deposited to the solid waste enterprise fund or to such other fund as the Board may designate.

(Ord. No. 4188, § 2)

Sec. 17-72. Evidence of property ownership.

In any proceeding under this article, evidence that the current assessment roll of the county shows real property assessed to a person shall constitute prima facie

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evidence in any prosecution or proceeding under this article that such person is the owner of such property within the meaning of this article. (Ord. No. 4188, § 2)

Secs. 17-73 through 17-76. Reserved.

Article VI. Enforcement and Penalties

Sec. 17-77. Authorization.

The director is hereby authorized to investigate all reported or apparent violations of any of the provisions of this chapter. If a violation is determined to exist, the director is hereby authorized to enforce and secure compliance with the provisions of this chapter. The director may request, and shall receive, the assistance and cooperation of other officials of the county to assist in the discharge of these duties. (Ord. No. 4188, § 2)

Sec. 17-78. Right of entry.

(a) Whenever it is necessary to make an inspection to enforce any of the provisions or perform any duty imposed by this chapter or by the codes adopted by reference hereby or other applicable law, the director is hereby authorized to enter such property at any reasonable time and to inspect the same and perform any duty imposed upon the director by this chapter or other applicable law; provided that if such property be occupied, he shall first present proper credentials to the occupant and request entry, explaining his reasons therefore. If such entry is refused or cannot be obtained because the owner or other person having charge or control of the property cannot be found after due diligence, the Director shall have recourse to every remedy provided by law to secure lawful entry and inspect the property.

(b) Notwithstanding subsection (a) of this section, if the director has reasonable cause to believe that the building or premises is so hazardous, unsafe, offensive, or dangerous as to require immediate inspection to safeguard the public health or safety, he shall have the right to immediately enter and inspect such property and use any reasonable means required to effect such entry and make such inspection, whether such property be occupied or unoccupied and whether or not permission to inspect has been obtained. If the property be occupied, he shall first present proper credentials to the occupant and demand entry, explaining the reasons therefore and the purpose of the inspection. (Ord. No. 4188, § 2)

Sec. 17-79. Liability.

The director or any other person acting under authorization of the director, if acting in good faith and within the course and scope of his or her employment, shall not thereby be liable personally, and shall be relieved from all personal liability for any damage that may accrue to persons or property as the result of or by reason of any act or omission occurring in the good faith discharge of such duties. Any suit brought against the director or his or her agents or employees because of such act or omission performed in good faith in the enforcement of any

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provision of this article, shall be defended by the County of Santa Barbara. (Ord. No. 4188, § 2)

Sec. 17-80. Referral for legal action.

If unable to otherwise enforce the terms of this chapter, the director shall refer the matter to the district attorney and/or the county counsel of the County of Santa Barbara for appropriate legal action.

(a) Any activity which is in violation of the provisions of this chapter, and any use of any lands, building or premises conducted, operated or maintained in violation of the provisions of this chapter, shall be and the same is hereby declared to be unlawful and a public nuisance.

(b) Whenever, in the judgment of the director, any person, firm or corporation is engaged in or is about to engage in any act or practice which constitutes or will constitute a violation of any provision of this chapter, and at the request of the director, the district attorney or county counsel of the county may make application to the Superior Court for an order enjoining such act or practice, or for an order directing compliance, and upon a showing by the department that such person, firm or corporation has engaged in or is about to engage in any such act or practice, a permanent or temporary injunction, restraining order or other order may be granted. (Ord. No. 4188, § 2)

Sec. 17-81. Civil remedies and penalties.

(a) Any person, whether acting as principal, agent, employee, or otherwise who willfully violates any provision of this chapter, shall be liable for civil penalties not to exceed twenty-five thousand dollars for each day the violation continues to exist.

(b) Any person, whether as principal agent, employee, or otherwise, who willfully violates any provision of this chapter, shall further be liable to the County of Santa Barbara for the cost incurred and the damages suffered by the county, its agents and agencies as a result of such violations.

(c) In determining the amount of the civil penalties to impose, the court shall consider all relevant circumstances, including but not limited to revenue or other monetary expenses or losses suffered by the county, the extent of the harm caused by the conduct constituting a violation, the nature and persistence of such conduct, the length of time over which the conduct occurred, the assets, liabilities, and the net worth of the violator, whether corporate or individual, and any corrective action taken by the defendant. (Ord. No. 4188, § 2)

Sec. 17-82. Criminal actions and penalties.

(a) Any person, firm or corporation, whether as principal, agent, employee or otherwise, who violates any provision of this chapter, shall be guilty of an infraction and upon conviction thereof, shall be punished by (1) a fine not exceeding one hundred dollars for a first violation; (2) a fine not exceeding two hundred dollars for a second violation of the same provision within one year; and (3) a fine not exceeding five hundred dollars for each additional violation of the same provision within one year.

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(b) Any such infraction may, at the discretion of the district attorney, be filed as a misdemeanor if the defendant has been convicted of two or more violations of any of the provisions of this chapter within the twelve-month period immediately preceding the commission of the offense, or has been convicted of three or more violations of any of the provisions of this chapter within the twenty-four-month period immediately preceding the commission of the offense. Upon conviction of a misdemeanor, the punishment shall be a fine of not less than five hundred dollars, nor more than twenty-five thousand dollars, or imprisonment in the county jail for a period not to exceed sixty days, or by both such fine and imprisonment, except that where such prior convictions are alleged in the accusatory pleading, and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt, or by the court where guilt is established by pleas of guilty, or nolo contendere, or by trial by the court sitting without a jury, the punishment shall be a fine of no less than one thousand dollars, nor more than twenty-five thousand dollars, or by imprisonment in the county jail for a period not to exceed six months, or by both such fine and imprisonment. (Ord. No. 4188, § 2)

Sec. 17-83. Separate and distinct violations.

It shall be deemed a separate and distinct offense for each and every day during which any violation of the provisions of this chapter is committed, continued or permitted by any person, firm or corporation. (Ord. No. 4188, § 2)

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Sec. 17-84. Remedies cumulative.

The remedies provided for herein shall be cumulative to each other and to the remedies or penalties available under all other laws of this state. (Ord. No. 4188, § 2)

Sec. 17-85. Recovery of costs and fees.

(a) This section establishes procedures for the recovery of administrative costs, including staff and attorney time, expended to enforce the provisions of this chapter by any of the procedures set forth in this article. The intent of this section is to recoup administrative costs reasonably related to enforcement.

(b) The department of public works shall maintain record of all administrative costs incurred associated with the processing of violations and enforcement of this chapter and shall recover such costs from the property owner as provided herein. Staff time, including attorney time, shall be calculated at an hourly rate as established and revised from time to time by the board of supervisors.

(c) Upon investigation and a determination that a violation of any of the provisions of this chapter is found to exist, the director or any person in the department authorized by the director shall notify by mail the record owner or responsible party having possession or control of the subject property, as the case may be, of the existence of the violation, the department’s intent to charge the property owner for all administrative costs associated with enforcement, and of the owner’s right to a hearing on objections thereto. The notice shall be in substantially the following form:

NOTICE

The Public Works Department has determined that conditions exist at the property located at: _____ which violate

Section(s) _____ of the County Code.

Description of Violation(s):

Notice is hereby given that at the conclusion of the case, you will receive a “Summary of Administrative Costs” associated with processing of this violation at an hourly rate as established and adjusted from time to time by the Board of Supervisors.

The hourly rate presently in effect is \$_____ per hour for staff time and \$_____ per hour for attorney time.

You will have the right to object to these charges by filing a Request for Hearing with the Director of Public Works within ten days after service of the Summary of Charges.

Dated: _____ Director of Public Works

By: _____

(d) At the conclusion of the case, the director shall send a summary of costs associated with enforcement to the owner and/or person having possession or

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control of the subject property, by certified mail. Said summary shall include a notice in substantially the following form:

NOTICE

If you object to these charges, you must file a Request for Hearing on the enclosed form within ten days of the date of this Notice. If you fail to timely request a hearing, your right to object will be waived and you will be liable to the County for these charges, to be recovered in a civil action in the name of the County in any court of competent jurisdiction within the County.

Dated: _____ Director of Public Works

By: _____

(e) In the event that no request for hearing is timely filed, or after a hearing the director affirms the validity of the costs, the property owner or person in control and possession shall be liable to the county in the amount stated in the summary or any lesser amount as determined by the director. These costs shall be recoverable in a civil action in the name of the county.

(f) Any property owner or other person having possession and control thereof, who receives a summary of costs under this section shall have the right to a hearing before the director on his objections to the proposed costs in accordance with the procedures set forth herein.

(1) A request for hearing shall be filed with the department within ten days of the service by mail of the department’s summary of costs on a form provided by the department.

(2) Within thirty days of the filing of the request, and on ten days’ written notice to the owner, the director shall hold a hearing on the owner’s objections and determine the validity thereof.

(3) In determining the validity of the costs, the director shall consider whether total costs are reasonable in the circumstances of the case. Factors to be considered include, but are not limited to the following: whether the present owner created the violation; whether there is a present ability to correct the violation; whether the owner moved promptly to correct the violation; and the degree of cooperation provided by the owner.

(4) The director’s decision shall be appealable to the board of supervisors. (Ord. No. 4188, § 2)

Sec. 17-86. Franchises or contracts: termination by board of supervisors.

In the event a franchise or contract exists between the county and any collector, such franchise or contract, in addition to any other remedy available to the county, may be terminated as follows:

(a) In the event of a failure of performance on the part of the collector affecting the public health and welfare or the willful violation of any of the terms and provisions of this chapter or the franchise, contract or resolution hereunder, following a report concerning the foregoing from the environmental health officer and the director, the board shall hold a public hearing on whether the franchise or

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contract and all rights and privileges of the collectors there under should be revoked and the bond or bonds of the collector forfeited.

(b) In the event the collector shall at any time during the term of franchise or contract become insolvent or if proceedings in bankruptcy shall be instituted by or against the collector, or if the collector shall be adjudged bankrupt or insolvent by any court, or a receiver or trustee in bankruptcy or a receiver of any property of the collector shall be appointed in any suit or proceeding brought by or against the collector, or if the collector shall make an assignment for the benefit of creditors, then the board shall hold a public hearing on whether the franchise or contract and all rights and privileges of the collector there under should be revoked and the bond or bonds of the collector forfeited.

(c) A collector shall not assign or transfer his or her franchise or contract to any other person without the express approval of the board by a resolution duly adopted by the board. Any effort to make an assignment without obtaining the prior approval of the board shall terminate all the rights of the collector. For the purposes of determining an assignment under such franchise or contract, any changes in more than fifty percent of stock ownership in corporations, changes in general partnerships or general partners in limited partnerships or percentage of participation therein, or transfer of more than fifty percent interest in the operating company, whether voluntary or involuntary, shall constitute an assignment. In the event of an allegation of an attempt of any collector to assign any rights under such franchise or contract without the permission of the board, the board shall hold a public hearing on whether the franchise or contract and all rights and privileges of the collector there under should be revoked and the bond or bonds of the collector forfeited.

(1) The public hearing(s) as described above shall be held after at least ten days' written notice to the collector setting forth the charges of the environmental health officer and/or the director and setting forth the time and place of such public hearing and the reason for such public hearing. The board, at such public hearing, after hearing and receiving all evidence and testimony relevant and material on each issue offered at such public hearing, shall determine whether the collector has violated subsections (a), (b), and/or (c) of this section and shall make appropriate findings supporting such a determination. Thereafter, the board may terminate such franchise or contract and forfeit such bond or bonds. The decision of the board in this matter shall be final.

(2) In the event of termination of the franchise or contract as herein specified, the county shall have the right forthwith to take possession of all trucks and other equipment of the collector for the purpose of collecting and disposing of the solid waste which the collector agreed to do. County shall have the right to retain possession of such trucks and equipment until other suitable trucks and equipment can be purchased or otherwise acquired by the county for such purpose. County shall also have access to the collector's records for the purpose of billing service accounts during the period the county is providing the solid waste collection service and shall retain all fees collected for such services. (Ord. No. 4188, § 2)

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Sec. 17-87. Severability.

If any section, subsection, clause, or phrase of this chapter is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining sections of this chapter. The board hereby declares that it would have adopted this chapter, and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional. (Ord. No. 4188, § 2)