

RODEO SANITARY DISTRICT

ORDINANCE NO. 99-102

FIRST RESTATEMENT AND AMENDMENT OF AND TO ORDINANCE 99-102, ARTICLE III, SUBSCRIPTION FOR SOLID WASTE, RECYCLABLE AND ORGANIC MATERIALS COLLECTION, TRANSPORT, PROCESSING AND DISPOSAL WITHIN RODEO SANITARY DISTRICT .

WHEREAS, the waste accumulation, unlawful dumping and unauthorized use of containers belong to others threatens the public health, is unsightly, causes blight and damages the quality of community life; and

WHEREAS, the Board of Directors has determined that it is in the best interests of the Rodeo community and all its residents to avoid and prevent the blight of inappropriate waste management and disposal; and

WHEREAS, proper waste management is an inherent responsibility of property ownership.

NOW, THEREFORE, BE IT ORDAINED by the Board of Directors of the Rodeo Sanitary District, that all of the provisions and requirements under Ordinance No. 99-102 shall remain in force and effect and shall not be changed in any manner except as expressly set forth in this First Restatement and Amendment; and

BE IT FURTHER ORDAINED by the Board of Directors of the Rodeo Sanitary District, that Article III of Ordinance 99-102 is hereby restated and amended as follows:

ARTICLE III: SUBSCRIPTION AND FRANCHISE OF COLLECTION SERVICES

Section 1. Mandatory Subscription.

a. Each owner of a residential and/or non-residential structure shall subscribe with an authorized franchisee of the District for Solid Waste services at a level sufficient to store and contain all wastes generated or accumulated upon the premises between collections, including any available District mandated programs for Green Waste and Recyclable Materials unless the owner establishes an exemption as specified herein. The owners or occupants of two adjacent properties may apply to the District in writing to be considered as one subscriber under this section. The General Manager of the District after

consultation with the franchisee shall have discretion to grant such application providing that the properties are within the definitions contained herein and that service under this ordinance will not be adversely affected by the granting of such application, and both parties execute the indemnification agreement contained in Attachment A. Maximum rates for said services will be set by the District by resolution, ordinance or franchise agreement. Each such owner is required to subscribe and pay for collection and disposal services for each structure or facility for which a garbage container is required.

In the case of any lease or rental residential structure, including single-family, duplex, and multi-family Residential Units, the owner shall subscribe for collection and disposal service of not less than one (1) 35-gallon solid waste cart for each individual Residential Unit, or if utilizing commercial bin service, at a level sufficient to store and properly contain all wastes generated or accumulated upon the premises between collections, equivalent to not less than one (1) 35-gallon cart for each individual Residential Unit in the multiple-family facility.

In the case of any lease or rental non-residential structure, including commercial and industrial facilities, if utilizing cart service, the owner of any such leased or rented facilities shall subscribe and pay for collection and disposal service of not less than one (1) 35-gallon cart for each individual tenant unit. If the owner provides a commercial garbage bin for collection purposes as authorized, the owner shall subscribe for collection and disposal services at a level sufficient to store and properly contain all wastes generated or accumulated upon the premises between collections, and shall pay for such collection and disposal services based on the commercial garbage bin rate and not on any rate based on the number of carts required for Residential Units.

Upon the owner's written authorization, a tenant, property manager or other agent of the owner may subscribe for the required waste and recyclables management service. Such authorization shall not waive, set aside or circumvent the property owner's responsibility to assure sufficient service level as described above and to pay for service costs.

b. A Franchisee may assess additional charges if more than the subscribed number of carts, containers or bins of Solid Waste, Recyclable Materials or Green Waste are collected on any scheduled collection date, or if the Franchisee returns to collect Solid Waste, Recyclable Materials or Green Waste from containers not set out or unavailable for collection in the regular route sequence, or by request on an unscheduled collection date for that property. Where the additional collection activities, including an unscheduled return, are due to the actions of the Franchisee and are not the responsibility of the Subscriber, no additional charge may be imposed. If the Franchisee collects Recyclable Materials or Green Wastes separately from Solid Waste, the Franchisee may recover Recyclable Materials or Green Wastes from any commingled waste and charge the Subscriber a reasonable cost of said additional services and disposal costs.

Section 2. Subscription Required

Each owner of a premises shall initiate weekly Solid Waste collection service within seven (7) days of occupancy of a premises, and shall continue to provide weekly collection service while the premises is occupied.

Section 3. Failure to Subscribe

- a. If the District, or Franchisee, determines that any owner required to subscribe for collection and disposal services as required by this Ordinance has failed to do so, the District or Franchisee shall serve written notice upon the owner of the real property, informing the owner of the requirements of this Ordinance. The notice shall direct the owner to subscribe with the District or the Franchisee for the required collection and disposal services within ten (10) days after service of the notice to subscribe, and to continuously maintain such collection service while the premises is occupied, or within ten (10) days, to request a hearing before the District Board to show cause why said person should not be required to do so.
- b. The notice shall state that if the owner shall fail to subscribe with the District or the Franchisee for available Solid Waste, Recyclable Materials and Green Waste collection and disposal services within the ten-day period, the District or Franchisee shall provide for the required collection and disposal services and shall directly or indirectly submit bills for such collection and disposal services to the person appearing as the property owner on the Contra Costa County Assessor's property records.
- c. The notice shall further provide that on failure to pay for these collection and disposal services when due, the District, directly or indirectly, may collect these fees by placement of a lien against the property and special assessment upon the property taxes.
- d. The notice specified herein shall be deemed served five (5) days from the date said notice is deposited with the United States Postal Service, with first-class postage prepaid and addressed to the person entitled to notice at said person's last known address as shown on the property records of the Contra Costa County Assessor. If no such address is there shown, or known, then said notice shall be addressed to said person at the property that failed to have the required Solid Waste, Recyclable Materials and Green Waste collection and disposal services, or to said person at General Delivery, Rodeo, California.
- e. If the owner fails to initiate service with the District or the Franchisee within ten (10) days from the date of mailing of the notice, then the Collector shall initiate and continue the required service for the owner for so long as the premises is occupied and shall charge the owner for said services.

Section 4. Exemption from Required Collection and Disposal Services.

Any person subject to the requirements of this Ordinance may request a hearing before the District Board to show cause why such person should not be required to subscribe for the collection and disposal of Solid Waste, Recyclable Materials and Green Waste. Any such request for a hearing shall be in writing and shall state the reasons for the request. When a hearing is requested under Section 4, the hearing shall be held before the District Manager. A hearing shall be held at a time and place fixed by the District Manager within thirty (30) days from receipt of the request, or as soon thereafter as possible under the circumstances. The District Manager may exempt from the requirements to subscribe for Solid Waste, Recyclable Materials and Green Waste collection services for any Owner who demonstrates that the premises involved are unoccupied or are not generating any Solid Waste or other waste products. The District may revoke an exemption when the District Board determines that the premises, based on a change in use or otherwise, does not qualify for an exemption.

Section 5. Collector Entitled to Payment

- a. The District, or if there is one, the Franchised Collector, shall be entitled to payment from the owner for any collection services rendered.
- b. If any owner fails to pay the collector for collection services for a five (5) month period, or for any other period where collection service is stopped, the collector shall mail to the owner a final request for payment for the amounts owed, plus penalties, including the charge for service to the end of the owner's most recent billing period which may include the month during which the notice was mailed. The final request for payment shall include a warning notice that if the charges are not paid within thirty (30) days, they will be assigned to the District for placement of a lien against the property and special assessment upon the property taxes. The warning notice shall include information concerning the additional administrative charges that will become due if a lien is recorded against the property and that the District shall assess the property on the next property tax statement if the charges, plus penalties, shall be mailed to each owner that appears as the owner of the property for which the service was provided on the most recent property records of the Contra Costa County Assessor.
- c. The form and content of the warning notice sent by the Collector shall be approved by the District Manager.
- d. If payment is not made by the owner within thirty (30) days from the date of the warning notice, the Collector shall file with the District Manager a notice which shall contain, in the Assessor's Parcel Number order, the name(s) and address of the owner, address of the property served, the period of the service, service charges, penalty amounts

and District Administrative Charge due. The notice shall be submitted by the Franchisee to the District Manager not more than 90 days following the final request for payment.

e. The notice shall set the time and place for an administrative hearing before the District Manager, or their designee, and shall be mailed by the Franchisee to each person to whom the described property for which the service is rendered is assessed on the most recent property records of the County Assessor. The notice shall be mailed not less than fifteen (15) days prior to the date of the hearing.

f. The District Manager, or their designee, shall conduct a hearing. The District Manager, or their designee, shall determine whether an assessment should be imposed upon the owner.

g. If the District Manager approves the delinquent charges against the owner of the property and the owner fails to pay said charges, a lien on the real property for which the service was rendered will be recorded with the Recorder of Contra Costa County. The recorded lien shall carry an additional District Administrative Charge of One Hundred Dollars (\$100.00).

h. Delinquent charges that remain unpaid by the owner shall constitute a special assessment against the property to which the service was rendered and shall be collected at such time as established by the County Assessor for inclusion in the next property tax assessment.

i. The District Manager shall turn over to the County Auditor for inclusion in the next property tax rolls the total sum of unpaid delinquent charges plus penalties for waste collection service and District administrative charges, plus an assessment processing charge of Five Dollars (\$5.00) as a special assessment against the parcel of property, situated within the District to which the service was rendered. The assessment shall be collected at the same time and in the same manner as ordinary municipal taxes are collected. The assessment shall be subordinate to all existing special assessment liens previously imposed on the property. It shall have priority over other liens except for those State, County and municipal taxes with which it shall have parity. The assessment shall continue to run with the property until the assessment together with all interest and charges due and payable thereon are paid. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to the special assessment.

j. The Franchise may charge the District, at the established collection rates, for those owners who are delinquent. Said charges shall cover the period during which the collector provided collection and disposal services for the delinquent owner. The District shall not become liable to pay such charges until the charges have been assessed against the owner and the County has disbursed funds covering said charges.

Section 6. Solid Waste Diversion Program Subscription Charge and Requirements.

- a. In order to meet the State of California mandated waste reduction and diversion goals the District has established a District-wide Recyclable Materials and Green Waste collection service program. As part of this program, the District may enter into an agreement or agreements with any person or persons granting to such persons the exclusive right and privilege of collecting, processing and marketing of any Solid Waste, including the materials there which may be recycled. The District shall further have the authority to determine in what manner the recycling services are to be provided and to establish appropriate fees to cover the reasonable costs of providing said services. Where Recyclable Materials or Green Wastes are collected independent from other Solid Wastes, the subscription rate for collection service shall include a reasonable, distributed cost to cover the reasonable costs of such service.
- b. All provisions of any ordinance or resolution establishing procedures for collecting payments for Solid Waste collection and disposal services and provisions relating to penalties for failing to pay for solid waste collection and disposal services when due apply equally to payment obligations with respect to Recycling and Green Waste services provided pursuant to this Ordinance.
- c. Any Recycling or Green Waste Franchisee shall establish a program for collecting such material and shall notify all subscribers to the Solid Waste collection services of the times and dates that each property shall receive such collection service.
- d. Any Recycling or Green Waste Franchisee shall provide each person subscribing to Solid Waste collection services with notice as to what materials are included in the respective collection services and the appropriate means for storing and placing such materials out for collection. A Franchisee may impose reasonable limitations on the types of materials or appropriate means for placing materials out for collection, including size and bundling restrictions, so long as such limitation are not inconsistent with any district ordinance, resolution, order or the terms of the Franchise Agreement.
- e. A Recycling or Green Waste Franchisee may refuse collection from any cart, container or bin required to contain only Recyclable Materials or Green Waste which is substantially commingled with other solid wastes, or when any cart, container or bin contains non-de minimis quantities of hazardous substances. The Subscriber responsible for the contents of all such refused carts, containers or bins shall properly separate or otherwise dispose of the same in a manner consistent with federal, state and local requirements. When such commingled Solid Wastes are reasonably refused, there shall be no refund or pro-rating of application Franchise service charges.

f. The District or Franchisee may assess additional charges if more than the allowed carts containers or bins are collected on any scheduled collection date, for return trips upon request to collect Solid Waste, Recyclable Materials or Green Waste on an unscheduled collection date for the property for the property or makes a return trip on the same regularly scheduled collection date to service containers not set out on time, refilled containers or containers cleaned of contamination.

The District or Franchisee also may assess additional disposal charges for overloaded containers, or recycling or organics containers contaminated with non-recyclable or non-compostable materials.

g. The notice provisions in Article III shall apply to subscription requirements for separate Recycling Materials and Green Waste collection programs.

Section 7. Unauthorized Tampering with Containers and Scavenging.

All Solid Waste, Recyclable Materials and Green Waste once deposited in a cart, bin or container for collection, becomes the property of the District or Franchisee, if there is one. No person other than the owner, tenant occupant, or tenant occupant's employee, or the authorized Franchisee shall move, remove, or interfere with any Solid Waste, Recyclable Materials or Green Waste materials cart, container or bin, or the contents thereof.

Section 8. Unlawful Collection

It is unlawful for any person to collect or transport Solid Waste, Recyclable Materials or Green Waste within the District unless such person is acting on behalf of the District or the District's Franchisee, except as expressly provided in this section. The exempted substances and materials are as follows:

(1) Green wastes removed from premises by a gardening, landscaping or tree trimming contractor as an incidental part of a total service offered by that contractor rather than as a transportation and disposal service.

(2) Tree trimmings, clippings and all similar materials generated at parks or other public locations and maintained by a public entity.

(3) Hazardous or dangerous substances and wastes other than de minimis quantities of Household Hazardous Waste, liquid and dry caustics, acids, bio-hazardous materials, flammable materials, explosive materials, insecticides and similar substances.

(4) Medical waste regulated pursuant to the Medical Waste Management Act

(Chapter 6.1 of Div. 20 of the Health and Safety Code, commencing with Section. 25015.)

- (5) Recyclable material, including, but not limited to aluminum, newspaper, glass, plastic, metal cans, mixed paper and cardboard, when donated to civic youth or charitable (not-for-profit) organizations.
- (6) Source separated recyclable or green waste materials, when delivered to an appropriate facility for recycling or composting by the owner or occupant of residential, commercial or industrial premises.
- (7) Construction and demolition debris removed from premises by a licensed contractor as an incidental part of a total service offered by that contractor rather than as a transportation and disposal service.
- (8) By-product of sewage treatment, including sludge, grit and screenings.
- (9) Containers delivered for recycling under the California Beverage Container Recycling and Litter Reduction Act, Sections 14500, et seq., California Resources Code.
- (10) Materials removed by owners from their own Residential premises and transported by them to landfills, waste transfer, recycling centers, green waste processing facilities or other appropriate disposal facilities..
- (11) Excavated soil.

ARTICLE V: GENERAL PROVISIONS

Section 6. Repeal and Supersession

This Ordinance shall repeal and/or supersede those portions of Ordinance 99-102, Article III, as amended May 21, 2002, or other existing District Ordinances, resolutions, orders, or policies, which are in conflict with the contents of this Ordinance. All other provisions of said Ordinances, resolutions, orders, or policies, not in conflict with the contents of this Ordinance, shall continue in full effect.

PASSED AND ADOPTED by the Rodeo Sanitary District Board of directors, this

10th day of September, 2013, by the following vote:

AYES: 5

NOES: 0

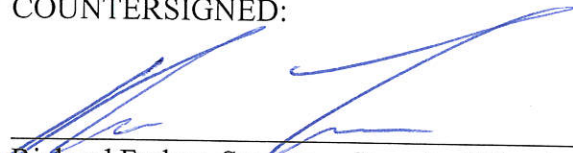
ABSENT: 0

ABSTENTION: 0



Alan Leal, President, Board of Directors

COUNTERSIGNED:



Richard Frakes, Secretary, Board of Directors

APPROVED AS TO FORM:



Carl Nelson, District Counsel

FORM OF
INDEMNIFICATION AGREEMENT AND RELEASE

I occupy the property located at _____ {insert street address, including unit number of signatory} _____, Rodeo, California. In consideration of permission granted by the Rodeo Sanitary District to be considered as one Solid Waste subscriber with the occupant located at _____ {insert street address, including unit number of co-subscriber} _____, Rodeo, California, I hereby agree to indemnify, release, and hold the Rodeo Sanitary District, its directors, officers, agents, and employees (herein collectively referred to as "the District") harmless, from any and all liability of any sort (including all claims, demands, damages, actions or causes of action in law or in equity), arising from injuries, including death, or property damages that I may suffer as a result of sharing Solid Waste collection except to the extent arising from the negligence or premises liability of the District.

In particular, I voluntarily assume the risk of injuries, including death, or property damages that I may suffer as a result of the shared Solid Waste subscription, including my access to and use of, the shared carts, containers, or bins, wherever located, except to the extent arising from the negligence or premises liability of the District.

It is my intention that this Indemnification Agreement and Release bind my heirs, executors, administrators, successors, or assigns, to the same extent that it binds me.

Name {printed or typed}

Signature

_____, 20_____
Date

