

Ordinance No. 39

AN ORDINANCE GOVERNING SOLID WASTE

WHEREAS, the Board of Directors has determined that it is in the best interests of the health and safety of district residents to adopt an ordinance governing the accumulation, collection and disposal of garbage and other forms of solid waste for the purposes set forth below.

NOW, THEREFORE, the Board of Directors of the Ironhouse Sanitary District does ordain as follows.

Chapter 1. General

1.01 Purpose. The purpose of this ordinance is to prevent actual or potential public health hazards and nuisances within the district by regulating the accumulation, collection and disposal of solid waste, including garbage, waste matter, yard waste, recyclable materials and refuse, and to provide for the licensing and responsibilities of the persons engaged in such collection and disposal. It is declared to be in the public interest that the accumulation, storage and disposal of all such materials be handled in such a manner as to prevent the harboring and breeding of rodents and insects, to reduce pollution of the air caused by burning, fermentation or putrefaction of such materials, to prevent the spread of disease, to reduce the hazards of fire, and to prevent unsightliness resulting in the depreciation of property values and the comfortable enjoyment of life.

1.02 Definitions. The following terms shall have the meaning given, regardless of whether the term is initially capitalized or is first used before or after its definition.

Act. California Integrated Waste Management Act of 1989, Calif. Public Resources Code Secs. 40000 et seq., as the same may be amended and any successor statute.

Collectable Solid Waste is solid waste with the following inclusions and exclusions.

(a) Includes the following:

i. solid waste routinely originating from residences, including single-family, multi-family and mobile homes;

- ii. solid waste routinely originating from commercial and other places of origin that are not residences, such as stores, offices, and other sources;
 - iii. recyclable materials; and
 - iv. such other solid waste as the district may determine is collectable.
- (b) Excludes the following:
- i. wastes from heavy industry;
 - ii. abandoned vehicles and other such items too large for collection in carts or dumpsters;
 - iii. sludge and septage; and
 - iv. medical, radioactive and hazardous wastes.

District. The Ironhouse Sanitary District, including all territory lying within its boundaries, as such boundaries may subsequently be modified.

General Manager. The General Manager of the district.

Hauler. A person authorized to be a hauler pursuant to Section 3.2.

Include, including and other derivations of the same term are not limiting, and so shall mean “including, without limitation thereto” except as may be otherwise expressly provided.

Owner. The owner of a parcel of real property.

Person. Any natural person, corporation, limited liability company, partnership, trust or other legal entity or person.

Solid waste. Solid waste as defined in Section 40191 of the Act. Without limiting the generality of the preceding sentence, “solid waste” includes recycled materials.

Solid waste manager. The individual employed by the district who is responsible for overseeing solid waste matters.

Chapter 2. Mandatory Subscription and Collection.

2.1 Containers and Service Required.

a. Every owner of a real property that gives rise to solid waste (or that has solid waste located on it) shall provide upon the property and keep at all times, in a place readily accessible to the hauler, one or more containers for receiving and holding all solid waste generated on the property between collection dates. Containers shall be equipped with handles, have tight fitting covers, and comply with such additional requirements as the district may specify from time to time for protection against vermin and other hazards to public health and safety and for the operability and efficiency of the hauler's equipment. The owner shall keep the containers: clean, neat in appearance, placed on the property so as to be readily accessible for removing and emptying by the hauler yet not unsightly to neighbors, and off streets, sidewalks and other public places except only when reasonably required to enable the hauler's collection.

b. The district may require a hauler to provide containers for one or more types of solid waste to all or any portion of the properties in the district, in which event each owner of each such property shall use the containers provided at no additional charge by the hauler for their intended purpose and shall not use any other container for such purpose.

c. Every owner of a real property that gives rise to solid waste (or that has solid waste located on it) shall:

i. Collect, transport and dispose of such solid waste in a lawful and sanitary manner; and

ii. Unless exempt pursuant to Section 2.3 below, subscribe with a hauler (as defined in Section 3.2 below) and timely pay for the collection and disposal of all collectable solid waste generated on the property.

d. Nothing in this Section 2.1 prohibits a tenant, occupant or other user of a property from subscribing for service from a hauler. However, the owner of the real property shall remain ultimately responsible for compliance with this Section 2.1, for establishing and maintaining a subscription with the hauler for collection and disposal service, and for paying the fees and charges for such service.

2.2 Periodic Service by Hauler. The hauler shall provide not less than weekly service to the properties in its solid waste handling service areas. Such service shall include: collecting all collectable solid waste as often as may be reasonably required by the district, and transporting and disposing of such collectable solid waste in permitted compost, recycling, disposal, trans-

formation and diversion facilities and in compliance with all applicable laws.

2.3 Exemptions. A hauler is not required to provide collectable solid waste service and an owner is not required to pay for collectable solid waste service for so long as, and only for so long as, the owner's property satisfies one of the following exemptions. In each case the property must be kept in a sanitary condition which does not cause a nuisance to others.

a. No Generation. No collectable solid waste is being generated on the property, and no collectable solid waste is located on the property.

b. Impracticability. Collection service is not available to the property due to distance from the nearest collector's area of operation or other reason due to no fault of the owner or hauler.

c. Self-haul. Collection, removal and disposal of solid waste from a property when done: (i) in a clean and sanitary manner in conformance with all applicable laws, including this ordinance, and (ii) by one of the following:

(A) the owner, tenant, occupant or person who gave rise to the solid waste; or

(B) by a third person at no net cost of collection to the owner, tenant, occupant or person giving rise to the solid waste.

d. No Hazard, Etc. The written determination of the solid waste manager that no unsanitary condition, hazard to health, or public nuisance will arise upon the property if collection service is not provided.

2.4. Substantiation/Termination of Exemption. The district may require any person relying on one of the foregoing exemptions to substantiate the exemption, in which event such person shall furnish a reasonably detailed written statement of the basis for the exemption and supporting information within 15 days of the district's written request and such other information as the district may reasonably request. The district may also inspect the property to initially determine and subsequently corroborate whether or not the property meets the exemption criteria. Upon the district's written determination that the property does not or no longer meets the exemption criteria, then the owner shall within 5 business days thereafter subscribe with the hauler for the collection and disposal of all collectable solid waste generated on the property, pay for the hauler's service, and thereafter continue to sub-

scribe and pay for such service.

2.5. Accumulations. When in the opinion of the General Manager a property has become a risk to public health and safety because of an accumulation of solid waste, the district may, upon suitable arrangements for payment of the hauler, require the hauler to enter the property and to remove and dispose of the materials creating a public health and safety risk that are within the hauler's competence to remove. The district may advance the hauler's costs for removing and disposing of such materials. The owner of the property shall remain responsible for payment of such cost and shall reimburse district for the advance and district's administrative costs within 15 days of district's request. If the owner does not pay either the district or the hauler for such removal and disposal, such costs may be recovered pursuant to Section 4.

2.6. Dumping, Burning, etc. It shall be unlawful for any person to dump, discard, burn or bury any solid waste on any private or public property, except (a) in a landfill established and operated pursuant to all applicable laws, or (b) composting pursuant to County Health Department and other applicable laws. To the extent not already included in the foregoing, no person shall empty, throw or deposit any solid waste in any storm drain, manhole or any sewer.

2.7. Unauthorized Collection. No person, other than the authorized hauler, shall remove recyclable materials, organic materials or other solid waste from a container that has been placed by a customer at the curb or the collection location agreed upon by the customer and the hauler.

2.8. Obstructing Hauler Unlawful. It shall be unlawful for any person to hinder, threaten, impede, or obstruct any hauler in the performance of its duty as defined in this ordinance or in any franchise agreement.

Chapter 3. Haulers.

3.1 Solid waste handling service areas. The district may designate one or more solid waste handling service areas within the district's boundaries.

3.2. Haulers providing solid waste services. The district may authorize one or more persons to provide solid waste collection, removal, recycling and/or disposal services within the district or within any one or more of the

solid waste handling service areas pursuant to non-exclusive, partially exclusive or wholly exclusive franchise, contract, license, permit or otherwise, either with or without competitive bidding. Each such person is referred to in this ordinance as a “hauler”.

3.3 Contracts with Haulers. The district may, with or without inviting bids or proposals, enter into one or more franchise agreements or other contracts with one or more haulers for the collection, transportation, storage, transfer, processing and/or disposal of all or any type or other portion of solid wastes accumulated within the district or within one or more solid waste handling service areas. The term of the contract, rates of collection, and other terms and conditions of the contract shall be as prescribed by the board of directors of the district. Where such a contract has been entered into between the district and a hauler, the district may, without inviting bids or proposals, either prior to or after the expiration of such contract, extend or renew the contract for such period and on such terms and conditions as the district may provide.

3.4. Authorization Required. It shall be unlawful for any person to engage within the district in the collection, removal, recycling or disposal of collectable solid waste from other persons, unless such person: (a) has been authorized by the district pursuant to Section 3.2 and is acting within the scope of such authorization, or (b) is exempted by one or more of the following.

- i. By state or federal law.
- ii. Is an independent contractor whose removal and transportation of the solid waste is incidental to another service performed by that contractor, such as construction or landscaping services.
- iii. Is operating a recycling center, to which customers themselves deliver recyclables.
- iv. Recyclable materials source-separated at any premises by an owner or occupant and donated to a youth, civic, or other nonprofit organization.
- v. Is engaging in self haul within Section 2.3.c above.
- vi. Containers delivered for recycling under the California Beverage Container Recycling Litter Reduction Act, § 14500, et seq. California Public Resources Code;
- vii. Source-separated recyclable materials or organic materials or specialty recyclable materials generated by a business or other non-residential establishment, removed from the premises by a person in the

business of collecting materials of that type at no cost to the owner, tenant or occupant.

3.5. Rates.

a. The maximum rates and charges which a hauler may charge for the collection of solid waste in the district and its removal and disposal may be established by the board of the district in advance of the rates being established and collected by the hauler. Such maximum rates may be established for all or any portion of residential, commercial and such other categories of properties and users in the district as the board may determine.

b. If a procedure for setting a hauler's maximum rates and other charges is set forth in the district's agreement with the hauler, then to that extent the maximum rates and other charges shall be determined in accordance with the agreement.

Chapter 4. Enforcement of Payment.

4.1. Hauler Responsibility. The hauler shall be responsible for the collection of the amounts owing for its services.

a. Should any customer fail to pay the hauler within 30 days of being billed by the hauler, the hauler may (i) add interest to the bill at a rate not in excess of the lesser of the maximum rate set by the district or the maximum rate permitted by law, and (ii) if the district has established a maximum late payment charge, then the hauler may add a late payment charge not in excess of the maximum set by the district. The sum of the bill plus interest and any penalty, together with any collection costs incurred may be recovered by the hauler, as provided by law.

b. In the event a tenant or other occupant is the customer of record for a premises and the tenant or other occupant fails to pay such bill, the owner of the real property shall be responsible for payment. (See also Section 2.1.d). The hauler's failure to bill any one or more of the tenant, occupant or owner, or the failure of the owner to receive any bill, shall not relieve the owner from the obligation to pay the amounts billed.

4.2 District's Collection Options. After diligent efforts by the hauler (as determined by the district) to collect delinquent amounts, including late pay-

ment notices, telephone requests for payment, and turning over of the account to a collection agency, the district may elect to have the hauler assign its rights to the district. The district may (in its discretion) take any one or more of the following actions to collect delinquent service charges, late charges, overdue interest and the district's administrative costs that are due with respect to a property.

- a. Institute suit in a court of competent jurisdiction.
- b. Impose a lien on the property pursuant to Section 4.3 and either district regulations or a subsequent amendment of this ordinance.
- c. Collect the amounts due on the tax roll, pursuant to Section 4.3 and either district regulations or a subsequent amendment of this ordinance.
- d. After complying with Section 4.3, pay the amount owing the hauler, and add the amount plus the district's administrative costs to any sewer service charge payable by the person violating the ordinance or the owner or tenant of the property upon which the violation occurred. The district shall have such remedies for the collection of such costs as it has for the collection of sewer service charges. (H&S Code Section 6523.3.)
- e. Take any other actions and exercise any other remedies available under this ordinance or at law or in equity.

4.3. District Notice. Before taking any of the actions provided in Sections 4.2.a through e, the district shall send a letter to each delinquent account and, if different that the account holder, also to the assessee shown on the latest equalized assessment roll. The letter shall request payment for collection services and state that, in the event payment is not promptly received, the district will exercise the remedies selected under Section 4.2. If payment is not received, district may initiate and comply with the legal procedures for any one or more of the remedies set forth in Section 4.2. Within 30 calendar days of the district's receipt of payment for past due accounts, the district shall pay those sums to hauler, less any monies hauler would be obliged to pay to district hereunder had those sums been received by hauler in the first instance and less the district's administrative costs.

Chapter 5. Miscellaneous.

5.1. General Regulation. This is an ordinance establishing a general regulation of the district.

5.2. Violations Punishable.

a. A violation of this ordinance is a misdemeanor punishable by imprisonment in the county jail not to exceed 30 days, or by a fine not to exceed one thousand dollars (\$1,000), or by both (California Health & Safety Code Sec. 6523). However, the foregoing sentence does not include a failure of a tenant, occupant or owner to pay amounts owing a hauler. District enforcement of payment of such amounts shall instead be pursuant to Chapter 4 of this ordinance.

b. The district may also petition the superior court for the issuance of a preliminary or permanent injunction, or both, as may be appropriate, restraining any person from the continued violation of this ordinance. (Id., Sec. 6523.3).

5.3. Finding of No "Project". The district Board's action in adopting this ordinance does not constitute a Project as envisioned by CEQA, as this action is consistent with defined circumstances which do not constitute a Project pursuant to the provisions of Title 14 § 15378(b)(2) and (5) of the California Code of Regulations. Independent of the foregoing, the adoption of the ordinance is also exempt from CEQA since it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment (Id., Sec. § 15061(b)(3)).

5.4. Severability.

a. If any provision of this ordinance or application thereof to any person or circumstance is held invalid by a court of competent jurisdiction, the remainder of the ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this ordinance are severable.

b. The Board of Directors hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase

hereof irrespective of the fact that anyone or more sections, subdivision, paragraph, sentence, clause, or phrases are held unconstitutional, invalid or unenforceable.

5.5. Effective Date. Upon passage and publication of this ordinance or a summary thereof, pursuant to Health & Safety Code §§ 6490 and 6491.3, this ordinance shall take effect seven (7) days after publication.

5.6. Posting. The district Secretary is hereby designated as the officer to publish or post this ordinance pursuant to applicable legal requirements.

I hereby certify that the foregoing is a full, true and correct copy of an ordinance duly passed and adopted by the Sanitary Board of the Ironhouse Sanitary District at a meeting thereof held on the 18th day of June, 2009.

AYES, and in favor thereof, Members: L. Byer, D. Hardcastle,
C. Lauritzen, D. Lew, and M. Painter

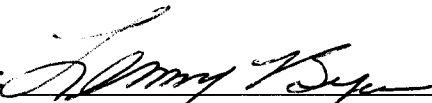
NOES, Members: None

ABSENT, Members: None



Susan V. Walde
Secretary to the Board
(SEAL)

APPROVED:



Lenny Byer
President of the Board