ORDINANCE NO. 1526

AN ORDINANCE AMENDING CHAPTER 23 OF THE SOLANO COUNTY CODE TO ALLOW FOR AN EXCLUSIVE FRANCHISE FOR GARBAGE COLLECTION IN AREA E OF THE UNINCORPORATED AREA OF SOLANO COUNTY

The Board of Supervisors of the County of Solano, State of California, does ordain as follows:

SECTION I.

Chapter 23 of the Solano County Code is hereby amended and renumbered to read as follows:

CHAPTER 23

REFUSE AND GARBAGE

ARTICLE I. GENERAL PROVISIONS AND DEFINITIONS.

§ 23-10. Authority and citation.
§ 23-12. Definitions--Other.

ARTICLE II. SOLID WASTE STORAGE.

§ 23-20. Limitations on time of storage.
§ 23-23. Storage enclosures--Certain animals.

ARTICLE III. COLLECTIONS.

§ 23-31.1 Exclusive franchise.
§ 23-31.2 Franchise - Authorized.
§ 23-31.3 Audit of contractor’s records.
§ 23-32. Refuse collection permit required.
§ 23-33. Refuse collection permits--Authority to issue--Bond required.
§ 23-34. Territory described in the permit.
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§ 23-40. Permit required.
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§ 23-50. Inspection fees.
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§ 23-70. Department of environmental management division of environmental health; enforcement agent.
§ 23-71. Billing charges to be a lien.
§ 23-72. Penalties.

ARTICLE I. GENERAL PROVISIONS AND DEFINITIONS.

Sec. 23-10. Authority and citation.
This chapter is enacted pursuant to the California Integrated Waste Management Act of 1989 (Division 30 of the Public Resources Code, commencing with §40000), and is intended to supplement and implement that statute and regulations enacted pursuant thereto, and may be cited as the "Solano County Solid Waste Ordinance." (Ord. No. 1111, § 2.)

Sec. 23-11. Definitions.
Except as herein expressly provided, the definitions contained in Part 1 Chapter 2 of Division 30 of the California Public Resources Code, §§ 40100 et. seq., and applicable sections of the California Code of Regulations, shall govern the interpretation of this chapter. (Ord. No. 1111, § 2.)
Sec. 23-12. Definitions--Other.

(a) **Administrative fee** means the fee charged by the County to administer the contractual agreement between the Contractor and County for the franchise to collect and transport municipal solid waste within Area E.

(b) **Approved disposal area** means any site, location tract or land, area, building, structure or premises authorized by law as a place for the disposal of solid waste for which a permit has been issued by the department of environmental management, division of environmental health.

(c) **Bulk waste** means large items of solid waste such as appliances, furniture, large auto parts, tree stumps, and other oversize wastes whose large size precludes handling by normal collection.

(d) **Collector** means any person engaged in the business of collecting or transporting refuse in any part of the unincorporated area of the county.

(e) **Congested area** means any area within the unincorporated area of the county where there are two or more contiguous parcels of three acres or less which are developed with buildings suitable for occupation by, or used by, human beings as a place of abode.

(f) **Contractor** means an agent or employee or any person, firm, corporation or association, or the agents or employees thereof, with whom the County has contracted under the terms set out in this Chapter to collect, transport, and dispose of municipal refuse and recyclable materials in the unincorporated areas of the County near and within the City of Vallejo identified by map in Chapter 23 as Area E.

(g) **Department of Environmental Management, Division of Environmental Health** means the Solano County department of environmental management, division of environmental health, also referred to herein as the division.

(h) **Franchise** means an initial authorization, or renewal thereof, issued by the Board of Supervisors, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, which authorizes the collection and disposal of municipal refuse and recyclable materials in Area E.

(i) **Franchise Administrator** means the Solano County Department of General Services.

(j) **Franchise agreement** means a franchise grant ordinance or a contractual agreement containing the specific provisions of the franchise granted, including references, specifications, requirements and other related matters.

(k) **Garbage** means all kitchen and food waste and animal or vegetable waste that attends or results from the storage, preparation, cooking or handling of foodstuffs.

(l) **Greenwaste** means any plant materials such as leaves, grass clippings, brush, tree cuttings, and other yard wastes. Greenwaste does not include wood waste, mixed demolition or construction debris.

(m) **Recyclables** means any products which by means of salvaging become usable.

(Ord. No. 1111, § 2.)

(n) **Refuse** means garbage and rubbish.

(o) **Refuse collection permit** means the permit issued to collector by the Department of Environmental Management.
Rubbish means non-putrescible solid wastes such as ashes, paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, plastics, rubber byproducts or litter.

Senior Citizen means a person who is at least 62 years of age.

ARTICLE II. SOLID WASTE STORAGE.

Sec. 23-20. Limitations of time of storage.
Except as otherwise provided in this chapter, no person, owner, agent, or occupant of any lot or premises, whether vacant or otherwise, or upon which a building of any kind or character is located within the unincorporated area of the county, shall permit an accumulation of garbage or rubbish to remain on such lot or premises for a period exceeding seven days. The division of environmental health, after investigation, may require more frequent removal. (Ord. No. 1111, § 2.)

Sec. 23-21. Storage containers.
(a) Garbage and rubbish shall be stored in sufficient containers with lids which are nonabsorbent, watertight, vector-resistant, durable, easily cleanable and designed for safe handling. Containers, when filled, shall not exceed reasonable lifting weights for an average physically fit individual except where mechanical loading systems are used. Containers shall be maintained in a clean, sound condition, free from putrescible residue. (Ord. No. 1111, § 2.).

(b) Within Area E greenwaste and recyclables are to be deposited in the appropriate containers provided by the contractor. Containers for garbage, greenwaste and recyclables shall be placed at curbside for collection by the authorized contractor. Empty containers must be removed by the customer out of public view by the day following collection.

Sec. 23-22. Storage enclosures--Commercial and industrial.
All commercial and industrial enterprises shall be required to confine all of their refuse in refuse storage enclosures. Such storage enclosures shall be constructed with an impervious floor, and where appropriate, shall have drains and be provided with hot and cold water under pressure. The storage enclosures shall be maintained at all times in a sanitary condition, and shall be located, cleaned, and maintained in such a manner so as to not become odorous, vectorial, pestiferous, or in any other way offensive, or so as to constitute a public nuisance. (Ord. No. 1111, §2.)

Sec. 23-23. Storage enclosure--Certain animals.
Any person responsible for the feeding to swine of garbage or swill which is produced at a location other than that premises on which such swine are located, shall construct and install sanitary feeding platforms which shall be maintained at all times in a sanitary manner. Any uneaten residue of garbage or swill shall be disposed of in a manner not inconsistent with this
chapter and any applicable state law, within twenty-four hours of the original deposit of such refuse on the feeding platforms. (Ord. No. 1111, § 2.)

ARTICLE III. COLLECTIONS

Sec. 23-30. Congested area collection disposal.
All persons residing in, and all commercial or industrial establishments located in a congested area, shall be required to obtain the services of a collector who has obtained a refuse collection permit from the division of environmental health. (Ord. No. 1111, § 2.)

Sec. 23-31. Refuse collection areas.
The board of supervisors has determined that, in order to facilitate the collection of commercial and residential refuse within the county, the unincorporated territory of the county shall be divided into the following described areas: A, B, C, D, and E as denoted on the map attached to the ordinance codified herein as Exhibit "A" (located at the end of this chapter) and incorporated as part of this chapter. Area boundaries may be changed by resolution of the board of supervisors. (Ord. No. 1111, § 2.)

Sec. 23-31.1 Franchise--Authorized.
For the collection and disposal of refuse and recyclable material within the unincorporated area designated Area E, a contract may be entered into by the County in accordance with and subject to the terms and conditions of this chapter.

Sec. 23-31.2 Exclusive franchise.
(a) At such time as there is in force a contract entered into by the County with any person, firm or corporation for the collection and transport of municipal refuse and recyclable materials in the unincorporated area identified by map as Area E, it is unlawful for any person other than the persons in the employ of the contractor having such contract to collect or transport any refuse within Area E.
(b) Nothing contained in this chapter shall be construed to prevent or prohibit any resident in Area E from taking, hauling, transporting and disposing of any bulky waste or recyclable material created by him or his household or business provided disposal is in accordance with state and local law.

Sec. 23-31.3 Audit of contractor's records.
The contractor shall maintain complete records of all services performed in the collection operations within the unincorporated Area E and of all monies owing and all monies collected therefor. Such records shall be maintained at the contractor's office and the Department of General Services shall have the right to inspect and audit said records from time-to-time at all reasonable times.

Sec. 23-32. Refuse collection permit required.
Except as otherwise provided in this chapter, it is unlawful for any collector, person, firm, corporation, municipality, public agency, or institution to collect or to transport, or cause to be
transported for commercial purposes, any refuse within the unincorporated area of the county without first obtaining a permit to do so as provided for in this chapter. (Ord. No. 1111, § 2.)

Sec. 23-33. Refuse collection permits--Authority to issue--Bond required.

In order to protect the public health and safety, the division of environmental health shall issue nonexclusive permits for the collection of residential and commercial refuse in the unincorporated designated area in the county. Such permits shall be issued only to established refuse collectors who are capable of transporting and disposing of both rubbish and garbage. Such permits may be limited in number by the division of environmental health and shall be subject to special conditions, which shall be specified by the division as being necessary for the purposes of assuring compliance with this chapter, or any other law, or to protect the public health and safety, and to provide for continuous and effective refuse collection services. Additional permits may be issued if a need is shown. The issuance of a permit pursuant to this chapter shall confer no property rights or vested interests on the permittee, and the permit shall be nontransferable. Prior to the issuance of any permit required herein, the applicant shall be required to post a corporate surety bond, a letter of credit, cash or any other security deemed acceptable by the division of environmental health, in the minimum amount of fifty thousand dollars. Said security shall be to insure faithful and continued service under the terms and conditions of the permit to be issued. (Ord. No. 1111, § 2.)

Sec. 23-34. Territory described in the permit.

The division shall specify, in all permits or renewals, the territory as described in section 23-31 within which the permittee may collect within the county. A permittee shall provide refuse collection service to all residences and commercial or industrial establishments in congested areas within the area designated by the collector's permit. All collected refuse shall be disposed of in disposal areas approved by the division, or the California Integrated Waste Management Board. A permittee shall not collect outside the territorial limits fixed in the permit issued to the permittee. (Ord. No. 1111, § 2.)

Sec. 23-35. Application contents.

The application for any refuse collection permit shall be made in writing to the division. Every application for a permit shall specify as a minimum the following:

(a) A statement to the effect that the applicant has arranged for the disposal of all refuse collected or transported by the applicant at a disposal site which is approved by the division or the California Integrated Waste Management Board;
(b) The location of the disposal site;
(c) Data showing that the applicant is qualified to render efficient refuse collection service;
(d) A statement to the effect that the applicant owns, or has under the applicant's control, sufficient vehicles and equipment in good mechanical condition in order to adequately conduct the business of refuse collection; provided, the applicant is granted a permit. The number and types of trucks, or other vehicles to be used in providing the collection service, shall be specified;
(e) A statement to the effect that the vehicles and equipment conform to all applicable provisions of this chapter and to the regulations of the division;

(f) A statement that there is a need and necessity for the proposed service within the area which is sought to be served;

(g) Evidence sufficient in the judgment of the division that the applicant has workers compensation as required by law, and general liability and vehicular insurance in the form and amounts prescribed by the county risk manager;

(h) Evidence sufficient in the judgment of the division that the applicant maintains an office and telephone service during normal working hours;

(i) In addition to any of the requirements enumerated in subsections (a) through (h) above, the division may require any reasonable additional information or documentation which it deems necessary to process the application.

After review of the application and careful consideration of all the circumstances, the department may issue a nonexclusive revocable annual permit for the conducting of the refuse collection service. Each permit shall be reviewed by December 31st of each year. If the division is satisfied that all provisions of the permit have been met, it may issue another annual permit. (Ord. No. 1111, § 2.)

Sec. 23-36. Special purpose permits.

When, in the judgment of the division, it shall be necessary, the division may issue a permit for collection and disposal of rubbish, recyclables, or agricultural waste, exclusive of any areas in the unincorporated part of the county. The application for the permit shall be the same as for a refuse collection permit; however, such permit shall not conflict with any refuse collection permit issued for a specified area. (Ord. No. 1111, § 2.)

Sec. 23-37. Collection of animal waste.

Any person who collects dead animals, bones or meat scraps for tallow plants to be used as raw material in manufacturing, to be disposed of at any location other than a disposal site operating under a permit required by this chapter, shall comply with all sanitary requirements for the collection and transportation of refuse. The division may require the submission of monthly reports from such person, specifying the tonnage or yardage of refuse, the location and method of disposal of any animal waste. A permit for this collection shall be required by the division. (Ord. No. 1111, § 2.)

Sec. 23-38. Refuse collection vehicles.

Commercial vehicles used in the business of transportation of garbage, rubbish, swill or refuse shall have painted on the outside of each side wall of the hauling body, in letters of not less than four inches in height and one inch wide, in a color contrasting to the body color:

(a) The name of the collector, transporter or company;

(b) The number of the vehicle, if more than one is operated by the collector, transporter or company (Ord. No. 405, Art. 6, Para. 7).

A means of covering and containing garbage, rubbish, or swill securely within the hauling body of every vehicle shall be provided. No such materials shall be permitted to escape from the vehicle. (Ord. No. 1111, § 2.)
Sec. 23-39. Exemption from residential collection service.

Any owner or tenant occupying a single-family dwelling in a congested area may petition the Division of Environmental Health to be exempt from the collection service. The exemption shall be granted provided the person can satisfy one of the following conditions:

(a) The person is a senior citizen or a disabled individual; and,
   (1) No unsanitary condition or hazard to health exists or would develop if the exemption were to be granted,
   (2) Written assurance is given that all refuse will be disposed of at an approved disposal site and transported in a satisfactory manner.
(b) The occupant shall recycle all, or virtually all, garbage and refuse produced by the occupants on the premises pursuant to recycling procedures approved by the division.
(c) The division may for good cause permit additional exemptions.

An exemption may be revoked by the division upon a finding that there is a threat to public health or safety. (Ord. No. 1111, § 2.)

ARTICLE IV. REFUSE DISPOSAL SITES.

Sec. 23-40. Permit required.

Except as otherwise provided by this chapter or the laws and regulations which this chapter implements, it is unlawful for any person to operate a refuse disposal area in Solano County unless a permit for such operation is first obtained from the division according to the provisions of Article 1 of Chapter 3 of Part 4 of Division 30 of the Public Resources Code, §§ 44001 et. seq., and applicable sections of the California Code of Regulations. (Ord. No. 1111, § 2.)

Sec. 23-41. Refuse disposal site standards.

The provisions of Division 30 of the Public Resources Code and the applicable sections of the Code of Regulations shall govern the operation of refuse disposal sites. (Ord. No. 1111, §2.)

ARTICLE V. FEES AND RATES.

Sec. 23-50. Inspection fees.

A fee for periodic inspection by the Department of Environmental Management shall be required from the operators of all refuse collection or transportation enterprises and for the operation of any disposal site permitted with the county. The amount, time and method of payment of said fees shall be fixed by the board of supervisors by ordinance and may be altered or modified from time to time, by the board of supervisors. (Ord. No. 1111, § 2.)

Sec. 23-51. Administrative fee

An administrative fee may be charged by the County as determined by resolution by the Board of Supervisors. The fee shall be paid by the contractor on a quarterly basis to the Department of General Services.
ARTICLE VI. APPEALS.

Sec. 23-60. Appeals--Procedure.

Any person who is dissatisfied with a decision or ruling of the division of environmental health as regards application for permits or department division regulations, directives or decisions may appeal to the board of supervisors, sitting as a hearing panel pursuant to Sections 44300 et. seq., of the Public Resources Code. An appeal shall be made by filing a notice of appeal with the clerk of the board of supervisors within ten days after the date of the decision or ruling being appealed. The notice of appeal shall be signed by the appellant or the appellant's attorney and shall set forth in detail the facts surrounding the decision of the department of public health division and, in substance, the specific decision or ruling being appealed. No later than thirty days after receipt of such notice of appeal, the board of supervisors shall set the matter for hearing. At such hearing, the appellant shall present a statement and evidence in such form as the board of supervisors may require. (Ord. No. 1111, §2.)

ARTICLE VII. ENFORCEMENT.

Sec. 23-70. Department of Environmental Management Division of Environmental Health; enforcement agent.

The department of environmental management, division of environmental health, shall be the enforcement agent of this chapter and all state laws and regulations related thereto unless otherwise started herein. The division is empowered to withhold issuance of a permit or, revoke a permit issued under this chapter if it determines that vehicles, area or other facilities for establishment, maintenance, conduct or operation of a refuse collection or transportation service, or the operation of a disposal site, are insufficient or unfit for use, or is established or operating in violation of this chapter, or the provision of any other ordinance of the county or state law, a regulation relating to solid waste disposal. (Ord. No. 1111, §2.)

Sec. 23-71. Department of General Services, franchise administrator.

The Department of General Services, as the franchise administrator, shall have the responsibility to administer the contractual agreement, review unresolved customer complaints, conduct annual audits of contractor's records, and initiate lien proceedings when required. The contractor shall comply with the standards established in the franchise agreement for the collection and disposal of municipal refuse and recyclable materials within the area designated by map as Area E. A verified and continuing pattern of non-compliance by the contractor may be deemed a material breach of the franchise.
Sec. 23-72. Billing charges to be a lien.

(a) All billing for waste collection shall be made by the contractor; all charges shall become delinquent ninety days after the billing date.

(b) If the bill remains unpaid after the date of delinquency, the contractor shall be entitled to a delinquency fee. However, said delinquency fee shall not be assessed until fifteen days after notification of the delinquency to the owner and recipient of service. The form and content of the delinquency notice sent by the contractor shall be approved by the Department of General Services. The garbage collector shall simultaneously file with the Department of General Services a formal written notice stating that such delinquency notice has been sent to such recipient and owner and the date upon which notice was sent. Delinquency fees shall be set by the Board of Supervisor’s resolution.

(c) Should the bill remain unpaid at the expiration of the fifteen days, the contractor may assign said bill to the County for lien proceedings.

(d) Upon the County’s receipt of the assignment from the contractor and at the convenience of the County (once per year during the month of May), the Department of General Services shall initiate proceedings complying with Government Code Sections 28790.1 and 25831 to create a lien on the real property to which the garbage collection has been rendered.

(e) The lien will be officially recorded in the County Recorder’s office. The lien may carry such additional administrative charges as set forth by Board of Supervisors resolution. The owner shall be notified by the Department of General Services that the delinquency charges and administrative charges are due the County and that such lien has been recorded.

Sec. 23-73. Penalties.

Any person, firm, corporation, whether as principal, agent, employee, or otherwise, failing to comply with the provisions of this chapter, shall be guilty of an infraction, and upon conviction thereof, shall be punishable by a fine of not more than five hundred dollars for each day of violation. Each day of violation shall be deemed to be a separate offense. (Ord. No. 1111, §2.)

SECTION II.

Pursuant to provisions of Government Code Section 25124(b)(1), a Summary of this Ordinance shall be published once, at least FIVE (5) DAYS prior to the meeting of the Board of Supervisors at which the Ordinance is to be finally considered for adoption (second reading), and a Summary of this Ordinance, with the vote of the members of the Board of Supervisors thereon, shall also be published once before the expiration of FIFTEEN (15) DAYS after adoption of the Ordinance. Both publications shall be in the VALLEJO TIMES HERALD, a newspaper of general circulation, printed and published in the County of Solano, State of California, and shall be in full force and effect THIRTY (30) DAYS after its passage.
A certified copy of the full text of the proposed Ordinance shall be posted in the office of the Clerk of the Board of Supervisors at least FIVE (5) DAYS prior to the meeting of the Board of Supervisors at which the Ordinance is to be finally considered for adoption (second reading). A certified copy of the final Ordinance shall be posted in the office of the Clerk of the Board of Supervisors within FIFTEEN (15) DAYS after adoption of the Ordinance, and the posting shall include the vote of the Supervisors for or against the Ordinance.

SKIP THOMSON, Chairman of the Board of Supervisors

ATTEST:

MYRA SAWTELLE, Deputy Clerk of the Board of Supervisors

I, MYRA SAWTELLE, Deputy Clerk of the Board of Supervisors of the County of Solano, State of California, do hereby certify that the above and foregoing Ordinance was introduced at a regular meeting thereof held this 23rd day of April, 1996.

On the motion of Supervisor Kondylis and the second of Supervisors Carroll, this Ordinance was adopted at a regular meeting of said Board on the 7th day of May, 1996, by the following vote:

AYES: SUPERVISORS: Carroll, Gojkovich, Kondylis Schlenker and Chairman Thomson

NOES: SUPERVISORS: None

ABSTAINED: SUPERVISORS: None

ABSENT: SUPERVISORS: None

WITNESS my hand and the Seal of said Board this 7th day of May, 1996.

MYRA SAWTELLE, Deputy Clerk of the Board of Supervisors

By MYRA SAWTELLE, Deputy