ORDINANCE NO. 11-04

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIDGECREST AMENDING THE RIDGECREST MUNICIPAL CODE AS IT RELATES TO CURBSIDE SERVICE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RIDGECREST as follows:

Section 1. Purpose.

The City of Ridgecrest currently has in place a trash program that requires mandatory service for all residential and commercial property owners within the City. The following ordinance would revise this program to only require commercial property and certain multi-family residential properties to receive mandatory trash service. Residential trash service would be made voluntary.

Section 2. Amendment.

Section 3-5.109 of the Ridgecrest Municipal Code is amended and reenacted to read as follows:

"3-5.109 Limitations.

(a) Except as provided in Section 3-5.703, any franchise granted pursuant to the provisions of this Article shall be nonexclusive.

(b) No privilege or exemption shall be granted or conferred by any franchise except as specifically prescribed in this Article.

(c) Any privilege claimed under any franchise by the grantee in any street or public property shall be subordinate to any prior lawful occupancy of the streets or public property.

(d) Time shall be of the essence of any franchise. The grantee shall not be relieved of his obligation to comply promptly with any of the provisions of this Article or by any failure of the City to enforce prompt compliance.

(e) Any right or power in, or duty impressed upon, any officer, employee, department, or board of the City shall be subject to transfer by the City to any other officer, employee, department, or board of the City.

(f) The grantee shall have no recourse whatsoever against the City for any loss, cost, expense, or damage arising out of any provision or requirement of this Article or of any franchise or because of the enforcement of the provisions of this chapter.

(g) The grantee shall be subject to all City laws, rules, regulations, and specifications heretofore or hereafter enacted or established.

(h) No person, firm, or corporation in the existing service area of the grantee shall be arbitrarily refused service; provided, however, the grantee shall not be required to provide service to any customer who does not pay the applicable fee or monthly service charge.

(i) The Council shall impose additional terms and conditions for the granting of a franchise as are necessary to implement the provisions of this Article including but not limited to provisions concerning the facilities of the grantee and operational standards. These additional terms and conditions shall be set forth in the ordinance granting the franchise operations of any grantee or from any provision of this Article."

Section 3. Amendment.

Section 3-5.110 of the Ridgecrest Municipal Code is amended and reenacted to read as follows:

"3-5.110 Reserved Rights.

(a) Nothing contained in this Article shall be deemed or construed to impair and affect in any way, to any extent, the right of the City to acquire the property of the grantee, either by purchase or through the exercise of the right of eminent domain. The measure of damages if the grantor exercises the power of eminent domain shall be in accordance with laws as determined by a court of competent jurisdiction. Nothing contained in this Article shall in any way modify or abridge the City's right of eminent domain.

(b) there is hereby reserved to the City every right and power which is required to be reserved or provided by the provisions of this Article or by any law of the City, and the grantee, by its acceptance of any franchise, agrees to be bound thereby and to comply with any action or requirements of the City in its exercise of such rights or power heretofore or hereafter enacted or established.

(c) Except as provided in Section 3-5.703, neither the granting of any franchise nor any of the provisions contained in this Article shall be construed to prevent the City from granting any identical or similar franchise to any other person, firm, or corporation within all or any portion of the City.

(d) Neither the granting of any franchise nor any provision of this Article shall constitute a waiver or bar to the exercise of any governmental right or power of the City.

(e) The Council may do all things which are necessary and convenient in the exercise of its jurisdiction under the provisions of this Article and may determine any question of fact which may arise during the existence of any franchise. The City Manager is hereby authorized and empowered to adjust, settle, or compromise any controversy or charge arising from the operations of any grantee under the provisions of this Article, either on behalf of the City, the grantee, or any subscriber, in the best interests of the public. Either the grantee or any member of the public who may be dissatisfied with the decision of the City Manager may appeal the matter to the Council for hearing and determination. The Council may accept, reject, or modify the decision of the City Manager and the Council may adjust, settle, or compromise any controversy or cancel any charge arising from the franchise.

(f) No provision of this Article shall be deemed or construed so as to require the granting of a franchise when, in the opinion of the Council, it is in the public interest to restrict the number of grantees to one (1) or more.

Section 4. Amendment.

Section 3-5.703 of the Ridgecrest Municipal Code is hereby amended and reenacted to read as follows:

"3-5.703 Trash Collection Franchise.

(a) Pursuant to Section 3.5.103, *et seq.*, the City may grant an exclusive Trash Collection Franchise for trash collection service within all or any portion of the City. The City may grant an exclusive franchise for solid waste handling upon a determination that the public health, safety and well-being are thereby served. The franchise shall be granted by ordinance pursuant to the process set forth in this division.

(b) When an exclusive franchise agreement for the collection of waste is in effect, no person, other than employees of the franchisee may collect, haul or transport solid waste within the City, except as set forth below.

(c) The City may regulate, by ordinance or resolution, all aspects of the refuse service, including, but not limited to, frequency of collection, means of collection and transportation, level of services, charges, fees, and nature, location, and extent of providing such services.

(d) The exclusive right of any Franchisee to collect refuse and recyclable waste material is subject to the following exclusions:

1. Gardeners and Landscapers. The collection, transportation and disposal by a gardener or landscaper of yard wastes which are generated as an incidental part of providing gardening, landscape maintenance services, provided that the gardener or landscaper is not a hauling service or solid waste enterprise, does not separately or additionally charge for the incidental service of removing, transporting or disposing of the yard waste, and utilizes only his or her own employees and equipment to collect, transport and dispose of same.

2. Contractors and Remodelers. The collection, transportation and disposal by a construction contractor, holding a contractor's license issued by the state of California, of inert materials or demolition waste from remodeling or construction jobs which are generated as an incidental part of providing such remodeling or construction services, provided that the construction contractor is not a hauling service or solid waste enterprise, does not separately or additionally charge for the incidental service of removing, transporting or disposing of the inert materials or demolition waste, and utilizes only his or her own employees and equipment to collect, transport and dispose of same.

3. Limitations and Exclusions. Any additional limitations and exclusions as set forth in the written Franchise Agreement.

(e) This section shall not limit the collection or hauling of waste to a landfill, transfer facility or recycle facility by a private party who is the business owner, home owner, residential property owner or residential tenant.

(f) No person shall interfere with the collection or disposal of solid waste, by a person authorized by license, franchise or contract to collect and dispose of same.

(g) No person other than the franchisee, or an agent or employee thereof, shall tamper or meddle with, or remove items from, a container or receptacle placed for collection of solid waste by the city or the Franchisee.

(h) It shall be unlawful for any person to solicit, accept, engage or otherwise utilize solid waste handling service for paid consideration by a person not authorized to provide such service.

(i) No person other than the Franchisee shall offer to handle solid waste or handle solid waste on behalf of another in exchange for compensation in any form or amount.

Section 5. Amendment.

Section 3-5.704 of the Ridgecrest Municipal Code is hereby amended and reenacted to read as follows:

"3-5.704 Fees.

Any grantee of a Trash Collection Franchise shall pay to the City a Franchise Fee as set by the City.

Section 6. Amendment.

Chapter XIII of the Ridgecrest Municipal Code is amended and reenacted to read as follows:

"CHAPTER XIII.
SANITATION SOLID WASTE, YARD WASTE AND HOUSEHOLD HAZARDOUS WASTE MANAGEMENT

13-1 Purpose.

This chapter is adopted to protect the welfare of the public with respect to sanitation.

13-1.2 Definitions.

For the purposes of this chapter, the following words and phrases are defined as follows:

"Recyclable material" means materials that are segregated at the source from other refuse for the purpose of recycling and includes, but is not limited to, paper, glass, metals, wood, plastics, wastes, bulky goods, waste oil, and construction and demolition materials. Recyclable material which is commingled or mixed with refuse shall be considered to have been discarded and shall be deemed refuse for purposes of this ordinance.

"Refuse" means all wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, discarded home and industrial appliances, manure, vegetable or animal wastes, and other discarded wastes, but excluding hazardous waste or substances, radioactive waste, untreated medical waste, and liquid waste. Recyclable waste material is considered refuse for purposes of this chapter. The term "refuse" shall be synonymous with the term "solid waste" as used in the Integrated Waste Management Act, Public Resources Code Section 40000, *et seq.*

"Rubbish" means treated wood, treated wood products, printed matter, paper, pasteboard, rags, straw, used and discarded clothing, used and discarded shoes and boots, combustible waste pulp, and other products such as are used for packaging or wrapping crockery, ashes, cinders, floor sweepings, mineral or metallic substances, earth, rock, used, demolished or discarded building materials, and other waste material other than hazardous waste or yard waste.

"Solid waste" or "Waste" means garbage, refuse, rubbish, and other materials and substances discarded or rejected as being spent, useless, worthless, or in excess to the generator thereof at the time of such discard or rejection and which are normally discarded by or collected from residential premises, non-residential premises and institutional establishments, which are acceptable at Class III landfills under applicable law, and which are originally discarded by the first generator thereof and have not been previously Processed. Solid Waste includes any discarded materials, other than (1) abandoned vehicles or parts thereof, (2) household hazardous waste, hazardous waste or low-level radio-active waste regulated under Chapter 8 (commencing with Section 114960 of Part 9) of Division 104 of the Health and Safety Code, (3) medical waste regulated pursuant to the Medical Waste Management Act (Part 14 (commencing with Section 117600) of Division 104 of the Health and Safety Code), (4) dewatered, treated or chemically fixed sludge or biosolids, or (5) yard waste. Notwithstanding any provision to the contrary, Solid waste or Waste includes recyclable materials and yard waste whenever a fee, charge, or other consideration, in any form or amount, is indirectly or directly paid by generator to any person in exchange for any form of storage, collection, transfer, removable, processing, consulting, brokering, disposal or equipment rental service ("fee for service").

"Yard waste" means organic material or garden trimmings.

13-1.3 Deposit in Public Place and Accumulation Prohibited.

(a) No person shall cause waste (except yard waste that is being actively composted) to be accumulated upon public or private property. Solid waste originating from premises shall be removed at least once per week. It is unlawful for the person having control of the premises to fail or neglect to provide for the removal of waste.

(b) Persons placing waste in public or private receptacles shall prevent the waste from being carried or deposited by the elements upon a public place. No person shall place solid waste into private receptacles owned by another person unless the owner of the receptacle has given prior permission.

(c) The deposit or accumulation of waste is a public nuisance, and the person owning, leasing, occupying or having charge or possession of a premises violating this section shall be subject to the provisions of Chapter IV, Article 15.

(d) Only recyclable materials shall be deposited in marked recycling containers. Recyclable materials shall not be deposited in receptacles marked to receive solid waste.

13-2 Solid Waste Collection for Commercial Premises and Certain Multi-Family Residential Structures.

(a) Every person in possession, charge or control of a multi-family residential establishment, church, business, commercial, or industrial establishment shall subscribe for and pay the franchisee for solid waste collection and disposal at such rates as may be set by franchisee and approved by resolution of the City Council. "Franchisee" means the entity with whom the City has contracted under a franchise agreement to handle waste pursuant to Section 3-5.703 of the Municipal Code. "Multi-family residential structure" means residential structures that contain five or more separate dwelling units.

(b) Franchisee shall collect solid waste from commercial premises on such days and at such frequencies as the generator or owner (or the Owner's designee) and franchisee shall mutually determine, but collection shall be performed at least once each seven (7) days.

(c) Upon reasonable notice from franchisee and approval of the City Council, owners of commercial premises shall comply with mandatory waste separation requirements, such as the separation of solid waste, yard waste and recyclable materials.

(d) On the specified collection days, the receptacles for each person who receives solid waste collection services, shall be readily accessible for removal and emptying of the material contained therein as specified by the franchisee and in compliance this Municipal Code. Such containers shall be filled no more than level full and shall have the lids of such portable receptacles kept closed or shall be kept covered if a lid is not available, except when depositing waste, to prevent the loss of any waste material. "Level full" means that the amount of refuse deposited in a commercial container does not exceed the lowest top edge thereof, such that the lid can be completely closed. Receptacles shall be readily accessible for collection.

(e) The Franchisee shall remove from the premises all Solid waste which has been properly placed for collection. Any removal of Solid waste by the Franchisee shall be performed in a neat, orderly and quiet fashion, and the premises shall be left in a clean and orderly condition.

13-3 Accumulation, Disposal and Destruction of Waste.

(a) No person shall burn waste.

(b) No person shall bury waste (except yard waste being actively composted).

(c) No person shall keep, accumulate or permit to be accumulated waste (except yard waste being actively composted), on any public or private place unless in a receptacle Such receptacles must include close-fitting lids or covers which shall be kept closed at all times, except when necessarily opened to permit waste to be taken there from or deposited therein.

13-4 Household Hazardous Waste.

13-4.1 Owner Obligations for Household Hazardous Waste.

(a) Household hazardous waste may only be disposed at a licensed and permitted household hazardous waste collection facility. "Household hazardous waste" means waste material that is purchased by the general public for household use which is toxic, corrosive, flammable, ignitable or reactive and may pose a substantial hazard to human health or the environment when improperly managed.

(b) No household hazardous waste shall be included in or combined with solid waste that is submitted for collection by the City's franchise trash hauler.

13-5 Transportation of Waste.

13-5.1 Transportation. Waste shall be carried on city streets by all persons in a manner that prevents dust, debris or other materials from falling upon the streets and adjacent lands.

13-5.2 Vehicle Maintenance. Every truck, vehicle or trailer used for collection of solid waste, recyclable materials and/or yard waste shall be kept well painted and clean inside and out.

13-5.3 Emergency Removal. Nothing in this chapter shall be deemed to interfere with the removal and hauling of materials determined by the City to require immediate removal so as to preserve public health.

Section 7. Other.

Except as otherwise provided, the Ridgecrest Municipal Code is reaffirmed and readopted.

Introduced and first read at a meeting of the City Council of the City of Ridgecrest held the 7th day of September, 2011.

PASSED AND ADOPTED at a regular meeting of said City Council held on October 5, 2011, by the following roll call vote:

AYES: Council Members Holloway, Taylor, Morgan, & Patin
NOES: None
ABSENT: Mayor Carter
ABSTAIN: None

Jerry Taylor, Vice Mayor

ATTEST:

Ricca Charlon, Deputy City Clerk

(Seal)