

ORDINANCE NO. 4331

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF POMONA, CALIFORNIA, AMENDING SECTIONS OF CHAPTER 62 (UTILITIES), ARTICLE VI (SOLID WASTE), DIVISIONS 1 (GENERALLY), 3 (RESIDENTIAL COLLECTION SERVICE RATES AND CHARGES), AND 4 (MULTIFAMILY RESIDENTIAL, COMMERCIAL, INDUSTRIAL AND INSTITUTIONAL SERVICE) OF THE CITY CODE

WHEREAS, under Section 62-586 of the City of Pomona's (City) Municipal Code, no person or solid waste enterprise, other than the city, shall engage in the collection, carrying, conveyance or transportation of any solid waste or recyclable material from or at any location within the city limits without the expressed written consent of the City Council by means of a franchise granted by the City Council. Article XIII, § 1301 of the City's Charter allows for City Council to grant a franchise to any person or organization, whether operating under an existing franchise or not, and may set the terms and conditions of any such grant, including the compensation to be paid to the City; and

WHEREAS, the City issued a Request for Proposals RFP No. 2021-37 on December 16, 2021, soliciting proposals from companies qualified to provide Residential and Commercial Garbage, Recyclable Materials, and Organics Waste Collection Services; and

WHEREAS, the City Council, during its regular meeting on December 5, 2023, approved the award of a franchise agreement for the provision of Residential and Commercial Garbage, Recyclable Materials, and Organics Waste Collection Services; and

WHEREAS, the transition of Residential and Commercial Garbage, Recyclable Materials, and Organics Waste Collection Services from the City to a franchised hauler requires certain modifications to the City's Municipal Code as it pertains to the billing, payment, and collection of charges for services rendered; and

WHEREAS, the City Council desires to amend the City's Municipal Code to transition certain responsibilities for the billing, payment, and collection of charges for services rendered by its selected franchised hauler.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Pomona as follows:

SECTION 1. That Pomona City Code, Chapter 62, Article VI, Solid Waste, Division 1, Generally, Sec. 62-583 to Sec 62-583 is repealed as follows:

~~Sec. 62-583. Powers and duties of director of utility services.~~

- (a) ~~The director of utility services shall be in charge of the collection of refuse and may refuse to collect refuse when not placed in containers or in the manner provided for by this article. Whenever refuse is not collected, the director of utility services shall attach to the container or materials a tag upon which he shall indicate the reason for the refusal.~~
- (b) ~~The director of utility services shall be empowered to issue rules and regulations for the proper functioning of refuse collection, mandatory separation of recyclables, and mandatory separation of green waste materials from garbage and rubbish in the city in order to carry out the intent of this article. He shall fix the schedules in which collections of refuse shall be made and the districts within the city to which such collection schedules apply.~~

~~(Code 1959, § 12-3; Ord. No. 3884, § 1 (part))~~

Sec. 62-583 Collection services—By authorized hauler/franchisee.

The City Council may authorize one or more authorized haulers/franchisees to make arrangements with service recipients for the collection, transfer, recycling, composting and disposal of solid wastes within and throughout the city.

SECTION 2. That Pomona City Code, Chapter 62, Article VI, Solid Waste, Division 3, Residential Collection Service Rates and Charges, Sec. 62-671 is hereby amended as follows:

- (a) ~~Fees for the collection of residential solid waste, recyclables, green waste; for rental of additional automated containers; and for the collection of recyclable materials shall be imposed by the city council by resolution and shall be applicable for the periods designated.~~ **A monthly fee or such other charges from customers for the collection of residential solid waste, recyclable solid waste, and organic waste in the city shall be collected on the basis of the fee schedule set forth in the agreement between the franchised hauler and the city, as adjusted in accordance with such agreement. Payment of such fees shall be made directly to the city's franchised hauler.**
- (b) No exemption from the residential refuse or recycling fee shall be granted unless the property has been acquired by a person and the person is renovating or rehabilitating the property **and such exemption is agreed upon by the person and the city's franchised hauler.** This exemption is from payment of the residential refuse and recycling fee only, and it is only given while the property is unoccupied and under renovation. Prior to receiving this exemption, the person shall have applied for and been issued a building permit for the renovations by the city. This exemption shall expire upon completion of the renovation, occupation of the property or expiration of 180 days from the date the building permit was issued, whichever occurs first. Within seven days following completion of the renovation or occupation of the property, the person shall advise the utility services department in writing, and the exemption shall become of no further effect. The person shall include in the notice the name of the occupant. Payment of the residential refuse and recycling fee shall be imposed retroactive to the date of completion or occupation of the property.

- (c) ~~The fee imposed for collection of refuse and recyclable materials shall be billed with the regular utility bills rendered by the utility services department where such service exists except as exempted in subsection (b) of this section. The fee imposed for rental of additional automated containers shall be billed by the customer service division of the utility services department.~~ **Reserved.**
- (d) ~~In places not served by the city water system, a separate bill shall be rendered bimonthly by the customer service division of the utility services department for refuse and recycling services rendered to premises in such areas.~~ **Reserved.**
- (ec) Notwithstanding any other section of this Code, the fees and charges set forth in this section for the basic rate for residential collection and disposal of solid waste, ~~recyclables and green waste~~ **recyclable solid waste, and organic waste** shall be automatically updated annually on ~~January~~ **July** 1 each year, beginning ~~January~~ **July** 1, 2008 **2024**, by an adjustment to the basic rate as follows: The annual adjustment shall be made by multiplying the rate and fee included ~~in the fee resolution by the Los Angeles Riverside Orange County, CA Consumer Price Index (CPI) for All Urban Consumers of the preceding July and by dividing the result of such multiplication by the same price index of the July of the prior year, as reported by the CPI Detailed Report, Bureau of Labor Statistics~~ **in the schedule set forth in the agreement between the franchised hauler and the city pursuant to the formula for annual rate adjustments set forth in such agreement.** The result of the calculations shall be rounded to the next lower cent and added to the old rate to become the rate for the ensuing year. The new rate shall be effective on each ~~January~~ **July** 1, thereafter, subject to compliance with all public noticing and hearing requirements established by applicable California state law.

SECTION 3. That Pomona City Code, Chapter 62, Article VI, Solid Waste, Division 3, Residential Collection Service Rates and Charges, General Sanitation Fees, Sec. 62-672 is hereby amended as follows:

Sec. 62-672. - General sanitation fees Residential solid waste, recyclable solid waste, and organic waste collection fee

~~In addition to the refuse service fees, all~~**All** owners or occupants of improved residential property within the city shall pay a ~~general sanitation fee~~ **residential solid waste, recyclable solid waste, and organic waste collection fee for residential solid waste, recyclable solid waste, organic waste collection** street sweeping, ~~street area weed abatement~~, neighborhood cleanup or such other service benefitting the property. This fee, **if applicable**, shall be determined by the city council by resolution and may be changed by the council by resolution to be applicable for the periods designated. ~~Fees provided for by this section shall be collected in the same manner as fees made pursuant to section 62-671.~~

SECTION 4. That Pomona City Code, Chapter 62, Article VI, Solid Waste, Division 3, Residential Collection Service Rates and Charges, Sec. 62-673 is hereby repealed as follows:

~~The person in whose name the water meter, either a water meter furnished by the city or a private meter, is registered at any premises shall be liable for and shall be billed for refuse collection service rendered to the premises, unless other arrangements are made by such person with the utility services director.. (Code 1959, § 12-9; Ord. No. 3884, § 1 (part))~~

SECTION 5. That Pomona City Code, Chapter 62, Article VI, Solid Waste, Division 3, Residential Collection Service Rates and Charges, Sec. 62-674 is hereby amended as follows:

When any person fails to remit payment within ~~45~~**30** days after the bill has been rendered for ~~refuse service~~ **residential solid waste, recyclable solid waste, and organic waste collection services**, the ~~utility services director~~ **city's franchised hauler** may require a deposit equal to four months' service fees in advance of any additional service.

SECTION 6. That Pomona City Code, Chapter 62, Article VI, Solid Waste, Division 3, Residential Collection Service Rates and Charges, Sec. 62-676 is hereby amended as follows:

~~The utility services director shall bill for residential refuse and recycling collection services and general sanitation fees.~~ **The city's franchised hauler shall bill for residential solid waste, recyclable solid waste, and organic waste collection services.** The department of utility services **city's franchised hauler** shall bill for rental of automated containers.

SECTION 7. That Pomona City Code, Chapter 62, Article VI, Solid Waste, Division 3, Residential Collection Service Rates and Charges, Sec. 62-677 is hereby repealed as follows:

~~Any claims for refunds for amounts paid for residential refuse collection and general sanitation fees shall be presented in writing to the utility services director within 90 days after the payment stating reasons therefor. The decision of the director shall be final.~~

SECTION 8. That Pomona City Code, Chapter 62, Article VI, Solid Waste, Division 4, Multifamily Residential, Commercial, Industrial and Institutional Service, Subdivision II, Sec. 62-721 is hereby amended as follows:

Should the City Council determine the granting of one or more franchises for solid waste removal shall be deemed necessary to protect the health, safety, and well-being of those persons and businesses located within the lawfully established borders of the city, ~~the city council may establish by resolution~~ the maximum rates to be charged for such collections **shall be the fee schedule set forth in the agreement between the franchised hauler and the city, as adjusted in accordance with such agreement.**

SECTION 9. That Pomona City Code, Chapter 62, Article VI, Solid Waste, Division 4, Multifamily Residential, Commercial, Industrial and Institutional Service, Subdivision II, Sec. 62-722 is hereby amended as follows:

The franchised hauler may have the right to bill and collect for its services as set forth in such agreement. Rates enacted under this subdivision ~~or by resolution of the city council~~ for the purpose of solid waste collection shall be billed and collected in advance of

collection service and may be presented or mailed for periods of one month, two months, or three months in advance. Under no circumstance shall the billing period exceed 90 days or one quarter of the calendar year. Each owner/occupant shall be liable for the collection charge, whether or not collection services are utilized. **Charges hereunder shall be collected upon billing by the city's franchised hauler and shall be payable upon presentation of a statement and shall be delinquent 30 days thereafter.**

SECTION 10. That Pomona City Code, Chapter 62, Article VI, Solid Waste, Division 4, Multifamily Residential, Commercial, Industrial and Institutional Service, Sec. 62-723 is hereby amended as follows:

As the city under this article possesses no liability or responsibility for the billing, collection, or servicing of any **residential**, commercial, industrial, institutional or multifamily premises or establishment within the city, any refund associated with any ~~multifamily residential, commercial, industrial, or institutional~~ **or multifamily premises** establishment shall be the sole responsibility of the solid waste enterprise operating under the lawful issuance of a franchise agreement to refund any solid waste collection fees or any portion thereof as established and paid in accordance with this subdivision.

SECTION 11. That Pomona City Code, Chapter 62, Article VI, Solid Waste, Division 4, Multifamily Residential, Commercial, Industrial and Institutional Service, Subdivision II, Sec. 62-724 is hereby amended as follows:

- (a) ~~The city council may, by resolution adopted by a majority of its members then present, authorize the transfer of debt from a solid waste franchise to the city, according to the following procedures and requirements:-~~
- ~~(1) The city council shall fix a time, date and place for a public hearing on transferring debt, and for hearing any objections or protests thereto.~~
 - ~~(2) The city council shall cause notice of hearing to be mailed to the person responsible for the debt, and to the owners of property by which the debt was incurred, not less than 15 days prior to the date of the hearing.~~
 - ~~(3) At the hearing, the city council shall hear any objections or protests of persons responsible for the debt or the owners of the property by which the debt was incurred.~~
 - ~~(4) Following the hearing, the city may, by resolution, authorize transfer of the debt, or of any portion thereof, provided that the following findings are made and are supported by the evidence:-~~
 - ~~a. The debt has been incurred by a solid waste franchise awarded pursuant to this article;~~
 - ~~b. The debt arises from delinquent fees for solid waste service provided by the franchisee;~~

- e. ~~The debt has been invoiced, and satisfactory attempts to collect the debt have been made, by the franchisee not less than ninety days prior to public hearing on transfer to the city. Satisfactory attempts to collect debt include mailing invoices to the person responsible for the debt, or the owners of property by which the debt was incurred, no less than once every 30 days after providing the service, mailing collection letters for the debt to such person no less than 60 days after providing the service, and making at least one collection telephone call for the debt to such person no less than 75 days after providing the service;~~
 - d. ~~The amount of debt, the time period of solid waste service relating to the debt, the customer or person from whom the debt arises, the property by which the debt was incurred, and satisfactory attempts to collect the debt have been identified, substantiated, and verified by written documentation produced by franchisee;~~
 - e. ~~Assumption of the debt by the city will further an articulable public purpose.~~
- (5) ~~Following the hearing, the city council may make such revisions or corrections to the amount of debt to be transferred, and the details relating thereto, as it deems just, which shall be identified in any resolution adopted by the city council.~~
- (6) ~~All findings related to transfer of debt pursuant to this section shall be identified in a resolution adopted by the city council and supported by the evidence. Such resolution shall indicate the respective parcels of property (as they appear on the current assessment roll) from which the debt arose.~~
- (b) ~~Any debt transferred to the city pursuant to this section may be collected and returned to the solid waste franchise pursuant to section 62-725. The city shall not make any reimbursement, refund, or compensation to any franchisee from which debt has been transferred, except as provided in section 62-725.~~
- (c) ~~Transfer of debt pursuant to this section shall be at the discretion of the city council and shall not establish any right on the part of a solid waste franchise or other person to transfer debt to the city or to receive reimbursement, refund, or compensation therefrom.~~
- (a) The city's franchised hauler, the designated entity for the collection of fees, shall be entitled to payment from the account holder for any collection services rendered.**
- (b) If any account holder fails to pay the franchised hauler for collection for a 30-day period, the account shall be deemed delinquent and the franchised hauler shall mail or email the owner a final request for payment for the amounts owed, plus penalties. The final request shall include a warning notice that if the service charges are not paid within 60 days, they will be turned over to the city for placement on the tax rolls. The warning notice shall also include information concerning the additional administrative charges that will become due if a lien is recorded against the property.**

- (c) The form and content of the warning notice sent by the franchised hauler shall be approved by the Director of Public Works of the city.
- (d) The franchised hauler shall maintain, and make available to the city, a list of all delinquent accounts by parcel number(s), the name or names of the owner, the address of the property served, the period of the service, and the amounts due plus penalties, to the city. Based on such list, any account holder who, as of May 1st of any given year, is delinquent as to any charges or penalties due as of March 31st of that same year, shall be sent, by mail, written notification that the Director of Public Works, or his/her designee, will review all such delinquent accounts and will make a recommendation to the City Council with respect to submitting the delinquent accounts to recorder of Los Angeles County no later than August 1, to be included as an assessment for the respective affected parcel on the county property tax rolls. Any property owner whose property is so affected shall have the right to appear before the Director of Public Works, or his/her designee, to contest placement on the property assessment rolls of the county. The Director of Public Works, or his/her designee, shall set a time and place for a hearing before the director of administrative services, or his/her designee. The city shall mail any such notices required hereunder, or request that the collector to mail such notices on behalf of the city. At the time of such written notification, a penalty shall be added to the delinquent account, to cover the administrative costs of any mailing and hearing procedure.
- (e) The Director of Public Works, or his/her designee, shall prepare recommendations as to whether an assessment should be imposed upon the property owner. The recommendations of the Director of Public Works shall be forwarded to the City Council. The City Council may adopt or modify the recommendations of the Director of Public Works, or his/her designee, as it deems appropriate.
- (f) If the City Council approves the delinquent charges against the owner of the property and the owner fails to pay said charges, an assessment on the real property for which the service was rendered may be recorded with the recorder of Los Angeles County as determined by the city.

SECTION 12. CEQA. The City Council determines that the adoption of this Ordinance is exempt from environmental review under the California Environmental Quality Act (“CEQA”) pursuant to the following provisions of the CEQA Guidelines, 14 California Code of Regulations, Chapter 3: this Ordinance is exempt under CEQA Guidelines Section 15378(b)(5) in that it is not a “project” under CEQA, and will not result in direct or indirect physical changes in the environment.

SECTION 13. Severability. If any provision of this Ordinance is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity shall not affect the remaining provisions of this Ordinance, which can be implemented without the invalid provisions, and to this end, the provisions of this Ordinance are declared to be severable. The City Council hereby declares that it would have adopted this Ordinance and each provision

thereof irrespective of whether any one or more provisions are found invalid, unconstitutional or otherwise unenforceable.

SECTION 14. The City Clerk shall certify to the passage of this Ordinance, and shall cause same to be posted as required by law.

SECTION 15. This ordinance shall be effective 30 days after adoption.

PASSED, APPROVED AND ADOPTED this 5th day of June, 2023.

CITY OF POMONA:

Tim Sandoval
Mayor

APPROVED AS TO FORM:

ATTEST:

Sonia Carvalho
City Attorney

Rosalia A. Butler, MMC
City Clerk

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES
CITY OF POMONA

I, DIANA ROBLES, DEPUTY CITY CLERK of the City of Pomona do hereby certify that the foregoing Ordinance was introduced for first reading at a regular meeting of the City Council of the City of Pomona held on May 15, 2023 and was adopted at second reading at a regular meeting of the City Council of the City of Pomona held on June 5, 2023 by the following vote:

AYES: Lustro, Nolte, Ontiveros-Cole, Preciado, Sandoval
NOES: Garcia
ABSENT: Torres
ABSTAIN: None

Diana Robles
Deputy City Clerk