

ORDINANCE NO. G-8057

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF KERN, STATE OF CALIFORNIA, ESTABLISHING A SCHEDULE OF SOLID WASTE MANAGEMENT SERVICE CHARGES FOR NON-RESIDENTIAL PROPERTY (**GATE FEES**) AND GOVERNING DISPOSAL OF SOLID WASTE AT COUNTY WASTE FACILITIES AND REPEALING ORDINANCES G-7501 AND G-7865

The following Ordinance, consisting of three (3) Sections, was duly and regularly passed and adopted by the Board of Supervisors of the County of Kern, State of California, at a regular meeting of the Board of Supervisors held on the 22nd day of June, 2010, by the following vote, to wit:

AYES: McQuiston, Maben, Watson, Rubio
NOES: Maggard
ABSENT: None

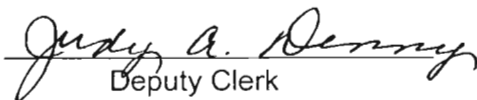


Chairman of the Board of Supervisors
County of Kern, State of California

(SEAL)

ATTEST:

KATHLEEN KRAUSE
Clerk of the Board of Supervisors

By: 
Deputy Clerk



THE BOARD OF SUPERVISORS OF THE COUNTY OF KERN ORDAINS AS FOLLOWS:

Section 1. This Ordinance shall take effect and be in full force on and after the 22nd day of July, 2010, and shall be published once in the *Bakersfield Californian*, a newspaper of general circulation, published in the County of Kern, State of California, together with the names of the members of the Board of Supervisors voting for and against the same.

Section 2. The following is enacted as an Ordinance of the County of Kern:

ESTABLISHMENT OF GATE FEE PROGRAM

1. **Application of Ordinance.**

This Ordinance shall apply to all the area currently within the County of Kern and to such area as may hereinafter be added to the County of Kern.

2. **Definitions.**

The following definitions apply to this Ordinance:

(a) "Bin" means any container, including cans, that may contain up to four cubic yards of material, used by any non-residential establishment to hold solid waste until it is collected by a hauler;

(b) "City" means any incorporated city located in the County of Kern;

(c) "County" means the County of Kern;

(d) "Demolition Waste" or "Construction Waste" means the non-hazardous waste building materials, packaging, rubble and other materials resulting from construction, remodeling, repair and demolition operations on pavements, houses, commercial buildings and other structures;

(e) "Department" means the Kern County Waste Management Department;

(f) "Director" means the Director of the Waste Management Department, or a designee authorized by the Director;

(g) "Franchise Hauler" means those persons granted a garbage collection franchise by the County in accordance with Chapter 5.36 of the Kern County Ordinance Code;

(h) "Gate Attendant" means a County employee that is assigned to staff a gate house at a County waste facility and to collect Gate Fees;

(i) "Gate Fee" means a Kern County Solid Waste Management Program service charge, charged for all non-residential waste brought to a County waste facility and which shall include Bin Disposal Fees;

(j) "Hazardous Waste" means a waste, or combination of wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may do either of the following:

(1) Cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness;

(2) Pose a substantial present or potential hazard to human health or environment when improperly treated, stored, transported, or disposed of, or otherwise managed.

Unless expressly provided otherwise, the term "hazardous waste" shall be understood to also include extremely hazardous waste as defined in Health and Safety Code Section 25115 and acutely hazardous waste as defined in the Health and Safety Code Section 25110.2;

(k) "Municipal Solid Waste" means a mixture of solid waste that includes general refuse, garbage, paper, glass, cardboard, plastic, metal and/or green waste from residential and commercial sources;

(l) "Non-residential Waste" means any solid waste that was not directly generated on residential property within Kern County. Non-residential waste includes all tires, vehicles or parts thereof, commercial, industrial, institutional, residual from a construction and demolition waste recycling facility, when the facility has been designated by the Director, and agricultural waste;

(m) "Person" means an individual, association, co-partnership, political subdivision, government agency, municipality, industry, public or private corporation, firm, organization, partnership, joint venture or any other entity whatsoever;

(n) "Residential Waste" is solid waste that is generated on residential property within Kern County as identified in the schedule of Solid Waste Management Program service charges established by the Board of Supervisors for each fiscal year pursuant to the procedures in Ordinance G-5584, as amended from time to time, and collected at the time and manner as general taxes for the County of Kern. Notwithstanding the foregoing, the Special Fees set forth in Paragraph 18 of this Ordinance will be changed for the waste regardless of its source of origin;

(o) "Solid Waste" means all non-hazardous putrescible and non-putrescible solid and semi-solid waste such as refuse, garbage, rubbish, paper, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles, and parts thereof, discarded home and industrial wastes, demolition and construction wastes, abandoned vehicles, and parts thereof, discarded home and industrial appliances, vegetable or animal solid and semi-solid wastes;

(p) "Untarped/Unsecured loads" means waste, whether from residential or non-residential sources, that is being transported upon any vehicle and is not completely covered or is not secured in a manner to prevent it from falling or blowing away from the transporting vehicle.

(q) "Waste Facility" means:

(1) Facilities used to receive, temporarily store, separate, convert or otherwise process the materials in solid waste or transfer solid waste directly from smaller to larger vehicles for transport; and

(2) Solid waste disposal sites which are "Class III Disposal Sites" in accordance with the meaning prescribed by Article 2, Subchapter 15, Chapter 3, Title 23 of the California Code of Regulations (commencing with Section 2510) as amended from time to time.

3. **Gate Fees Applicable to Disposal of All Non-residential Waste.**

(a) All persons disposing or causing the disposal of non-residential waste at County waste facilities shall pay the Gate Fees required by this Ordinance, unless specifically exempted by this Ordinance. Gate Fees may be paid in cash at County waste facilities or as designated by the Director and approved by the Board of Supervisors by resolution;

(b) The Special Fees set forth in Paragraph 18 of this Ordinance will be charged for the waste regardless of its source of origin.

4. **Basis for Computing Gate Fees.**

Gate fees shall be based on either the actual weight of the solid waste being disposed as measured by a scale, the estimated weight of the solid waste being disposed based on the type of material and its volume in cubic yards, the type of vehicle hauling the solid waste being disposed, the number of units being disposed and/or the special nature of the load. The Department shall determine the most appropriate method for determining the calculation of the Gate Fee.

5. **Bin Disposal Fees.**

(a) A Bin Disposal Fee shall be charged for all non-residential waste bins that are collected by any Franchise Hauler for disposal at a County waste facility;

(b) The Bin Disposal Fee shall be based on the basic per ton Gate Fee for non-residential waste and shall be calculated using the following formula:

The basic per ton Gate Fee for non-residential waste, divided by two thousand pounds equals the fee per pound. The fee per pound, multiplied by the average weight in pounds of a cubic yard of municipal solid waste found in bins, equals the Bin Disposal Fee per cubic yard. The Bin Disposal Fee per cubic yard multiplied by the capacity of a bin, equals the total Bin Disposal Fee per time the bin is collected by a hauler;

(c) The average weight of a cubic yard of municipal solid waste from non-residential waste bins shall be confirmed by the Department by performing waste volume/weight studies periodically. The Department shall report the results of the waste volume/weight studies to the County's Board of Supervisors as needed and shall recommend modifications to the Bin Disposal Fee as may be appropriate;

(d) Each Franchise Hauler shall maintain adequate and accurate records of the number of non-residential waste bins, the cubic yard capacity of each non-residential waste bin and the number of times each non-residential waste bin has been collected for each non-residential customer served by the Franchise Hauler;

(e) Each Franchise Hauler shall prepare a Non-Residential Bin Report and forward a copy of said report to the Director within thirty (30) days of the last day of the prior month. The Director may approve extensions granting Franchise Haulers

additional time to prepare or forward their Non-Residential Bin Reports. The information in the Non-Residential Bin Reports shall match the information that appears on the Franchise Haulers' invoices or statements and any information required in the bin reports may be audited by the Department. The Non-Residential Bin Reports should list, at a minimum, the number of non-residential bins billed to each non-residential account, the bin volume (in cubic yards), the number of times each bin was collected in the billing period, and such information as may be required by the Director. Non-Residential Bin Reports shall be reviewed by the Department to confirm that the rates charged by each Franchise Hauler are in compliance with this Ordinance and all other applicable County ordinances, resolutions, regulations and rules. The number of reported cubic yards shall be used by the Department to calculate the amount of the Bin Disposal Fee the County will receive from each Franchise Hauler;

(f) Each Franchise Hauler shall calculate the amount owed by each non-residential customer for the Bin Disposal Fee for the Franchise Hauler's current billing period and shall include that Bin Disposal Fee, in a separate line, or column, on the invoice or statement sent to each non-residential customer for that billing period;

(g) Unless otherwise provided in a Franchise Agreement, each Franchise Hauler shall forward all monies received from the billing of the Bin Disposal Fees to the Director within thirty (30) days from the last day of the prior month.;

(h) Each Franchise Hauler shall maintain a fidelity bond or other security instrument as agreed to in writing covering each of that Franchise Hauler's employees who has the responsibility or power to handle any Bin Disposal Fees which are to be paid by that Franchise Hauler to the County pursuant to this Ordinance. Any such fidelity bond must be approved by the Director as to form and content. In addition, any such fidelity bond shall be executed by an admitted surety with a Best's rating of no less than B+. The limit of each such fidelity bond shall be in an amount to be approved by the Director and this amount shall not be less than the average monthly amount of Bin Disposal Fees collected by the Franchise Hauler maintaining this fidelity bond. Each such fidelity bond shall name the County as an additional named insured. Each such fidelity bond shall also contain an endorsement providing that the coverage of the fidelity bond shall not be reduced nor shall the fidelity bond be canceled until thirty (30) days after County has received notice of any such cancellation or reduction. Each Franchise Hauler shall file a copy of the required fidelity bond with the Department prior to initiating any collection of Bin Disposal Fees;

(i) The franchise haulers' actual and reasonable administrative costs to comply with the foregoing provisions of this paragraph, including, but not limited to, the costs of obtaining the required fidelity bond, shall be considered by the Board of Supervisors in the process of any setting of the Franchise Haulers' rates.

6. **Use of Unattended Waste Facilities for Non-residential Waste.**

It is unlawful for any person to dispose of non-residential waste at a County waste facility where there is no gate attendant to collect the Gate Fee, unless that person has obtained the prior written permission to do so from the Department. The Department may grant permission to dispose of non-residential waste at a County

waste facility where there is no gate attendant upon showing of good cause therefore and the payment of the Gate Fee for the type and amount of non-residential waste intended to be disposed.

7. **Green Waste Facility Fee.**

(a) If a County waste facility also is equipped with a County operated green waste recycling facility, or if any green waste recycling facility is in the area, all loads containing clean green waste which is not mixed with other types of waste shall be directed to the green waste recycling facility. At County operated green waste recycling facilities, there shall be no charge for the disposal of loads of clean residential green waste and loads of clean commercial green waste shall be charged at the rates specified in Paragraphs 17 and 18 below;

(b) Loads of green waste mixed with other material shall be considered to be municipal solid waste, may not be disposed at County green waste recycling facilities and shall be subject to the same Gate Fees applied to solid waste being disposed at County waste facilities.

8. **Hourly Rate.**

The Director may charge an hourly fee, in the amount set forth in Paragraph 18 below, for services performed by the personnel of the Department that are necessary to investigate unlawful dumping, to oversee disposal operations at County waste facilities for health, safety or operational reasons, at the discretion of the Director, or to give consultation services as requested. This hourly fee shall be charged in addition to any other applicable County fee including, but not limited to, Solid Waste Management Program service charges, Gate Fees, Bin Disposal Fees, or permit fees. All fees for services billed at the hourly rate shall be billed within ninety (90) days of the services rendered and are due as of the billing date. Any County invoice for hourly fees for services shall become delinquent thirty (30) days after it is due. Persons with delinquent hourly fees shall be charged a penalty in the amount of one and one-half percent (1.5%) of the delinquent amount per month.

9. **Disposal Without Payment.**

(a) The Director may, upon written request made at least one (1) week in advance, authorize the disposal of municipal solid waste at County waste facilities without the payment of the Gate Fees required by this Ordinance, provided that the municipal solid waste was collected by youth groups, civic groups or cities as part of an anti-litter or cleanup activity;

(b) Youth groups, civic groups or cities for whom the Director authorizes the disposal of municipal solid waste without the payment of Gate Fees are prohibited from disposing any recyclable materials with the municipal solid waste which has been allowed to be disposed at County waste facilities without payment;

(c) In cases involving an emergency, accident or threat to public health, the Department may authorize disposal without the immediate payment of the Gate Fees required by this Ordinance, although the required Gate Fee for such disposal shall be billed to the person whose waste was disposed.

10. **Misidentified Waste.**

(a) It shall be unlawful for any person to misidentify deliberately, make misrepresentations or to conceal from a gate attendant the type of wastes contained in a load or the source of origin of the waste in a load brought to any County waste facility for disposal. Any act or violation of the provisions of this paragraph shall be an infraction and shall be punishable as provided in Section 1.12.020 of the Kern County Ordinance Code. The Director is responsible for enforcing the provisions of this paragraph and may issue a citation to a person committing an act of omission which is in violation of this paragraph;

(b) In the event that misidentified wastes have been disposed at a County waste facility, the responsible party shall pay the full cost of any required cleanup, remediation or relocation of the waste, in addition to the full Gate Fee for the misidentified waste.

11. **Out of County Waste.**

In order to preserve the limited landfill capacity in the County which has been reserved for in-County uses, solid waste originating outside the County shall not be accepted at County waste facilities and no person shall transport refuse from outside the County to County waste facilities except by the express order of the Board of Supervisors. However, the Board of Supervisors may agree to accept solid waste originating outside County at County waste facilities on such terms and conditions as it may approve. The Director is authorized to accept, in his discretion, occasional loads of out of county residential waste upon payment of the Gate Fees applicable to non-residential waste when acceptance will help prevent illegal dumping or other unauthorized disposal of the waste.

12. **Board Shall Establish Rules and Regulations.**

The Board of Supervisors shall establish rules and regulations relating to solid waste disposal and related revenue collection. A copy of these rules and regulations shall be available for inspection by the public at each County waste facility and at the Department.

13. **Scale Violations.**

It shall be unlawful for any person to carry out any action which causes damage to a scale located at a County waste facility, including, but not limited to, driving a vehicle with excessive speed onto or over a scale, making sudden starts or stops while on a scale, and pumping the brakes of a vehicle while on a scale. Any act or violation of the provisions of this paragraph is an infraction and shall be punished as provided in Section 1.12.020 of the Kern County Ordinance Code. The Director is

responsible for enforcing the provisions of this paragraph and may issue a citation to a person committing an act which is in violation of this paragraph.

14. **Notice.**

Written notice required by this Ordinance shall be sufficient if it is served as follows:

(a) By personal delivery. Service in this manner shall be deemed complete at the time of such delivery; or

(b) By posting a copy of the notice in a conspicuous place on the door or near the doorway of the main entryway of the premises of the person receiving the notice, or by mailing a copy of the notice by first class United States mail to the last known address of the person to be served. Service in this manner shall be deemed complete seventy-two (72) hours after such posting or mailing has been accomplished;

(c) Actual notice shall be deemed sufficient service of any notice required by this Ordinance.

15. **Compliance with Laws.**

No provision of this Ordinance shall be interpreted to exempt any person from complying with any applicable Federal, State, and local laws, statutes, ordinances, regulations, rules, and orders.

16. **Authorization to Administer Fees.**

The Department is authorized to make such arrangements and institute such administrative procedures as may be necessary to facilitate the collection of the fees and penalties described in this Ordinance. Cities within the County shall be required to pay to the County all Gate Fees for non-residential waste collected by them or by franchise or contract haulers operating within their jurisdiction. Where waste collection fees are collected by a franchise or contract hauler, the County may collect Gate Fees directly from the hauler. Cities may elect to follow the Bin Disposal Fee procedures of Paragraph 5 of this Ordinance or may negotiate for an alternate mechanism for payment of fees. The Department's authorization pursuant to this paragraph shall include negotiation, subject to approval by the Board of Supervisors, of agreements with local public agencies, and franchise or contract haulers operating within their jurisdictions, using the County landfills for disposal, providing for the payment of Gate Fees for non-residential waste and for the collection of such charges. Where appropriate, the Department is authorized to provide direct billing of non-residential property located in incorporated areas of the County as may be necessary to effectuate the purpose of this Ordinance.

17. **Schedule of Gate Fees.**

The schedule of Gate Fees established by this Ordinance shall be as follows:

Basic Per Ton Gate Fee for Non-residential Waste:

The basic per ton Gate Fee for non-residential solid waste, excluding wastes for which a special rate or charge is included in Paragraph 18, is **Forty Dollars and Fifty Cents (\$40.50) per ton.**

Non-residential Waste at Landfills with Scales:

At County solid waste facilities equipped with scales and weighing devices capable of determining the weight of material deposited at the facility, persons shall be charged the following Gate Fees:

Cars.....	\$ 8.00/vehicle
Pickup trucks	\$20.00/vehicle
Pickup trucks loaded above cab.....	\$29.00/vehicle
Trailers, large vehicles, or roll off boxes	\$40.50/ton

Non-residential Waste at Landfills Without Scales:

At County waste facilities not equipped with scales or weighing devices, or at facilities equipped with weighing devices that are not operational, persons shall be charged the following Gate Fees:

Cars.....	\$ 8.00/vehicle
Pickup trucks	\$20.00/vehicle
Pickup trucks loaded above cab.....	\$29.00/vehicle

For trailers, large vehicles, or roll off boxes containing non-residential solid waste, the gate attendant will estimate the cubic yard volume of the material in the vehicle, trailer or roll off box and convert the cubic yard volume to an estimate of the weight of that material, using a material type/weight conversion table. After the volume has been converted to a weight, the basic Forty Dollars and Fifty Cents (**\$40.50**) per ton fee for non-residential solid waste will be applied.

18. **Schedule of Special Rates and Charges.**

Fees For Recyclable, Reusable, or Divertable Material

At those waste facilities where a waste diversion, reuse or recycling program is in operation, persons bringing materials that conform to the material type standards established for the program at that facility may be eligible for a reduction in Gate Fees as described below, provided the person bringing the material also complies with the conditions and procedures established for that program.

Clean fill dirt..... No charge
 Clean inerts such as concrete, asphalt, bricks,
 or similar material Not to exceed \$5.00/ton

This fee shall be charged as determined by the Director to accommodate the needs of the waste facility for the material.

Small vehicles bringing loads of mixed waste,
 with 30 gallons or more of source separated
 recyclable materials, excluding inerts, wood,
 green waste or dirt..... 25% Discount

Full loads of source separated recyclable
 materials..... 50% Discount

Construction and Demolition Waste: \$50.00/ton

This fee shall be charged at any County facility when, in the discretion of the Director, it will encourage the use of recycling facilities or programs. This does not include residual solid waste generated by private mixed C&D recycling facilities which have been approved by the Director.

Tire Program Fees:

All tires, whether from residential or non-residential sources, will be charged the following fees to offset the cost of County's waste tire diversion program:

Tires in bulk loads \$200.00/ton

Individual Tires:

Light Duty Tires (18" diameter rim or smaller)\$ 2.00/tire

Heavy Duty Tires (19" to 24" diameter rims)\$10.00/tire

Oversize Tires\$14.00/tire
 (Racing tires and tires with more than 24" rims,
 but not mover class)

Earth Mover Tires..... \$200.00/ton
 (Extremely large tires used on earth moving equipment)

Notwithstanding the foregoing, residential property is entitled to dispose annually up to four (4) light duty tires in a load at the waste facility at no charge. The fee waiver will not apply to any load that requires compliance with any manifesting requirements imposed pursuant to the California Integrated Waste Board Waste Tire Manifest Program.

Non-residential Bin Disposal Fee:

Municipal solid waste in a bin\$2.11/cubic yard

Dead Animals

Any dead animals that require special handling
at the disposal facility\$30.00/animal

Multiple dead animals or parts of animals that
require special handling at the disposal facility.....\$70.00/ton

Treated Wood Waste (as defined in Health & Safety Code §25150.7):

The following Special Fees shall be charged at any County waste facility
which accepts treated wood waste, other than the Bakersfield Metropolitan (Bena)
Sanitary Landfill:

Disposal of treated wood waste other than
railroad ties\$120.00/ton

Disposal of treated wood waste that is in
the form of railroad ties\$12.00/tie

Disposal will be limited to a maximum of 2 cubic yards per load.

Other Special Fees.

The following Special Fees shall be charged, in addition to the normal
Gate Fee, regardless of whether the source of the waste is residential or non-residential
and in addition to any other fees that may apply:

Hourly rate for waste management personnel\$75.00/hour
(1/2 hour minimum)

Processing fee for each check returned
to the County without check payment for
any reason.....\$37.00/ea.

Travel trailers disposed of at County waste
facilities authorized to accept them for dismantling
and disposal (subject to removal of all hazardous
and unacceptable waste).....\$100.00/ea.

Untarped/Unsecured Loads.....\$5.00/ton
(with minimum charge of \$5.00/load)

19. **Validity.**

If any portion of this Ordinance is held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.

Section 3. This Ordinance shall become effective August 1, 2010; and Ordinances G-7501 and G-7865 are hereby repealed, effective August 1, 2010.

COPIES FURNISHED:
Co. Counsel
WMD
6-25-10 Jd

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