

ORDINANCE NO. 2017-2

ORDINANCE OF THE BOARD OF DIRECTORS
OF THE WRIGHTWOOD COMMUNITY SERVICES DISTRICT
ESTABLISHING REGULATIONS FOR ENFORCEMENT OF
EXCLUSIVE FRANCHISE FOR SOLID WASTE HANDLING
AND RECYCLING SERVICES

WHEREAS, the Wrightwood Community Services District (“District”) is a Community Services District located within the County of San Bernardino and the County of Los Angeles (“Counties”), and is organized and operates pursuant to the California Government Code Section 61000 et seq.

WHEREAS, on or about July 20, 2016, the Local Agency Formation Commission of the County of San Bernardino (“LAFCO”) adopted Resolution No. 3227 which made determinations on, and approved moving forward with the incorporation of, the District, which was further advanced by LAFCO following a duly-noticed public protest hearing and adoption of Resolution No. 3235 on September 22, 2016, and subsequently approved by the electorate pursuant to an election held on March 7, 2017, and thereafter confirmed by LAFCO pursuant to its adoption of Resolution No. 3245 on May 25, 2017 (“Resolution 3245”), all of which operated to authorize the formation of the District as the agency for the performance of solid waste and recycling functions and services within the District boundaries beginning July 1, 2017.

WHEREAS, Condition No. 6 of Resolution 3245 authorizes the District to collect, transfer, and dispose of solid waste and to provide solid waste handling services, including but not limited to source reduction, recycling, and composting activities, pursuant to Division 30 (commencing with Section 40000), and consistent with Section 41821.2 of the Public Resources Code (“Solid Waste Services”), within the boundaries of the District.

WHEREAS, the Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989 (California Public Resources Code Section 40000 et seq.), has declared that it is in the public interest to authorize and require local agencies to make adequate provisions for Solid Waste Services within their jurisdictions to meet the goals and requirements of Assembly Bill 939.

WHEREAS, pursuant to California Public Resources Code Section 40059(a)(2), the District has determined that the public health, safety, and well-being require that an exclusive franchise be awarded to a qualified company for the collection, transportation, recycling, processing, and disposal of solid waste and other services to meet the goals and requirements of Assembly Bill 939.

WHEREAS, pursuant to the authority expressly set forth in Resolution 3245, the District entered into an Exclusive Franchise Agreement with CR&R Incorporated (“CR&R”), effective July 1, 2017 (the “Franchise Agreement”), which granted to CR&R the exclusive right, privilege, and franchise to provide certain Solid Waste Services (as described in the Franchise Agreement) within the District boundaries, subject to the terms and conditions of said Franchise Agreement.

NOW, THEREFORE, BE IT ORDAINED by the Board of Directors of the Wrightwood Community Services District as follows:

SECTION 1. PURPOSE, INTENT, AND FINDINGS.

1.1 The purposes of this Ordinance are as follows:

- a. To allow for the establishment of solid waste handling franchises within the District boundaries, pursuant to the authorities cited above and as set forth in Government Code Section 25827, in Public Resources Code Sections 40057-40059 or 49200-49205, in California Code of Regulations Sections 17332 and 17333, and any other applicable State or local law;
- b. To assist the District in meeting its obligation to provide Solid Waste Services within the District boundaries as required in Public Resources Code Section 40057, and in satisfying its obligations under Assembly Bill 939, as amended, by providing its residents with source reduction, recycling, and composting programs and opportunities, by implementation of franchises through entering into franchise agreements with grantees;
- c. To help ensure that residents of the District receive the similar quality of waste collection and recycling services as do those residents in the incorporated cities and towns, and unincorporated areas, of the Counties;
- d. To ensure that programs and service levels for Solid Waste Services within the District boundaries will replicate to the extent possible, programs and service levels of adjacent cities and towns and unincorporated areas of the Counties;
- e. To minimize, to the extent possible, disruption of programs and services to the District's residents; and
- f. To help quantify the waste stream from the District in order to comply with diversion requirements of Assembly Bill 939, as amended.

1.2 Based on the foregoing, the District's Board of Directors ("the Board") has determined that there is no possibility that the Ordinance have any potential to cause significant effects on the environment, and that, pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA"), the Ordinance does not constitute a "project" under Sections 15061 and 15378 of the State CEQA Guidelines, and is therefore exempt from environmental review.

SECTION 2. DEFINITIONS.

- 2.1 “General Manager” shall mean that person appointed by the Board pursuant to California Government Code Sections 61050-61051 to manage the activities of the District or his or her designee.
- 2.2 “May” shall mean an action which is discretionary.
- 2.3 “Shall” or “Must” shall mean an action which is mandatory.

SECTION 3. REQUIRED AUTHORIZATION.

3.1 Except as otherwise provided in Section 3.2 of this Ordinance, no person shall engage in, solicit, contract for, or provide, in the District boundaries, Solid Waste Services without such person having and maintaining a franchise agreement with the District authorizing the person to provide the specified Solid Waste Services being provided.

3.2 Notwithstanding Section 3.1 above, any person may engage in or provide, in the District boundaries, those Solid Waste Services which are related solely to one of the types of solid waste set forth below, without such person being required to have or maintain a franchise agreement with the District:

- a. Abandoned vehicles and parts thereof;
 - b. Ashes;
 - c. Dewater, treated, or chemically fixed sewage sludge;
 - d. Self-generated waste or waste generated and hauled by the property owner;
 - e. Green waste or yard trimmings generated as an incidental part of providing gardening, landscaping, or landscape maintenance as a professional gardener or landscaper;
 - f. Inert materials or demolition of waste from remodeling jobs which are generated as an incidental part of providing such remodeling 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 (except for the tipping fee), and transportation is accomplished using the contractor’s own equipment; and
 - g. Recyclable materials that are sold or donated by the generator of such materials to a party or other than the grantee of a franchise. A mere discount or reduction in price of the hauler’s charges for the handling of such materials is not a sale or donation within the meaning of this Ordinance.
- 3.3 No person shall engage in, solicit, contract for, or commit any illegal dumping or disposal of solid waste within the District’s boundaries.

SECTION 4. ENFORCEMENT OFFICER. The General Manager is hereby declared and appointed as the enforcement officer of this Ordinance and shall be empowered to take such other actions as authorized herein, or as may otherwise be authorized by the Board or be reasonably necessary, for enforcement of the Ordinance.

SECTION 5. LIABILITY FOR VIOLATION. Any person violating any of the provisions of this Ordinance or permitting or maintaining any property in violation of any of this Ordinance, shall be liable to the District for any expense, loss or damage, occasioned by the District by reason of such violation, including reimbursement of the District's attorney's fees and legal costs. Such liability shall be in addition to any other civil or criminal penalties imposed under this Ordinance or under any other provision of law.

SECTION 6. PENALTIES AND FINES.

6.1 Pursuant to Government Code Section 61064(c), the General Manager is hereby authorized to issue citations for violations of this Ordinance. Any person violating any provision of this Ordinance, as determined by the Board, may be prosecuted, by the applicable law enforcement agency or the General Manager in the name of the people of the State of California, as committing either a misdemeanor or an infraction, or may be the subject of redress by civil action.

6.2 Pursuant to Government Code Section 61064(a), a person violating any provision of this Ordinance shall be guilty of a misdemeanor and shall be punishable by a fine of not more than five thousand dollars (\$5,000), or as may otherwise be allowed by law. Each and every violation of this Ordinance and each day during which such violation is committed or continued shall constitute a separate offense.

6.3 Pursuant to Government Code Section 61064(b), any citation issued by the General Manager for a violation of this Ordinance may be processed as an infraction, and shall be punishable by (a) a fine not exceeding one thousand dollars (\$1,000) for a first violation of this Ordinance, (b) a fine not exceeding two thousand five hundred dollars (\$2,500) for a second violation of this Ordinance within one year, and (c) a fine not exceeding five thousand dollars (\$5,000) for each additional violation of this Ordinance within one year.

SECTION 7. INJUNCTION. In addition to the remedies set forth in this Ordinance, the District may file a civil action to compel compliance with this Ordinance, including but expressly not limited to, an action to enjoin any pending or future violations of the Ordinance, or for the issuance of an order stopping or disconnecting a service if the charges for that service are delinquent or unpaid.

SECTION 8. RESERVATION OF RIGHTS. All remedies set forth in this Ordinance are herein declared to be cumulative and non-exclusive and shall not preclude the District from enforcing any other rights or remedies available under the law or any other rules and regulations of the District.

SECTION 9. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decisions shall not affect the validity of the remaining portions of this Ordinance.

SECTION 10. PUBLICATION AND POSTING. The General Manager is hereby directed to cause a summary of this Ordinance to be published at least five (5) days prior to the date of adoption hereof in a newspaper of general circulation within the District boundaries and a copy of the full text of this Ordinance must be posted at the District office at least five (5) days prior to the meeting. Within fifteen (15) days after adoption, the General Manager is hereby directed to cause said summary of this Ordinance to be published in a newspaper of general circulation within the District boundaries and a copy of the full text of this Ordinance must be posted at the District office.

SECTION 11. EFFECTIVE DATE. This Ordinance shall become effective thirty (30) days after adoption.

APPROVED AND ADOPTED this 6th day of February, 2018.

President, Board of Directors