

ORDINANCE NO. 174706

An Ordinance adding Sections 66.32 through 66.32.8 to the Los Angeles Municipal Code, relating to the collection of solid waste and imposing certain private solid waste hauler AB 939 compliance fees.

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. Sections 66.32 through 66.32.8 are hereby added to the Los Angeles Municipal Code to read as follows:

Section 66.32. Purpose and Definitions. In order to meet AB 939 diversion goals and the City of Los Angeles' diversion goal of 70 percent by the year 2020, private solid waste haulers and recyclers shall register with the City and display a permit decal and number issued by the City through the Department of Public Works, Bureau of Sanitation. Waste haulers shall pay an AB 939 compliance fee as set forth in this section and in sections 66.32.1 through 66.32.8 based on gross receipts of solid waste collected. Among the various purposes of this program is the goal of maintaining an open and competitive market for all companies providing solid waste and disposal services in the City. As used herein and in sections 66.32.1 through 66.32.8, the following terms shall have the meanings set forth below:

AB 939 shall mean the State of California's Integrated Waste Management Act of 1989, as may be amended from time to time, and as set forth in California Public Resources Code Sections 40050, *et seq.*, and implementing regulations of the California Integrated Waste Management Board ("CIWMB").

Construction and Demolition Debris shall mean source separated or separated for reuse solid waste and recyclable materials that result directly from construction, remodeling, repair, demolition, or deconstruction of buildings and other structures, do not contain hazardous waste (as defined in California Code of Regulations, Title 22, Section 66621.3, *et seq.*), and contain no more than one percent (1%) putrescible wastes by volume, calculated on a monthly basis.

Gross Receipts shall mean those receipts defined as Gross Receipts in Los Angeles Municipal Code Section 21.00 (a) and received from the collection of solid wastes including, but not limited to, receipts for service, container rental, and disposal and processing charges. For purposes of this section and sections 66.32.1 through 66.32.8, Gross Receipts shall not include proceeds from the collection and sale of source-separated materials.

Material Recovery Facility (MRF) shall mean a facility which is utilized to receive solid waste for the purpose of sorting and recovering materials for recycling or reuse in order to return them to the economic mainstream in the form of raw materials for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace.

Self-haulers shall mean businesses or persons who are not primarily engaged in the business of collection, removal or transportation of solid waste but in the course of performing their primary business function incidentally transport solid waste. Examples of such businesses include but are not limited to gardeners, landscapers, and household cleanup service firms.

Solid Waste shall mean waste that the California Integrated Waste Management Board has deemed acceptable for disposal at a Class III Landfill and shall not include source-separated material.

Solid Waste Hauler shall mean any individual, partnership, joint venture, unincorporated private organization, or private corporation engaged in the business of providing collection, removal or transportation of solid waste or source-separated materials, as applicable.

Source Separated Material (Construction and Demolition Debris) shall mean materials that have been separated or kept separate from the solid waste stream at the point of generation and have not been commingled with other solid waste or recyclable materials. For example, each type of material must be transferred in separate containers to the recycling center.

Source-Separated Material (Non-Construction and Demolition Debris) shall mean materials, including commingled recyclables, that have been separated or kept separate from the solid waste stream, at the point of generation, for the purpose of additional sorting or processing those materials for recycling or reuse in order to return them to the economic mainstream in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace.

Section 66.32.1. Private Solid Waste Hauler Permit Requirements.

- (a) Except as provided in Section 66.08.1, it is unlawful for any business or person to collect, haul and dispose of solid waste, including construction and demolition debris waste, or any source-separated materials in the City, unless, at the City's sole option, such business or person has been granted an AB 939 compliance permit by the City.
- (b) Section (a) does not apply to self-haulers and other companies that, in the course of performing their primary business function, incidentally transport solid waste or source separated-materials of under one thousand (1,000) tons per year.

Section 66.32.2. Permit Terms and Conditions

- (a) All permits granted to persons pursuant to this division shall be non-exclusive.
- (b) All permits shall be subject to the terms and conditions specified in this article, in the permit, and in all other applicable federal, state and local laws and regulations including the Los Angeles Administrative Code.
- (c) The permit requirements, terms and conditions shall be effective as of the effective date of this section as adopted by the City Council. Existing solid waste haulers doing

business in the City of Los Angeles must submit a solid waste hauling permit application to the Bureau of Sanitation no later than 30 days after adoption of this section. New solid waste haulers must obtain a permit prior to commencing hauling operations.

- (d) The City Council may prescribe additional terms and conditions for such permits not in conflict with the City Charter, the City Administrative Code, or this Code.

Section 66.32.3. AB 939 Compliance Fees.

- (a) There is hereby imposed an AB 939 compliance fee each year equal to 10 percent of the annual gross receipts from fees and charges from the collection of solid waste within the City of Los Angeles by the solid waste hauler. Funds from such fees shall be deposited into the Citywide Recycling Trust Fund.
- (b) Payment of the AB 939 compliance fee shall commence the calendar quarter following the effective date of this section. The initial payment of the fee shall be based upon the gross receipts collected during the period of time from the effective date of this section to the beginning of the next calendar quarter.
- (c) Solid waste hauler compliance fees are payable quarterly and payment is due on or before 30 days following the end of each calendar quarter in which the gross receipts are received.
- (d) Sections (a) through (c) do not apply to registered and permitted solid waste haulers whose annual tonnage is below one thousand (1,000) tons per year.
- (e) Receipts generated from collection and sale of source-separated materials shall not be subject to the AB 939 Compliance Fee.
- (f) The payment of AB 939 compliance fees to the City pursuant to this section shall be in addition to any City of Los Angeles Business Taxes or other taxes, fees or charges imposed by applicable law due for the same period.
- (g) A percentage of the fees collected shall be allocated by the Board of Public Works for incentives designed to increase recycling activities. The percentage shall be adjusted annually and shall be subject to Council approval, and shall be based on the amount of diversion reported by the waste haulers.

Section 66.32.4. Delinquency B Additional Charge. If the compliance fees imposed pursuant to section 66.32.3 are not paid on or before the thirtieth (30th) day of the month following the end of each calendar quarter for which gross receipts are received, an additional charge equal to two and a half percent (2.5%) of the required fees, shall be added to such fees, and such additional charges shall become a part of the fees required by this section and be payable for said period. An additional two and a half percent (2.5%) is added to such fees for each subsequent calendar quarter that payment of the fee is not received by the City, not to exceed a total of ten percent (10%) per year.

Section 66.32.5. Other Permit Provisions.

- (a) The City may modify the permit requirements from time to time as it deems appropriate or due to changes in applicable law.
- (b) All haulers required to obtain a solid waste hauling permit under sections 66.32 through 66.32.8 shall submit reports to the Bureau of Sanitation documenting all disposal and diversion amounts and programs. The Director of the Bureau of Sanitation shall set forth the format and the frequency of the reports.
- (c) The Director of the Bureau of Sanitation or the Director's designee shall have the right at any time during normal business hours to inspect permittee's records for the purpose of determining AB 939 compliance and other reporting requirements and to determine proper calculation and payment of fees. The City will provide permittee reasonable notice of its intention to inspect any of permittee's records.
- (d) The City retains the right to revoke or suspend the permit as provided in the terms of the permit, this Code and as otherwise provided by applicable law.

Section 66.32.6 Violations and Revocation of Permit.

- (a) Violations. Every person, business, or corporation who operates a solid waste hauling service and who knowingly and willfully issues, publishes or affixes, or causes or permits the issuance, publishing or affixing of any oral or written advertisement, broadcast or representation to the public or any portion thereof, in any manner whatsoever, that the person, business, or corporation is in operation as a solid waste hauling company or an individual solid waste hauler without having a valid permit granted by the City of Los Angeles, or in violation of the terms and conditions of any such permit or of this Code, is guilty of a misdemeanor punishable by imprisonment in a city or county jail not exceeding six (6) months, or by a fine not exceeding one thousand dollars (\$1,000), or both. Each separate day, or any portion thereof, during which any violation of the terms and conditions of the permit occurs or continues shall constitute a separate offense, and upon conviction thereof, shall be punishable as provided by this section.
- (b) Suspension and Revocation. The City reserves the right to suspend a solid waste collection permit, with 30 days written notification, if the permittee fails to comply with any of the terms and conditions specified in the permit or in this Code, including, but not limited to, fee payment and reporting requirements. Violations of other Los Angeles Municipal Code sections or applicable laws shall constitute just cause for revocation of a permit. Permittee shall have a 30-day cure period after written notice of violation and notice to appear before the Board of Public Works for a hearing regarding the proposed suspension.
- (c) Waiver of hearing. Failure of permittee to respond to a notice to appear for a hearing before the Board shall constitute a waiver of the right to a hearing and action may be taken without the permittee being present.

- (d) Rehearing. Upon receipt of a written request from a person or business whose permit has been denied, suspended, revoked or canceled stating the grounds for protesting such action, the Board shall consider the basis of the request and may set the matter for rehearing, notify the applicant and take appropriate action.
- (e) The Director of the Bureau of Sanitation or the Director's authorized representative may take possession of any badge, card, permit, license, or vehicle decal issued under the provision of this chapter, upon expiration, revocation, cancellation, or suspension thereof, or which is fictitious or which has been unlawfully or erroneously issued. Any decal as approved by the Board of Public Works, which is not attached to the vehicle for which it was issued may be seized.

Section 66.32.7. Confidential Character of Information Obtained B Disclosure Unlawful. It shall be unlawful, except as required by applicable law, for the Director of the Bureau of Sanitation or any person having an administrative duty under the provisions of sections 66.32 through 66.32.8 to make known in any manner whatever the business affairs, operations, or information obtained by an investigation of records and equipment of any person required to obtain a solid waste hauler permit, or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures, or any particulars thereof, set forth in any statement or return, or to permit any statement or return, or copy of either, or any book containing any abstract or particulars thereof to be seen or examined by any person. Provided nothing in this subsection shall be construed to prevent:

- (a) the disclosure of information to, or the examination of records and equipment by another City official or employee for the sole purpose of administering or enforcing any provision of sections 66.32 through 66.32.8 of this Code;
- (b) the disclosure of information and results of examination of records of particular permittees, or relating to particular permittees, to a court of law in a proceeding brought to determine the existence or amount of any fee liability of the particular permittees to the City of Los Angeles;
- (c) the disclosure after the filing of a written request to that effect, to the permittee itself, or to the permittee's successors, receivers, trustees, executors, administrators, assignees and guarantors, if directly interested, of information as to the items included in the measure of any paid fee, any unpaid fee or amounts of fee required to be collected, interest and penalties; provided, however, that the Director of the Bureau of Sanitation may refuse to make any disclosure referred to in this paragraph, if consistent with applicable law, when in the Director's opinion the public interest would suffer thereby;
- (d) the disclosure of the names and addresses of persons to whom permits have been issued; and
- (e) the disclosure of such information as may be necessary to the City Council in order to permit it to be fully advised as to the facts when a permittee files a claim for refund of the compliance fees, or submits an offer of compromise with regard to a claim for

refund of the compliance fees or submits an offer of compromise with regard to a claim asserted against the permittee by the City for compliance fees, when acting upon a matter submitted to the Council.

Section 66.32.8. Indemnification. All permits issued pursuant to sections 66.32 through 66.32.8 of this Code shall include a provision that the permittee undertakes and agrees to defend, indemnify, and hold harmless the City, and all of the City's Boards, Officers, Agents, Employees, Assigns and Successors in Interest, from and against any all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees and costs of litigation, damages or liability of any nature whatsoever, for death or injury to any person, including permittee's employees and agents, or damage to or destruction of any property of either the City or permittee or of third parties, arising in any manner by reason of the permittee's negligence, willful misconduct, or errors and omissions incident to or arising from the issuance of a permit or the operations thereunder.

Sec. 2. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located in the Main Street lobby to the City Hall; one copy on the bulletin board located at the ground level at the Los Angeles Street entrance to the Los Angeles Police Department; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was introduced at the meeting of the Council of the City of Los Angeles June 26, 2002, and was passed at its meeting of July 3, 2002.

J. MICHAEL CAREY, City Clerk
By Maria Kostrencich, Deputy

Approved July 16, 2002
JAMES K. HAHN, Mayor

Approved as to Form and Legality
June 26, 2002
ROCKARD J. DELGADILLO, City Attorney
By Pedro B. Echeverria
Chief Assistant City Attorney

C.F. 02-1005