ORDINANCE NO. 10-04

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.

This ordinance amends and restates Chapter XIII of the Ridgecrest Municipal code to enhance waste collection services by providing greater flexibility and choice for citizens. Specifically, it provides a procedure to enable the City to better account for parties who elect to self-haul their refuse.

Section 2. 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:

"Adequate service" means the combination of the number of collections, the number of containers, and the size of containers necessary so as to avoid the accumulation of refuse outside containers or in excess of level full.

"Authorized recycling containers" means a waste or recycling storage and collection receptacle approved by the City for the receipt of Recyclable Materials.

"Commercial premises" means premises except residential premises. "Commercial premises" do not include residential premises where one room is used as a home office.

"Franchisee" means the entity with whom the city has contracted under a franchise agreement to handle of waste.

"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.

"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, 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.

"Recyclable waste material" means discarded materials such as, but not limited to, newspapers, glass and metal cans, which are separated from other refuse for the purpose of recycling and which are not sold or donated to a third party.

"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.

"Residential premises" means a premises used or designed for use for residential purposes. The fact that a residential premises includes one room used as a home office does not prevent the premises from being considered "residential premises."

"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" means 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. (5) yard waste, or (6) recyclable materials segregated from solid waste for reuse or recycling. Solid waste includes recyclable materials and yard waste when those items are not source separated, and 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 recyclable materials storage, collection, transfer, removable, processing, consulting, brokering, disposal or equipment rental service ("fee for service" recycling).

"Solid waste handling" or "handling" means the collection, transfer, transport, recycling, processing, and conversion or disposal of solid waste.

"Unauthorized containers" means containers belonging to refuse collectors or solid waste enterprises that do not have a franchise agreement with the City, and which are being used in the city for refuse collection.

"Waste" means rubbish, solid waste, yard waste, and household hazardous waste.

"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 (not including recyclable materials) 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 or recyclable materials 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 Collection.

13-2.1 Exclusive Franchise for Waste Collection.

(a) City may provide for the handling of solid waste within the City by granting an exclusive franchise. 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.

(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 waste or recyclable materials within the city, except as set forth in section (c) below.

(c) When the collection of refuse and recyclable waste material shall be performed exclusively by the Franchisee, 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. The exclusive right of any Franchisee to collect refuse and recyclable waste material is subject to the following exclusions:

1. Self Haul. Any refuse or recyclable waste material that is removed and personally transported from any premises by the owner or occupant thereof for the purpose of lawfully delivering same to a solid waste facility authorized to receive and handle solid waste or recyclable materials. Owners or occupants may delegate the responsibility of delivering such materials to a solid waste facility to any third party provided that it is done on a voluntary basis and no compensation is tendered in exchange for the service.

2. 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.

3. 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.

4. Sale or Gift of Recyclable Materials. Recyclable materials that are either donated or sold by the generator of the materials to a party other than the franchisee. A mere discount or reduction in price of the franchisee's charges for the handling of such materials is not a sale or donation within the meaning of this regulation. The materials shall be deemed "solid waste" within the meaning of California Public Resources Code Section 40191, and for purposes of these regulations shall be regulated as such, whether or not they may be potentially recyclable, in either of the following instances: (a) the material is mixed or commingled with other types of solid waste, or (b) the payment of a fee, charge or other consideration, in any form or amount, is directly or indirectly solicited or received from the generator by any person or combination of persons acting in concert in exchange for collection, removal, transportation, storage, processing, handling, consulting, container rental or disposal services ("fee for service" recycling), whether or not arranged by or through a subcontractor, broker, agent, consultant, or affiliate of the provider of such service.

(d) This section shall not limit the collection of hauling of waste and recyclable materials 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. This action shall not waive the requirement of paying for waste collection services unless the private party is qualified as a permitted self-hauler pursuant to Section 13-2.3.

13-2.2 Collection for Commercial Premises and Certain Multi-Family Residential Structures.

(a) Every owner (or designee) of commercial premises and every owner of a multi-family residential structure shall subscribe for and pay the franchisee for waste collection and disposal at such rates as may be set by franchisee and approved by resolution of the City Council. For purposes of this section "multi-family residential structure" means residential structures that contain five or more separate dwelling units.

(b) Franchisee shall collect waste and recyclables from commercial premises on such days and at such frequencies as the generator or owner (or the Owner's designee) shall 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.

13-2.3 Collection for Residential Premises.

(a) Every owner of occupied residential premises within the City, who is not a self-hauler as described in paragraph (b), shall subscribe for and pay the Franchisee for solid waste, yard waste, and/or recyclable materials handling services at such rate as may be set by Franchisee and approved by resolution of the City Council. For purposes of this section, property is "occupied" each month in which it is inhabited for more twenty-one (21) days of that calendar month. The Owner of property may designate an agent to fulfill the Owner's obligations under this subsection.

(b) The Owner of any occupied residential premises will be exempt from the requirements of subpart (a) upon the completion of an notification to self-haul and submission of the application to the City manager or his designee. The notification shall be on a form approved by the City. Parties who submit an notificaiton to self-haul, and who are currently receiving service from the Franchisee, shall return to the Franchisee any containers obtained from the Franchisee. The notification to self-haul shall specify whether the applicant is electing to self-haul solid waste without recyclable materials, recyclable materials only, or both solid waste and recyclable materials. Applicants who elect to self-haul recyclable materials must indicate in the notification that they will only deposit the recyclable materials at a location approved for recycling.

(c) Each October, the City council shall review, the effectiveness of the City's recycling diversion. If the City determines the programs described herein are not meeting state requirements for diversion of recyclable materials, the City council shall provide for additional programs needed to meet the state requirements.

13-2.4 Collection – Fees.

(a) The owner of property from which waste is collected shall pay to the franchisee, or other persons designated by the City Council, such fee as may be set by the franchisee and approved by the City Council by resolution. This payment may be made through an agent of the Owner on the Owner's behalf.

(b) Multi-family residential premises of two, three or four units, condominium properties and mobile home parks may receive service as individual subscribers with each unit having its own residential service, or as a commercial subscriber with the entire complex receiving commercial service and billed as one commercial account. Such determination shall be made by the property owner and communicated in writing to franchisee.

(c) A low income fee may be approved by resolution of the City Council.

13-2.5 Collection – Interference Prohibited.

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

(b) 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 by the city or the Franchisee.

(c) 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.

(d) 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.

13-3 Disposal and Destruction of Waste.

13-3.1 Burning of Waste. No person shall burn or cause to be burned, waste.

13-3.2 Burying of Waste. No person shall bury waste (except yard waste being actively composted).

13-3.3 Waste Receptacles.

(a) 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.

(b) Every person in possession, charge or control of a multi-family residential establishment, church, business, or industrial establishment shall provide portable receptacles as determined by the city to contain the waste ordinarily accumulating at such place during the intervals between collections. 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.

(c) On the specified collection days, the receptacles for each person who receives waste and recycling 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.

1. Receptacles shall be placed, as required by the Franchisee, within five (5) feet of the public place on collection days and shall be readily accessible for collection.

2. Notwithstanding the provisions of this Chapter, persons storing waste in containers may request the Franchisee to enter upon their residential establishment to collect such containers.

3. Waste shall be enclosed in closable retainers in such a manner so no portion of the waste shall leak or spill out during the period of storage, prior to, or during its collection.

A. The Franchisee shall remove from the premises all refuse which has been properly placed for collection, whenever such refuse is of a type and in an amount provided by contract with the City. Any removal of refuse by the Franchisee, or any person, shall be performed in a neat, orderly and quiet fashion, without causing damage to the container or the

lid. Any spilled matter shall be picked up by the person responsible for the spillage, and the premises shall be left in a clean and orderly condition.

B. Over-The-Top Program. It shall be the responsibility of the all parties who receive trash service to avoid overloaded containers of refuse creating accumulations of refuse in or about the container enclosure or collection site, to ensure the security thereof, and to arrange and pay for adequate service so as to ensure compliance with the level full requirements of these regulations. In the event of an overloaded container, City shall notify the customer in writing that the next instance of an overflowing container may result in a charge, and possibly an increase in the level of service. Upon the second event of an overloaded container, City shall send a second such notice to the customer including a cleanup fee and a request that the customer increase its service level. The second and all subsequent instances of an overloaded container shall incur a cleanup fee per event. This shall be known as the City's "over-the-top" policy. The amount of the fee shall be in accordance with a resolution of the city council, as it may be amended from time to time.

C. Refuse lawfully placed for collection shall be the property of the City from the time of placement until the time of collection and shall become the property of the franchisee from the time of collection to the time of disposal.

D. In the event that a commercial property does not maintain adequate level of service and/or the over-the-top policy does not resolve the unsightly and unhealthy trash conditions at the property, or any area of the property that is open to the public or open to public view is not kept free from dirt, rubbish and/or yard waste, the property owner is subject to any or all of the following legal actions, without limitation:

1. Civil injunction;

2. Administrative citations;

3. Reinspection fees;

E. Legal action may be triggered by any one or more of the following conditions:

1. Franchisee reports to the City that the premises have had three or more incidences of overfilled containers within a six-week period.

2. The premises have been issued three or more notices of violation from code enforcement relating to violations of the provisions of this chapter within a six-week period and the premises did not come into compliance.

3. The premises have been issued three or more administrative citations relating to violations of the provisions of this chapter within a six-week period and the premises did not come into compliance.

F. Prior to proceeding to legal action, the city may require the property owner to submit a refuse collection and clean-up plan to community development within fourteen days of the first of the conditions enumerated in subsection E of this section.

The plan should include, as applicable:

1. The number of refuse containers and/or receptacles for the premises;

2. A copy of the porter service contract, which shall include number of times receptacles are emptied per day;

3. A copy of the refuse collection contract with the franchisee at the time of the violations; if that contract is insufficient, proof that a higher plan shall be implemented starting within ten days of submittal.

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.

(b) No household hazardous waste shall be included in or combined with generator's weekly solid waste or yard waste.

13-5 Transportation of Waste.

13-5.1 Transportation. Waste shall be carried on city streets by all persons, (including Franchisee), 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 by franchisee in the 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 health officer or police department to require immediate removal so as to preserve public health.

13-5.4 Removal of Unauthorized Containers.

(a) The City manager (or designated city employee) may post a notice on any unauthorized container placed on public property. The City shall attempt to notify the Owner and user if known. The notice shall specify the nature of the violation and shall state that the container must be removed within ninety-six hours or it may be removed by the City and put in storage at Owner's expense. The posting of a notice to remove shall constitute constructive notice to the Owner and user of the requirement to remove the container if other efforts to notify the Owner and user are unsuccessful. (b) If a container on public property is not removed within ninety-six hours after the notice to remove is posted and the City has made all reasonable efforts to contact the owner, the City manager (or designee) may order the removal and storage of the container at best commercial cost. The Owner shall reimburse the City for removal and storage costs. (c) If the identity of the Owner of a container that has been removed by the City is known, the City shall promptly send a notice to the owner to claim the container. If the

container is not claimed within ninety days after removal and notice to the Owner, or ninety days after removal if the identity of the Owner is unknown, the container and its contents shall be deemed abandoned property and may be disposed of accordingly. (d) After a container has once been removed by the City pursuant to this article, the owner thereof shall be deemed to have actual notice of the provisions of this article, including prohibition against the placement of unauthorized containers. In the event of a subsequent placement of a container by the same owner, or an affiliate of the owner, that is in violation of the chapter, the City may immediately, without the posting of a notice to remove pursuant to subsection (a) of this section, direct the removal and storage of the unauthorized container and shall, in such case, give notice to the owner to claim the container pursuant to subsections (b) and (c) of this section.

13-6 Service Billing.

13-6.1 Failure To Pay Franchisee For Refuse Collection.

(a) An account is deemed delinquent if payment for collection services has not been received within fifteen days after the last day of the normal billing period for which service was rendered. Upon determination of delinquency, the Franchisee shall give written notice to the delinquent account holder that the bill is now overdue and payable in full and shall attempt to collect payment through all available means, within thirty days of the date of such notice.

(b) Provided adequate arrangements for payment have not been made between the Franchisee and delinquent account holder within sixty days of the end of the earliest unpaid billing period, the Franchisee may assign the total unpaid bill amount to the city manager for collection. The assignment shall provide all pertinent data including the name and address of the residence owner billed, address and parcel number of the property billed, dates of the period of service unpaid, amount due and certification that the billing procedures pursuant to subsection (a) of this section, have been fulfilled.

(c) The delinquent bill presented by the City to the occupant or legal owner pursuant to subsection (a) of this section, shall include a written notice warning that nonpayment within sixty days of the end of the earliest unpaid period may result in assignment of the debt to the city for collection, may include collection charges and may result in the recordation of a lien against the property to which service was rendered.

(d) Upon receipt of assignment of the debt, the City Manager shall advise the debtor in writing of the assignment, that a minimum fee of ten percent of the bill amount is imposed in all collection cases filed with the city, that an additional thirty-dollar lien fee will be charged in all cases where the filing of a lien with the county auditor is necessitated, and that thirty days notice is given to permit payment of the debt to the city to avoid payment of the lien fee and to avoid a special assessment against said property in the amount of all aforesaid fees and charges.

(e) Originally billed amounts which are collected by the City shall be paid to the Franchisee on a quarterly basis. All fees and lien charges collected shall be retained by the City.

13-6.2 Special Assessment Collection.

(a) The City Manager may initiate proceedings to make delinquent refuse collection service

fees and collection charges a special assessment against properties for which such debts were assigned to the City for collection.

(b) A report of delinquent charges shall be transmitted to the City Council, which shall fix a time, date and place for hearing the report and any protests or objections thereto.

(c) The City Council shall cause notice of hearing to be mailed to the owner of real property to which service was rendered not less than ten days prior to the date of hearing. At the time fixed for said hearing, the City Council shall hear any objections of the legal owner liable to be assessed for delinquent accounts. The City Council may make such revisions to the report as it deems just and if satisfied with the correctness of the report as submitted or revised shall confirm or reject it by resolution. The decision of the City Council on the report and on all protests or objections thereto are final and conclusive.

(d) Upon confirmation of the report by the City Council, the delinquent charges contained therein shall constitute a special assessment against the property and shall be forwarded to the Kern County Auditor as provided by sections 39580 through 39586, inclusive, of the Government Code of the State of California, to be collected at the same time and in the same manner as ordinary real property taxes are collected and shall be subject to the same penalties and procedure of sale as provided for delinquent, ordinary real property taxes. The assessments are subordinate to all existing special assessment liens previously imposed upon the property and paramount to all other liens except those for state, county and municipal taxes with which it has parity. The lien shall continue until the assessment and all interest and penalties due and payable thereon are paid. All laws applicable to the levy, collection and enforcement of municipal taxes are applicable to such special assessments.

(e) There is created in the general fund an account entitled "Property Owners' Delinquencies for Refuse Collection Service." This account is funded from refuse services and shall be credited with such delinquencies as are collected by the county tax collector or otherwise collected for release of lien remitted to the City. The City will in turn, debit the account for payment to the Franchisee of delinquencies collected exclusive of fees and charges imposed by the City. Collection fees and charges imposed by the City shall be cleared to a general revenue account.

13-7 Federal and State Law Controlling.

This chapter is subject to changes made state or federal law concerning waste in and from public housing units."

Section 3. Other.

This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause this Ordinance to be published as set forth below.

At least five (5) days prior to its final adoption, copies of this Ordinance shall be posted in at least three (3) prominent and public locations in the City; and a notice shall be published once in a newspaper of general circulation in the City of Ridgecrest, setting forth the title of this Ordinance, the date of its introduction and the places where this Ordinance is posted. Within

fifteen (15) days following final adoption, a summary of the Ordinance with the names of the council members and votes shall be published in a newspaper of general circulation.

Introduced and first read at a meeting of the City Council of the City of Ridgecrest held the 16th day of June, 2010.

PASSED AND ADOPTED at a regular meeting of said City Council held on July 7, 2010, by the following roll call vote:

AYES:	Mayor Morgan, Council Members Carter, Wiknich, and Taylor
NOES:	Council Member Holloway
ABSENT:	None
ABSTAIN:	None

Steven P. Morgan

Steven P. Morgan, Mayor

ATTEST:

Rachel J. Ford, CMC

Rachel J. Ford, CMC
City Clerk