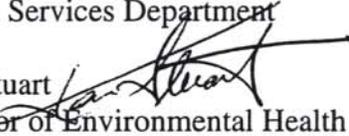


# ILLEGAL DUMPING REPORT ATTACHMENT III

## ENVIRONMENTAL HEALTH DIVISION Inter-Department Memorandum

Date: May 14, 2004

To: William B. Walker, M.D., Director  
Health Services Department

From: Ken Stuart   
Director of Environmental Health

Subject: Establishment of a Mandatory Refuse Collection Fund

PROCESSED  
MAY 18 2004  
COUNTY OF CONTRA COSTA SVCS.  
ALBANY, CALIF.  
PUBLIC WORKS DEPARTMENT

**Issue:** Should the Health Services Department establish a fund to pay the monthly cost of refuse collection for residential dwellings whose owners do not subscribe to County Code required refuse collection services?

**Recommendations:** (1) The Health Services Department establish a \$50,000 Mandatory Refuse Collection Fund to be used by the Environmental Health Division to reimburse franchise waste haulers their cost of implementing county ordered mandatory refuse collection services at residential dwellings; (2) the Environmental Health Division fully implement the Contra Costa County Code, Chapter 418-6 – Mandatory Subscriptions to recover the mandatory refuse collection costs via tax assessment liens on the properties; (3) the effectiveness of the program be evaluated annually and a summary report submitted to the Board of Supervisors; and (4) the Fund include annual monies made available by the Board of Supervisors from the solid waste mitigation fees.

**Background:** Chapter 418-6 of the Contra Costa County Code contains the mandates, authority, and procedures required of the Division to implement the Mandatory Subscription requirements for refuse collection services. This program has been implemented for many years, with support from the Solid Waste Section staff of the Community Development Department (CDD). Most of the county franchised solid waste collection and disposal companies have taken property owners who this Division orders to have refuse collection service to Small Claims Court for nonpayment of fees. In the case of the Richmond Sanitary Disposal Company, it has provided CDD with an annual list of those owners who have failed to pay the company for mandatory refuse subscription services. In turn, the CDD has forwarded the list to the Auditor-Controller's Office, a tax lien has been placed on the property, and the collected monies were forwarded to Richmond Sanitary Disposal Company. Approximately eighteen months ago, the County Counsel rendered an opinion that the county could not collect monies for a private firm through tax liens. However, it would be legal for the County to pay the Richmond Sanitary Disposal Company from available county monies and then recover the cost through the tax lien, with the recovered monies going back to the County. CDD staff have discussed with the solid waste franchise haulers the concept of their firms establishing a funding account for the county. This suggestion was not acceptable to the haulers.

Currently, there are an estimated 320 residential dwellings in North Richmond that do not subscribe to refuse service. There are also residential dwellings in other parts of the county, including Bay Point, that do not subscribe to refuse service. In accordance with the Code, a small number of owners of residential dwellings have received exemptions from refuse service. The numbers of residential dwellings in the North Richmond area without refuse service likely contribute to the chronic illegal dumping problem in the area. Without the establishment of a recoverable fund to pay the refuse companies to collect household waste from the residents that do not subscribe to refuse collection, the companies will understandably not perform the services, and illegal dumping of refuse will continue to be an unabated residential problem.

**Fiscal Impact:** The average monthly cost of residential dwelling refuse collection services is \$25, and Chapter 418-6 of the County Code authorizes the county mandating of refuse service for up to twelve months. Thus, the cost for mandatory refuse collection service for six months would be \$150/household while it would be \$300 for twelve months. There is no fee for county agencies to initiate a tax lien through the Auditor-Controllers Office, but there is an \$11 charge to release the lien on the property. The administrative costs to the Environmental Health Division would be added to the property tax lien, and would be credited to the Division when the tax liens are recovered. It is our intent to utilize existing staff in funded positions to administer the program and to utilize the Mandatory Refuse Collection Fund to pay for only the refuse collection costs. Including the cost of releasing the tax lien and utilizing an average six-month cost of \$161, the fund would support the mandatory collection at 621 residences. Utilizing \$311 as the approximate cost for a twelve-month refuse service, the fund would support collection services at 321 residences. Recognizing that some property owners will choose to repay the Division and initiate monthly payments to the refuse companies before a tax lien is placed on the property, it is felt that the requested fund should be adequate for the program needs.

It is anticipated that some tax liens will not be recovered in a timely manner, and additional funding may be needed to maintain an effective program level. This issue has been discussed with Supervisors Gioia and Glover, and they have indicated their willingness to continue committing funds from their Solid Waste Mitigation funds to offset these unreimbursed costs.

**Supplemental Recommendations:** Although the County Code authorizes the mandating of refuse collection for up to one year, it is recommended that an initial service length of six months be utilized. This would enable the Division to determine effectiveness in a shorter period of time while still being able to legally extend the service for an additional six months.

It is also recommended that the Annual Report to the Board of Supervisors include such information as the number of notices issued and their geographic location, the number of hearings granted and their outcome, the number of refuse exemptions requested, the number of refuse exemptions approved, the number of services assumed by the owner or responsible party, the number of accounts and amounts forwarded to the Auditor-Controller for tax liens, the amount of monies returned to the account from tax liens, the amount of Solid Waste Mitigation funds added to the Fund, and the Fund balance.

**Action Requested:** Approve the recommendations delineated in the second section of this memorandum and direct the Environmental Health Division to work with the Department Finance Office, County Counsel, and the County Administrators Office to establish the Mandatory Refuse Collection Fund.

APPROVE / DISAPPROVE

Date

5/18/04



William B. Walker, M.D., Director  
Health Services Department

Atch: Chapter 418-6, Contra Costa County Code  
Environmental Health Division Policy and Sample Letters

cc: Patrick Godley, Chief Financial Officer, Health Services Department  
Dr. Wendel Brunner, Director of Public Health

KS:rc

## Chapter 418-6

## MANDATORY SUBSCRIPTION

## Sections:

418-6.002	Definitions.
418-6.004	Purpose.
418-6.006	Containers required.
418-6.008	Subscription required.
418-6.010	Nuisance.
418-6.012	Exemption.
418-6.014	Collection notice—Hearing.
418-6.016	Further collection notice.
418-6.018	Cost notice.
418-6.020	Mail and posting.
418-6.022	Hearing request.
418-6.024	No hearing.
418-6.026	Hearing notice.
418-6.028	Hearings.
418-6.030	Decision.
418-6.032	Appeals.
418-6.034	Final abatement action.
418-6.036	Cost record.
418-6.038	Administrative expenses.
418-6.040	Lien and collection.
418-6.042	Special assessment notice.

418-6.002 **Definitions.** For purposes of this chapter, the following definitions shall apply:

(a) "Collector" means any person, municipality or governmental agency with a valid permit issued pursuant to Chapter 418-2 to collect or transport refuse on county public streets and highways.

(b) "Hearing officer" means the health officer.

(c) "Owner," where that word refers to the owner of a leased or rented single-family dwelling house or of an apartment, flat, duplex or other multiple-family dwelling, means and includes the person who, with respect to such leased or rented premises, is the agent, manager or representative of any individual owner, or who is the agent, managing or executive officer or employee, or authorized representative of any owner which is a firm, copartnership, joint venture, association or corporation.

(d) "Solid waste" means useless, unwanted, discarded putrescible and nonputrescible solid and semi-solid material, including, but not limited to, trash, refuse, paper, rubbish, ashes, animal excrement, vegetable or animal solid or

semi-solid waste, and other similar wastes, but not including sewage. (Ord. 85-12 § 2 (part)).

**418-6.004 Purpose.** The accumulation of solid waste and other filth on land for long periods of time is a matter affecting the public health, welfare and safety. Such accumulation encourages and attracts rodents, flies and other disease-carrying pests, is offensive to the senses, and is a public and private nuisance. Such unhealthy and illegal accumulation of solid waste is less likely to occur when removed from property on a regular and frequent basis. The purpose of this chapter is to prevent such accumulation of solid waste by requiring that owners and other persons in control of all premises from which solid waste is generated provide for its removal and disposal on a regular and frequent basis. (Ord. 85-12 § 2 (part)).

**418-6.006 Containers required.** (a) Every owner, proprietor, manager or other person having charge or control of any hotel, club, bar, restaurant or other eating place, or any boardinghouse, lodginghouse, dwelling house, or any vegetable or food processing and handling establishment shall provide and keep at all times, in a place readily accessible to the collector and where it will not be public nuisance or be offensive, a container which complies with subdivision (b) of Section 416-14.004, or a number of such containers sufficient to contain all solid waste accumulating on the premises between collection dates.

(b) The owner of any leased or rented single-family dwelling house, or of any apartment, flat, duplex or other multiple-family dwelling shall provide and keep at least one container of a type and construction specified in subdivision (a) of this section for each family residing therein except as otherwise allowed by Section 416-14.004. (Ord. 85-12 § 2 (part)).

**418-6.008 Subscription required.** Every owner and/or person required by Section 418-6.006 hereof to provide and keep containers shall, except as provided in Section 418-6.012, subscribe with a collector for the collection and disposal of solid waste, such service to be provided on a basis not less frequent than once each week, except that in the case of any leased or rented single-family dwelling house, or any leased or rented apartment, flat, duplex or multiple-family dwelling, the owner and/or per-

son shall subscribe to such collection and disposal service for each family residing therein and shall bear the responsibility for payment of the charges for such collection and disposal services to the collector. (Ord. 85-12 § 2 (part)).

**418-6.010 Nuisance.** If any owner or person shall fail to subscribe for the collection and disposal of solid waste as required by Section 418-6.008, a nuisance is presumed to exist upon the premises which have not been provided with such collection and disposal service by a collector. (Ord. 85-12 § 2 (part)).

**418-6.012 Exemption.** The health officer may exempt from the requirements of Section 418-6.008 any person who shows, and only so long as such person can continue to show: (1) that the premises are unoccupied; (2) collection service is not available to the premises due to distance from the nearest collector's area of operation or other reason; or (3) that no unsanitary condition, hazard to health, or public nuisance will arise upon the premises owned, managed or controlled by him if he is not provided with collection and disposal of solid waste services by a collector. (Ord. 85-12 § 2 (part)).

**418-6.014 Collection notice—Hearing.** If the health officer has received notice that any person (including an owner) has failed to subscribe for the collection and disposal of solid waste as required by Section 418-6.008, he shall serve written notice upon the person, informing the person of the requirements of that section and that because of his failure to comply with such requirement, a nuisance is presumed to exist upon the premises owned, managed or controlled by him which has not been provided with such collection and disposal service. The notice shall direct the person to subscribe with a collector for the collection and disposal of solid waste within fifteen days after service of the notice, or to request a hearing before the health officer within the fifteen-day period to show cause why he should not be required to so subscribe. (Ord. 85-12 § 2 (part)).

**418-6.016 Further collection notice.** The notice shall further state that if the person shall fail to comply with its directions within the fifteen-day period, the county will abate the nuisance existing upon the premises by subscribing with a collector for collection and

disposal services for the premises, for a period of time deemed appropriate by the health officer (but not exceeding one year), and that the county's costs to provide such services (the charges of the collector therefor, together with the administrative costs incurred by the health officer), may be levied as a special assessment lien against the real property upon which the premises are located. (Ord. 85-12 § 2 (part)).

**418-6.018 Cost notice.** The notice shall contain an estimate of the cost of abatement (including administrative, collection and disposal costs) for the proposed subscription period. In addition, the notice shall contain a statement of the owner's hearing rights pursuant to Sections 418-6.012 and 418-6.022, and notice to the owner that he may appear in person at the hearing or may submit a sworn written statement in lieu of appearing. (Ord. 85-12 § 2 (part)).

**418-6.020 Mail and posting.** (a) The notice specified in this section shall be deemed served when it is deposited in the United States Post Office with postage prepaid, and addressed to the person (owner) entitled to notice at his last known place of address as shown on the current assessment roll of the county. If no such address is there shown or known, then to General Delivery, Contra Costa County, California and by posting on the premises.

(b) If the notice specified herein is required to be served upon any person in addition to the owner of record of any leased or rented premises, a copy of the notice shall, at the same time and in the same manner, be served upon the owner of record of such leased or rented premises. (Ord. 85-12 § 2 (part)).

**418-6.022 Hearing request.** Any person or owner subject to the requirements of this chapter may, in writing, request a hearing before the health officer (hearing officer) to show cause why he should not be required at his cost to subscribe for the collection and disposal of solid waste or the county should not provide such service for his premises. The hearing shall be held at a time and place fixed by the hearing officer within fifteen days of the request therefor. (Ord. 85-12 § 2 (part)).

**418-6.024 No hearing.** If the involved owner and/or person has not subscribed with a collector and advised the health officer of such

subscription in writing, or no request for a hearing is received within the fifteen-day period, the health officer is authorized to subscribe on behalf of the county with a collector for the proposed subscription period for solid waste collection and disposal service. (Ord. 85-12 § 2 (part)).

**418-6.026 Hearing notice.** When a hearing is requested, the hearing officer shall mail notice of the hearing at least ten days before the hearing date to the involved owner and/or person. (Ord. 85-12 § 2 (part)).

**418-6.028 Hearings.** All hearings under this chapter shall be held before a hearing officer who shall receive all evidence he deems material, including the condition of the property, and the estimated cost for the proposed subscription period. The hearing officer shall not be limited to the technical rules of evidence. The involved owner or person may appear in person or present a sworn written statement in time for consideration at the hearing. (Ord. 85-12 § 2 (part)).

**418-6.030 Decision.** At the conclusion of the public hearing, the hearing officer may find that no subscription was made with a collector for services within a timely manner, or that none of the exemption circumstances of Section 418-6.012 are applicable, and order abatement for the proposed subscription period by the provision of mandatory subscription services to the involved premises. In such event, the hearing officer shall determine the costs of abatement to be charged against the owner. The written order of the hearing officer (including the determined costs of abatement) shall be mailed to any interested person who made a written presentation to the hearing officer for the hearing but did not appear, and to the involved owner. (Ord. 85-12 § 2 (part)).

**418-6.032 Appeals.** The owner and/or any involved person may appeal the hearing officer's decision by filing with him a written notice of appeal within ten calendar days after his decision. The hearing officer shall promptly transmit the proceedings to the board of supervisors. Upon receipt, the board's clerk shall promptly give written notice of the time and place of the hearing to the appellant, the hearing officer and any other involved person.

The board shall promptly hear such appeal, and may affirm, amend or reverse the order or take other action it deems appropriate. It shall not be limited by the technical rules of evidence. (Ord. 85-12 § 2 (part)).

418-6.034 Final abatement action. If the hearing officer finds that any owner and/or involved person upon whom notice was served pursuant to Sections 418-6.014 through 418-6.020, has failed within the time specified therein to subscribe for the collection or disposal of solid waste, and if such person or owner has not established an exemption from the requirements of Section 418-6.008 after a hearing and decision as provided in Sections 418-6.028 through 418-6.032, the health officer shall subscribe with a collector to provide such collection and disposal services and to remove any accumulated solid waste for the proposed subscription period at the noticed cost. (Ord. 85-12 § 2 (part)).

418-6.036 Cost record. The health officer shall keep an account of the charges he incurs for each parcel of real property served, including his administrative costs incurred for the abatement of nuisances pursuant to this chapter. (Ord. 85-12 § 2 (part)).

418-6.038 Administrative expenses. The administrative costs in any abatement proceeding conducted pursuant to this chapter shall be based upon the actual expense incurred by the health officer in addition to any payments made to a collector; provided, however, such costs shall not exceed the estimate in the cost notice (Section 418-6.018) or the written decision (Section 418-6.030), whichever is greater. (Ord. 85-12 § 2 (part)).

418-6.040 Lien and collection. If the abatement cost (administrative and collection costs) for the proposed subscription period, which is charged against the persons and owner of a parcel of land pursuant to this chapter, is not paid within thirty days after the date of the health officer's order or the final disposition of an appeal therefrom, such cost shall be assessed as a special assessment against the parcel of land pursuant to Government Code Section 25845, which cost shall be transmitted to the auditor-controller and tax collector, and the

auditor-controller shall enter the amount of the assessment against the parcel of land as it appears on the current assessment roll. The tax collector shall include the amount of the assessment on the bill for taxes levied against said parcel of land. (Ords. 88-88 § 8, 85-12 § 2 (part)).

418-6.042 Special assessment notice. The health officer shall record at the office of the county recorder and deliver to the auditor-controller, a certificate substantially in the following form:

“NOTICE OF SPECIAL ASSESSMENT  
(Mandatory Solid Waste Collection  
Service Cost)

Pursuant to Government Code § 25845 and Ordinance Code Chapter 418-6, Contra Costa County abated a solid waste nuisance (§ 418-6.010) on the parcel of real property described below, of which the named person(s) is the possessor(s) or owner(s) shown on the current assessment roll, and fixed the below-shown amount as the cost thereof and hereby claims a special assessment against said parcel for this amount.

- 1. RECORD OWNER(S): .....
- LAST KNOWN ADDRESS: .....
- 2. POSSESSOR(S) if different from  
   owner): .....
- LAST KNOWN ADDRESS: .....
- 3. DATE ABATEMENT ORDERED: .....
- 4. DATE ABATEMENT COMPLETED: .....
- 5. PARCEL: Real property in Contra Costa  
   County, California: County's Assessor's  
   parcel #: .....
- .....
- [Other description where needed] : .....
- 6. AMOUNT OF ABATEMENT  
   (ASSESSMENT) COST: \$.....

Dated: .....

Contra Costa County

By: .....  
   (health officer)”

(Ords. 88-88 § 9, 85-12 § 2).

<Date \_\_\_\_\_>

<Name \_\_\_\_\_>

<Street address \_\_\_\_\_>

<City, State, Zip \_\_\_\_\_>

**Re: Garbage Subscription**

**APN:** \_\_\_\_\_

Dear <Name \_\_\_\_\_>:

It has come to the attention of the Environmental Health Division that your residential property located at < \_\_\_\_\_> is not being serviced by the designated garbage collection agency for that area.

Pursuant to Contra Costa County Ordinance Code < \_\_\_\_\_>, all residential dwellings in the unincorporated areas of the County are required to have adequate garbage service, or be exempted from service by permit issued from this department.

As the property owner, you are being requested to initiate garbage service, or apply for a garbage exemption permit for this site within < \_\_\_\_\_> days of the date on this letter. If by < \_\_\_\_\_> you have not subscribed for garbage service, or applied for an exemption permit, it will be assumed that a nuisance exists on the property and, accordingly, the Environmental Health Division will subscribe for you. Should service be initiated by this division, you will be liable for the associated costs, including any administrative fees that may apply. The garbage collection company that serves that area is:

<Name \_\_\_\_\_>

<Street address \_\_\_\_\_>

<City, State, Zip \_\_\_\_\_>

<Phone \_\_\_\_\_>

You may obtain a garbage exemption application in person at our offices in Concord, or contact our clerical staff and request that one be mailed or faxed to you. There is a \$30.00 application fee due upon filing, in addition to an inspection fee of \$61.50, which covers the costs of the preliminary inspection to determine if your property qualifies for an exemption.

Please contact me at (925) 646-5225 ext. < \_\_\_\_\_> between the hours of 8:00 a.m. – 10:00 a.m. Monday through Friday if you have any questions regarding this matter.

Sincerely,

<Name \_\_\_\_\_>, E.H.T.

Environmental Health Technician



<Date \_\_\_\_\_>

<Name \_\_\_\_\_>

<Street address \_\_\_\_\_>

<City, State, Zip \_\_\_\_\_>

**Re: Garbage Subscription**

**APN:** \_\_\_\_\_

Dear <Name>:

It has come to the attention of the Contra Costa County Environmental Health Division that your residential property located at <\_\_\_\_\_> is not being serviced by the designated garbage collection agency for that area.

Pursuant to your city's ordinance code(s), you may be required to initiate garbage service at this site. You are encouraged to contact your city's administrative offices for further clarification on this matter, as mandatory garbage subscription laws vary from city to city. Your local ordinance code(s) may have garbage service exemption provisions for special circumstances.

This letter is being sent to you as a courtesy notice and a copy is being forwarded to your local enforcement agency for further review.

The garbage collection company that serves that area is:

<Name \_\_\_\_\_>

<Street address \_\_\_\_\_>

<City, State, Zip \_\_\_\_\_>

<Phone \_\_\_\_\_>

Please contact me at (925) 646-5225 ext. <\_\_\_\_> between the hours of 8:00 a.m. – 10:00 a.m. Monday through Friday if you have any questions regarding this matter.

Sincerely,

<Name \_\_\_\_\_>, E.H.T.

Environmental Health Technician

cc: <City Office \_\_\_\_\_>

<Date \_\_\_\_\_>

<Name \_\_\_\_\_>  
<Street address \_\_\_\_\_>  
<City, State, Zip \_\_\_\_\_>

**Re: Garbage Subscription**  
APN: \_\_\_\_\_

Dear <Name \_\_\_\_\_>:

It has come to the attention of the Environmental Health Division that your residential property located at \_\_\_\_\_ is not being serviced by the designated garbage collection agency for that area.

As the City of \_\_\_\_\_ has adopted Contra Costa County's mandatory garbage subscription ordinance \_\_\_\_\_, the Environmental Health Division has been designated the agency responsible for implementing and enforcing said ordinance. Accordingly, all residential dwellings within the city areas of the County are required to have adequate garbage service, or be exempted from service by permit issued from this department.

As the property owner, you are being requested to initiate garbage service, or apply for a garbage exemption permit for this site within \_\_\_\_\_ of the date on this letter. If by \_\_\_\_\_ you have not subscribed for garbage service, or applied for an exemption permit, it will be assumed that a nuisance exists on the property and, accordingly, the Environmental Health Division will subscribe for you. Should service be initiated by this division, you will be liable for the associated costs, including any administrative fees that may apply. The garbage collection company that serves that area is:

<Name \_\_\_\_\_>  
<Street address \_\_\_\_\_>  
<City, State, Zip \_\_\_\_\_>  
<Phone \_\_\_\_\_>

You may obtain a garbage exemption application in person at our offices in Concord, or contact our clerical staff and request that one be mailed or faxed to you. There is a \$30.00 application fee due upon filing, in addition to an inspection fee of \$61.50, which covers the costs of the preliminary inspection to determine if your property qualifies for an exemption.

Please contact me at (925) 646-5225 ext. \_\_\_\_\_ between the hours of 8:00 a.m. – 10:00 a.m. Monday through Friday if you have any questions regarding this matter.

Sincerely,

<Name \_\_\_\_\_>, E.H.T.  
Environmental Health Technician

cc: <City Office \_\_\_\_\_>