

ORDINANCE NO. _____.

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BELMONT
ESTABLISHING A REVISED SCHEDULE OF SOLID WASTE
CHARGES

WHEREAS, solid waste, recyclable materials, and plant material collection services are provided in the City of Belmont by Allied Waste Industries, Inc. of San Mateo County (the “Franchisee”) pursuant to a franchise agreement with the City; and,

WHEREAS, certain other services related to the disposition of solid waste, recyclable materials, and plant materials are provided by the South Bayside Waste Management Authority (“SBWMA”); and,

WHEREAS, the Franchisee collects charges from collection service customers to pay for the costs of the services provided to the customers by the Franchisee and by SBWMA; and,

WHEREAS, the City is contractually obligated to make the franchisee and SBWMA whole for these costs; and,

WHEREAS, the City has been informed that the cost of providing the services has increased, necessitating an upward revision to the schedule of solid waste charges collected by the Franchisee; and

WHEREAS, on June 23, 2009, the City Council held a full and fair public hearing, properly noticed as required by law, at which all persons interested were given an opportunity to provide oral and written testimony with respect to a proposed revised schedule of solid waste charges; and

WHEREAS, the City Council desires to approve a revision of the schedule of solid waste charges.

The City Council of the City of Belmont does ordain as follows:

SECTION 1: The City Council hereby approves the schedule set forth in Exhibit A to this Ordinance, which is incorporated herein by reference, as the schedule of solid waste charges to be collected by the Franchisee.

SECTION 2: The City Council hereby finds and determines that:

- A. The City has complied with each of the requirements of Section 6 of Article XIID of the California Constitution with respect to the actions taken by this Ordinance.
- B. The rates established by this Ordinance do not exceed the amounts permissible under Article XIID, and the sewer service charge is not a tax.
- C. A majority protest, as defined by Section 6(b) of Article XIID of the California Constitution does not exist with respect to the revision of the schedule of solid waste charges.
- D. Although the City Council, in the interest of public participation, has chosen as a matter of policy to follow the procedures set forth in Article XIID, nothing in this ordinance shall be interpreted as an admission by the City that such Article applies to the actions taken herein. The City Council things that it would have taken the action set forth in Section 1 of this Ordinance even if Article XIID does not apply to such action.

SECTION 3: The City Council hereby declares that it would have passed this Ordinance word by word, sentence by sentence, paragraph by paragraph, and section by section, and does hereby declare that any provisions of this Ordinance are severable and, if for any reason any word, sentence, paragraph or section of this Ordinance shall be held invalid, such decision shall not affect the validity of the remaining parts of this Ordinance.

SECTION 4: Severability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Belmont hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more section, subsection, sentence, clause, phrase or portion may be declared invalid or unconstitutional.

SECTION 5: Pursuant to Section 36937 of the Government Code of the State of California, this Ordinance shall take effect and be in full force and effect thirty (30) days after its final passage.

SECTION 6: City Clerk shall cause this Ordinance to be published and posted in accordance with the requirements of Section 36933 of the Government Code of the State of California.

Introduced this ____ day of _____, 2009.

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PASSED AND ADOPTED as an Ordinance of the City of Belmont at a regular meeting thereof held on the ____ day of _____, 2009.

AYES, COUNCILMEMBERS: _____

NOES, COUNCILMEMBERS: _____

ABSENT, COUNCILMEMBERS: _____

ABSTAIN, COUNCILMEMBERS: _____

Mayor of the City of Belmont

ATTEST:

Clerk of the City of Belmont