CITY OF FAIRFIELD

RESOLUTION NO. 2013 - 28

RESOLUTION OF THE CITY COUNCIL APPROVING SPECIAL EXEMPTION
PERMIT PROCEDURES AND ANNUAL PERMIT FEE PURSUANT TO
SECTION 9.271 OF THE FAIRFIELD CITY CODE

WHEREAS, Chapter 9 of the Fairfield City Code sets forth the regulations governing the
collection and disposal of solid waste in the City of Fairfield; and

WHEREAS, Chapter 9 of the Fairfield City Code provides that special exemption
permits may be granted to businesses that provide hauling services in conjunction with
ancillary, non-hauling services; and

WHEREAS, Section 9.271 provides that the City Council establish, by resolution,
procedures for special exemptions; and

WHEREAS, there will be considerable staff time in administration of the permit process
and the necessary monitoring of the permitted special exemption permit, and

WHEREAS, the permit fees imposed do not exceed the estimated reasonable cost of
providing the services for which the fees are charged.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF FAIRFIELD HEREBY
RESOLVES:

Section 1. That all defined terms herein, as indicated by initial capitalization, shall have
the meaning ascribed to them in the Fairfield City Code, except as otherwise indicated.
For purpose of this Resolution, "Contractor" shall refer to a business that has been
issued a Special Exemption Permit. "Applicant" shall refer to business applying for a
Special Exemption Permit prior to the issuance of a Permit.

Section 2. The City Manager and/or his or her designated representative shall be
responsible for issuance of Special Exemption Permits.

Section 3. Special Exemption Permit Application.

a. All applications for a Special Exemption Permit shall be filed with the Public Works
Department on the form provided by the City. The information provided in the
application shall be certified by the applicant under penalty of perjury as being true
and accurate. The City Manager may require additional information as deemed
pertinent. An application fee in the amount set forth in Section 5 of this Resolution
must accompany the application form for the application to be deemed complete.
b. The City Manager shall have the right to grant, grant with conditions, or deny an application for a Special Exemption Permit. In granting, conditioning, or denying the permit request, the City Manager may take into consideration factors including the ability of the applicant to comply with the requirements set forth in this Resolution. Upon consideration of these factors, the City Manager shall approve, approve with conditions, or deny the application. Applicants shall be notified in writing of the City Manager’s decision.

c. The Special Exemption Permit shall be valid for one (1) year from date of issuance.

d. A Special Exemption Permit allows a Contractor the right to provide hauling of items to the landfill if the service is in conjunction with providing an ancillary, non-hauling service. Such services may include, but are not limited to, physically moving or clearing debris from property. Contractor is subject to the requirements and provisions set forth in this Resolution.

   a. Limited Hauling Rights. Contractor may haul debris from a site to the landfill if the total weight of the debris pursuant to the contract is less than four (4) cubic yards.
   b. Debris Boxes. Contractor may not place debris boxes, dumpsters or storage containers on site.
   c. Vehicle. Contractor’s vehicle or trailer must have a non-detachable debris container with an open top. The vehicle or trailer cannot self-load.
   d. Transport. When transporting materials, all items must be secured in such a way as to prevent loss of materials, per applicable state and local laws and regulations.

e. Any Applicant denied a Special Exemption Permit may appeal the decision in writing within 14 business days of the date on the written notification of denial. Failure to file a timely appeal precludes the applicant’s option to file an appeal.

An appeal must include the following items:

1. Original Special Exemption permit application, including all supporting documentation,
2. Written notification of denial from City,
3. Applicant’s response, and
4. Any other information deemed pertinent to appeal decision.

The City Manager shall give the Applicant a reasonable opportunity to be heard and will render a determination on the appeal within 14 business days of the appeal being deemed complete.
f. A request for renewal of a Special Exemption Permit shall be filed at least 2 months prior to the expiration date, and shall be approved, approved with conditions, or denied based on Applicant’s compliance with requirements of this Resolution, including permit application approval criteria.

Section 4. Requirements for Special Exemption Permit.

a. Quarterly Reports. Contractors with Special Exemption Permits shall submit a quarterly report on a form provided by the City or Green Halo, which reports the solid waste, recycling, and diversion activities for the reporting quarter.

b. Diversion. A Contractor with a Special Exemption Permit shall divert a minimum of 50% (by weight) of the total hauled to the landfill, through source reduction efforts such as donations, reuse, recycling, and composting. All good faith efforts shall be considered. Contractors not complying with minimum diversion requirements may be subject to revocation or non-renewal of the Special Exemption Permit.

c. Special and hazardous waste, including but not limited to, household hazardous waste, electronic waste (E-waste), universal waste, medical waste, and pharmaceutical medication, shall be properly diverted from the landfill and taken to a facility that handles such special and hazardous waste materials.

d. Quarterly reports shall be submitted no later than 30 days after the preceding reporting quarter. Failure to submit reports may result in revocation or non-renewal of the Special Exemption Permit.

e. Permit fees. Applicants shall be subject to the annual permit fee set forth in Section 5 of this Resolution.

f. CERCLA liability. Contractors with a Special Exemption Permit shall fully indemnify, defend and hold harmless the City against any claim arising from or attributable to any repair, cleanup or detoxification, or preparation and implementation of any removal, remedial, response, closure or other plan (regardless of whether undertaken due to governmental action) concerning any hazardous substance or hazardous wastes at any location as a result of a transfer, storing or disposal of solid waste pursuant to a Special Exemption Permit, or if Contractor’s activities pursuant to the Special Exemption Permit result in a release of hazardous substances into the environment. The foregoing indemnity is intended to operate as an agreement pursuant to Section 107(e) of the Comprehensive Environmental Response Compensation and Liability Act, “CERCLA,” 42 U.S.C. Section 9607(e), and California Health and Safety Code Section 25364, to protect, defend, hold harmless and indemnify the City to the maximum extent permitted by law, including, but not limited to, the payment of all costs, claims, liabilities, attorneys fees and costs of suit.
g. Disposal. Contractor shall deposit all solid waste collected pursuant to the Special Exemption Permit at landfills which have been properly permitted by the Regional Water Quality Control Board and Local Enforcement Agency, and have received the appropriate classification for the type of solid waste deposited.

Contractor’s failure to conduct such due diligence, or disposal of solid waste collected in the City in violation of this section, to the extent it causes liability or damage to the City, shall trigger the Contractor’s obligation to indemnify the City, including liability under CERCLA or any other applicable statutes.

h. Contractor shall indemnify, relieve, release, defend, hold harmless and forever discharge the City and its officers, agents, employees, attorneys, representatives, or successors, of and from any and all claims, rights, debts, liabilities, demands, obligations, liens, promises, acts, agreements, costs and expenses (including, but not limited to, attorneys’ fees and costs), damages, actions and causes of action, of whatever kind or nature (including without limitation, any statutory, civil or administrative claim), whether known or unknown, suspected or unsuspected, fixed or contingent, apparent or concealed, in any way based on, arising out of, or related to or connected with the Special Exemption Permit issued by the City pursuant to the provisions of this Resolution except to the extent attributable to the City’s own sole negligence or willful misconduct.

i. Compliance with Applicable Law. All solid waste collection service provided pursuant to a Special Exemption Permit shall be in compliance with all federal, state and local laws and with all applicable regulations promulgated by federal, state, or local administrative or regulatory agencies, now in force and as they may be enacted, issued or amended during the term of the Special Exemption Permit.

j. Contractor may hire an Authorized Construction and Demolition Hauler or City’s Authorized Franchised Hauler for collection of solid waste, green waste or recyclables pursuant to this Resolution.

k. No Assignment or Subcontracting. Contractor may not assign or subcontract any exemptions granted through a Special Exemption Permit.

l. All provisions of Chapter 9 of the Fairfield City Code shall apply to Contractor and a Special Exemption Permit, including but not limited to, Section 9.271, and which are hereby expressly found to be applicable to Contractor and Special Exemption Permits. For purposes of this Resolution, the terms “Collector” or “Hauler” in Chapter 9 shall be read as “Contractor.”
Section 5. Fees.

a. Applicants who apply for a Special Exemption Permit shall pay an application fee in the amount of $25.00.

b. Contractor shall pay an annual permit fee in the amount of $123.25.

c. Fees for Special Exemption Permits and initial Permit applications may increase annually, effective January 1, by the amount of the increase in the CPI, Bay Area All Urban SF-Oakland-SJ Area. The base year shall be 1982-84=100.

PASSED AND ADOPTED this 19th day of February 2013, by the following vote:

AYES: COUNCILMEMBERS: Price/Vaccaro/Bertani/Moy/Mraz

NOES: COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: None

ABSTAIN: COUNCILMEMBERS: None

MAYOR

ATTEST:

CITY CLERK

Mayor

pW