

MARIN COUNTY HAZARDOUS AND SOLID WASTE MANAGEMENT
JOINT POWERS AUTHORITY

ORDINANCE NO. 2021-01 – Regarding AB 901 Reporting

SECTION 1

(Enactment)

The Board of the Marin County Hazardous & Solid Waste Management Joint Powers Authority (JPA) does hereby enact this Ordinance in full consisting of Section 1 through Section 7.

SECTION 2

(Findings)

- (a) The JPA finds that Public Resources Code (PRC) Section 40976 authorizes a city or county to enter into a memorandum of understanding with another agency formed under a joint exercise of powers agreement to manage solid waste for the purpose of preparing and implementing source reduction and recycling elements, household hazardous waste elements or a countywide integrated waste management plan. Further, Public Resources Code Section 41901 authorizes a city or county to impose fees in amounts sufficient to pay the costs of preparing, adopting and implementing a Countywide Integrated Waste Management Plan (CoIWMP). The CoIWMP document is the Countywide plan to achieve 25% and 50% diversion rates and to maintain diversion rates in accordance with the Act. The activities contained within the CoIWMP are considered updated each year within the annual budget process and the Electronic Annual Report submitted to CalRecycle.
- (b) The JPA finds that the Joint Exercise of Powers Agreement for Waste Management delegates to the JPA the member agencies' powers to impose said fees.
- (c) The JPA finds that it has adopted a budget each fiscal year that defines the revenue sources and expenditures necessary to prepare, adopt and implement the policies and programs contained within the Marin County CoIWMP and updated through the annual budget and Electronic Annual Report to CalRecycle.
- (d) The JPA finds that it is funded through a lump sum fee assessment on solid waste haulers, transfer stations and the landfill located in Marin County, based on the number of tons handled by each. The JPA finds that these fees are necessary to maintain programs to achieve and maintain proper disposal of Household Hazardous Waste and diversion goals mandated by the state and adopted by the JPA, including the costs to implement the programs and policies contained within the CoIWMP and updated through the annual budget process and Electronic Annual Report.
- (e) The JPA finds that accurate records regarding the tons of Solid Waste originating in Unincorporated Marin County and Cities and Towns or deposited at a solid waste facility or in Marin County's Landfill are essential to all the jurisdictions within Marin County for the purpose of monitoring and calculating compliance with state law, the Act, and the goals, policies and programs adopted by the JPA.

- (f) The JPA finds that accurate records regarding the weight of Solid Wastes deposited in the solid waste facilities in Marin County are essential to the effective collection of the lump sum fees levied by the JPA.
- (g) The JPA finds that PRC Section 41821.5 (a) grants counties the ability to request disposal information by jurisdiction of origin and PRC Section 41821.5 (g) grants government entities the right to obtain information necessary to collect its fees, including information on type, quantity and origin of waste.
- (h) The JPA finds that it has the power to enact this Ordinance pursuant to the 1996 Revised Hazardous and Solid Waste Joint Powers Agreement County of Marin.
- (i) The JPA finds that enactment of this Ordinance is not a “project” subject to the requirements of the California Environmental Quality Act, California Code of Regulations, title 21, section 15378(b)(4); further, even if it were a “project,” it would be categorically exempt from the California Environmental Quality Act pursuant to California Code of Regulations, title 21, sections 15306 and 15308.

SECTION 3
(DEFINITIONS)

- A. **“Act”** shall mean the California Integrated Waste Management Act of 1989 (sometimes referred to as “AB 939”), Public Resources Code § 40000 and following as it may be amended (including but not limited to AB 341, AB 1826, AB 2176, AB 1594, SB 1016 and SB 1383), and as implemented by the regulations of CalRecycle.
- B. **“Agencies”** shall mean the County, Cities and Towns.
- C. **“JPA”** shall mean the County of Marin Hazardous and Solid Waste Joint Powers Authority.
- D. **“JPA Fee”** shall mean the fee paid to the JPA by collectors, processors (transfer stations), and disposal facilities for Solid Waste originating in or passing through Unincorporated Marin County and Cities and Towns or deposited in Marin County’s Landfill.
- E. **“Board”** shall mean the governing body of the County of Marin Hazardous and Solid Waste Joint Powers Authority, or its designee, who may be the Executive Director and/or their designee.
- F. **“County”** shall mean the County of Marin.
- G. **“Cities”** shall mean the cities of Belvedere, Larkspur, Mill Valley, Novato, San Rafael, and Sausalito.
- H. **“Solid Waste”** shall mean all materials of any kind or nature as defined in Public Resources Code Section 40191.
- I. **“Towns”** shall mean the Towns of Corte Madera, Fairfax, Ross, San Anselmo, and Tiburon.

SECTION 4
(JPA Fee Collection)

Collectors, processors (transfer stations), and disposal facility operators shall pay the lump sum allocated to them by the JPA each year for Solid Waste originating in Unincorporated Marin County and originating in the Cities and Towns in Marin County or deposited at a solid waste facility or in Marin County's Landfill.

SECTION 5
(Reporting)

- (a) Collectors, processors (transfer stations), and disposal facility operators shall report to the JPA the weight of Solid Waste physically collected from within each jurisdiction of origin (City or Town or Unincorporated Marin County) by jurisdiction of origin, the Permitted Waste Facilities or other Solid Waste Enterprises to which such Solid Waste is delivered, the weight of material received at each transfer station, the weight of material by material type for materials sent out from each transfer station, and the weight of Solid Waste that is ultimately Deposited in Landfills by jurisdiction of origin and relevant material category, as appropriate and determined by the Board. Material categories for reporting shall be set by the Board, and include but are not limited to: garbage, curbside recycling, green material, organics (commingled green material and food waste), wood waste, construction and demolition debris, dirt, concrete, commingled inert materials, marketed materials by approved types (metal, CRV, plastics, cardboard, paper, dirt, concrete, mulch, compost) and materials destined for use as Alternative Daily Cover by approved types (Ash and cement kiln dust, Treated auto shredder waste, Construction and demolition unders, Compost overs, Green material, Contaminated sediment, Sludge, Shredded tires, as may be amended from time-to-time in accordance with PRC Section 41781.3). These material categories may be amended by the Board at its discretion and as necessary to ensure accurate reporting.
- (b) Collectors, processors (transfer stations), and disposal facilities shall report the information required on an annual basis in each calendar year no later than March 1 of the following year.
- (c) Each collector, processor and disposal facility operator shall report to the Board the full names and addresses of the facilities, if any, to which it delivers solid waste.
- (d) An extension of the deadline specified in subdivision (b) of this Section may be granted by the Board upon a showing of good cause. In the event that a Solid Waste Enterprise fails to meet this required deadline, the JPA shall consider the Solid Waste Enterprise to have violated this Ordinance for each day that the report is overdue.
- (e) All of the information required by this Ordinance to be transmitted to the JPA shall be transmitted in a form that has been reviewed and approved in writing by the JPA.
- (f) If a Solid Waste Enterprise experiences unique circumstances that make it impossible to comply with this section, the Solid Waste Enterprise may appeal the requirements to the Board. The appealing enterprise must propose an alternative(s) to the requirements that it is alleging it cannot comply with and the Board may grant the appeal if it finds that a proposed alternative satisfies the purpose of the section.

SECTION 6

(Record Retention, Access, and Enforcement)

(a) Record retention and access to records.

Each operator shall maintain records, information, and documentation that substantiate the tons or cubic yards of solid waste received, collected, recycled, reused, conveyed, or hauled and disposed during each calendar month at each of the operator's hauling operations, disposal sites, transfer/processing stations. The records, information, and documentation shall include the procedures the operator used to determine and measure the quantity of such solid waste. The operator shall maintain such records, information, and documentation for a period of three years from the date such solid waste was received, collected, recycled, reused, conveyed, hauled or disposed by the operator.

Upon receipt of a minimum of fifteen business days' written notice from the Board, an operator shall provide the Board or their designee with access for inspection and copying of all records, information, or documentation maintained pursuant to this Section in order to ensure compliance with fee payment and reporting requirements.

(b) Enforcement.

Violation of any provision of this Ordinance may be enforced by civil action including an action for injunctive relief. In any civil enforcement action, the JPA may recover its attorneys' fees and costs from any person who is determined by a court of competent jurisdiction to have violated this Ordinance.

SECTION 7

(Severability)

If any provision of this Ordinance or its application to any situation is held to be invalid, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.