

## **8.24.050 Failure to Pay**

### **A. Failure to Pay for Solid Waste Collection Service.**

The franchised hauler shall be entitled to payment from the property owner, tenant or any other subscribing person on behalf of the property owner for any services rendered or to be rendered. Solid waste collection service shall not be discontinued for residential customers by reason of any failure to pay the charges for such service. The franchised hauler may temporarily suspend services if a commercial customer has been delinquent in payment for a period of at least forty-five (45) days in accordance with the terms of the franchise agreement.

### **B. Notification of Delinquency.**

1. Customers (owners or tenants) who have not remitted required payment within forty-five (45) days after the date of billing shall be notified by the franchised hauler on forms that contain a statement that if payment is not received within fifteen (15) days from the date of the notice, the delinquent and unpaid charges, including a 10% penalty and 1.5% monthly interest, may be placed on the San Bernardino County annual secured property tax rolls and that any amount owing would then become a lien on the property. Contractor shall provide such notice to customers via U.S. Mail to the current billing address on file.

2. All notices pursuant to this division shall be made to the property owner, if the property owner is the subscriber, or else to the property owner and tenant or any other subscribing person on behalf of the property owner. The form of delinquency notice shall be approved by the City Manager.

### **C. Assignment of Delinquent Account.**

In the event the bill for Solid Waste collection service together with any late charge thereon is not paid in full within thirty (30) days after the date of mailing the notice of delinquency to the property owner and tenant pursuant to Chapter 8.24.050(B), the franchised hauler may assign such bill to the City for collection through the initiation of lien and special assessment proceedings. The assignment shall include the name and address of the property owner and tenant, the assessor's parcel number of the premises, the period of Solid Waste collection service covered by the bill, the amount owed for such service, the amount of any late charge and such other information as requested by the City Manager, together with a copy of the notices of delinquency mailed or otherwise delivered to the property owner and tenant with proof of service.

### **D. Initiation of Special Assessment and Lien.**

Upon the City's receipt of the assignment from the franchised hauler, the City Manager shall prepare a report of delinquent Solid Waste collection service charges and initiate proceedings to create a special assessment and lien on the premises to which the Solid Waste collection service was provided. The City Manager shall fix a time, date and place for an administrative hearing by the City Manager to consider any objections or protests to his or her report.

### **E. Notice of Administrative Hearing on Special Assessment and Lien.**

The City Manager shall send written notice of the administrative hearing to the property owner and tenant of the premises against which the special assessment and lien will be imposed at least ten (10) days prior to the hearing date. The notice shall be mailed to each person to whom such premises is assessed in the latest equalized assessment roll available on the date the notice is mailed, at the address shown on said assessment roll or as known to the City Manager. A copy of the notice shall also be mailed to the franchised hauler. Said notice shall set forth the amount of delinquent Solid Waste collection service charges, the amount of any late charge thereon, and shall inform the recipient of the possible levy of a special assessment and lien on the premises and administrative charges as provided in this division. Said notice shall also inform the property owner and tenant of the time, date and place of the administrative hearing and the subsequent public hearing to be conducted

by the Common Council, include a link to the webpage on which the administrative hearing order and final report in 8.24.050(F) will be posted and advise the property owner and tenant of his or her right to appear at both the administrative hearing and the public hearing to state his or her objections to the report or the proposed special assessment and lien.

#### F. Administrative Hearing on Special Assessment and Lien.

At the time and place fixed for the administrative hearing, the City Manager shall hear and consider any objections or protests to his or her report. The City Manager may correct or modify the report as he or she deems appropriate, based upon the evidence presented at the hearing, and shall post a copy of the decision on the City website. The City Manager shall thereupon submit a final report to the Common Council for confirmation and shall post a copy of such final report on the City website.

#### G. Public Hearing on Special Assessment and Lien.

The Common Council shall conduct a public hearing to consider the City Manager's final report at the time and place set forth in notice described in Chapter 8.24.050(E). At such hearing, any interested person shall be afforded the opportunity to appear and present evidence as to why the final report, or any portion thereof, should not be confirmed. The Common Council's review shall be limited to the administrative record and evidence presented at the City Manager's administrative hearing. The Common Council may adopt, revise, reduce or modify any charge shown in the final report or overrule any or all objections as it deems appropriate, based upon the evidence presented at the hearing. If the Common Council is satisfied with the final report as rendered or modified, the Common Council shall confirm such final report by resolution. The decision by the Common Council on the final report and any objections or protests thereto, shall be final and conclusive.

#### H. Recording of Lien.

Upon confirmation by the Common Council of the final report, the City Manager shall cause to be recorded in the office of the recorder for San Bernardino, a lien against each premises described in the final report for the amount of delinquent Solid Waste collection service charges and late charges as confirmed by the Common Council by resolution. The lien shall also include such additional administrative charges as established by resolution of the Common Council. All affected property owners shall be notified by the City Manager that the delinquent Solid Waste collection service charges, late charges and administrative charges are due and payable to the City and that said lien has been recorded.

#### I. Levy of Special Assessment.

Upon confirmation by the Common Council of the City Manager's final report, as rendered or modified, the delinquent Solid Waste collection service charges, late charges and administrative charges contained therein shall constitute a special assessment levied upon the premises against which such charges have been imposed. The City Manager shall file a copy of the final report, together with a certified copy of the resolution by the Common Council confirming the same, with the tax collector for San Bernardino County with instructions to enter the delinquent Solid Waste collection service charges, late charges and administrative charges as special assessments against the respective premises described in the City Manager's lien report. The tax collector shall include such special assessment on the next regular bill for secured property taxes sent to the property owner.

#### J. Collection of Special Assessment.

The special assessment shall be collected at the same time in the same manner and frequency and by the same persons as ordinary municipal taxes, and shall be subject to the same interest and penalties and the same procedure of sale as provided for delinquent ordinary municipal taxes. The special assessment shall be subordinate to all existing special assessment liens previously imposed upon the premises and paramount to all other liens except those for state, county and municipal taxes, with which it shall be upon parity. Each special assessment shall continue until all of the delinquent

Solid Waste collection service charges, late charges and administrative charges due and payable thereon are paid in full. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to such special assessment.

(Ord. MC-1612, 3-15-23; Ord. MC-1431, 11-10-16)