

ORDINANCE NO. 21-03

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAGUNA WOODS, CALIFORNIA, AMENDING CHAPTER 4.10 OF THE LAGUNA WOODS MUNICIPAL CODE RELATED TO SOLID WASTE

WHEREAS, Chapter 4.10 of the Laguna Woods Municipal Code implements the City's authority related to solid waste granted by state law and regulations promulgated by the California Department of Resources Recycling and Recovery ("CalRecycle"); and

WHEREAS, Chapter 4.10 of the Laguna Woods Municipal Code also regulates the conduct of solid waste collection and disposal so as to promote public health, safety, and welfare; and

WHEREAS, California Senate Bill 1383 (2015-2016) and related regulations adopted by CalRecycle have resulted in the need for the amendment of Chapter 4.10 of the Laguna Woods Municipal Code; and

WHEREAS, staff has recommended amendments of Chapter 4.10 of the Laguna Woods Municipal Code ("Code Amendments") in order to modify existing regulations pertaining to solid waste in furtherance of state law, as well as public health, safety, and welfare; and

WHEREAS, on October 20, 2021, the City Council held a duly noticed public hearing on the proposed Code Amendments at which it considered all of the information, evidence, and testimony presented, both written and oral.

THE CITY COUNCIL OF THE CITY OF LAGUNA WOODS DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The City Council hereby finds and determines that (i) each of the recitals to this Ordinance are true and correct, and are adopted herein as findings; (ii) the Code Amendments comply with all applicable requirements of State law; (iii) the Code Amendments will not adversely affect the health, safety, or welfare of the residents within the community; (iv) the Code Amendments are in the public interest of the City of Laguna Woods; and, (v) the Code Amendments are consistent with the Laguna Woods General Plan and its various elements.

SECTION 2. After reviewing the entire project record, the City Council hereby

determines and certifies that it can be seen with certainty that the Code Amendments have no possibility of having a significant effect on the environment as they do not approve any capital improvement project or other action or activity with the potential for a significant effect on the environment, nor do the Code Amendments necessitate any construction or other modification of the environment with the potential for significant environmental effects. Further, the Code Amendments are adopted in furtherance of enforcement of state law regarding solid waste including, but not limited to, the California Integrated Waste Management Act (Statutes of 1989, Chapter 1095, as amended) as codified in California Public Resources Code Section 49000, et seq. and Senate Bill 1383 (Statutes of 2016, Chapter 395) as codified in California Health and Safety Code and California Public Resources Code. Therefore, the adoption of the Code Amendments is not a project subject to the California Environmental Quality Act ("CEQA") pursuant to sections 15378(b) and 15061(b)(3) of Title 14 of the California Code of Regulations, and is categorically exempt under Section 15321(a) of Title 14 of the California Code of Regulations.

SECTION 3. Chapter 4.10 of the Laguna Woods Municipal Code is hereby amended to read as set forth in Exhibit A, attached to this Ordinance and incorporated herein by this reference.

SECTION 4. This Ordinance shall take effect and be in full force and operation thirty (30) days after adoption.

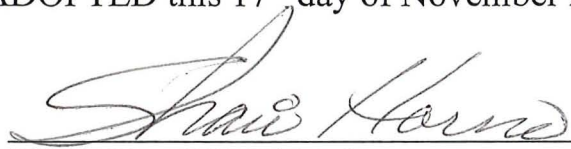
SECTION 5. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase added by this Ordinance, or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity of effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs sentences, clauses, or phrases are declared unconstitutional, invalid, or ineffective.

SECTION 6. The Mayor shall sign this Ordinance.

SECTION 7. The City Clerk shall certify to the passage of this Ordinance and shall cause this Ordinance to be published or posted as required by law.

SECTION 8. All of the above-referenced documents and information have been and are on file with the City Clerk of the City.


PASSED, APPROVED AND ADOPTED this 17th day of November 2021.


SHARI L. HORNE, Mayor

ATTEST:


YOLIE TRIPPY, CMC, City Clerk

APPROVED AS TO FORM:


ALISHA PATTERSON, City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF LAGUNA WOODS)

I, YOLIE TRIPPY, City Clerk of the City of Laguna Woods, do HEREBY CERTIFY that the foregoing **Ordinance No. 21-03** was duly introduced and placed upon its first reading at a regular meeting of the City Council on the 20th day of October 2021, and that thereafter, said Ordinance was duly adopted and passed at a regular meeting of the City Council on the 17th day of November 2021 by the following vote to wit:

AYES: COUNCILMEMBERS: Conners, Hatch, Tao, Moore, Horne
NOES: COUNCILMEMBERS: -
ABSENT: COUNCILMEMBERS: -


YOLIE TRIPPY, CMC, City Clerk

**EXHIBIT A
CODE AMENDMENTS**

Chapter 4.10 (“Solid Waste”) of Title 4 (“Health and Sanitation”) of the Laguna Woods Municipal Code is amended and restated in its entirety to read as follows:

CHAPTER 4.10. - SOLID WASTE

Sec. 4.10.010. - Purpose and intent.

The purpose and intent of this chapter is to implement the City’s authority related to solid waste granted by state law and regulations promulgated by the California Department of Resources Recycling and Recovery. Chapter 4.10 also regulates the conduct of solid waste collection and disposal so as to promote public health, safety, and welfare.

Sec. 4.10.020. - Definitions.

For purposes of this chapter only, the following definitions shall apply, unless special meaning is ascribed to them by the California Code of Regulations or California Public Resources Code, as may be amended from time-to-time, in which case such meaning shall apply:

(05) *AB 939* shall mean the California Integrated Waste Management Act of 1989, currently codified as California Public Resources Code Section 40000 et seq., as it may be amended supplemented, superseded, or replaced from time to time.

(10) *Bins* shall mean a container, including dumpsters, compactors, and any similar such devices with a capacity of under 10 cubic yards.

(15) *Cart* shall mean a plastic container with a hinged lid and wheels serviced by an automated or semi-automated process, as opposed to a manual process of lifting and dumping, with a capacity of no less than 30 and no greater than 101 gallons.

(20) *City Manager* shall mean the City Manager of the City or his/her/their duly-authorized representative or designee.

(25) *Collect* or *Collection* or *Collecting* shall mean to take physical possession of, transport, and remove solid waste from a premises.

(30) *Commercial premises* shall mean all premises upon which business activity is conducted including, but not limited to, retail sales, wholesale operations, manufacturing, industrial operations, and services including, but not limited to, professional services, hospitality services, and restaurant and food services, but excluding residential premises upon which business activities are conducted when such activities are permitted under applicable zoning regulations and are not the primary use of the property. Notwithstanding any provision to the contrary herein, in this Code, or otherwise, for purposes of this chapter and to the extent permitted by law, premises upon which assisted living facilities, community care facilities (and other similar types of facilities), hotels, and motels are operated shall be deemed to be commercial premises, and apartment complexes and condominium complexes shall not be deemed to be commercial premises. Any ambiguity as to whether a premises qualifies as a commercial premises shall be resolved by the City Manager.

(35) *Container* shall mean any and all types of solid waste receptacles, including carts, bins, and roll-off boxes.

(40) *Dwelling unit* shall mean one or more rooms designed for occupancy by one household for living and sleeping purposes and containing kitchen facilities or an area designed for the preparation of food for use solely by one household.

(45) *Franchisee* shall mean a person, persons, firm, or corporation that has been issued a franchise by City to provide solid waste handling services within the City.

(50) *Green waste* shall mean all leaves, grass cuttings, and shrubs that accompany routine household or property maintenance functions.

(55) *Hazardous waste* shall mean all substances defined as hazardous waste, acutely hazardous waste, or extremely hazardous waste by the State of California in Health and Safety Code sections 25110.02,

25115, and 25117, or in the future amendments to or recodifications of such statutes, or identified and listed as hazardous waste by the U.S. Environmental Protection Agency pursuant to the Federal Resource Conservation and Recovery Act (42 U.S.C. Section 6901 et seq.), all future amendments thereto, and all rules and regulations promulgated thereunder.

(60) *Organic material* or *waste* shall have the same meaning as set forth in 14 CCR, Div. 7, Ch. 12, Section 18982.

(65) *Premises* shall mean any land, building and/or structure within the City limits where solid waste is generated or accumulated.

(70) *Recycle* or *Recycling* shall mean the process of collecting, sorting, cleaning, treating, and reconstituting materials for the purpose of reuse or resale.

(75) *Recyclable material* shall mean solid waste capable of being returned to the economic mainstream using available processes or economically viable processes generally available within the solid waste handling services industry.

(80) *Residential premises* shall mean all premises upon which dwelling units exist, as well as all clubhouses, golf course facilities, offices/service yards, and other premises located within private gated communities. Notwithstanding any provision to the contrary herein, in this Code, or otherwise, for purposes of this chapter and to the extent permitted by law, apartment complexes and condominium shall be deemed to be residential premises, and premises upon which assisted living facilities, community care facilities (and other similar types of facilities), hotels, and motels are operated shall not be deemed to be residential premises. Any ambiguity as to whether a premises qualifies as a residential premises shall be resolved by the City Manager.

(85) *Roll-off box* shall mean containers of 10 cubic yards or larger, including compactors.

(90) *Self-hauler* shall mean any person or entity that, pursuant to Section 4.10.080 of this Code, provides for the collection,

transportation, and disposal of solid waste generated by his/her/their/its own premises.

(95) *Solid waste* shall mean and include all discarded putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, rubbish, construction waste, industrial waste, commercial solid waste, and any other discarded solid, semisolid and liquid waste permitted to be disposed of at a Class III landfill and which are included within the definition of “nonhazardous solid waste” set forth in the California Code of Regulations, as it may be amended from time to time. Solid waste does not include hazardous waste (Class I), low-level radioactive waste, untreated medical waste, or special wastes.

(100) *Special wastes* shall mean wastes other than solid waste, including sewage, sludge, industrial sludge, asbestos, auto bodies, tires, used motor oil, hazardous waste, animal carcasses, dead animals, parts or portions of dead animals, explosive substances, radioactive materials, and other materials which may not be disposed of at a Class III landfill or which require special handling.

(105) *Street maintenance provider* shall mean any firm providing street sweeping, catch basin maintenance, storm drain maintenance, or other maintenance services for public or private streets or roads.

Sec. 4.10.030. - Franchise agreements.

(a) The City Council may by resolution or ordinance grant one or more franchises for solid waste handling services related to solid waste generated within the City.

(b) Any solid waste enterprise granted a franchise for solid waste handling services shall operate in a manner that complies with all state laws and regulations. This obligation shall expressly, without limitation, require franchisees to provide all programs required by any state law or regulation to its customers including, as applicable, programs that comply with recycling requirements and requirements related to the diversion of organic material from landfills; and, further shall require franchisees to operate such programs in a manner consistent with such law or regulation.

Sec. 4.10.040. - Mandatory arrangements for solid waste.

(a) *Arrangements for removal of solid waste mandatory.* Except as otherwise provided in this chapter, the owner, occupant, or person in possession, charge, or control of each residential premises and each commercial premises in the City shall either (i) subscribe to solid waste handling services with a franchisee for said premises or (ii) obtain and maintain registration as a self-hauler as set forth in this chapter in connection with said premises.

(b) *Exception: vacant premises.* The requirement in Section 4.10.040(a) to provide for solid waste handling services shall not apply in connection with any vacant residential or commercial premises, provided no solid waste is being generated or accumulating. Any person seeking to avail themselves/themselves/itself of the exception provided herein shall bear the burden of providing reasonable evidence to City, pursuant to such regulations or guidelines as the City Manager is hereby authorized to develop, demonstrating the premises is/was vacant and not generating or accumulating solid waste for the period in question.

Sec. 4.10.050. - Containers.

(a) Every owner, occupant, or person in possession, charge, or control of any premises within the City shall deposit or cause to be deposited all solid waste generated or accumulated on such premises, and intended for collection and disposal, in sealed, watertight containers that are either (i) provided by a franchisee or (ii) approved by the City Manager for self-hauling purposes pursuant to this chapter. No owner, occupant, or person in possession, charge, or control of any premises shall use a container not in conformance with the requirements hereof for the collection, accumulation, or storage of solid waste.

(b) Containers provided by a franchisee shall comply with all applicable state laws and regulations.

(c) No container shall be placed adjacent to or in a public street or public right-of-way for collection service more than 24 hours prior to the normal

collection time, and all containers so placed shall be removed from the public street or public right-of-way within 12 hours after collection.

(d) Container lids shall remain closed at all times that the container is unattended. If the solid waste contained within a container exceeds the actual capacity of the container, then a larger container or multiple containers must be utilized. Any solid waste that does not reasonably fit within a container (such as furniture or other large bulky items) must be covered and protected, as by a tarp, netting, or other secured material, in order to prevent the scattering of debris by natural forces such as wind or animals. The owner, occupant, or person in possession, charge, or control of a premises shall be responsible for the cleanup of any solid waste spilled, dumped, or scattered as a result of a container overflow.

(e) It is unlawful for any person to share, place solid waste in, or to otherwise use the container of another person. Notwithstanding anything contained herein to the contrary, the sharing of containers shall be permitted under the following conditions:

(1) The owner, occupant, or person in possession, charge, or control of a premises upon which contiguous or adjacent dwellings units exists may arrange for containers for shared use by the occupants, tenants or persons in possession of the dwelling units on such premises, subject to approval of the City Manager, which approval may be delegated to a franchisee. Approval by the City Manager shall be based upon (i) the type of solid waste generated by each residential premises and (ii) the number of containers and frequency of solid waste collection needed to protect the public health, safety, and welfare.

(2) The occupants of a single commercial building or contiguous or adjacent commercial buildings may share containers for solid waste handling services at a common location, subject to approval of the City Manager, which approval may be delegated to a franchisee. Approval by the City Manager shall be based upon (i) the type of solid waste generated by each commercial premises and (ii) the number of containers and frequency of solid waste collection needed to protect the public health, safety, and welfare.

(f) It is unlawful to use any container furnished by a franchisee for any purpose other than the collection, accumulation, and storage of solid waste.

(g) It is unlawful to convert or alter any container furnished by a franchisee for other uses, or to intentionally damage such containers.

Sec. 4.10.060. - Frequency of collection.

(a) *Residential premises.* With the exception of vacant premises meeting the provisions of Section 4.10.040(b) of this Code, not less than once per week, every owner, occupant, or person in possession, charge, or control of any residential premises within the City shall cause to be removed by subscription to services provided by a franchisee, or remove by self-hauling (as provided herein), all solid waste stored, generated, collected, or accumulated on such premises.

(b) *Commercial premises.* With the exception of vacant premises meeting the provisions of Section 4.10.040(b) of this Code, not less than once per week, every owner, occupant, or person in possession, charge, or control of any commercial premises within the City shall cause to be removed by subscription to services provided by a franchisee, or remove by self-hauling (as provided herein), all solid waste stored, generated, collected, or accumulated on such premises.

(c) *Modifications to collection frequency.* The City Manager may provide written notice to the owner of any premises that the above minimum removal requirements are insufficient to avoid the creation of a public nuisance due to unique circumstances at such premises. The City may direct that solid waste shall be removed by the owner of any premises so notified on a more frequent schedule (as determined by the City Manager) and/or that additional or larger containers shall be utilized (as determined by the City Manager).

Sec. 4.10.070. - Prohibitions and unlawful acts.

(a) It is unlawful, and a public nuisance, for any person to occupy or inhabit any premises within the City for which arrangements have not been made and kept in full force and effect for solid waste handling services in a manner consistent with the provisions hereof.

(b) The keeping of solid waste in containers other than those prescribed by this chapter, or the keeping upon premises of solid waste which is offensive, obnoxious, or unsanitary, is unlawful, constitutes a public nuisance, and may be abated in the manner provided by law for the abatement of nuisances.

(c) It is unlawful, and a public nuisance, for any person that subscribes for solid waste handling services with a franchisee to fail to participate in the recycling and organic waste programs offered to them by the franchisee.

(d) It is unlawful, and a public nuisance, for any person that subscribes for solid waste handling services with a franchisee to fail to comply with the terms of any recycling and organic waste programs offered to them by the franchisee, including by placing solid waste in containers of a type or nature not designed for the type of waste in question.

(e) It is unlawful, and a public nuisance, for any person who is registered as a self-hauler with the City to fail to comply with all requirements of such registration, including those related to the handling of organic waste.

(f) It is unlawful, and a public nuisance, for any person to fail to comply with his/her/their/its obligations related to the collection and handling of organic waste as set forth in 14 CCR, Div. 7, Ch. 12; provided, however, that the City Manager is authorized to provide waivers to the requirement to participate in some or all of such obligations where authorized by law.

(g) It is unlawful, and a public nuisance, for any commercial edible food generator, food recovery organization, or food recovery service to fail to meet its obligations as set forth in 14 CCR, Div. 7, Ch. 12.

(h) It is unlawful for any person other than a franchisee (or its agents and employees) to collect any discarded solid waste or otherwise provide solid waste handling services within the City. This prohibition shall not, however, apply to:

(1) Registered self-haulers as defined in this chapter.

(2) The owner, occupant, or person in possession, charge, or control of any residential or commercial premises who has subscribed for and

is receiving solid waste handling services with a franchisee, when such owner, occupant, or person is hauling materials generated at his/her/their/its own premises to a lawful disposal or recycling facility. This exemption does not permit the hiring of any person, other than a franchisee, to haul solid waste from one's own premises.

(3) The collection, transportation, and disposal of construction and demolition debris by a contractor, handyperson, repairperson, or other similar service provider as an incidental part of the services provided to its customers rather than as a hauling service, provided that such solid waste is not collected or transported by a third party hired for the primary purpose of collecting and transporting said materials, and further provided that such services comply with any ordinances, policies, and regulations of City and all state laws and regulations relating to the collection and handling of such materials.

(4) The collection, transportation, and disposal of solid waste by a street maintenance provider as an incidental part of the street maintenance services provided to its customers, rather than as a hauling service, provided that such solid waste is not collected or transported by a third party hired for the primary purpose of collecting and transporting said materials, and further provided that such services comply with any ordinances, policies, and regulations of City and all state laws and regulations relating to the collection and handling of such materials.

(5) The collection, transportation, and disposal of green waste and related solid waste by a gardener or landscaper as an incidental part of the gardening or landscaping services provided to its customers, rather than as a hauling service, provided that such solid waste is not collected or transported by a third party hired for the primary purpose of collecting and transporting said materials, and further provided that such services comply with any ordinances, policies, and regulations of City and all state laws and regulations relating to the collection and handling of such materials.

(6) Any person collecting recyclable material sold or donated to it by the person that generated such recyclable material provided, however, to the extent permitted by law, if the person that generated such

recyclable material is required to pay monetary or non-monetary consideration for the collection, transportation, transfer, or processing of recyclable material, the fact that the person that generated such recyclable material receives a reduction or discount in price therefor (or in other terms of the consideration the person that generated such recyclable material is required to pay) shall not be considered a sale or donation.

(i) It is unlawful for any person, other than the owner, occupant, or person in possession, charge, or control of any residential or commercial premises, or a person authorized by law (such as a franchisee), to remove any container from any such premises or from any location where it was lawfully placed for collection, without the prior written approval of the owner, occupant, or person in possession, charge, or control of such premises.

(j) It is unlawful for any person to place solid waste adjacent to or in a public street or public right-of-way for collection by a franchisee without having first subscribed for solid waste handling services with such franchisee.

(k) It is unlawful for any person, other than a franchisee, to take, remove or appropriate for his/her/their/its own use any solid waste which has been placed in any location for collection or removal by a franchisee, regardless of whether the solid waste is placed in a container.

Sec. 4.10.080. - Self-haulers.

(a) Self-haulers registered and operating in accordance with this chapter are only permitted to collect, transport, and dispose of solid waste generated by and upon the self-hauler's own premises. Under no circumstances may a self-hauler collect, transport, or dispose of solid wastes generated upon premises that are not owned, operated or controlled by the self-hauler. Notwithstanding any other provision of this chapter, registered self-haulers shall not be permitted to share, place solid waste in, or to otherwise use the container of another person or business.

(b) *Registration.* All self-haulers must be registered as a self-hauler with the City and shall subscribe to the following registration requirements:

(1) Each self-hauler shall obtain registration from the City Manager and renew his/her/their/its registrations at the commencement of each fiscal year.

(2) The application to register for self-hauling, whether upon initial application or renewal, shall include the following: (i) a list of all containers to be used by the self-hauler, (ii) a list of all transport and disposal equipment to be used by the self-hauler, (iii) a written explanation of where all solid waste will be delivered for disposal and diversion, (iv) a written plan explaining to the reasonable satisfaction of the City Manager how not less than 50 percent of solid waste collected will be diverted from disposal in compliance with AB 939, (v) a written plan explaining to the reasonable satisfaction of the City Manager how compliance with the requirement to divert organic waste, in accordance with applicable laws, including 14 CCR, Div. 7, Chapter 12, Section 18988.3, will be achieved, and (vi) any other information deemed necessary by the City Manager to ensure protection of public health, safety and welfare.

(3) Renewal applications shall additionally include (i) receipts from self-hauling activities undertaken in the prior year demonstrating that the applicant has effectively diverted at least 50 percent of all solid waste generated at its premises from landfills in a manner that complies with the requirements of AB 939, (ii) records reasonably satisfactory to the City Manager demonstrating the manner in which organic waste was diverted from landfills in accordance with applicable laws, including 14 CCR, Div. 7, Chapter 12, Section 18988.3, and (iii) receipts from self-hauling activities undertaken in the prior year demonstrating that the applicant has delivered solid waste generated at its premises to appropriate disposal or recycling facilities at least as frequently as collection is required for such self-hauler by the City Manager.

(4) The City Manager shall approve the application, and issue a self-hauler permit, if the application meets the requirements of this section, and if the equipment, containers, diversion plan and disposal plan meet with his reasonable satisfaction, and if evidence of past diversion and disposal requirements demonstrate the applicant has complied with the 50-percent diversion requirement and otherwise complied

with all laws related to disposal of solid waste, including the diversion of organic waste.

(c) *Containers.* Each self-hauler shall provide its own containers. Containers utilized by a self-hauler must conform to industry standards for solid waste disposal, comply with all laws and regulations, and must be approved by the City Manager in writing prior to issuance of a self-hauler registration. In addition, any containers utilized by a self-hauler shall comply with the following requirements:

(1) All containers shall be maintained in good repair. Any question as to the meaning of this standard shall be resolved by the City Manager.

(2) All containers shall be maintained in a sealed, watertight condition.

(3) Self-haulers shall remove any graffiti that appears on containers within 24 hours after becoming aware of it.

(d) *Collection and transport equipment.* Collection and transport equipment including, but not limited to, transport trucks and vehicles, used by a self-hauler must be approved by the City Manager in writing prior to issuance of a self-hauler registration.

(e) *Non-commercial venture.* It is the intent of this chapter to prevent and proscribe self-hauling activities undertaken as a commercial enterprise. Self-haulers must obtain all equipment, including containers and collection and transportation equipment, at a fair market value that does not include any hauling services, “free” or otherwise. A self-hauler may use its own employees to undertake self-hauling activities, but under no circumstance may a self-hauler use an independent contractor or any other person or entity for solid waste handling services other than a franchisee.

(f) *Other recycling obligations.* Self-haulers shall recycle, or divert from disposal, all recyclable materials not otherwise addressed by this section to a degree and in a manner consistent with standards generally applicable to the solid waste industry and as required by state law or regulation.

(g) *Collection frequency.* Self-haulers shall remove solid waste from his/her/their/its premises at least once per week; however, upon application to the City Manager, the City Manager may determine a different frequency for solid waste collection, transport, and disposal from the self-hauler's premises. The City Manager's determination shall be based upon (i) the nature of the premises, (ii) the type of solid waste generated by the premises, and (iii) the collection capacity of the self-hauler as demonstrated by information in the application.

(h) *Hazardous and special wastes.* Unless lawfully and currently licensed under state and local laws, no self-hauler shall engage in the collection, transport or disposal of hazardous waste or special wastes.

(i) *Revocation.* The City Manager may revoke a self-hauler permit if the permittee either (i) fails to divert at least 50 percent of all solid waste generated at its premises from landfills in a manner that complies with the requirements of AB 939, (ii) fails to divert organic waste from disposal in accordance with applicable laws, including 14 CCR, Div. 7, Chapter 12, Section 18988.3, or (iii) fails to deliver solid waste generated at its premises to appropriate disposal or recycling facilities at least as frequently as collection is required for such self-hauler by the City Manager.

Sec. 4.10.090. - Removal of unauthorized containers.

In addition to any other penalties and/or remedies as set forth in this chapter or provided for by law, any container placed within the City for the collection of solid waste in violation of Section 4.10.070(h) (hereinafter "Unauthorized Container(s)") may be impounded as set forth herein.

(a) The City Manager may cause a notice to be placed in a conspicuous place on any unauthorized container directing that it be removed. The notice shall specify the nature of the violation and shall state that the container must be removed within 24 hours or it may be removed and stored by the City, and the contents disposed of, at the expense of the owner thereof. The notice shall indicate (i) the date and time that the notice was posted, (ii) the name and telephone number of a person designated by the City to hear any appeal or challenge to the requirement that the container be removed, and (iii) that any appeal of the order for removal must occur within 24 hours of the posting of the notice. The posting of a notice to remove shall constitute

constructive notice to the owner and user of the requirement to remove the unauthorized container, and a copy of the notice shall be provided to the owner of the unauthorized container once said owner's identity is ascertained by City, and if not provided sooner, a copy of the notice shall be provided at such time as the owner of the unauthorized container seeks to retrieve any such container removed hereunder.

(b) If within 24 hours after a notice to remove is posted on an unauthorized container, a request for an appeal has not been received and the container is not removed, the City Manager may direct the removal and storage of the unauthorized container. In addition, if the contents of the container are either comprised of a substantial amount of putrescible solid waste, or determined by the City Manager to create a threat to public health, safety, or welfare if not disposed of immediately, the City Manager may direct that the contents of the container be disposed of. The owner of the unauthorized container shall be responsible to reimburse the City for the actual cost of removal, storage, and disposal. All amounts due to the City for the actual cost of removal, storage, and disposal must be paid before the unauthorized container may be returned to the owner. Such amounts shall constitute a debt owed by the owner to the City, and the owner shall be liable to the City in an action brought by the City for the recovery of such amounts.

(c) Between the date following the date upon which any unauthorized container is removed by the City, and the date which is five business days following its retrieval from City, the owner of the unauthorized container may request a hearing to appeal the City's determination that the container is an unauthorized container subject to removal by City as set forth herein. The City Manager shall establish a procedure for such a hearing and the method for requesting such a hearing shall be included on the notice to remove. If the appeal is granted, any payments due to City shall be forgiven and any amounts paid reimbursed.

(d) If the identity of the owner of an unauthorized container that has been removed by the City is known to the City Manager, the City Manager shall promptly cause a copy of the notice to be mailed to the owner along with a request that the owner claim the stored property. If the unauthorized container is not claimed within 95 days after mailing of the notice to the owner, or 90 days after removal if the identity of the owner is unknown to the City Manager, the unauthorized container and its contents shall be

deemed abandoned property and may be disposed of accordingly. The notice to be posted on unauthorized containers shall specify that the foregoing procedure related to abandonment will apply.

Sec. 4.10.100. - Violations and penalties.

(a) This chapter may be enforced in any manner set forth in this Code, or as otherwise provided by law.

(b) Any person who violates any provision of this chapter shall be guilty of a separate offense for each and every day, or any portion thereof, of which any violation of any provision of this chapter is committed, continued, or permitted by such person, and shall be punishable as misdemeanor or an infraction, at the discretion of the City Manager and/or City Attorney, and except as otherwise set forth below, the following penalties shall apply:

(1) *Penalty for misdemeanor violation.* Any person convicted of a misdemeanor under any provision of this chapter shall be punishable by a fine of not more than \$1,000, or by imprisonment for a period not exceeding six months, or by both such fine and imprisonment.

(2) *Penalty for infraction violation.* Any person convicted of an infraction under any provision of this chapter shall be punished by:

- a. A fine not exceeding \$100 for a first violation;
- b. A fine not exceeding \$200 for a second violation of the same provision within one year; and
- c. A fine not exceeding \$500 for a third violation and for any additional violation of the same provision within one year.

(c) *Violations related to organic waste obligations.* In addition to any other available remedy, any violation of 14 CCR, Div. 7, Ch. 12, or any of the provisions hereof which address such obligations including, specifically, sections 4.10.030(5) and 4.10.070 (d), (e), and (f), shall be subject to the provisions of Chapter 1.06 of this Code, modified as follows:

(1) Upon determining a violation has occurred, the City Manager shall issue a notice of violation pursuant to 14 CCR, Div. 7, Ch. 12, Section 18995.4, requiring compliance within 60 days of such notice.

(2) Absent compliance, the following administrative fines shall apply:

a. for a first violation - \$50

b. for a second violation - \$100

c. for a third or subsequent violation - \$250

(d) *Violations deemed to be a public nuisance.* In addition to any penalties otherwise imposed, any violation of the provisions of this chapter is deemed to be a public nuisance which may be abated in the manner provided by law for the abatement of nuisances.

(e) *Attorneys' fees and court costs.* In addition to any civil and criminal penalties as provided by the provisions of this chapter or otherwise, the City may recover reasonable attorneys' fees and court costs, and other such expenses of litigation and/or prosecution as it may incur by appropriate lawsuit against the person found to have violated any provisions of this chapter.