

ORDINANCE NO. 1396
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARCATA
AMENDING THE ARCATA MUNICIPAL CODE RELATING TO
SOLID WASTE MANAGEMENT

TITLE V—SANITATION & HEALTH
CHAPTER 3—SOLID WASTE MANAGEMENT

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

Section 1: Title V, *Sanitation and Health*, Chapter 3, *Solid Waste Management* (Sections 5400 - 5465.2), of the Arcata Municipal Code is hereby repealed and replaced by the following:

TITLE V—SANITATION & HEALTH
CHAPTER 3—SOLID WASTE MANAGEMENT

SEC. 5400. Purposes.

The purposes of this Chapter are as follows:

- A. To comply with the requirements of the California Integrated Waste Management Act of 1989 as amended, Public Resources Code Section 40,000 *et seq.*, which requires the City to divert at least 50% of discarded materials from landfill disposal.
- B. To create a cost-effective curbside recycling program, including the curbside collection of Solid Waste and recyclable materials, in order to increase the diversion of recyclable materials from landfill disposal.
- C. To provide an enforcement mechanism to ensure that residential properties, businesses, commercial and non-residential properties, and multifamily dwellings provide for the proper storage and curbside collection of Solid Waste and recyclable materials.
- D. To maintain a funding stream to create and improve programs to help achieve the Council's goal of zero waste.
- E. To protect the public health, safety, and welfare of the City by reducing or eliminating health hazards, fire hazards, offensive odors, and unsightly litter attributable to accumulations of Solid Waste.

SEC. 5405. Findings.

The City finds and determines:

- A. The California Integrated Waste Management Act requires cities and counties to reduce, reuse and recycle Solid Waste generated in the state to the maximum extent feasible before disposal of waste, to conserve water, energy and other natural resources, and to protect the environment.
- B. The City continues to make progress in maintaining the disposal reduction requirements of the California Integrated Waste Management Act, but additional efforts, particularly in the recycling of paper, cardboard, glass, and other recyclable materials, will assist the City in maintaining and exceeding the state-mandated goal of diverting waste from landfill disposal, and help the City achieve the Council's goal of zero waste.
- C. Efforts by the City and the private sector to encourage voluntary diversion of recyclable materials have achieved diversion levels higher than the state-mandated 50%; however, additional efforts are necessary to ensure maximum recovery of valuable resources.
- D. Mandatory residential and commercial recycling programs in other cities and counties in California, similar to the one implemented by this Chapter, have proven successful in increasing the rates of diversion of Solid Waste from the landfill.

SEC. 5410. Exclusive Rights of City, City Responsibility.

The City maintains exclusive authority to manage and regulate Solid Waste, including but not limited to regulations regarding the storage, collection, transportation, processing and disposal of Solid Waste. Such authority includes the right to determine the methods by which such regulation occurs, for example, through contract, permit, franchise, or another method. The City may enter into exclusive or non-exclusive contracts or franchises for the collection and transportation of Solid Waste including Recyclable Materials. No person, entity, organization or firm is authorized to collect such Solid Waste without authorization or permission from the City. Nothing in this Chapter shall be construed as restricting or interfering with a Generator's right to transport Recyclable Materials not regulated in this Chapter produced by such person or on such person's premises to a recycling facility, provided that transportation occurs in accordance with the provisions of this Chapter.

SEC. 5415. Duty to Assure Removal of Solid Waste.

Every Generator of Solid Waste has the duty to provide, as herein required, for the storage, removal, and/or composting, or recycling of all Solid Waste materials produced on the premises occupied by him or her in compliance with the provisions of this Chapter where applicable, and in a manner that does not create a public nuisance or health hazard.

SEC. 5420. Definitions.

Unless the context requires otherwise, the definitions in this section govern the construction of this Ordinance. The definition of a word applies to any of that word's variants.

Authorized Recycling Collection Contractor. Any person or entity that the City has authorized to collect Recyclable Materials in the City pursuant to franchise, contract or permit granted in accordance with the provisions of this ordinance.

Authorized Solid Waste Collection Contractor. Any person or entity that the City has authorized to collect Solid Waste for landfill disposal in the City pursuant to franchise, contract or permit granted in accordance with the provisions of this Ordinance.

Commercial Facility. Facilities that are not residential, including but not limited to, commercial facilities, restaurants, retail facilities, offices, manufacturing or industrial facilities, markets, office buildings, hotels, motels, shopping centers, and theaters located within the boundaries of the City.

Compost. The product resulting from the controlled biological decomposition of organic wastes that are source separated from the Solid Waste stream, or which are separated at a centralized facility.

Compostable. Solid Waste materials capable of being processed into Compost. Compostable materials include, but are not limited to, food, green, and wood wastes, which are not hazardous wastes.

Customer. A natural person, business or entity who has signed up to receive collection services by the Authorized Solid Waste or Recyclable Materials Collection Contractor.

Designated Recyclable Materials. Recyclable Materials designated by the Director as subject to mandatory curbside collection.

Director. The Director of Environmental Services for the City.

Drop-off Center. A location designated by the Director where residents may leave Recyclable Materials without receiving payment for such Recyclable Materials.

Generator. Any person, firm, or entity that generates Solid Waste.

Hazardous Waste. A waste defined as a "hazardous waste" in accordance with Section 25117 of the Health and Safety Code, or a combination of wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may do either of the following:

1. Cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness.
2. Pose a substantial present or potential hazard to human health or environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Unless expressly provided otherwise, "hazardous waste" includes extremely hazardous waste and acutely hazardous waste.

Household Hazardous Waste. Hazardous Waste commonly occurring in households, including but not limited to motor oils, latex paints, solvents or oil-based paints, batteries, pesticides and cleansers.

Landfill Disposal Facility. Any state permitted facility or location where landfill disposal of Solid Waste occurs or where Solid Waste for landfill disposal may be deposited, for example, a transfer station.

Multifamily Units. Residential premises, with four or more residential units, irrespective of whether residents therein are transient, temporary, or permanent.

Recyclable Materials. Materials that have been source separated from the Solid Waste stream prior to disposal and returning them for use or reuse in the form of raw materials for new, used or reconstituted products in the market place and that are not land-filled. Recyclable Materials include any materials identified by the Director for which a market exists, including but not limited to: plastic bottles and jars, paper, cardboard, glass, newspaper, metal containers, cans, as well as Compostable materials such as green waste, yard waste or food waste.

Recycle. The process of collecting, sorting, cleansing, treating, and reconstituting materials that would otherwise be disposed of, and returning them to the economic mainstream in the form of raw material for new, re-used, or reconstituted products which meet the quality standards necessary to be used in the market place.

Recycling Facility. A facility permitted by the City to recycle Solid Waste material. A recycling facility may pay or offer redemption for Recyclable Materials to persons or Authorized Recycling Collection Contractors who bring Recyclable Materials to such recycling facility.

Single-Family Unit. Premises used for or designated as a single-family residential dwelling, irrespective of whether residents therein are transient, temporary, or permanent.

Solid Waste.

1. Except as provided in subdivisions 2, 3, and 4, Solid Waste includes, but is not limited to, all putrescible and nonputrescible solid, semi-solid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, de-watered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid or semi-solid wastes, yard waste and other discarded solid and semi-solid wastes, Recyclable and Compostable materials.

2. Solid Waste does not include low-level radioactive waste regulated under Chapter 7.6 of Division 20 of the Health and Safety Code.

3. Solid Waste does not include medical waste, which is regulated pursuant to the Medical Waste Management Act, Division 20 of the Health and Safety Code, provided that the medical waste, whether treated or untreated, is not disposed of at a Solid Waste facility. Medical waste which has been treated and which is deemed to be Solid Waste shall be regulated pursuant to this Ordinance.

4. Solid Waste does not include Hazardous or Household Hazardous Waste.

Solid Waste Collection Services. Services provided by an Authorized Solid Waste Collection Contractor for the collection of Solid Waste materials including Solid Waste for Landfill Disposal and Source Separated Recyclable Materials.

Solid Waste For Landfill Disposal. Solid Waste material intended by the Generator for landfill disposal.

Source Separated. The Process of removing Recyclable Materials from Solid Waste at the place of discard, prior to collection, into separate containers that are separately designated for collection.

Special Waste. Non-rotting Solid Waste material from dwelling units, institutional, commercial, industrial, or agricultural establishments that requires special collection, handling, treatment, and/or disposal techniques or permit changes for disposal.

SEC. 5425. Mandatory Collection Service.

- A. **Use of City's Solid Waste Collection Contractor Required.** Mandatory collection service is required for all Solid Waste for Landfill Disposal and Designated Recyclable Materials generated on all occupied properties within the City, as further specified in this Chapter. The Owner of each parcel subject to this Section shall be responsible for entering into a collection service agreement with the Authorized Solid Waste Collection Contractor. Nothing herein is intended to prevent the property owner from allowing a tenant to obtain the collection service, and make payments therefor. However, such arrangement will not affect the property owner's obligation to the City or to the Authorized Solid Waste Collection Contractor for payment for such service.
- B. **Phase-In of Mandatory Programs.** At the City's discretion, implementation of mandatory collection programs may occur in phases. The property owner of each occupied premise, whether residential, commercial, or industrial, shall enter into a collection service agreement within the time specified in written notification from the City. Mandatory collection service shall be required as the service becomes available to each affected property.
- C. **Failure to Subscribe.** If the City Manager has reason to believe that any person required to subscribe for collection services has failed to subscribe or failed to maintain a subscription for service, the City Manager may cause written notice to be mailed to the owner of the real property so affected directing the owner to subscribe for such service within ten (10) days after the date of the notice. Any such notice shall state that if the person to whom it is directed fails within the ten-day period to subscribe for collection service or fails to appear and show cause why such person should not be required to subscribe, the City Manager may authorize collection service at the level appropriate for the occupancy and use of the property, and the charges will be assessed against the real property to which the service is provided. After notice and a public hearing, unpaid delinquent accounts may be confirmed by the City Council, and the amount confirmed shall constitute a lien on the property. The lien shall continue until the amount of the charges and interest is paid in full or discharged.

D. Exclusions. Any property owner or tenant who believes that he or she should be excluded from mandatory collection requirements may arrange to appear before the Director at a time specified, to show cause as to why he or she should be excluded. The Director may exclude persons from mandatory requirements if he or she is able to find at least one of the following:

1. That the applicant is not an owner or tenant of the property, and if a tenant, that the tenant does not have the owner's permission or authorization to apply for the exclusion;
2. That the property is unimproved or uninhabitable;
3. That a residential unit or other structure on the property is vacant or temporarily unoccupied for a period in excess of two (2) months;
4. That unique parcel-specific conditions exist which prevent that parcel from being serviced by the Authorized Solid Waste Collection Contractor, and the property owner or tenant self-hauls Solid Waste for landfill disposal to a Designated Transfer Facility, and reuses, recycles or composts Recyclable Materials. Parcel-specific conditions include, but are not limited to, properties with narrow, steep driveways or access over which the Collection Contractor may not safely travel;
5. That the owner or Generator legally recycles and/or composts virtually all of the Solid Waste generated on the premises under his or her control or ownership in a manner that is neat and sanitary and does not create a public nuisance or health hazard. All persons claiming this exclusion shall sign a declaration under penalty of perjury, renewed each year if requested, at the discretion of the Director, stating that he or she legally recycles and/or composts virtually all of the Solid Waste generated on the premises so that no unsanitary condition, health hazard, or public nuisance will arise on the premises.

Any exclusion granted by the Director is revocable for cause, as determined by the Director. Exclusions may be granted on conditions as deemed necessary by the Director to ensure continuing eligibility. Violations of such conditions may result in the revocation of the exclusion.

SEC. 5430. Collection Containers.

- A. Containers, All Collections. All Solid Waste and Recyclable Materials for collection shall be placed in containers and at the location as designated by the Director. Such containers shall be maintained at all times in good repair and in a clean, neat and sanitary condition. Containers shall be kept covered at all times except when depositing or removing Solid Waste or Recyclable Materials. Containers shall be stored on private property unless the owner has been granted written permission by the City to use public property for such purposes.
- B. Source Separation Required. Each Generator shall Source Separate Designated Recyclable Materials and place the Materials into the container provided for collection.
- C. Containers, Mandatory Collection. The Authorized Solid Waste Collection Contractor shall provide each Customer, without expense to the City or Customer, a sufficient number of adequate containers for storage and collection of all Solid Waste for Landfill Disposal and Designated Recyclable Materials, based on the subscribed level of service. The cost of

replacing containers due to the Customer's negligent or intentional actions may be charged to the Customer. The weight of any individual Solid Waste container and contents when such container is filled to within four inches of the top shall not exceed 1.25 pounds per gallon. Customers may be charged a refundable deposit for containers. Customers found to have altered or removed 20-gallon Solid Waste container inserts may be required to change levels of service, and may be charged a service fee approved by the Director for such a change in service levels.

- D. Storage, General. The area used for storage of any Solid Waste and Recyclable Material shall be maintained at all times in a clean, neat and sanitary condition, in such a manner that does not create a health or safety hazard, and does not litter public or private property, including the premises of the Generator. Solid Waste and Recyclable Material may not be stored on or in front of any premise in an unsightly manner. The Director may establish additional container and/or storage requirements as needed to maintain the public health and safety.
- E. Unauthorized Containers. Each use of a container for Solid Waste or Recycling materials other than that provided by the Authorized Solid Waste or Recycling Collection Contractor, and each use of a container which does not meet the weight limitations, shall constitute a separate and distinct offense punishable as provided in this Chapter. In all situations of non-conforming containers, a warning notice shall be mailed to the Customer and/or property owner advising of applicable provisions of this Chapter.

SEC. 5435. Collection Requirements, General.

- A. Point of Collection. The Director may specify the placement of Solid Waste and Recyclable Materials for collection on the curb or alley, and may also specify the size, type, or kind of container for collection. When space restraints exist, the Director may require Customers to utilize combined collection containers. It shall be presumed that materials placed in specified collection containers at a point of collection in accordance with this Chapter are to be collected by an Authorized Collection Contractor.
- B. Collection Intervals. Solid Waste shall be collected weekly, monthly, bi-monthly or more frequently as determined necessary by the Director to protect the public health and safety. Recyclable Materials shall be collected at frequencies established by the City in the collections service contract or franchise agreement.
- C. Time Limit on Container Placement at Curb. Containers containing Solid Waste or Recyclable Materials placed on the curb for collection shall be placed not more than twelve (12) hours prior to the collection date and shall be removed not more than twelve (12) hours subsequent to the collection date.
- D. Authority To Enter Upon Private Property. The City, its employees, and Authorized Solid Waste and Recycling Collection Contractors are authorized to enter upon and/or across private property for the sole purpose of collecting Solid Waste and Recyclable Materials as required by this Chapter. Authorized Solid Waste and Recycling Collection Contractors shall not enter dwelling units or other residential buildings for collection purposes. Owners

of Commercial premises may provide written permission for an Authorized Solid Waste or Recycling Collection Contractor to enter such premises for collection purposes.

E. Responsibilities at Point of Collection.

1. Authorized Solid Waste and Recycling Collection Contractors shall be responsible for the collection of Solid Waste and Recyclable Materials from the point of collection to the transportation vehicle provided that Solid Waste and Recyclable Materials are placed in containers as required by this Chapter. Any spillage or blowing litter occurring prior to the arrival of Authorized Solid Waste Collection Contractor at the point of collection shall be collected and cleaned up by the Generator of such Solid Waste. Any spillage or blowing litter caused as a result of the Authorized Solid Waste Collection Contractor shall be collected and cleaned up by the Solid Waste Collection Contractor.
2. Authorized Solid Waste and Recycling Collection Contractors shall not be required to reach into containers to remove any contents.
3. Containers emptied by Authorized Solid Waste and Recycling Collection Contractors shall be returned to the point of collection.

F. Special Collections. The Director may require an Authorized Solid Waste Collection Contractor to make Solid Waste collections in addition to those ordinarily scheduled, when necessary, to protect the public health and safety. Fees for such special collections shall be established by resolution of the City Council.

G. Vehicle Standards. Vehicles used by Authorized Solid Waste or Recycling Collection Contractors to transport Solid Waste for Landfill Disposal or Recyclable Materials shall be maintained in a safe, clean, and sanitary condition, and shall be constructed, maintained, and operated to prevent litter spillage, leakage, emission of offensive odors, or creation of a health or safety hazard.

H. Liability Insurance. No contracts or franchises for Solid Waste collection services shall be entered into by the City until and unless the prospective contractor or franchiser shall procure and maintain for the duration of the contract or franchise, workers' compensation insurance and insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work thereunder by the contractor or franchiser, its agents, representatives, employees or subcontractors. Coverages, minimum limits of insurance, deductibles, self-insured retentions, as well as all other insurance provisions, shall be in a form and amount satisfactory to the City. Persons applying for permits for Solid Waste collection services may be required to procure and maintain liability insurance as deemed appropriate by the City.

SEC. 5440. Ownership of Solid Waste and Recyclable Materials.

A. Solid Waste. Solid Waste for Landfill Disposal shall remain the property of the Generator even after such Solid Waste is placed at a point of collection or into a bulk container for collection or is deposited in violation this Chapter. The Generator of Solid Waste shall retain ownership of such Solid Waste even after its collection.

- B. Recyclable Materials. Source Separated Recyclable Materials placed on the curb for collection shall become the property of the Authorized Solid Waste or Recycling Collection Contractor, or of the City, as set forth in the agreement for collection of Recyclable Materials entered into by the City and such contractor.
- C. Self-Haul of Own Recyclable Materials. Nothing in this Chapter limits the right of any person to donate, sell or otherwise dispose of his or her Recyclable Materials. The transportation of any such Materials shall occur in a manner that does not create any litter spillage, leakage, emission of offensive odors, or creation of a health or safety hazard.

SEC. 5445. Disposal of Solid Waste.

- A. Disposal at Approved Sites Only. All Solid Waste shall be deposited at a processing facility or disposal area designated by the City, approved by the State and in compliance with all relevant requirements of local, state, and federal laws and regulations. Authorized Solid Waste and Recyclable Collection Contractors shall transport collected Solid Waste and Recyclable Materials to facilities as specified in the collection agreement entered into by the City and such contractor or permit issued by the City.
- B. Unlawful Disposal. It shall be unlawful for any person to throw or deposit any Solid Waste, or to cause the same to be thrown or deposited, in or upon any street, alley, gutter, park, body of water or other public property, or to throw or deposit Solid Waste for landfill disposal in or upon any private property or body of water. It shall be unlawful for any person to place Solid Waste into any Solid Waste disposal container without authorization from the City or Customer having possession of such container.
- C. Placement in City Waste Containers Prohibited. City Solid Waste containers are placed in City parks and other public areas for the use by the public to control trash, litter and garbage generated at their respective locations. Such waste containers are not to be used as disposal sites for trash or rubbish which is generated off site. It is unlawful for any person to place, dump, deposit or throw away Solid Waste, Recyclable Material, yard waste, or other refuse or debris of any kind or character whatsoever in City Solid Waste containers if such was generated at a location other than where the waste container is located.

SEC. 5450. Hazardous Waste.

- A. Hazardous Waste Segregation; Disposal. All Generators of hazardous waste shall segregate such hazardous waste from all other Solid Waste.
- B. Hazardous Waste Disposal. No person, entity or firm may knowingly cause or permit hazardous waste to be collected or transported to a Landfill Disposal Facility, except in accordance with State and Federal law.
- C. Violations. Any person, entity or firm found in violation of this section shall be guilty of a misdemeanor. Any and each such placement of hazardous materials shall constitute a separate and distinct offense.

SEC. 5455. Other Solid Waste Materials.

- A. Collection of Other Solid Waste and Recyclable Materials. The City may enter into exclusive and non-exclusive contracts or franchise agreements, or issue permits for collection services of non-Designated Recyclable Materials, including but not limited to collection of such items as Green Waste, Bulky Goods, and Food Waste, in which case the applicable provisions of this Chapter shall apply.
- B. Grading, Demolition, and Construction Waste. Grading, demolition and construction wastes shall be confined to the property on which grading, demolition or construction occurs, and shall be removed by the owner or his agents immediately after such demolition or construction is completed.
- C. Special Waste. Special wastes shall be confined to the property upon which they originate in such a manner that does not create a health or safety hazard. No items of special wastes shall be stored on or in front of any premises in an unsightly manner. The collection and/or transportation of special wastes to a disposal or processing facility shall be the responsibility of the Generator of said special wastes, and such collection and/or transportation shall occur in a timely fashion.
- D. Green Waste. Tree limbs, brush, and other yard waste which cannot be composted, shall be confined to the property upon which it originates in such a manner that does not create a health or safety hazard. The Generator of such green waste shall be responsible for making prompt arrangements to have such green waste collected and transported to a disposal or processing facility in a timely fashion.
- E. Abandoned Solid Waste. When the generator of Solid Waste cannot be located or identified, the owner of the premises or property on which such Solid Waste is found shall be responsible for the storage, collection, and/or processing of such Solid Waste materials in accordance with this Chapter.
- F. Drop-off Centers. The City may permit Drop-off Centers to receive self-haul Recyclable Materials not otherwise subject to mandatory collection requirements (including California Redemption Value products) of this Chapter, and receive Recyclable Materials from an Authorized Recycling Collection Contractor for processing. All such Drop-off Centers must be operated in compliance with applicable state law, and be operated in a neat and clean manner that does not create a public health or nuisance hazard.

SEC. 5460. Additional Prohibited Acts.

- A. Unauthorized Collection Prohibited. It shall be unlawful for any person other than the Generator or an Authorized Solid Waste or Recycling Collection Contractor to remove Solid Waste or Recyclable Materials which have been placed on a curb or alley for collection.
- B. Placement of Unauthorized Materials. It shall be unlawful for any person to place any

object or item of any kind or character except the authorized Solid Waste or Recyclable Materials on a curb or alley for collection by an Authorized Solid Waste or Recycling Collection Contractor.

- C. Interference. It shall be unlawful for any person to interfere in any manner with Solid Waste collection equipment or Solid Waste Collection Contractors in the lawful performance of their duties as such, whether such equipment or collectors are those of the City or of an Authorized Solid Waste Collection Contractor.
- D. Burning. It shall be unlawful for any person to burn Solid Waste except in accordance with all applicable federal, state and local laws.
- E. Accumulation of Materials Constituting a Hazard. It shall be unlawful for any person to create or allow to be created or maintained upon any premises owned, occupied or managed by such person any accumulation of materials that are dangerous as a fire menace or hazard to the public health, safety and welfare.

SEC. 5465. Survey Requirements.

- A. Solid Waste Survey. When requested by the Director, all Generators of Solid Waste, whether private, commercial, agricultural, industrial, or institutional shall submit information on the nature and character of their Solid Waste production and its disposal or processing by completing a Solid Waste survey. The Director shall prepare a form for this purpose and may periodically require Generators to update the survey. The purpose of the survey is to enable the City to comply with requirements of the California Integrated Waste Management Act of 1989.
- B. Confidential Information. Information and data provided on a Solid Waste survey shall be available to the public, unless the Generator is able to demonstrate to the satisfaction of the Director that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable State law, or would otherwise subject the Generator to an unreasonable invasion of privacy.

SEC. 5470. Rates and Charges.

- A. Rate Determination. Customer rates for Solid Waste collection services shall be established by the City Council.
- B. Opening and Closing Bills. Opening and closing bills for less than the normal billing period shall be prorated.
- C. Collection. The City Council may provide for the collection of Solid Waste charges together with the rates charged for other utility services furnished by the City. In such event, Solid Waste and Recyclable Material collection service charges shall be itemized and billed on the same bill and collected as one item, together with and not separate from such utility service. By contract, the Authorized Solid Waste Collection Contractor may be authorized to bill Customers and collect service charges on behalf of the City. In the event

bills become delinquent for more than sixty (60) days, the Authorized Solid Waste Collection Contractor may submit those accounts to the City for collection, subject to the terms and conditions agreed to by the City and Collection Contractor. The Authorized Solid Waste Collection Contractor shall not discontinue collection services for properties that have delinquent accounts unless one of the exclusions in Section 5425 applies, as determined by the Director.

- D. Late Fees and Penalties. Bills not paid within sixty (60) days after the billing date shall be deemed late and deemed delinquent on the first day of the calendar month occurring thereafter, unless the bill or portion thereof is unpaid due to a bona fide dispute. A one-time basic penalty of 10% and interest at the rate of one-half of one percent (0.5%) per month of outstanding charges and penalties shall be assessed upon delinquency.
- E. Collection of Delinquent Accounts. The City reserves the right to take any, all, or a combination of methods authorized by law, in the alternative or concurrently, in its sole discretion, to collect unpaid deposits, charges, penalties and interest of delinquent accounts. Such remedies include, but are not exclusive to:
 - 1. Using the authority granted in Government Code section 38790.1, and in the manner described in Government Code section 25831, the City may record a lien upon the real property after notice and hearing before the City Council; or
 - 2. A court action for, in which event the City shall have judgment for the cost of suit and reasonable attorney's fees; or
 - 3. Discontinuance of City services charged on a unified bill, including water.

SEC. 5475. Enforcement and Penalties.

- A. Inspection. In order to ensure compliance with this ordinance and the California Integrated Solid Waste Management Act, the City is authorized to inspect any and all phases of Solid Waste management within the City. No inspection shall be made in any dwelling unit unless authorized by the occupant, or in accordance with due process of law. In all cases where such inspections reveal a violation of the provisions of this ordinance, the Director shall issue a notice for each such violation stating therein the violation or violations found, the applicable law and regulations, and the time period within which corrective action shall be taken.
- B. Penalties. Any person violating the provisions of this ordinance shall be guilty of an infraction for each offense unless otherwise specified herein. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues and for each activity in violation of this Chapter. The fact that Solid Waste remains on an occupant's premises in violation of this ordinance shall be "prima facie" evidence that the occupant of the premises is responsible for the violation hereof.

Section 2: Severability. If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional, the decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Chapter, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid under law.

Section 3: This ordinance will take effect thirty (30) days after the date of its adoption.

DATE: October 7, 2009

ATTEST:

APPROVED:

/s/ Randal J. Mendosa
Interim City Clerk, City of Arcata

/s/ Mark E. Wheetley
Mayor, City of Arcata

CLERK'S CERTIFICATE

I hereby certify that the foregoing is a true and correct copy of **Ordinance No. 1396**, passed and adopted at a regular meeting of the City Council of the City of Arcata, Humboldt County, California, on the 7th day of October, 2009, by the following vote:

AYES: **WHEETLEY, STILLMAN, BRINTON, ORNELAS, WINKLER**

NOES: **NONE**

ABSENT: **NONE**

ABSTENTIONS: **NONE**

/s/ Randal J. Mendosa
Interim City Clerk, City of Arcata