ORDINANCE NO. 2004-036

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON THE DATE OF JUN 2 9 2004

AN ORDINANCE AMENDING SECTION 13.10.010 AND ARTICLE III OF CHAPTER 13.10 OF THE SACRAMENTO CITY CODE RELATING TO VOLUNTARY CONTAINERIZED COLLECTION OF GARDEN REFUSE

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1

The Sacramento City Council hereby finds and declares that:

1. Pursuant to Article III of Chapter 13.10 of the Sacramento City Code, the city operates a garden refuse collection and disposal program. Under this program, the city periodically collects garden refuse deposited in city streets, disposes of the garden refuse and sweeps the city streets. Owners of properties fronting on streets where these services are provided pay a fee to cover the city's cost to provide these services, as established by resolution of the city council.

2. On September 27, 1977, city voters approved Measure A, which adopted an ordinance to prohibit the city from requiring the mandatory containerization of yard and garden refuse in the city, unless this prohibition is repealed or amended by a vote of the majority of the electors of the city at any municipal election. The city's garden refuse collection and disposal program complies with Measure A.

3. The deposit and collection of garden refuse in city streets results in various impacts, including (i) damage to street pavement by the claw loaders used to collect garden refuse deposited in city streets, (ii) pooling of storm drainage blocked by garden refuse improperly deposited in storm gutters, (iii) potential traffic and safety impacts where garden refuse is deposited in bike lanes and/or on narrow streets, (iv) improper deposits of trash and other unauthorized materials on garden refuse piles, and (v) and visual and aesthetic impacts considered undesirable by many city residents. For these reasons, numerous city residents have requested that the city provide an option to subscribe to containerized garden refuse collection service as an alternative to depositing garden refuse in city streets for collection.

4. Measure A prohibits mandatory containerization, but does not prohibit the city from providing property owners in the city with an option to voluntarily subscribe to containerized garden refuse collection and disposal service as an alternative to depositing garden refuse in city streets for collection, because the property owner's decision to participate in such a program would be voluntary, and the city would not be mandating or requiring that anyone make this decision. Establishment of such a program would serve the public interest and promote the public health, safety and welfare, because participation in the program would reduce the undesirable impacts associated with the deposit and collection of garden refuse in city streets that are described above.

SECTION 2

The definition of "solid waste manager" in Section 13.10.010 of the Sacramento City Code is amended to read as follows:

Solid waste manager or manager means the integrated waste general manager of the city general services department.

SECTION 3

Article III of Chapter 13.10 of the Sacramento City Code is amended to read as follows:

Article III. Garden Refuse*

*Editors Note: Measure A adopted 09-27-77 provides that mandatory containerization of yard and garden refuse shall not be required in the city without a majority vote of the electors of the city of Sacramento at a municipal election.

13.10.350 Garden refuse defined.

As used in this article, the term "garden refuse" means leaves, grass cuttings and garden trimmings, weeds and roots from which all dirt has been removed, shrubbery and tree trimmings of which no single piece shall exceed thirty-six (36) inches in length, four inches in diameter or forty (40) pounds in weight.

13.10.360 Lawn and garden service defined.

As used in this article, the term "lawn and garden service" means the periodic collection by the city of garden refuse from city streets, the disposal of the garden refuse, and the periodic sweeping of those streets.

13.10.370 Property classification defined.

As used in this article, property is classified as follows:

A. Residential.

Single-family residences: each property where there is only one dwelling unit on one parcel of property which is used primarily for single-family purposes.

Two-family residences: each property used primarily for two-family residential purposes.

Multi-family residences: each property used primarily for residential purposes having more than two but less than fifty-one (51) dwelling units.

Multiple family residences containing more than fifty (50) dwelling units shall be considered as being property used primarily for nonresidential purposes.

B. Nonresidential. Each property used primarily for nonresidential purposes. For purposes of this article, any residential condominium, residential planned development, residential stock cooperative, or mobilehome park shall be classified as nonresidential property.

13.10.375 Voluntary containerized collection service defined.

As used in this article, the term "voluntary containerized collection service" means the periodic collection and disposal by the city of garden refuse placed in containers on city streets pursuant to section 13.10.475 of this code, and the periodic sweeping of those streets.

13.10.380 Legislative findings.

The city council finds and determines:

A. That the public health, safety and welfare of all the citizens of the city requires that the accumulation and disposal of garden refuse from properties within the city be handled in a manner producing the greatest good and least public inconvenience, cost and maintenance to the city and its citizens.

B. That depositing garden refuse in the streets in front of properties within the city for periodic collection, disposal and street sweeping by the city is a service afforded by the city which is of substantial benefit to owners of all

properties within the city to which the service is extended.

C. That the costs to the city in providing for the periodic collection, disposal of garden refuse from the streets in front of properties within the city, and sweeping of the streets should be collectively borne by the owners of the properties through the collection of a lawn and garden service fee.

D. That depositing garden refuse in the streets of the city for periodic collection and disposal by city forces should be limited and restricted to:

1. The owners of those residential properties with concrete curbs and gutters.
2. The owners of those residential properties without concrete curbs and gutters, who have requested the service, been approved by the director of public works, and have agreed to pay the required fee.
3. The owners of those nonresidential properties with concrete curbs and gutters who have requested the service and have agreed to pay the required fee based upon the amount deposited in the street.

E. That depositing garden refuse in the streets of the city in front of properties not provided the periodic garden refuse collection and disposal services by city forces is prohibited.

F. That street sweeping services are to be continued for, and charged to, all properties (residential and non-residential) having concrete curbs and gutters.

G. That the city manager, in order to promote the public health, safety and welfare, should have the authority to prohibit the placement of garden refuse in the streets and at curbside upon the occurrence of adverse environmental conditions. If the city manager determines that a prohibition on placement of garden refuse would facilitate effective drainage, storm water runoff, prevention of flooding, or other public interest, he or she should have the authority to accomplish the prohibition by publicly declaring that such adverse conditions have arisen.

13.10.390 Deposit of rubbish and waste matter on streets regulated.

It is unlawful and an infraction punishable by a fine not to exceed five hundred dollars ($500.00) for any person to deposit rubbish, waste matter, or garden refuse in the streets of the city in a manner other than that expressly authorized by this article.

13.10.400 Deposit of garden refuse authorized--Residential property.

A. Garden refuse produced on residential properties with concrete curbs and gutters may be deposited in the streets of the city at the times and in the manner prescribed by this article. Garden refuse from eligible residential property shall be placed in the street in front of and contiguous to the properties from which the garden refuse is removed. Any eligible residence on a corner parcel may place garden refuse in the street in front of or on the side of and contiguous to the property.

B. Service to Properties Without Concrete Curbs and Gutters.

1. Owners of residential properties without concrete curbs and gutters who wish to have periodic collection and disposal of garden refuse from the streets in front of their properties may petition the solid waste manager to have their property serviced. The solid waste manager will grant or deny the petition based on feasibility, cost, and efficiency requirements of the city. Any petition granted under this section will bind the property owner to continue the service for the remainder of time the property owner owns the property.
2. The solid waste manager will notify the property owner of the granting of the petition and of the irrevocability of the provision of service. Those owners of residential properties without concrete curbs and gutters whose petitions are approved by the solid waste manager under this section shall receive the service at the times and in the manner prescribed by this article for owners of residential properties with concrete curbs and gutters, or in such other manner as mandated by the solid waste manager.

C. Garden refuse produced on residential properties not provided garden refuse collection and disposal services by city forces shall not be deposited in the streets of the city.

D. No garden refuse shall at any time be placed for collection in a manner which shall:

1. Impede traffic or constitute a hazard to traffic;
2. Impede the flow of water through any drainage channel or in any manner impede the drainage of water; or
3. Be on or impede any public sidewalk or other public walkway. All garden refuse placed in the streets will be placed and maintained in as compact a pile as possible.

E. No garden refuse shall be placed for collection within a set of undulations.

F. The placement of garden refuse in the street or at curbside shall be

prohibited at the direction of the city manager if and when:

1. The city manager finds that such prohibition is reasonably necessary to facilitate effective storm drainage and runoff, to prevent flooding, to counteract adverse environmental conditions, or to promote other public interest;
2. The city manager issues a declaration of emergency specifying the condition or conditions necessitating such prohibition and describing the prohibited activities and the duration of the prohibition; and
3. The city manager distributes a press release containing the declaration of emergency to local broadcast media, the Sacramento Bee newspaper, and local radio stations.

In addition to the foregoing prohibition, garden refuse in the street or at curbside at the time the city manager makes a declaration of emergency as set forth herein shall be removed from the street and curbside so as not to impede the flow and drainage of water.

13.10.410 Maximum amount of deposit.

The maximum amount of garden refuse that may be deposited in the streets during a calendar week is as follows:

A. For single and two-family residential structures, two cubic yards;

B. For multi-family residential structures containing at least three dwelling units and not more than fifty (50) dwelling units, one cubic yard per dwelling unit.

13.10.420 Time of deposit.

Garden refuse may be deposited in the streets in front of residential properties within the city at any time.

13.10.430 Garden refuse from nonresidential properties.

No person shall deposit garden refuse from nonresidential properties in the streets of the city without first obtaining the prior written authorization of the solid waste manager. The failure of any person to obtain such written authorization shall not absolve him or her from liability for any fee assessed for collection of unauthorized deposits of garden refuse. The solid waste manager may refuse to authorize the deposit of garden refuse for collection if a determination is made by the solid waste manager that the property lacks concrete curbs and gutters, or that the collection by the city could be impractical, uneconomic, or otherwise create problems involving public health or safety. In authorizing the deposit in

city streets of garden refuse from nonresidential properties the solid waste manager shall specify the time, manner, and place of the deposit.

13.10.440 Lawn and garden service fee established--Residential properties.

It is found and determined that availability of the service allowing the deposit of garden refuse from residential properties in the streets of the city for the collection, disposal, and street sweeping by city forces is a benefit to the owners of all eligible residential properties within the city and such owners are made liable for the payment of the lawn and garden service fee imposed by this article irrespective of their actual use of city streets for deposit of garden refuse.

A. Except as provided otherwise in section 13.10.475 of this code, the fee shall be and is imposed on all properties within the city and on any newly constructed residence to commence at the beginning of the third full month after such newly constructed residence obtains garbage and water service.

B. The fee shall not exceed the cost of making available and providing the service, as determined by the solid waste manager, utilizing normal and reasonable accounting procedures, and taking into account the future needs of the division responsible for garden refuse collection.

13.10.450 Rate of fee--Residential properties.

Notwithstanding any provision of this code to the contrary, the rates, fees, and charges for residential purposes as established or provided for in this article shall hereafter be established by resolution of the city council. In establishing the rates, fees, and charges, the portion of the lawn and garden service fee attributable to street sweeping shall be separately set forth and established.

13.10.460 Rate of fee--Nonresidential property.

The lawn and garden service fee imposed upon depositing garden refuse in city streets from any nonresidential property, where authorized by the solid waste manager pursuant to Section 13.10.430 of this code, shall be based upon the approximate average monthly quantity of garden refuse so deposited from the property. All nonresidential properties shall be liable for the portion of the lawn and garden service fee attributable to street sweeping, as established from time to time in accordance with the provisions of this section.

The approximate average monthly quantity of garden refuse deposit shall be determined by the solid waste manager and may be revised from time to time to reflect actual approximate average quantities deposited in the city streets from the properties to which the service is provided. Any garden refuse placed for collection pursuant to this section shall be subject to the provisions of this article

specifying the time, manner and place for placement for collection of garden refuse from residential properties.

Notwithstanding any provision of this code to the contrary, the rates, fees, and charges established or provided for in this section shall hereafter be established by resolution of the city council. In establishing the rates, fees and charges, the portion of the lawn and garden service fee attributable to street sweeping shall be separately set forth and established.

13.10.470 Optional fee--Multi-family residential properties.

The owner of any residential property on which three or more dwelling units are located may elect to be charged the lawn and garden service fee as if it were being used primarily for nonresidential purposes for the sole purpose of establishing the rate to be paid for such property; provided, in no event shall any such election establish an exemption from the lawn and garden service fee. This election shall be filed with the solid waste manager on such form as may be prescribed by the solid waste manager and the election shall remain in effect until revoked in writing by the owner or the owner's successor in interest. Provided further that this election shall not exempt the owner from payment of the portion of the fee attributable to street sweeping, which portion shall be billed to and paid by the owner.

13.10.475 Establishment and operation of voluntary containerized collection service program

Notwithstanding any provision of this article to the contrary:

A. The city council may by resolution adopt or amend a voluntary containerized collection service program. Under such a program, residential customers who otherwise would be required to pay the lawn and garden service fee specified in section 13.10.440 of this code and who would otherwise deposit garden refuse in city streets would be allowed to request voluntary containerized collection service instead.

B. If the city council adopts a voluntary containerized collection service program, the solid waste manager shall have the authority to promulgate regulations (hereafter the "program regulations") as necessary to operate the program, which shall become effective when adopted by resolution of the city council. The solid waste manager may adopt administrative procedures to implement the program regulations adopted by city council resolution.

C. A residential customer who voluntarily requests containerized collection service and is authorized to receive such service in accordance with the program regulations and administrative procedures shall be allowed to

subscribe to the voluntary containerized collection service program in accordance with the terms, conditions and requirements of this chapter, the program regulations and the administrative procedures.

D. A residential customer who subscribes to the voluntary containerized collection service program shall not be charged the lawn and garden service fee specified in section 13.10.440, shall be required to place garden refuse in a container specified by the city for city collection, and shall not be entitled to deposit garden refuse in the street for city collection, except to the extent that the deposit of garden refuse in the street is expressly authorized under the program regulations.

E. Garden refuse containers shall be placed for collection in accordance with the provisions of section 13.10.190, unless different requirements are specified in the program regulations.

F. Residential customers who subscribe to the voluntary containerized collection service program shall pay the rates, fees and charges established by resolution of the city council. The voluntary containerized collection service program rates, fees, and charges shall include the street sweeping fee, but in establishing these rates, fees, and charges, the portion attributable to street sweeping shall be separately set forth and established. These rates, fees and charges shall not exceed the City's costs of providing the voluntary containerized collection service and street sweeping service.

13.10.480 Collection of fees.

The lawn and garden service fee and voluntary containerized collection service fee shall be billed and collected in accordance with the provisions of Chapter 13.12 of this code.

13.10.490 Neighborhood cleanup programs.

Rubbish and waste matter may be deposited in the city streets for collection and removal by city forces when such deposits are expressly authorized by the solid waste manager in connection with a neighborhood cleanup program. The time and manner of deposit, together with any limitation upon the nature and extent of materials to be deposited, shall be determined by the solid waste manager and shall be communicated to the neighborhood in which the program is to be conducted.

13.10.500 Bare lot and multiple use property classifications--Fees--Lawn and garden service fees--Lawn and garden service fee classification board.

A. Definition. For the purpose of this section only, the term residential

property shall mean and refer to residential property classified for the purposes of this article in a classification established by Section 13.10.370 of this article excluding multiple family dwelling units having more than fifty (50) dwelling units.

B. Application. Any owner of residential property may apply for reclassification of such property according to the procedures set forth in this section. Any such application shall be filed on forms provided by the city and shall be filed with the revenue division of the city.

C. Lawn and Garden Service Fee Classification Board. The lawn and garden service fee classification board shall be composed of two city employee members, one of whom shall be from the department of finance and one of whom shall be from the department of general services. The membership of the board shall be appointed by, and shall serve at the pleasure of, the city manager. The board shall process all applications under and make the classifications of property described by this section.

D. Classifications. In addition to the classifications established by Section 13.10.370(A) of this code, there shall be two additional classifications of residential property. These two classifications shall be:

Bare lot: the bare lot classification shall include only residential property which, by virtue of the fact that it has no vegetation outside the dwelling unit, will not produce any garden refuse. The term outside the dwelling unit means outside the surface of the exterior surfaces. The term exterior surfaces means those surfaces of the dwelling unit on the exterior perimeter through at least one of which persons customarily and reasonably enter or exit the dwelling unit.

Multiple use lot: the multiple use lot classification shall include only parcels of residential property on which different types of use occur (e.g., residential and commercial) such that two or more different lawn and garden service fees according to classification rather than rate are collected on the property. No property exceeding one-quarter acre shall be classified in this classification.

In no event shall classification in either of these classes qualify any property for any other classification or fee.

E. Fees. Any property classified in the bare lot classification shall pay the lawn and garden service fee imposed by this article of $0.00 per month. Any property classified in the multiple use lot classification shall pay the lawn and garden service fee imposed by this article equal to the single highest fee which would be imposed on any one structure located on the property according to the other classifications in this article. Such fee shall

be charged to the owner of the entire parcel of property.

F. Processing Applications and Classifications. The board shall process all applications for classification in the bare lot and multiple use lot classifications. Each application shall initially be referred to the department of general services which shall inspect the property and report the results of such inspection to the board. The board shall evaluate each application based on the information contained in such application and the department of general service report and shall determine the proper classification for each such property. In the event the board determines that the proper classification for such property is either the bare lot or the multiple use lot classification, regardless of the date such determination is made, the effective date of the classification shall be the date the application was submitted to the revenue division. In the event the lawn and garden service fee collected by the city after the effective date of the classification exceeds the fee prescribed by this article, such excess shall be refunded to the then owner of the property as shown on the records of the revenue division as of the date of the refund.

G. Notices and Hearings. In the event a property for which application for classifications is made pursuant to this section is not reclassified, notice shall be given to the applicant which shall briefly specify the reason for the decision of the board. Any applicant who receives such notice who desires to have the application reconsidered by the board may apply for a hearing before the board. Any such application must be filed with the revenue division within fifteen (15) calendar days of the date of the notice that the property was not reclassified. The board shall within thirty (30) calendar days after an application for hearing schedule a hearing upon ten (10) days written notice to the applicant. The applicant may be present at such hearing and may present any evidence relevant to the classification of the property. The board shall reevaluate the classification and shall classify the property in the classification which it shall deem proper in light of the application, the report of the department of general services and the evidence submitted by the applicant at the hearing. In considering the application on rehearing the board may obtain a supplemental inspection report from the department of general services. Written notice of the action of the board shall be given to the applicant and the classification established by the board shall be final except as herein otherwise provided.

H. Reclassification Upon Changed Circumstances. In the event the nature of any property classified in the bare lot or multiple use lot classifications changes such that it is no longer properly classified in such classification, the board may reclassify the property into an appropriate classification after written notice to the property owner and a reasonable opportunity to the property owner to be heard on such reclassification.

SECTION 4

Should any part of this ordinance be declared invalid by a court of competent jurisdiction, the remaining provisions of this ordinance shall remain in full force and effect.

DATE PASSED FOR PUBLICATION: JUN 2 2 2004

DATE ENACTED: JUN 2 9 2004

DATE EFFECTIVE: JUL 3 0 2004

Heather Fargo
MAYOR

ATTEST:

Stephanie Nygard
CITY CLERK

FOR CITY CLERK USE ONLY

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