

## ORDINANCE NO. 1045

### AN ORDINANCE OF THE CITY OF LOS BANOS, ADDING CHAPTER 3.1 TO TITLE 6 “SANITATION AND HEALTH” OF THE MUNICIPAL CODE TO ESTABLISH THE CITY OF LOS BANOS CURBSIDE RECYCLING PROGRAM

The City Council of the City of Los Banos does ordain as follows:

WHEREAS, the State of California through its California Integrated Waste Management Act of 1989, Assembly Bill 939 (AB 939), requires that each local jurisdiction in the state divert 50% of discarded materials (base year 1990) from landfills by December 31, 2000; and

WHEREAS, every city and county in California, including the City, could face fines up to \$10,000 a day for not meeting the above mandated goal; and

WHEREAS, recycling is essential to further the City's efforts to reduce waste and comply with AB 939; and

WHEREAS, recycling has been proven to reduce the amount of solid waste which is landfilled; and

WHEREAS, the City's commitment to the reduction of waste and compliance with State law requires the establishment of programs for recycling and that it is necessary in order to protect the public health, safety and welfare that this ordinance is adopted.

Section 1. Title 6 of the Los Banos Municipal Code, is hereby amended to add Sections 6-3.1.01 through 6-3.1.12 to read as follows:

**6-3.1.01 Curbside Recycling Program.** This curbside recycling program is established as a step to achieve diversion goals associated with AB 939 and is a key component in the efforts to comply with the mandates of AB 939.

**6-3.1.02 Definitions.** Recyclable material. “Recyclable material” as used in this chapter means any material that has been designated by the city for collection in a residential recycling program. Curbside recyclable materials include, but are not limited to, aluminum cans, glass, newspaper, mixed paper, steel/tin cans, cardboard, and authorized plastics. This list may change as markets change to accept more, or fewer, materials for processing in accordance with the administrative rules and procedures established by the director of public services and approved by the city manager without amendment of this chapter.

**6-3.1.03 Participation in residential recycling program.**

A. The curbside recycling program is mandatory to all single-family and multi-family residents to whom refuse collection containers are provided and a recycling fee is included as part of the refuse collection rate.

B. Residential customers have the right to sell or donate their recyclable material. Nothing herein shall limit the right of residents or businesses to take cash redemption value of “CRV” or other material to a recycling center so long as the resident otherwise participates in the recycling program established by this chapter.

**6-3.1.04 Rules established.** The director of public services is hereby authorized to promulgate administrative rules and procedures subject to the approval of the city manager that are consistent with this chapter and necessary and proper to ensure the efficient operation of the recycling program. The City Council in establishing this rule-making authority specifically reserves unto itself the authority to set rates and charges.

**6-3.1.05 Containers.** Containers that are provided by the service provider shall be the exclusive containers for the deposit of recyclable material and shall be kept in good repair by the customer, reasonable wear and tear excepted. The cost to replace a container that is lost, damaged, or not returned to the city upon cessation of service shall be charged to the customer.

**6-3.1.06 Contractor responsibilities for recycling containers.**

A. Distribution of containers. Contractor and City shall offer containers in approximately 95-gallon size for use by each residential dwelling for the collection recycling. The contractor, upon the request of a customer, shall provide additional containers for recycling. Additional recycling containers shall be provided at an additional cost to the customer. All containers shall remain the property of the contractor and/or the City.

B. Containers for apartment and condominium complexes. Contractor shall provide one or more bins to apartment and condominium complexes according to their size and layout, recyclables accumulated, and in accordance with the appropriate building codes.

C. Repair and replacement of containers. Contractor shall repair, at no additional cost, any container that is damaged, where such damage, as determined by the City, is not due to customer misuse or negligence. When a container is damaged with a determination that the damage was caused by customer misuse or negligence, the customer shall reimburse the city to replace the damaged container at the current invoice cost.

D. Special handling provided for senior citizens and disabled customers. The contractor, at the request of the City, shall wheel out and return the containers for disabled households. There will be no additional charge for such service. For the purposes of this section, "disabled households" shall mean those households composed entirely of persons who, by reason of disability, are unable to wheel containers to the curbside for weekly collection. To qualify, a City representative will personally interview such individuals and verify their disability status and determine whether there is another individual residing in the household who is capable of taking the containers curbside. Once eligibility has been verified, a location acceptable to the customer and City will be chosen where the containers will be picked up and returned.

E. Change in distribution methods and container sizes. City may approve changes in distribution methods and/or container sizes without amendment to this chapter.

F. Collection. The contractor shall collect curbside recyclables once per week as set forth in the administrative rules.

**6-3.1.07 Customer responsibilities for recycling containers.**

A. Residents of the City will be provided recycling containers. The Finance Department of the City will provide each customer with the day of service, costs and regulations governing recycling service.

B. Residents shall take their recycling containers to curbside for the automated or semi-automatic refuse collection service provided by the City's contractor. Once emptied, containers shall be removed from curbside by 11:59 p.m. on the day of pickup and placed behind a gate or at the side of the garage.

C. All containers shall be kept in a clean and sanitary condition by the resident using the container. Containers shall be kept tightly covered at all times, except when recyclables are deposited therein and removed there from, to limit access by flies to the contents thereof.

**6-3.1.08 Preparation of recyclable material.** Recyclable materials need to be kept as clean as possible and separated from other garbage and refuse, and placed at curbside on the regular refuse collection schedule. Recyclable materials will be co-mingled in the recycling container.

**6-3.1.09 Collection by unauthorized persons.** From time of placement of recyclables at the curb or in other designated recycling locations for collection in accordance with the terms hereof, recyclable items shall become and be the property of the City or its authorized contractor. It shall be a violation of this chapter for any person unauthorized by the City to collect or pick up or cause to be collected or picked up any such items.

**6-3.1.10 Use of another's receptacle.** No person shall place any recyclable material or permit or allow any recyclable material to be placed in the City's or any other person's receptacle without the consent of the City or such other person. No consent is given by the city for any person to place recyclable material in city receptacles intended for use of others.

**6-3.1.11 Residential curbside recycling rates and charges.** The fees and charges for collection of recyclable material and any adjustment thereto, including any increase or decrease pursuant to the Consumer Price Index, shall be established by resolution of the City Council.

**6-3.1.12 Enforcement.** Violations of the provisions of this ordinance shall be subject to Title 4, Chapter 11 – Administrative Citations of the Los Banos Municipal Code.

Section 2. The City Council of the City of Los Banos does hereby add the following sub section to Title 4, Chapter 11 Section 4-11.01 (d) of the Los Banos Municipal Code.

(42) Sections 6-3.1.01 – 6-3.1.12 of the Los Banos Municipal Code.

Section 3. This Ordinance shall go into effect and be in full force and operation thirty (30) days after its final passage and adoption. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be posted and published once within fifteen days after passage and adoption as may be required by law; or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the Office of the City Clerk five days prior to the date of adoption of this Ordinance; and, within fifteen days after adoption, the City Clerk shall cause to be published, the aforementioned summary and shall post a certified copy of this Ordinance, together with the vote for and against the same, in the Office of the City Clerk.

Introduced by Council Member Balatti and seconded by Council Member Pruitt on the 18<sup>th</sup> day of January 2006.

Passed on the 1<sup>st</sup> day of February 2006 by the following vote:

AYES: Council Members Balatti, Jones, McAdam, Pruitt, Mayor Amabile  
NOES: None  
ABSENT: None

/s/ Michael S. Amabile  
Michael S. Amabile, Mayor

ATTEST:

/s/ Lucille L. Mallonee  
Lucille L. Mallonee, City Clerk