

TITLE 9
CHAPTER 4

SOLID WASTE MANAGEMENT

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9-4-1: PURPOSE: To regulate the collection, transportation, disposal and resource recovery of solid waste.

9-4-2: POLICY: It is declared to be the public policy of the City to regulate solid waste management to:

- A. Insure safe, efficient, economical and comprehensive solid waste service.
- B. Insure fair and equitable consumer rates and to prohibit rate preferences or other practices that might be discriminatory, regulate service rates to the extent specified to protect consumers and the public generally and to assure adequate public service.
- C. Conserve energy and material resources, reduce solid wastes and promote material and energy recovery consistent with state requirements.
- D. Provide for technologically and economically feasible resource recovery.
- E. Protect public health and the environment.
- F. Insure public responsibility in solid waste management.
- G. Protect against improper and dangerous handling of hazardous wastes.
- H. Carry out local government responsibility and authority for solid waste management under ORS Chapter 459.
- I. Set the level of service necessary for and required by the public in the following fields: 1. solid waste collection, 2. solid waste disposal, and 3. resource recovery of materials or energy from solid wastes.
- J. Determine who will provide the above noted services through the licensing process.

9-4-3: DEFINITIONS:

BASE YEAR	A fiscal year ending August 31, upon which it is the intent of the City, Haulers, and EMAC to perform a review of revenues and expenses within City of Florence, with the intent of resetting rates to allow the projected composite hauler financial performance to be in accordance with standards set in Section 9-4-5-2-B of City Code. Generally, there will be one Base Year followed by two interim years.
CAN	Cans are owned by the customer. No customer can may exceed 32 gallon capacity or 60 lbs.
CART / CONTAINER	Carts / containers are provided by the licensee. Capacity limits are listed in the rate schedule.
CITY	The City of Florence
CITY MANAGER	The City Manager of the City or the City Manager's designee.
COLLECTION	All or any part of the activities involved in collecting solid waste, recyclable materials or yard debris for the transport to all permitted disposal or recycling facility.
COMMERCIAL	Stores, offices, including manufacturing and industrial offices; restaurants, warehouses, schools, hospitals, and any other industrial, manufacturing or non-manufacturing businesses.
COMMITTEE	The Environmental Management Advisory Committee is created by the City Council under Chapter 2-7 of this code or if the Committee is not appointed, the City Council Serves.
COMPOST	The controlled biological decomposition of organic material or the product resulting from such a process.
CONFIDENTIAL INFORMATION	All business and production records, including the annual reports for both interim and base year calculations shall be considered confidential. Including company reports shall not be made available to the public and aggregated information should not be made publicly available when there are two or fewer licensed haulers.
COUNCIL	The Council of the City of Florence.
CUSTOMER	Those persons or entities to whom a licensee provides collection services for solid waste, recyclable materials or yard debris.
DISABLED CUSTOMER	Those persons who are unable to place their own solid waste, recyclable or yard debris in the designated locations for pick-up.
FISCAL YEAR	The reporting year for Licensees is September 1 – August 31
GENERATOR	A person or entity who last uses a material and makes it available for disposal or recycling.

HAZARDOUS WASTE	<p>Waste:</p> <ul style="list-style-type: none"> A. Defined as hazardous waste by or pursuant to Chapter 459 ORS; or B. Defined as hazardous waste by another governmental agency or unit having jurisdiction; or C. Found by the licensee to be hazardous to service workers, to service equipment, to property, or to the public. (Examples: Hypodermic needles, paints, acetones, thinners, lead based batteries, tires, propane containers, electronics containing lead)
HOUSEHOLD HAZARDOUS WASTE	Any discarded, useless or unwanted chemical, material, substance or product that is or may be hazardous or toxic to the public or the environment and is commonly used in or around households. Household hazardous waste may include, but is not limited to, some cleaners, solvents, pesticides, and automotive or paint products.
INTERIM YEAR	The fiscal year ending August 31, upon which it is the intent of the City, Haulers, and EMAC to perform limited or no review procedures on the financial statements and change rates according to consumer price index and disposal cost drivers only. Generally, there will be two interim years followed by a base year.
LANDFILL	A DEQ permitted facility for the disposal of solid waste involving the placement of solid waste on or beneath the land surface.
LICENSEE	Any person licensed under this Chapter.
LINES OF BUSINESS	For the purposes of this license, lines of business include residential solid waste, residential recycling collection, commercial solid waste, commercial recycling collection, yard waste recycling collection, and drop box.
MATERIALS RECOVERY	Any process of obtaining from solid waste, by presegregation or otherwise, materials that still have useful physical or chemical properties and can be reused or recycled for some purpose
MATERIALS RECOVERY FACILITY	A DEQ permitted facility designed to sort co-mingled wastes for the purpose of recovering recyclable materials.
MULTI-RESIDENT COMMUNITY	A residential community consisting of several individual dwellings, which may or may not have an association which provides for certain public services as part of a dues structure
PERSON	Any individual, partnership, association, corporation, trust, firm, estate, joint venture or other private legal entity or any public agency or government unit.
PUTRESCIBLE SOLID WASTE	Any material or product that is liable to become decayed or decomposed.
RECYCLABLE MATERIALS	Any material that retains useful physical, chemical, or biological properties after serving its original purpose(s) or function(s), and is separated from solid waste.
RESOURCE RECOVERY	The process of obtaining useful material or energy resources from solid waste including reuse, recycling and other material recovery or energy recovery.
REUSE	The return of a commodity into the economic stream for use in the same kind of application as before without change in its identity.

SOLID WASTE	All solid waste or semi-solid putrescible and nonputrescible solid waste including, without limitation, garbage, rubbish, refuse, trash, ashes or swill, newsprint or wastepaper, corrugated or cardboard; grass clippings; compost; residential, commercial, industrial, governmental or institutional wastes; discarded home or industrial appliances, equipment or furniture, vehicle parts or tires, vegetables or animal wastes; and, other wastes.
SOLID WASTE SERVICES	The collection, transportation, disposal and resource recovery of solid waste.
WASTE	Material no longer directly useable by the source, generator or producer of the material, which material to be disposed of or to be resource recovered by another person. <ul style="list-style-type: none"> A. The fact that all or any part of the material may have value and thus be recovered does not remove the material from this definition. B. The fact that the source, generator or producer of materials has separated or segregated such material from other wastes does not remove the materials from this definition.
WASTE PREVENTION	To reduce the amount of solid waste generated or resources used, without increasing toxicity, in the design, manufacture, purchase, or use of products or packaging. "Waste prevention" does not include reuse, recycling, or composting.
YARD DEBRIS	Any green waste generated from grass clippings, shrubbery, or tree trimmings not to exceed 12 inches in diameter.

9-4-4: SOLID WASTE SERVICE LICENSE:

9-4-4-1: LICENSE REQUIREMENT:

- A. As used in this section "Compensation" includes any return from salvage; including but not limited to resource recovery or payment made for the removal of waste.
- B. No person shall provide or offer to provide solid waste services for compensation within the City limits without first obtaining a License from the City as provided in this Chapter.

9-4-4-2: EXEMPTIONS: Nothing in this Chapter requires a license for the following businesses or practices:

- A. The collection, transportation and reuse of repairable or cleanable discards by a private charitable organization regularly engaged in such business or activity including, without limitation, Salvation Army, St. Vincent DePaul, Goodwill and similar organizations.
- B. The collection, transportation and reuse or recycling of totally source separated materials or operation of a collection center for totally source separated materials by a religious, charitable, benevolent or fraternal organization, which organization was not organized nor is operated for any solid waste service purpose and which organization is using the activity for fund raising; including without limitation, scouts, community service clubs and churches.
- C. The collection, transportation or redemption of returnable beverage containers under ORS Chapter 459 and that portion thereof commonly known as the "Bottle Bill".

- D. The generator, producer or its subcontractor who transports and disposes of waste created as an incidental part of regularly carrying on the business or service of auto wrecking, to the extent licensed by the State of Oregon; of demolition, land clearing or construction; of janitorial service; of gardening, park maintenance or landscaping service; of street sweeping; of auto body recovery; or of septic tank pumping or sludge collection. As used in this paragraph: "subcontractor" does not include a person whose business is in substantial part contracting with others to provide solid waste services; and "janitorial service" does not include cleanup of accumulated or stored wastes.
- E. The transportation by a person of solid waste generated or produced by such person to a disposal site, resource recovery site or market. This includes multiple residential dwelling units under common ownership, control or association that transport the solid waste generated by their occupants.
- F. The transportation and resource recovery by the owner of totally source separated solid waste after the waste is purchased for fair market value.
- G. The providing of service for hazardous wastes.

9-4-4-3: APPLICATION, REVIEW AND ISSUANCE OF A LICENSE:

- A. Application for a license shall be on a form provided by the City Recorder and shall include but not be limited to the following information:
 1. The applicant's true name and any assumed business names used within the City, if the applicant is an individual, his/her date of birth, and permanent address. If the applicant is a partnership, corporation, cooperative or association, the names, birth dates and addresses of the general partners, officers or principals.
 2. The address, which City may use for purposes of notifying the applicant.
 3. A description of the services for which the applicant is seeking a license.
 4. The location from which the applicant will operate and the activities to be conducted at that location.
 5. A description of the equipment and personnel the applicant has or will obtain to provide the service.
 6. A description of prior experience and knowledge that demonstrates the applicant has the ability to provide services of the quality and quantity required by this Chapter.
 7. Proof of compliance with all relevant federal, state, county and city laws.
 8. A record of convictions of law, regulation or ordinance for the applicant and each of applicant's principals or officers which would affect the applicant's ability to satisfactorily perform the service being licensed.
 9. Other information as the City may reasonably require.

The application required by this section shall be filed with the City Recorder and accompanied by a nonrefundable application fee set by Council resolution.

- B. The Committee may issue a license and any renewal thereof upon finding that the applicant has met all requirements of federal, state, county, and city law including any rules authorized by this Chapter. If an application for a new or renewed license is approved, the City Recorder shall notify the applicant in writing. The notice shall state any conditions placed on the approval and that the license shall be issued or renewed upon the applicant's presentation to the City Recorder the required license fee, bond, proof of insurance, description of vehicles to be licensed and any other information required by the Committee. If the applicant fails to qualify for issuance of the license within 30 days of the notice, the approval shall expire. Upon good cause shown by the applicant, the City Recorder may extend the time to qualify for issuance of the license an additional 30 days or less. Committee approval of an application does not constitute issuance of a license. The license fees required of an applicant shall be doubled if an applicant provides solid waste services within the City before issuance of a license or after expiration of the old license and before its renewal.
- C. Upon satisfactory proof that the applicant has met all the conditions stated in the tentative approval, the City Recorder shall issue a license, which shall thereafter be renewed annually upon the licensee updating all the information required by the City and payment of all license fees. No application fee shall be required for the renewal of a license.
- D. The license fee required of each licensee shall be set by Council resolution and any amendments thereto.

9-4-4-4: LICENSEE INSURANCE REQUIREMENT: Before issuance of the license, the City Recorder shall receive:

- A. Evidence acceptable to the City Attorney that the applicant has public liability insurance with a 30 day notice of cancellation clause which will cover the licensee's business operation including applicant's vehicles. The insurance shall be for at least the license year and coverage shall include the following: Commercial General Liability of not less than \$1 million per occurrence, Automobile Liability of not less than \$1 million per occurrence, and Worker's Compensation and Employer's Liability as statutorily required. The insurance shall indemnify and save the City harmless against liability or damage, which may arise or occur from an injury to persons or property as a result of the licensee providing solid waste services.

9-4-4-5: LICENSEE RESPONSIBILITY:

- A. A licensee shall:
 1. Dispose of solid waste at the site approved by the City Manager or resource recover such wastes, both in compliance with state law and with this Chapter.
 2. Provide sufficient collection vehicles, containers, facilities and personnel to provide all solid waste services and to provide all solid waste programs adopted by the City. (Ord 27, 1990)
 3. Respond to any written complaint on service and maintain a written record of the complaint and its response for at least two years.
 4. Make available a weekly collection service to all customers.
 5. Provide all customers an opportunity to recycle as required by ORS 459.165 through 459.200 and 459.200.

6. Operate and maintain solid waste storage and collection facilities which meet the following standards:
 - a. General Requirements. Storage and collection of solid waste shall be conducted in a manner to prevent:
 1. Vector production and sustenance;
 2. Conditions for transmission of diseases to man or animals;
 3. Hazards to service or disposal workers or to the public;
 4. Air pollution;
 5. Water pollution or allow escape of solid wastes or contaminated water to public waters;
 6. Objectionable odors, dust, unsightliness, aesthetically objectionable conditions or other nuisance conditions.
 - b. Storage Bins, Storage Vehicles, and Storage Facilities:
 1. Storage bins and storage vehicles shall be leak-proof, have tight lids and covers that may be easily opened for intended use and shall have suitable fittings to facilitate removal or emptying;
 2. Containers, storage bins or storage vehicles shall be readily washable or have liners of paper, plastic or similar materials, or both.
 3. Storage Facilities:
 - a. Storage facilities shall be of rodent proof construction, which is readily cleanable with proper drainage,
 - b. Storage facilities, if not refrigerated, shall be adequately vented and all openings shall be screened.
7. Operate and maintain solid waste collection and transfer vehicles which meet the following standards:
 - a. Collection and Transfer Vehicles Construction and Operation:
 1. Solid waste collection and transfer vehicles and devices shall be constructed, loaded, operated, and maintained in a manner so as to prevent, to the greatest extent practicable, dropping, leaking, sifting, or blowing or other escapement of solid waste, recyclable materials, compostables, liquids, vehicle fluids, or lubricants from the vehicle, while stationary or in transit, excepting:
 - i. Leakage of fluid or lubricant due to equipment failure provided that the failure is immediately contained and remedied as soon as practicable.
 2. Collection and transfer vehicles and devices carrying loads which are likely to blow or fall shall have a cover which is either an integral part of the vehicle or device or which is a separate cover of suitable materials with fasteners designed to secure all sides of the cover to the vehicle or device and shall be used while in transit.

3. All collection vehicles shall be labeled with a sign on the rear, with lettering not less than four (4) inches high and clearly visible from a minimum of twenty (20) feet away, stating "Spillage Complaints? Call xxx-xxx-xxxx", whereby the number entered shall be the Code Enforcement Officer. Each licensee shall pick up all material blown, littered, broken or leaked in the public right-of-way in the course of collection. The company name and telephone number shall be prominently and conspicuously displayed on both sides of the vehicle.
 4. All collection and transfer vehicles must be maintained and operated in compliance with all local and state statutes, ordinances, and regulations including compliance with regulations related to the safety of the collection personnel and the public. Any equipment not meeting standards shall not be used within the City until repairs are made.
 - b. **Cleaning Collection Vehicles:** Collection and transfer vehicles or other devices used in transporting solid waste shall be cleanable and shall be cleaned at weekly intervals or more often as necessary to prevent odors, insects, rodents, or other nuisance conditions.
 - c. **Waste Water:** Wastewater from the cleaning process of containers of non-hazardous waste shall be disposed of in a lawful manner.
 - d. **Vehicle Condition:**
 1. Collection vehicles shall be painted no less than every 6 years, with entire collection fleet meeting the 6 year requirement by December 31, 2018.
 8. Allow all vehicles, equipment and property used to conduct a solid waste service to be inspected at reasonable times to determine compliance with provisions of this Chapter. Consent to such inspection is a condition to granting and maintaining a solid waste service license.
 9. The City Manager shall have the right to inspect and audit the books and records of a licensee at reasonable times and places. A licensee shall render all reasonable assistance to the City Manager during such inspection or audit of the books and records. Except for purposes of administering and enforcing this Chapter, except when a licensee has granted a written release to make the information public or except as required by law, the detailed financial information concerning a specific licensee gathered by the City Manager when performing the inspection and audit shall be and remain confidential and not subject to public disclosure.
 10. Maintain on file in the City Recorder's office a copy of the licensee's current solid waste services and rate schedule for each service and provide rate information to its customers upon request.
- B. A licensee shall not:
1. Subcontract with another entity on a regular, periodic, or long-term basis to provide solid waste and/or recycling collection service. With written approval of the city manager or designee, temporary subcontracting can be allowed as long as the licensee can justify a need for such service. Approval shall be based on the ability of the licensee to substantiate that the subcontractor meets all of the provisions of this chapter and rules adopted hereunder applicable to the service to be provided. Approval by the city manager or designee shall not relieve the licensee from the responsibility for compliance with the provisions of this code and the rules adopted hereunder.
 2. Except in settlement of a collection action filed in a court, charge or collect less for service than the Council approved minimum rate for the service. This paragraph shall not prohibit any licensee with the City Manager's approval from volunteering service at reduced cost for charitable, community, civic or benevolent purpose.

3. Provide any classification of solid waste service until the Council has set the minimum rate for that classification of service.
 4. Increase its rate for a classification of solid waste service until the affected customer has received at least 30 days' prior written notice of the increase.
 5. Except when allowed by this Chapter, refuse to provide solid waste services to any person within the City.
 6. Collect solid waste in areas of the City identified in the Florence Comprehensive Plan as planned designated low, medium or high density residential before 7:00 a.m. or after 8:00 p.m.
 7. Collect solid waste in areas of the City zoned in the Florence Comprehensive Plan as Old Town area before 6:00 a.m. or after 8:00 p.m. Exceptions to this time restriction shall be made for holidays identified in City Code 10-26 and shall include, but are not limited to, New Years, Fourth of July, Thanksgiving, Christmas, and Rhododendron Weekend. This exception shall extend to the holiday day and the day following for weekend as necessary.
 8. Voluntarily or involuntarily transfer a license issued under this Chapter.
 9. Provide solid waste service to customers within the City during the time its license is suspended.
- C. A licensee is not required to store, collect, transport, transfer, dispose of or resource recover any hazardous waste; provided, however, that a licensee may provide such service outside this Chapter in compliance with all applicable laws, ordinances and regulations.

9-4-4-6: TERMINATION OF SERVICE:

- A. A licensee shall not terminate service to all or any of its customers unless one or more of the following occurs.
1. The street or road access is blocked for more than seven days and there is no alternate route.
 2. Excessive weather conditions render providing service unduly hazardous to persons providing service, as determined by the City Manager, or such termination is caused by accidents or casualties caused by an act of God, public enemy or vandalism.
 3. Where equipment failure interferes with providing all or a part of the required service for more than three days. The licensee shall immediately endeavor to find substitute equipment.
 4. After five days written notice, a customer has not paid for service provided after a regular billing, or a customer continues in violation of paragraphs A,D,E,F,G,H,J,K or O of Subsection 9-4-6-1 of this Chapter. The given notice shall state the reason for the discontinuance; that by remedying the condition within five days the customer may have uninterrupted service and that the customer has a right to appeal the notice to the Committee within the ten days. A copy of the notice shall be filed with the City Recorder before the discontinuance occurs.

If a customer remedies the reason for the notice within the five days and requests service be reinstated, the licensee shall resume service. A customer may seek review of the licensee's decision to discontinue service by appealing to the Committee under Subsection 9-7-4-3 of this Chapter.

5. Licensee will provide ninety days' written notice of intent to terminate all solid waste services to the City Recorder and all affected customers.
 6. Licensee has had its license suspended, revoked or it has expired.
- B. A customer shall provide no less than 7 (seven) days notice, to licensee of intent to terminate service.
 - C. Except when authorized by paragraph A of this subsection, if a licensee fails to provide solid waste services within the City for 20 days, its license shall be revoked upon ten days' written notice by the City Recorder.

9-4-5: RATE REGULATIONS AND BUSINESS PRACTICES:

9-4-5-1 RATE REVIEW SCHEDULE

- A. The Committee and Council shall review rates no less than once every three years, with any recommended adjustments presented by March 1 with rates effective July 1.
 1. In years designated as 'base years,' licensed haulers shall provide a comprehensive review of operations on forms provided by the City Manager by November 1 for the base year most recently completed. Such forms may include a standard chart of accounts, and inputs for revenues, customer count, driver hours, disposal volumes, and regulated recycling information by line of business as determined by the City. Costs to compile the forms shall be considered allowable.
- B. Licensed haulers shall provide an abbreviated annual report that summarizes revenues and expenses incurred within the City of Florence by November 1 or each interim year most recently completed. Such report will include license revenues and enumerate total licensee expenses incurred within the City using the chart of accounts specified and accounting policies set forth in the City's comprehensive base year reporting format. Only revenue and expenses need to be reported.

9-4-5-2: RATE DETERMINATION:

- A. To ensure fair and equitable consumer rates and to prohibit discriminatory practices, the Council may, by resolution, establish rates for solid waste services following the procedures and standards in this Section.
- B. In recommending and determining rates, under this Section, due consideration shall be given to information from all licensees regarding: current and projected revenue and expenses; actual and overhead expense; the cost of acquiring and replacing equipment; the services of owner, family and management; the cost of providing for future, added or different service; the revenue from and cost of resource recovery services; a reasonable return for doing business; systems to avoid or recover the cost of bad debts; interest on late payments; and, such other factors deemed relevant. Rates charged by other persons performing the same or similar services in the same or similar areas under the same or similar service conditions may also be considered.
- C. Requests to establish a minimum rate for a new classification of solid waste service may be made at any time. Adjustments to the Council established rates may be initiated or made not more often than once per calendar year provided, however, that In addition to the possible annual rate adjustment, a supplemental rate adjustment may be requested when the cost of service is decreased or increased by governmental or environmental regulations and compliance therewith; or where there is substantial decrease in expenses that was not anticipated at the time of the last rate adjustment.

1. Adjustments to the Council established rates may be initiated by a licensee, a petition of 20 customers using solid waste services, the Committee, the Council or the City Manager.
 2. A request for rate adjustment or a request to establish a rate for a new classification of service shall be in writing and shall be accompanied by factual information substantiating the request and filed with the City Recorder.
 3. Except for a request by the Council, Committee, or City Manager which shall not require a fee, any request for a rate adjustment or for the establishment of a rate for a new classification of service shall be accompanied by the nonrefundable filing fee of \$500 or an amount otherwise set by Council resolution.
 4. Upon receiving a request for rate adjustment or for establishment of a rate for a new classification of service, the City Manager shall prepare a staff report to initiate a full review and evaluation no later than 30 days after receiving the request, and present it to the Committee.
 5. The Committee shall consider the request and staff report and hear testimony thereon. Before making its recommendation to the Council, the Committee shall give public notice inviting evidence and oral or written comment on the request and receive such at a public hearing. Within 90 days after it receives the request, the Committee shall make its written findings and recommendation to the Council.
 6. The Council shall consider the Committee's recommendation and receive oral or written arguments on the recommendation. Based on substantial evidence in the record, the Council shall resolve to approve, modify and approve or reject the recommendation. The decision of the Council shall be final.
 7. Rate adjustment requests solely to pass through costs associated with increases to the county's solid waste disposal / tipping fees shall be by resolution and amendment to the fee schedule and is not subject to a full rate review and hearings processes.
- D. Any contracts negotiated pursuant to this Solid Waste code shall be adjusted as identified by the Council - effective the beginning of the contracted entity's fiscal year.
- E. All rate adjustments or rates establishing a new classification of service shall take effect at the time specified in the Council resolution.

9-4-6: PUBLIC RESPONSIBILITY:

9-4-6-1: PUBLIC RESPONSIBILITY: In addition to and not in lieu of compliance with Chapter 459, ORS, and rules promulgated there under, and other applicable laws and regulations:

- A. No person shall place hazardous wastes (such as hypodermic needles and paint in liquid form) out for collection or disposal by a licensee nor place it into any solid waste container or box supplied by a licensee without prior written approval from the licensee. A person placing such wastes for collection shall, prior to the notice to the licensee, obtain the approval of the disposal site to be used for the disposal of such wastes. Where required, an additional approval shall be obtained from the local government unit having jurisdiction over the disposal site. This disposal approval shall be in writing, signed by the person designated by the disposal site or local government unit affected. Either the licensee or the disposal site or the local government having jurisdiction of the disposal site may require written authorization from the Oregon Department of Environmental Quality for the handling of such hazardous wastes. This subsection does not apply to household waste generated at and by a residential dwelling unit.
- B. No person shall place material in nor remove material from a solid waste or recyclable materials collection container, can, or bag without permission of the proprietor. For the purposes of this section the proprietor is the licensee, the licensee's employees or the customer to whom the container is assigned.

- C. No unauthorized person shall remove solid waste or recyclable materials placed out for collection and resource recovery by a licensee or by a person exempted pursuant to this Chapter and operating solely within that exemption.
- D. No person shall install an underground solid waste container for storage and collection. A licensee is not required to service an underground container unless the person responsible for it places the can above ground prior to the time of collection.
- E. A garbage can set out for manual pickup shall not exceed 32 gallons in size nor 60 pounds in gross loaded weight. Such can shall be tapered from top to bottom to facilitate unloading. Such can shall be rigid and shall have proper handholds or bales together with a rim handhold at the base of the container. All solid waste containers shall be rodent proof. All containers shall not be subject to cracking or splitting. Any lid on a container shall be tight fitting and shall be kept on containers except during cleaning or unloading.
- F. Unless otherwise agreed upon to by licensee, no garbage container for residential service shall be located behind any locked or latched gate, door or inside a building or structure. Containers shall be placed an adequate distance from overhead obstructions to allow an employee to carry a tote can on this shoulder.
- G. Each customer shall provide safe access to the solid waste container, drop box or the solid waste to be hauled without risk or hazard to the licensee and its employees.
- H. No container or box designed for mechanical pickup shall exceed the safe loading weights or volume as established by the manufacturer of the collection equipment. A licensee may establish maximum weights or load lines for unusually heavy materials or prohibit the placement of such materials in a container or box.

Containers of one cubic yard or more capacity shall be placed on a hard level surface and shall have a hard surface between the point of storage and the point of collection.

- I. Where a customer requires an unusual volume of service or a special type of service requiring substantial investment in equipment, a licensee may require a contract with the customer as necessary to finance and assure the amortization of such equipment. The purpose of this provision is to assure that such equipment shall not become a charge against other customers who are not benefited.
- J. Stationary compacting devices for solid wastes shall comply with Federal and State safety standards; provide adequate protection to the user and the licensee and its employees. A licensee may require such devices be compatible with licensee's collection equipment.
- K. No person shall block access to any container or drop box or roll off box supplied by a licensee.
- L. Every person who generates or produces wastes shall remove or have removed all putrescible wastes. Disposal of such wastes shall comply with all applicable laws, rules and regulations. More frequent removal may be required by the City Manager where a facility or service involves the public health. All wastes shall be removed at sufficient frequency as to prevent health hazards, nuisances or pollution.
- M. The owner of solid waste containers shall be responsible for keeping the containers clean. A licensee shall supply periodic maintenance to containers and boxes supplied by the licensee.
- N. The owner of real property and any person in possession of real property shall keep the area around waste containers and drop boxes or other solid waste receptacles free of accumulated wastes and shall maintain such facilities in a manner to prevent or minimize odors, nuisances, rodents, fire hazards, dangers to the public and damage to the equipment.

- O. In cooperation with a licensee and the City, persons erecting buildings or structures requiring a building permit or persons utilizing land for a purpose requiring a permit or conditional use permit under the zoning regulations of the City, Title 10 of this Code, shall provide a location and system for safe and efficient removal of wastes and solid wastes. Due consideration shall be given to location; access; services available; whether the person is likely to take service from a licensee; public safety and safety of the service workers; and, applicable laws, regulations and special service requirements. Included in this section is the safety compliance with the Fire Marshal, such as propane tanks close to hazardous waste. This subsection shall not be the basis for a penalty, but until compliance is achieved, the City may withhold or restrict service.
- P. Any owner of multiple family housing (5 or more units) shall provide, with assistance from licensees, the ability to recycle any appropriate materials, consistent with DEQ requirements.
- Q. No person shall transport solid wastes over or upon the streets of the City in such a manner as to permit any part or portion thereof to drop, sift, leak or otherwise escape from the vehicle and to be deposited upon the streets of the City or public or private lands adjacent thereto.
- R. No person shall deposit any solid wastes upon any street or other public property, or upon any private property with or without the consent of the owner of such property, or to allow solid wastes to be placed upon or to accumulate on property under such person's control.
- S. No person shall deposit solid wastes which have been produced, generated or accumulated on such person's premises, or premises under such person's control, in, upon or adjacent to any litter receptacle placed or maintained by the City.
- T. No person shall deposit any dead animals, fish, shellfish, or organic material derived from any animal, fish, shellfish, nor any hazardous wastes, in, upon or adjacent to any litter receptacle placed or maintained by the City.
- U. No person shall permit any solid wastes to accumulate upon or about premises owned or controlled by such person and shall dispose of such solid wastes by hauling or causing the same to be hauled to a solid waste disposal site or, where applicable, to resource recovery facility or market.
- V. Residential containers may only be placed near the street for pickup purposes. Containers shall not be left near the street for a period of time in excess of 24 (twenty-four) hours. Except for containers specifically designed to be animal resistant. After receiving written notice from the City of Florence, customers who live in areas experiencing increased animal problems shall be prohibited from leaving trash containers out during non-daylight hours. All customers shall take reasonable steps to secure containers from animal access at all times. (Ord. No. 13, Series 2008)
- W. Property Owners renting residential units shall provide their tenants garbage and recycling service for each dwelling rented as part of the lease. On or before January 1, 2017, all residentially leased properties shall comply with this Code.

9-4-6-2: OWNERSHIP OF WASTES: Unless placed out for collection by a person exempted under this Chapter or placed in a container clearly marked as the property of another, solid waste including, without limitation, source separated solid waste is the property of the licensee providing service to the premises.

9-4-7: ADMINISTRATION AND ENFORCEMENT:

9-4-7-1: DENIAL OR REVOCATION OF LICENSE:

- A. The Committee may deny or revoke a license upon finding that:
 - 1. The applicant or licensee fails to meet the requirements of this Code or is doing business in violation of this Code or applicable federal, state or county law, city ordinance, rule or regulation;

2. The applicant or licensee has provided false or misleading material information or has omitted disclosure of a material fact on the application, related materials or license;
 3. The applicant's or licensee's past or present violation of law or ordinance, including a violation that does not lead to a conviction, presents a reasonable doubt concerning his/her ability to perform the licensed activity without endangering property or the public health and safety.
 4. The information supplied for the review does not indicate that the applicant or licensee has or continues to have the special knowledge, skill or equipment required to perform the licensed activity.
 5. The licensed activity or equipment would endanger property or the public health or safety.
- B. The City Manager shall provide written notice to the applicant or licensee of his/her recommendation to the Committee that the application or license be denied or revoked. The notice shall state the reason for the recommendation and shall inform the applicant or licensee of the right to present evidence, testimony and arguments to the Committee before it renders a decision in the matter.
 - C. The City Manager's notice shall be given at least 15 days before the Committee considers the matter. When the City Manager is recommending revocation of a license because of a violation of this Chapter, if the licensee corrects the violation within the 15 days, the City Manager may withdraw his/her recommendation and the proceedings shall cease unless the Committee directs to the contrary.
 - D. The Committee shall consider the City Manager's recommendation by conducting a hearing at which it shall receive any relevant evidence testimony and argument the City Manager, the applicant, the licensee or others may wish to present. While proceedings before the Committee are not bound by the rules of evidence used by courts of law, the decision of the Committee shall be based on substantive evidence. The decision shall include the Committee's findings and shall be in writing. The Committee's decision shall be mailed or personally served upon the applicant or licensee.
 - E. A person whose application for any business license has been denied or whose license has been revoked may, after one year from date of denial or revocation, apply for a license upon payment of the application fee and submission of an application form and required attachments.

9-4-7-2 SUMMARIAL SUSPENSION:

- A. Notwithstanding the notice requirements in subsection 9-4-7-1, upon determining that a licensed activity or equipment presents an immediate danger to person or property, the City Manager may summarily suspend the license for the activity or equipment.
- B. The suspension takes effect immediately upon notice of the suspension being received by the licensee, or being delivered to the licensee's business address as stated on the licensee's application for the license being suspended. Such a notice shall state the reason for the suspension and inform the licensee of its right to have the City Manager's decision reviewed by the Committee and the possibility that the Committee may revoke the license..

- C. A copy of the City Manager's notice of summarial suspension shall be given to the Committee and considered at its next meeting. The suspended licensee may seek expedited Committee review of the City Manager's action by filing a request for review with the City Recorder. The suspended licensee's request for review shall contain the information required for an appeal in Paragraph A of Subsection 9-4-7-3 of this Section. The Committee shall consider the request within three days of its filing with the City Recorder. The Committee may affirm, modify or rescind the City Manager's summarial suspension. Based upon the evidence presented, the Committee may affirm, modify or rescind the City Manager's action and it may revoke the licensee's license. If the Committee is disposed to revoke the suspended license, it shall so advise the licensee. Upon the licensee's request the Committee may give the licensee up to an additional 15 days in which to present additional evidence to the Committee before it makes its decision regarding the revocation of the license. The decision of the Committee may be appealed as provided in Subsection 9-4-7-3 of this Section.

9-4-7-3: APPEALS:

- A. An applicant whose application for a license has been denied, or a licensee whose license has been denied renewal, has been suspended or is revoked or a customer whose service has been discontinued by the licensee, may appeal the decision within ten days after the date of notice of the denial, suspension, revocation, or discontinuance. The appeal shall be in writing, filed with the City Recorder and shall state:

1. The name and address of the appellant;
2. The nature of the determination being appealed;
3. The reason the determination is incorrect; and
4. What the correct determination of the appeal should be.

An appellant who fails to file such a statement within the time permitted waives his/her objections, and his/her appeal shall be dismissed. Within 10 (ten) days of the Committee's decision, the City Council on its own motion may initiate review of any Committee decision.

- B. If a notice of revocation is appealed, the revocation does not take effect until final determination of the appeal.
- C. Unless all parties to the appeal and the City Manager agree to a longer period, an appeal shall be heard by the Council within 20 days of the receipt of the notice of appeal. At least ten days prior to the hearing, the City shall mail notice of the time and location thereof to the parties.
- D. The Council shall hear and determine the appeal on the basis of the appellant's notice of appeal, the record of the Committee's consideration of the matter and any oral or written argument the parties may present. At the hearing the appellant may present oral argument personally or by counsel.
- E. If the appeal is from the Committee's denial of the appellant's request, the appellant shall carry the burden of proving that he/she is entitled to the remedy sought.
- F. The Council shall render its decision by resolution within 20 days of the hearing date. The decision of the Council shall be final.

9-4-7-4: ADMINISTRATIVE RULES: The City Manager may propose administrative rules to implement the administration of this Chapter. Such rules or amendments thereto shall be effective after review by the Committee and approval by the City Council.

9-4-7-5: CITY ENFORCEMENT:

- A. The City shall enforce the provisions of this Chapter by administrative, civil or criminal action or any combination thereof as necessary to obtain compliance with this Chapter. (Ord. 637, 1-13-81)
- B. Except as limited by paragraph C of this subsection, the penalty for violating any provision of this Chapter shall be that established in Chapter 1-4 of this Code.
- C. The penalty for any violation of the Chapter, which is also a violation of state law or regulation, shall not exceed the penalty imposed by state law or regulation for the same conduct. (Ord No. 16, Series 1986, Amended by Ordinance No. 7, Series 1989).

Amended by Ord. 7, Series 1989
Amended by Ord 2, Series 1999
Amended by Ord. 5, Series 2006 and renumbered
Amended by Ord. 13, Series 2008, effective July 16, 2008
Sections 9-4-3, 9-4-6-1B & C, and 9-4-7-5D Amended by Ord. 2, Series 2011, effective March 11, 2011
Sections 9-4-3, 9-4-4-5, 9-4-5-1, 9-4-5-2, and 9-4-6 amended by Ord. 5, Series 2016, effective May 4, 2016
Section 9-4-3 amended by Ord. 17, Series 2018, effective February 1, 2019