

ORDINANCE NO. 2022

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GOLDEN, COLORADO, AMENDING CHAPTER 4.82 OF THE GOLDEN MUNICIPAL CODE REGARDING RESIDENTIAL WASTE COLLECTION SERVICES

WHEREAS, the City desires to exempt solid waste collectors from the requirement of providing volume-based rates and services to those group accounts that consist of select Homeowners' Association, which upon demonstrating compliance with defined waste diversion goals or having 100% of their members participate in the City's contractual residential waste collection service provider's subscription organic services program have been exempted by the City from participation in the City's residential waste collection program.

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GOLDEN, COLORADO:

Section 1. Section 4.82.010, Definitions, of Chapter 4.82 of the Golden Municipal Code is amended to include:

Director means the Community and Economic Development Director or such person's authorized designee.

Section 2. Section 4.82.035 (b), Premises excluded from services, of Chapter 4.82 of the Golden Municipal Code is repealed in its entirety and reenacted to provide:

(b) Residential properties that are part of a Homeowners' Association that was in existence as of May 13, 2010, shall be required to provide all its members either a volume based rate and service collection program as set forth in chapter 4.80 of the Code or be subject to the city's residential waste collection program fees unless the Homeowner's Association obtains and maintains an exemption from the City. To obtain an exemption, a Homeowner's Association must:

(1) Submit an application to the director on a form provided by the City by no later than December 31, 2015.

(2) Homeowners' Associations which file a timely application will be granted an exemption which shall be valid thru December 31, 2017. (3) Homeowner's Associations seeking to continue the exemption must by no later than September 15, 2016 submit their Waste Diversion Plan and documentation of actual waste diversion rate to the director as described in subsection (5) below.

(4) Such documentation must to the director's reasonable satisfaction, demonstrate through verifiable documentation, that the Homeowner's Association's waste diversion rate meets or exceeds the lesser of that rate set forth in the city's current sustainability goals or the actual rate demonstrated by the City's residential waste collection program.

(5) Documentation shall include, but not be limited to, the total volume of residential waste, organics and recyclable materials collected from the Homeowner's Association for a sample period of at least four consecutive weeks during the period between July 15th and August 31st, a copy of the

Homeowners' Association's waste diversion plan and documentation regarding the implementation, participation rate and results of the waste diversion program.

(6) If the director determines that the Homeowners' Association's waste diversion rate meets (defined as within 0.5%) or exceeds the lesser of the City's current sustainability goals or the actual rate demonstrated by the City's residential waste collection program, the director shall notify the Homeowner's Association that the exemption shall remain in place for the duration of the two year period.

(7) If the director determines that the Homeowner's Association waste diversion rate does not meet or exceed the lesser of the City's current sustainability goals or the actual rate demonstrated by the City's residential waste collection program, the director shall notify the Homeowner's Association that they are in violation of the exemption provisions and that they will not receive any further exemption approvals unless a supplemental sample documentation submittal taken within a similar period, twelve months after the initial documentation described in subsection (5) above, demonstrates a diversions rate that meets or exceeds the lesser of the City's current sustainability goals or the actual rate demonstrated by the City's residential waste collection program.

(8) To maintain an exemption, all of which thereafter shall be valid for two year periods, a Homeowners' Association must, no later than twelve months prior to the expiration of an exemption, provide verifiable documentation that, to the directors reasonable satisfaction, demonstrates that the Homeowners' Association's waste diversion rate continues to meet or exceed the lesser of the City's current sustainability goals or the actual rate demonstrated by the City's residential waste collection program. All decisions of the director granting, renewing or denying an exemption shall be in writing with a copy provided to the Homeowners' Association.

(9) In lieu of demonstrating compliance with the city's sustainability goals, a Homeowners' Association may obtain an exemption from providing it entire membership volume based rates and services or being subject to the imposition of the city's residential waste program fees by demonstrating, to the reasonable satisfaction of the director, that 100% of its membership participates in the city's contractual residential waste hauler's subscription organics service program. Such exemption shall be valid for one-year from the date of expiration of the original exemption and may be renewed annually upon the condition that the Homeowner's Association demonstrates to the reasonable satisfaction of the director that 100% of its membership has participated in the organics collection service program for the entirety of the preceding year.

(10) Homeowners' Associations not granted, a waste diversion or organic service participation exemption or a renewal of such exemption shall, within one hundred and twenty (120) days of the denial or non-renewal of an exemption, either provide the entire membership of the Homeowners' Association volume based rates and services as set forth in chapter 4.80 of the Code or be subject to the City's residential waste collection program fees, based upon as applicable either a group account or individual residents.

Section 3. If any article, section, paragraph, sentence, clause or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it

would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 4. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof is hereby repealed to the extent of such inconsistency or conflict.

Section 5. The repeal or modification of any provision of the Municipal Code of the City of Golden by this ordinance shall not release, extinguish, alter, modify or change in whole or in part any penalty, forfeiture or liability, either civil or criminal, which shall have been incurred under such provision. Each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions for enforcement of the penalty, forfeiture or liability, as well as for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered or made in such actions, suits, proceedings or prosecutions.

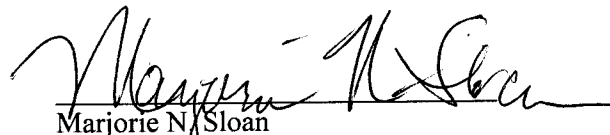
Section 6. This ordinance is deemed necessary for the protection of health, welfare and safety of the community.

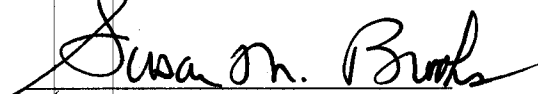
Section 7. Violations of this ordinance shall be punishable as set forth in Section 1.01.110 of the Golden Municipal Code.

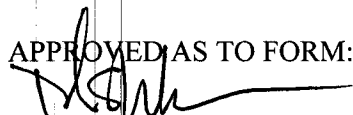
Introduced, read, passed and ordered published the 19th day of November, 2015.

Passed and adopted upon second reading and ordered published this 10th day of December, 2015.




Marjorie N. Sloan
Mayor


Susan M. Brooks, MMC
City Clerk

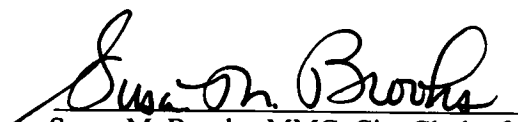
APPROVED AS TO FORM:

David S. Williamson
City Attorney

I, Susan M. Brooks, City Clerk of the City of Golden, Colorado, do hereby certify that the foregoing ordinance was introduced on first reading and read and a public hearing was held at a regular business meeting of the City Council of said city, held on the 19th day of November, 2015, and was published as a proposed ordinance in the Golden Transcript, legal newspaper, as the law directs seven days or more prior to its passage. A public hearing was held on the 10th day of December, 2015, and the said proposed ordinance was read on second reading. The ordinance was passed by the City Council and ordered published in the aforesaid newspaper, as the law directs on the 10th day of December, 2015.

Witness my hand and official seal of the City of Golden, Colorado, this 10th day of December, 2015.



ATTEST:


Susan M. Brooks, MMC, City Clerk of
the City of Golden, Colorado