



CITY OF ANAHEIM
MAYOR CURT PRINGLE

August 21, 2007

Nancy Wieben Stock
Presiding Judge of the Superior Court
700 Civic Center Drive West
Santa Ana, CA 92701

Re: Assembly Bill 939 Waste Diversion: Are We Finally Making Progress?"

Dear Judge Wieben Stock:

As Mayor of the City of Anaheim, I have been authorized by our City Council to sign this letter in response to the 2006-2007 Orange County Grand Jury report entitled, "Assembly Bill 939 Waste Diversion: Are We Finally Making Progress?" Our City was asked to respond to Finding F-6 and Recommendation R-6.

FINDING F-6

The presence of non-franchise haulers and so-called "ghost haulers" bins, in cities which bypass the recycling system, needs to be corrected in order to establish the waste haulers' confidence that their municipalities are looking out for their best interests.

RESPONSE TO FINDING F-6

The City of Anaheim agrees with the findings in F-6 pertaining to municipalities addressing the presence of non-franchise haulers and so-called "ghost haulers" bins that bypass the recycling system in their City.

RECOMMENDATION R-6

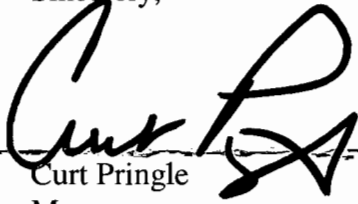
Municipalities need to solve their unauthorized waste bin problems by enacting city ordinances forbidding these practices, imposing fines, including stepped-up fines for additional violations, and impounding unauthorized bins.

RESPONSE TO RECOMMENDATION R-6

This recommendation has been and will continue to be implemented by the City of Anaheim.

On July 23, 1996, the City Council adopted Ordinance No. 5572, forbidding unauthorized bins and drop off boxes on any public or private property within the City. First time offenders are given a 24-hour notice to remove the container. If the bin or drop-off box is not removed within 24 hours after the notice is posted, the unauthorized bin or drop-off box is impounded by the City and stored by the waste hauler. The Ordinance imposes fines for those persons who are guilty of unlawfully placing bins or drop-off boxes within the City of Anaheim, including stepped-up fines for additional violations.

Sincerely,

A handwritten signature in black ink, appearing to read "Curt Pringle", written over a horizontal line.

Curt Pringle
Mayor

Attachment

c. Orange County Grand Jury

ORDINANCE NO. 5572

AN ORDINANCE OF THE CITY OF ANAHEIM ADDING A NEW CHAPTER 10.11 TO TITLE 10 OF THE ANAHEIM MUNICIPAL CODE, CONSISTING OF SECTIONS 10.11.010 THROUGH 10.11.050, INCLUSIVE, RELATING TO BINS AND DROP-OFF BOXES

THE CITY COUNCIL OF THE CITY OF ANAHEIM HEREBY ORDAINS AS FOLLOWS:

SECTION 1.

That a new Chapter 10.11 be, and the same is hereby, added to Title 10 of the Anaheim Municipal Code, to read as follows:

"Chapter 10.11 BINS AND DROP-OFF BOXES

Section 10.11.010 DEFINITIONS

Words and phrases defined in Chapter 10.10 of this Title shall have the same meanings when used in this Chapter. For the purposes of this Chapter, the following words and phrases shall have the meanings set forth in this section unless it is apparent from the context that a different meaning is intended.

.010 Bin means a container for the collection of Trash, with dimensions of or exceeding fifty-four (54) inches by sixty (60) inches by twenty-four (24) inches, but smaller than six (6) feet by five (5) feet by eighteen (18) feet.

.020 Director means the Director of Public Works of the City of Anaheim or his or her designee.

.030 Drop-Off Box means a container for the collection of Trash, with dimensions of or exceeding six (6) feet by five (5) feet by eighteen (18) feet;

.040 Owner means the person (including a corporate entity) who holds legal title to a Bin or Drop-Off Box.

.050 Trash means any Solid Waste discarded by the last owner thereof. Trash also includes any materials placed in a Bin or Drop-Off Box, other than Source-separated Recyclable Materials.

.060 User means any person (including a corporate entity), other than an Owner, who places, or causes to be placed, a Bin or Drop-Off Box on any public or private property within the City of Anaheim.

Section 10.11.020 UNAUTHORIZED BINS AND DROP-OFF BOXES

No person other than an authorized representative of the City of Anaheim shall place or leave standing a Bin or Drop-Off Box on any public or private property within the City, except that a licensed construction contractor may use Bins and Drop-Off Boxes owned by that contractor for site clean-up of that contractor's own demolition and construction projects.

Section 10.11.030 REMOVAL OF UNLAWFULLY PLACED BIN OR DROP-OFF BOX

.010 The Director may cause the posting of a Notice to Remove, as described in Subsection 10.11.030:020 hereof, in a conspicuous place on any Bin or Drop-Off Box placed on any public or private property within the City of Anaheim in violation of this Chapter.

.020 Notices to Remove posted pursuant to the provisions of this chapter shall specify the nature of the violation and shall state that the Bin or Drop-Off Box must be removed within twenty-four (24) hours or it may be removed and stored by the City, and the contents disposed of, at the expense of the Owner thereof. The posting of a Notice to Remove shall constitute constructive notice to the Owner and User of the requirement to remove the Bin or Drop-Off Box.

.030 If the Bin or Drop-Off Box is not removed within twenty-four (24) hours after the Notice to Remove is posted, the Director may direct the removal and storage of the Bin or Drop-Off Box and the disposal of its contents if they consist of Trash, perishable matter, Medical Waste, Hazardous Waste or Qualified Household Hazardous Waste, or if the Bin or Drop-Off Box together with its contents exceeds applicable weight limits. The Owner of the Bin or Drop-Off Box shall be responsible to reimburse the City for the actual cost of removal, storage and disposal. All amounts due to the City for the cost of removal, storage and disposal must be paid before the Bin or Drop-Off Box may be returned to the Owner. Such amounts shall constitute a debt owed by the Owner to the City, and the Owner shall be liable to the City in an action brought by the City for the recovery of such amounts.

.040 If the identity of the Owner of a Bin or Drop-Off Box that has been removed by the City is known to the Director, the Director shall promptly cause notice to be mailed to the Owner to claim the stored property. If the Bin or Drop-Off Box is not claimed within ninety-five (95) days after removal and notice to the Owner, or ninety (90) days after removal if the identity of the Owner is unknown to the Director, the Bin or Drop-Off Box and its contents

shall be deemed abandoned property and may be disposed of accordingly.

.050 After a Bin or Drop-Off Box has once been removed by the City pursuant to a Notice to Remove, the Owner thereof shall be deemed to have actual notice of the provisions of this chapter, including the prohibition of placement of Bins and Drop-Off Boxes. In the event of a subsequent placement of a Bin or Drop-Off Box owned by the same Owner, the Director may immediately, without the posting of a Notice to Remove, direct the removal and storage of the unlawfully placed Bin or Drop-Off Box and shall, in such case, give notice to the Owner to claim the Bin or Drop-Off Box. In such event, the Owner shall be responsible to reimburse the City for the actual cost of such removal, storage and disposal, which cost shall be paid by the Owner before the Bin or Drop-Off Box may be returned to the Owner. If the Bin or Drop-Off Box is unclaimed after notice is mailed to the Owner and the expiration of the period set forth in Subsection .040 of this Section, the Bin or Drop-Off Box and its contents shall be deemed abandoned property and may be disposed of accordingly. The costs incurred by the City for removal, storage and disposal shall constitute a debt owed to the City by the Owner, who shall be liable therefor in an action by the City for the recovery of such amounts.

Section 10.11.040 INFRACTION; PENALTY

Any person violating any of the provisions of this Chapter shall be guilty of an infraction and, upon conviction, shall be subject to a fine of fifty dollars (\$50.00) for a first violation of this chapter, a fine of one hundred dollars (\$100.00) for a second violation of this chapter within one year, and a fine of two hundred fifty dollars (\$250.00) for each additional violation of this chapter within one year.

Section 10.11.050 FEES AND CHARGES

~~The following fees and charges shall be established from time to time by resolution of the City Council: Bin or Drop-Off Box impound fee; storage charge. Waste disposal charges shall be equal to the commercial per-ton rate paid by the City."~~

SECTION 2. SEVERABILITY

The City Council of the City of Anaheim hereby declares that should any section, paragraph, sentence or word of this ordinance of the Code, hereby adopted, be declared for any reason to be invalid, it is the intent of the Council that it would have passed all other portions of this ordinance independent of the elimination herefrom of any such portion as may be declared invalid.

SECTION 3.

SAVINGS CLAUSE

Neither the adoption of this ordinance nor the repeal of any other ordinance of this City shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any license or penalty or the penal provisions applicable to any violation thereof. The provisions of this ordinance, insofar as they are substantially the same as ordinance provisions previously adopted by the City relating to the same subject matter, shall be construed as restatements and continuations, and not as new enactments.

THE FOREGOING ORDINANCE is approved and adopted by the City Council of the City of Anaheim this 23rd day of July, 1996.


MAYOR OF THE CITY OF ANAHEIM

ATTEST:


CITY CLERK OF THE CITY OF ANAHEIM

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF ANAHEIM)

I, LEONORA N. SOHL, City Clerk of the City of Anaheim, do hereby certify that the foregoing Ordinance No. 5572 was introduced at a regular meeting of the City Council of the City of Anaheim, held on the 16th day of July, 1996, and that the same was duly passed and adopted at a regular meeting of said City Council held on the 23rd day of July, 1996, by the following vote of the members thereof:

AYES: MAYOR/COUNCIL MEMBERS: Tait, Zemel, Feldhaus, Lopez, Daly
NOES: MAYOR/COUNCIL MEMBERS: None
ABSENT: MAYOR/COUNCIL MEMBERS: None

AND I FURTHER CERTIFY that the Mayor of the City of Anaheim signed said Ordinance No. 5572 on the 23rd day of July, 1996.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Anaheim this 23rd day of July, 1996.


CITY CLERK OF THE CITY OF ANAHEIM

(SEAL)

I, LEONORA N. SOHL, City Clerk of the City of Anaheim, do hereby certify that the foregoing is the original of Ordinance No. 5572 and was published once in the North County News on the 1st day of August, 1996.


CITY CLERK OF THE CITY OF ANAHEIM