

ORDINANCE NO. 984-2021

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BARSTOW, CALIFORNIA AMENDING CHAPTER 6.20 OF THE BARSTOW MUNICIPAL CODE RELATED TO SOLID WASTE AND RECYCLABLES COLLECTION SERVICES AND CHAPTER 13.22.050 OF THE BARSTOW MUNICIPAL CODE RELATED TO SEWER USER FEES

The City Council of the City of Barstow does hereby ordain as follows:

Section 1. Municipal Code Amendment. Title 6 (Health and Sanitation), Chapter 6.20.030 (Defined terms and phrases) of the Barstow Municipal Code is hereby amended to read as follows:

6.20.030. - Defined terms and phrases.

- (a) For the purposes of this chapter, the words, terms and phrases as defined in this section shall be construed as hereinafter set forth, unless it is apparent from the context that a different meaning is intended:

AB 939 administrative fee means any fee adopted by the city council pursuant to Public Resources Code § 41901.

Authorized collector means a solid waste enterprise operating under the provisions of a franchise agreement approved by the city council.

Bin means a detachable container used in connection with commercial/industrial premises with a one and one-half to six cubic yard capacity, equipped with a lid, and designed for mechanical pick-up by collection vehicles.

Box, or roll-off or drop box means a wheeled or sledded container or compactor, generally three to 40 cubic yards in size, suitable for the storage and collection of commercial or industrial solid waste or recyclables.

Bulky goods means oversized or overweight household articles placed curbside for collection at residential and/or commercial property, which oversized or overweight articles have weights, volumes or dimensions which cannot be accommodated by solid waste, recyclables, or organic materials containers for such premises, which include but are not limited to stoves, refrigerators, water heaters, washing machines, furniture, sofas, mattresses, box springs, large rugs and landscaping debris.

Collection means the operation of gathering together within the city, and transporting to the point of disposal or processing, any solid waste, recyclables and organics materials.

Collection agreement means an agreement between the city and a solid waste enterprise, entered into pursuant to article II of this chapter, for the provision of solid waste and recyclables collection services in the city.

Collector means any solid waste enterprise:

- (1) Who has been awarded a collection agreement to provide residential or commercial/industrial solid waste or recyclables collection services in the city; or

- (2) Who has been issued a permit or nonexclusive contract to provide solid waste and recyclables collection services to state facilities.

Commercial/industrial business owner means any person, firm, corporation or other enterprise or organization holding or occupying, alone or with others, commercial/industrial premises, whether or not it is the holder of the title or the owner of record of the commercial/industrial premises.

Commercial/industrial premises means all occupied real property in the city, except property occupied by state or local governmental agencies which do not consent to their inclusion, and except residential premises as defined hereof, and shall include, without limitation, wholesale and retail establishments, restaurants and other food establishments, bars, stores, shops, offices, industrial establishments, manufacturing establishments, service stations, repair, research and development establishments, professional services, sports or recreational facilities, construction and demolition sites, a multiple unit residential complex that is not a residential premises, and any other commercial or industrial business facilities, structures, sites, or establishments in the city.

Construction site or demolition site means any real property in the city in, on or from which a building or structure is being fabricated, assembled, erected or demolished, and which produces construction or demolition solid waste which must be removed from the property, and requires the use of commercial solid waste containers.

Construction waste or demolition waste means any solid waste or debris generated as the result of construction or demolition, including, without limitation, discarded packaging or containers and waste construction materials, whether brought on site for fabrication or used in construction or resulting from demolition, excluding liquid waste and hazardous waste.

Container means any vessel, tank, receptacle, box or bin used for the purpose of holding solid waste or recyclables for collection.

Disposal means the complete operation of treating and disposing of solid waste after the collection thereof.

Food material means a waste material of plant or animal origin that results from the preparation or processing of food for animal or human consumption and that is separated from the municipal solid waste stream. Food material includes, but is not limited to, food waste from food facilities as defined in Health and Safety Code section 113789 (such as restaurants), food processing establishments as defined in Health and Safety Code section 111955, grocery stores, institutional cafeterias (such as prisons, schools and hospitals), and residential food scrap collection. Food material does not include any material that is required to be handled only pursuant to the California Food and Agricultural Code and regulations adopted pursuant thereto. Food material is a subset of organic materials.

Franchise and administrative costs means the fee paid to the city by an authorized collector pursuant to the collection agreement, pursuant to section 6.20.060.

Green waste means that solid waste consisting of leaves, grass clippings, brush, branches and other forms of organic materials generated from landscapes or gardens, separated from other solid waste. The term "green waste" does not include stumps or branches exceeding four inches in diameter or four feet in length. Green waste is a subset of organic materials.

Hazardous waste.

- (1) The term "hazardous waste" means a waste, or combination of wastes, which because of its quantity, concentration, or physical, chemical or infectious characteristics, may do either of the following:

- a. Cause or significantly contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness.
 - b. Pose a substantial present or potential hazard to human health or environment when improperly treated, stored, transported, or disposed of, or otherwise managed.
- (2) The term "hazardous waste" includes, without limitation, extremely hazardous waste, acutely hazardous waste, radioactive waste, and medical waste, and any other waste as may hereafter from time to time be designated as hazardous by the environmental protection agency (EPA) or other agency of the United States Government, or by the state legislature or any agency of the state empowered by law to classify or designate waste as hazardous, extremely hazardous or acutely hazardous.

Holiday means: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day. The term "holiday" also means any other day recognized by resolution of the city council.

In the city or within the city means all of the territory within the corporate boundaries of the city as such boundaries exist on the effective date of the ordinance codified in this chapter or may thereafter exist by virtue of the annexation of territory to or detachment of territory from the boundaries of the city.

Landscaping bulky debris means organic materials that does not fit into an organic materials container, and includes stumps or branches exceeding four inches in diameter or four feet in length.

Manure means the waste droppings and soiled bedding materials from large domestic, farm, or ranch animals. Examples include manure and soiled bedding from animal production operations, riding stables, and other sources. Does not include feces from small household pets such as dogs and cats.

Organic materials means green waste and food material that are specifically accepted at the applicable approved facilities (as defined in the franchise between the authorized hauler and city). No discarded material shall be considered to be organic materials, however, unless it is separated from solid waste, recyclable material, and construction and demolition. Organic materials shall be regulated in accordance with Barstow Municipal Code Chapter 6.39 - Mandatory Organic Waste Disposal Reduction.

Processing means the reduction, separation, recovery and conversion of solid waste.

Property Owner means the person, persons, partnership or corporation having legal title to property or to whom the taxes on a property are assessed, as shown on the last equalized assessment roll of the County of San Bernardino, or alternately, from such other records of the county assessor or tax collector that may contain more recent information.

Public agency means any governmental agency or department thereof, whether federal, state, or local.

Recyclables means those materials that are suitable for recycling, as determined by resolution of the city council, or as determined by state and/or federal laws, or as set forth in a collection agreement

Recyclables container means a container which is provided to residential premises for use in collecting and moving recyclables to curbside for collection by the collector, or a container which is provided to commercial/industrial premises for use by the collector in collecting and moving recyclables.

Recycling means the process of collecting, sorting, cleansing, treating, and reconstituting materials that would otherwise become solid waste, and returning them to the economic mainstream in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace. The term "recycling" does not include transformation as defined in Public Resources Code § 40201.

Residential householder means any persons holding or occupying residential premises in the city, whether or not the owner of the residential premises.

Residential owner means the owner of any residential premises within the city.

Residential premises means any residential dwelling containing one to two units, which may include an accessory dwelling unit (ADU) and/or a junior accessory dwelling unit (JADU) within the city, except:

- (1) Multiple unit residential complexes of three units or more, not counting an ADU or JADU; or
- (2) Any multiple unit residential complex which, with the prior written approval of the city manager or designee, receives commercial bin service.

Resource recovery means any use of solid waste collected pursuant to this chapter, except for landfill disposal or transfer for landfill disposal. The term "resource recovery" includes, but is not limited to, transformation, composting, and multi-material recycling.

Solid waste means all putrescible and non-putrescible solid, and semisolid wastes, including garbage, compostable materials, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, discarded home and industrial appliances, dewatered, treated or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semisolid wastes, and other semisolid wastes. The term "solid waste" does not include hazardous waste or household hazardous waste, medical waste, radioactive waste, sewage, abandoned vehicles and parts thereof, or restaurant grease and tallow.

Solid waste and recyclables collection services means the collection, storage, or transfer of solid waste (including organic materials) and recyclables.

Solid waste container means any container permitted to be used for the purpose of holding solid waste for collection.

Solid waste enterprise means any individual, partnership, joint venture, unincorporated private organization, or private corporation regularly engaged in the business of providing solid waste and recyclables collection services.

Source separation means material which is separated and sorted by type of material as close to the point of origin as practical.

Special items means any bulky or heavy objects that require bin service and are not bulky goods, including, but not limited to, dirt, sod, brick, manure, waste from any poultry yard or stable, and construction and demolition waste.

Standard commercial/industrial solid waste container means a state-of-the-art bin or solid waste container used in connection with commercial/industrial premises with a one to six cubic yard capacity, designed for mechanical pick-up by collection vehicles and equipped with a lid, or where appropriate for the commercial/industrial premises being served, a 10 to 40 cubic yard roll-off box or enclosed compactor, and shall include other types of containers suitable for the storage and collection of commercial/industrial solid waste if approved in writing by the city manager or designated representative.

Standard residential organic materials container means a standardized roll-away container with a locking lid, made of metal, hard rubber or plastic and having an approximate capacity of at least 35 gallons, and of a design, color and durability as approved by the city manager or designated representative.

Standard residential recycling container means a standardized roll-away container with a locking lid, made of metal, hard rubber or plastic and having an approximate capacity of 35 to 65 gallons, and of a design, color and durability as approved by the city manager.

Standard residential solid waste container means a standardized roll-away container with a locking lid, made of metal, hard rubber or plastic and having an approximate capacity of 35 to 65 gallons, and of a design, color and durability as approved by the city manager.

Treated wood waste means wood that has been treated with a chemical preservative registered pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act for the purpose of protecting the wood against attacks from insects, microorganisms, fungi, and other environmental conditions that can lead to decay of the wood. Treated wood waste is a subset of hazardous waste.

- (b) Nothing contained in this section shall be deemed to preclude the city and any enterprise from incorporating into any agreement for exclusive services definitions relating to their respective contractual rights and obligations which may differ from or augment those set forth herein.

Section 2. Municipal Code Amendment. Title 6 (Health and Sanitation), Chapter 6.20.160 (Rates, fees and charges) of the Barstow Municipal Code is hereby amended to read as follows:

Sec. 6.20.160. - Rates, fees and charges.

The city council may, by resolution or an approved collection agreement, place a limit on the rates, fees, and charges (collectively, fees) collectors may charge to residential owners and to commercial/industrial business and/or property owners for the collection of solid waste and recyclables. No collector shall charge any fee which is greater than the maximum permitted by the city council.

Section 3. Municipal Code Amendment. Title 6 (Health and Sanitation), Chapter 6.20.180 (Collection Fees) of the Barstow Municipal Code is hereby amended to read as follows:

Sec. 6.20.180. - Collection fees.

- (a) Every owner of each parcel where any trash accumulates shall pay, or cause to be paid, a fee in such amounts and in such manner as shall be established or required by resolution of the city council for the service of having such trash collected and removed from the place or premises. In the case of residential and commercial rental units, the property owner of record shall be responsible for the fees established by resolution.
- (b) Nothing in this section is intended to prevent an arrangement under which payments of garbage collection fees are made by a tenant, or any agent, in behalf of the owner. However, any such arrangement will not affect the property owner's obligation to the city.
- (c) Unless otherwise specified by the city manager or designated representative, all fees for residential and commercial service shall be billed to the property owner of record in advance of the service provided. At the time of initial establishment of a sewer and trash service account, a deposit may be charged in an amount not to exceed 60 days of fees for service.

The deposit shall be credited to the account after 12 months of timely payments have been received, or refunded within 60 days after cancellation of the service account.

- (d) To apply for an economically disadvantaged rate discount, the owner must provide a utility bill (i.e. gas, water, electric) which shows the owner is currently receiving a discount under the California Alternate Rate for Energy (CARE) guidelines. The documentation must be provided to the City utility billing office and will be applied on the next billing cycle. It is the responsibility of the owner to update annually and notify the City of any changes which may impact their eligibility.

Section 4. Municipal Code Amendment. Title 6 (Health and Sanitation), Chapter 6.20.200 (Garbage collection fee a debt) of the Barstow Municipal Code is hereby amended to read as follows:

Sec. 6.20.200. - Garbage collection fee a debt.

- (a) The garbage collection fee, including any applicable penalties and collection costs, shall be a civil debt owing the city from the owner of a residential or commercial unit subject to the fee.
- (b) If an invoice for the garbage collection fee charged by the city pursuant to this chapter is unpaid after the due date, a penalty of ten percent shall be charged, and an additional one and one-half percent per month shall be charged until the charges, penalties, all collection costs and any related lien fees and charges are paid in full. Charges which remain unpaid after the due date are considered delinquent.
- (c) If court action is taken to enforce nonpayment of charges, the property owner shall pay all reasonable attorney's fees and costs incurred by the city.

Section 5. Municipal Code Amendment. Title 6 (Health and Sanitation), Chapter 6.20.210 (Collection procedure for delinquent accounts; creation of lien) of the Barstow Municipal Code is hereby amended to read as follows:

Sec. 6.20.210. - Collection procedure for delinquent accounts; creation of lien.

- (a) Any fees authorized pursuant to this chapter which remain unpaid 60 days after the due date as set forth in section 6.20.200 may be collected thereafter by the city as provided in this section.
- (b) The city council shall cause a report of delinquent utility fees to be prepared periodically. The council shall fix a time, date and place for hearing the report and any objections or protests thereto.
- (c) The city council shall cause notice of hearing to be mailed to the landowners listed on the report not less than 15 days prior to the date of the hearing.
- (d) At the hearing, the city council shall hear any objections or protests of landowners liable to be assessed for delinquent fees. The city council may make such revisions or corrections to the report as it deems just, after which, by resolution, the report shall be confirmed.
- (e) The delinquent fees set forth in the report as confirmed shall constitute special assessments against the respective parcels of land, and are a lien on the property for the amount of such delinquent fees, penalties and costs incurred by the city as authorized by this chapter. A certified copy of the confirmed report shall be filed with the city clerk, or auditor appointed by

the city council, for amounts of the respective parcels of land as they appear on the current assessment roll. The lien created attaches upon recordation, in the office of the county recorder, of a certified copy of the resolution of confirmation. The assessment may be collected at the same time and in the same procedure and sale in case of delinquency as provided for such taxes. All laws applicable to the levy, collection and enforcement of city ad valorem property taxes shall be applicable to such assessment.

Section 6. Municipal Code Amendment. Title 6 (Health and Sanitation), Chapter 6.20.280 (Gardener's exclusion) of the Barstow Municipal Code is hereby amended to read as follows:

Sec. 6.20.280. - Landscaper's exclusion.

No provisions of this chapter shall prevent a gardener, tree trimmer or person engaged in a similar trade from collecting and disposing of grass cuttings, prunings, and similar landscaping material not containing other solid waste when incidental to providing such gardening, tree trimming, or similar services. Landscapers shall maintain records of the quantities of material collected and shall ensure that collected material is diverted from the landfill to meet the city's organics recycling requirements.

Section 7. Municipal Code Amendment. Title 6 (Health and Sanitation), Chapter 6.20.290 (Commercial/industrial exclusions) of the Barstow Municipal Code is hereby amended to read as follows:

Sec. 6.20.290. - Commercial/industrial exclusions.

(a) *Source separated recyclables.*

- (1) No provision of this chapter shall prevent a commercial/industrial business owner from selling to a buyer, for a monetary or other valuable consideration, any source separated recyclables, including, without limitation, any saleable scrap, discard, reject, byproduct, ferrous or nonferrous metal, worn-out or defective part, junk, pallet, packaging material, paper or other similar item generated in, on or by a commercial/industrial premises or business, and no longer useful to such commercial/industrial business but having market value, whether such buyer is a recycler, junk dealer, or other enterprise engaged in the business of buying and marketing such materials in the stream of commerce; so long as such buyer is not engaged in the business of collecting solid waste for a fee or other charge or consideration, and that no such materials are transported for disposition to a landfill or transfer station (as defined in Public Resources Code § 40200). The term "source separated recyclables," within the meaning of this section, shall mean recyclables separated on the commercial/industrial premises from solid waste for the purpose of sale, not mixed with or containing more than incidental or minimal solid waste, and having a market value. However, those businesses which collect and market recyclable material within the city shall provide a monthly report which contains the type and volume or tonnage of material which was recycled. These reports will be provided to the Environmental Services Department on or before the 10th of each month for the preceding month.

- (2) No provision of this chapter shall prevent a recycler, junk dealer or other enterprise engaged in the business of buying and marketing such materials in the stream of commerce and which is not engaged in the business of collecting solid waste or providing solid waste collection services for a fee or other charge, or consideration, from buying any materials referenced in this subsection for a monetary or other valuable consideration, and which buys such materials for marketing and not for disposition in a landfill or transfer station (as defined in Public Resources Code § 40200); nor shall any provision of this chapter prevent such recycler, junk dealer or enterprise which buys such materials from removing and transporting such materials to a destination for marketing in the stream of commerce. No such buyer shall buy or transport such materials without prior authorization from the city, as required by this Code, whether in the form of a business license, a business permit, or a nonexclusive collection agreement.
- (b) *In-house recycling programs.* Nothing in this chapter shall prevent a commercial/industrial business which has its own recycling or resource recovery program for recyclables generated by such business and not utilizing a solid waste enterprise which provides collection services for a fee, service charge, or other consideration, from continuing such recycling or resource recovery program, and the recyclables included in such program are excepted from any collection agreement entered into by the city. Again, in order to comply with applicable state laws, monthly reports are required to be submitted to the Environmental Services Department on or before the 10th of each month for the preceding month.
- (c) *Renovation, rebuilding, repairs.* No provision of this chapter shall prevent a commercial/industrial business owner from arranging for any worn, spent, or defective equipment, or part thereof, used in such commercial/industrial business and requiring renovation, rebuilding, recharging, regeneration or repair, to be picked up, renovated, rebuilt, recharged, regenerated or otherwise restored and repaired and returned to such commercial/industrial business owner; nor shall any provision of this chapter prevent any person engaged in the business of renovating, rebuilding, recharging, regenerating, or otherwise restoring or repairing such equipment or part thereof, from transporting the same from or returning it to the commercial/industrial business, or from removing, transporting or disposing of any such equipment, or part thereof, replaced in connection with an equipment repair or service contract.

Section 8. Municipal Code Amendment. Title 6 (Health and Sanitation), Chapter 6.20.320 (Self-haul requirements) of the Barstow Municipal Code is hereby amended to read as follows:

Sec. 6.20.320. - Self-haul requirements.

- (a) No residential householder shall employ or engage any solid waste enterprise, other than an authorized collector, to haul or transport such materials to a transfer station or landfill.
- (b) Commercial and industrial businesses/generators may donate, sell, or self-haul recyclable and organic materials upon approval by the solid waste department and such generators shall comply with the following requirements:
- (1) Annually, on or before January 10, generator shall submit to the city an annual report for the previous calendar year in hard copy or electronically. If not received on or before January 10- then generator may be subject to administrative and/or civil citations, fines and penalties in accordance with section 1.01.150. The report shall contain the following where applicable:

- i. Within 30 calendar days of a request by the city, the generator shall obtain and provide copies of weight tickets or receipts from the recycling center(s) and/or permitted processing facility(ies) where the divertible materials were delivered by the generator or by a third party to whom divertible materials were donated or sold. Any third party hauler hired on behalf of the generator to transport divertible materials from the city limits to permitted processing facilities shall obtain a city business license.
 - ii. Relevant information necessary to verify the end use of recyclable materials, green waste, wood waste and food scraps to ensure the materials were diverted from landfill and/or were processed at permitted facilities and diverted from landfill.
- (2) During regular business hours, generator shall allow the city access to properties to check containers for contamination and to verify compliance with all solid waste and recycling requirements.
 - (3) Generators shall not submit any report to the city that contains false or misleading information.

Section 9. Municipal Code Amendment. Title 6 (Health and Sanitation), Chapter 6.20.330 (General requirements) of the Barstow Municipal Code is hereby amended to read as follows:

Sec. 6.20.330. - General requirements.

- (a) In all cases where the right to an exclusion pursuant to sections 6.22.220 through 6.20.270 of this chapter is exercised, disposal shall be made at a disposal or processing facility, which meets all applicable regulatory requirements. Any such disposal by a person exempted under this section shall not relieve such person from any obligation or liability imposed by this chapter or any other city ordinance, resolution, rule or regulation for the payment of the minimum solid waste and recyclables collection rates imposed by the authorized collector pursuant to this chapter, or of any other applicable rates or fees.
- (b) Notwithstanding the foregoing, an owner of vacant property which does not generate any solid waste may request an exemption from the mandatory service requirement of section 6.20.340 for the period of time the property was vacant, pursuant to the procedure set forth in subsection (1)—(3) below. For the purposes of this subsection, "vacant property" means any property that is (a) undeveloped, or (b) unoccupied by any person for a period of at least 30 days preceding the request for exemption. Unauthorized occupancy is not sufficient to relieve the property owner from the mandatory service requirement.
 - (1) An owner seeking an exemption for vacant property shall submit a written request for the exemption to the city manager or designated representative within 30 days of the last day of the previous billing cycle. The owner of the property shall have the burden of demonstrating with sufficient evidence that the property is a "vacant property." Examples of proof include, but are not limited to, a copy of the electricity or water bill showing that the property has used less than 200 kw hours of electricity or less than 2 Centum Cubic Feet (CCF) of water for each billing period during the period for which an exemption is sought, or other proof of vacancy as the city manager or designated representative may require.

- (2) If the exemption is granted, the city manager or designated representative shall provide notice to both the owner and the city's billing office, which shall state that the exemption shall only be effective for the period of time for which the vacancy was established.
- (3) An exemption may be granted for a maximum period of one year upon proof that the property has been a vacant property for a period of 12 months preceding the date of request on current accounts only. If an annual exemption is granted, the trash and recycle containers will be removed from the property and the collector shall notify the city of the removal date.
- (4) Thirty days prior to the expiration of the annual exemption, a notice will be sent to the property owner. Collection service will resume unless the owner requests a new exemption for a vacant property following the procedures set forth in subsection (b)(1)—(3) above or unless the property is undeveloped or deemed uninhabitable by the city building department.
- (5) Nothing in this subsection shall relieve a person from the payment of the solid waste and recyclables collection rates imposed for use of the services provided by the authorized collector if and when the property is no longer vacant.

Section 10. Municipal Code Amendment. Title 6 (Health and Sanitation), Chapter 6.20.370 (Unauthorized removal from containers) of the Barstow Municipal Code is hereby amended to read as follows:

Sec. 6.20.370. - Unauthorized removal from containers.

No person other than the authorized collector shall remove or tamper with, or remove any solid waste, recyclables or organic waste from a container, other than the owner or occupant of the property served by such container, or an authorized employee of the city. This section shall not limit the rights or authority of any peace officer to inspect the contents of any trash container or to seize evidence of crimes from any trash container that has been placed for collection as required by this chapter.

Section 11. Municipal Code Amendment. Title 6 (Health and Sanitation), Chapter 6.20.490 (Building contractor to leave area clean) of the Barstow Municipal Code is hereby amended to read as follows:

Sec. 6.20.490. - Building contractor and owner builder requirements.

All owners, contractors and builders performing construction or demolition work in the city shall,

- a) Have an approved Construction Waste Management Plan (CWMP) prior to issuance of a permit to commence work for any project generating waste in the city. The plan shall be in accordance with the CALGreen Building Code and project must meet diversion targets pursuant to the law. A CWMP performance bond in an amount determined by the City Council shall be collected at time of permit issuance as a promise to achieve required diversion rate stipulated by the State and may be retained by the City if the contractor or owner/builder is unable to demonstrate sufficient diversion within 30 days of project completion or issuance of certificate of occupancy. To demonstrate sufficient diversion, the contractor or owner/builder must provide a report of the following, which shall be used to calculate the overall diversion rate:

- a. Quantities of each material type generated.
 - b. Breakdown of what portion of each material generated was recycled/salvaged.
 - c. Breakdown of what portion of each material generated was disposed as trash.
 - d. Weight receipts from recycling and/or disposal facilities may also be required.
- b) Upon the completion of any project, gather up and haul away, at their sole cost and expense, all solid waste of every nature, description or kind, which has resulted from the construction or demolition activity, including all lumber scraps, shingles, plaster, brick, stone, concrete and other building material, and shall place the lot and all nearby premises utilized in such construction in a well-organized condition, and it shall be unlawful not to do so.

Section 12. Municipal Code Amendment. Title 6 (Health and Sanitation), Chapter 6.20.500 (Accumulation of solid waste declared nuisance) of the Barstow Municipal Code is hereby amended to read as follows:

Sec. 6.20.500. - Accumulation of solid waste declared nuisance.

The accumulation of solid waste by any person beyond the period of one week or in any manner other than as specified in this chapter is hereby declared to be a nuisance pursuant to Government Code § 38771. The city council, pursuant to Government Code § 38773, shall, by separate ordinance, provide for the summary abatement of such nuisances. The city may require an increase in service level as deemed necessary for any property having repeated occurrences of accumulation of waste.

Section 13. Municipal Code Amendment. Title 6 (Health and Sanitation), Article VII (Residential Solid Waste, Recycling and Green Waste Collection), Chapter 6.20.520 (Residential collection—Disposal) of the Barstow Municipal Code is hereby amended to read as follows:

ARTICLE VII. - RESIDENTIAL SOLID WASTE AND RECYCLING COLLECTION

Sec. 6.20.520. - Residential collection—Disposal.

All solid waste collected by a collector shall be disposed of by the collector in accordance with all applicable federal, state and local laws and regulations and the controlling permit or collection agreement.

Section 14. Municipal Code Amendment. Title 6 (Health and Sanitation), Chapter 6.20.530 (Same – Frequency) of the Barstow Municipal Code is hereby amended to read as follows:

Sec. 6.20.530. - Residential collection —Frequency.

Unless otherwise approved by the city council, collection of solid waste and recyclables shall take place no less than once each calendar week, on the same day of the week. The authorized collector shall collect all solid waste and recyclables placed for collection in compliance with this chapter from each residential premises in accordance with a schedule which has been approved

by the city manager. The schedule shall identify the routes and days of pick up for each collection district established within the city. In no event shall such collection schedule permit the accumulation of solid waste in quantities detrimental to public health or safety. The city manager, or designated representative, may require an adjustment in weekly service level as deemed necessary to prevent nuisances and for the protection of public health, safety, and welfare.

Section 15. Municipal Code Amendment. Title 6 (Health and Sanitation), Chapter 6.20.540 (Same – Solid Waste containers) of the Barstow Municipal Code is hereby amended to read as follows:

Sec. 6.20.540. - Residential collection —Solid waste containers.

Subject to the prior approval of the city manager, the collector shall provide one standard residential solid waste container to each residential householder. No cardboard box, paper bag, or other similarly fragile container may be used as a container for solid waste. Except as expressly provided otherwise herein, and due to the automated collection in the city, only containers provided by the collector may be used for residential solid waste. Containers must have lids that are to be closed at all times, except when adding material. All solid waste shall be bagged within the collection container as a litter control measure.

Section 16. Municipal Code Amendment. Title 6 (Health and Sanitation), Chapter 6.20.550 (Same – Recyclables containers) of the Barstow Municipal Code is hereby amended to read as follows:

Sec. 6.20.550. - Residential collection —Recyclables containers.

- (a) Subject to the prior approval of the city manager, the collector shall provide one standard residential recycling container to each residential householder. Notwithstanding the foregoing, the collector shall provide additional recycling containers sufficient to accommodate the amount of recyclables generated by the residential premises. Except as expressly provided otherwise herein, only containers provided by the collector may be used for residential recyclables. Containers must be provided with a lid which is to remain closed at all times, except when adding material. Customers which refuse a recycling container from the collector will not be issued an extra trash container. An increased fee may be set by the city council through a resolution to accommodate those who do not recycle as mandated.
- (b) Containers which do not comply with the requirements of this section shall be presumed to be trash and taken by the contract or franchise agent(s) for disposal or potential use as salvaging or recycling containers.

Section 17. Municipal Code Amendment. Title 6 (Health and Sanitation), Chapter 6.20.560 (Same – Organic materials containers) of the Barstow Municipal Code is hereby amended to read as follows:

Sec. 6.20.560. –Residential collection —Organic materials containers.

- a) Subject to the prior approval of the city manager, the collector shall provide one standard residential organic materials container to each residential householder. Notwithstanding the foregoing, the collector shall provide additional standard residential organic materials containers sufficient to accommodate the amount of organic materials generated by the residential premises.

Except as expressly provided otherwise herein, upon the commencement of automated collection in the city, only containers provided by the collector may be used for residential organic materials. Containers must be provided with a lid which is to remain closed at all times, except when adding material. Customers which refuse an organics container from the collector will not be issued an extra trash container. An increased fee may be set by the city council through a resolution to accommodate those who do not recycle as mandated.

- b) Containers which do not comply with the requirements of this section shall be presumed to be trash and taken by the contract or franchise agent(s) for disposal or potential use as salvaging or recycling containers.

Section 18. Municipal Code Amendment. Title 6 (Health and Sanitation), Chapter 6.20.570 (Same – Placement and removal of containers) of the Barstow Municipal Code is hereby amended to read as follows:

Sec. 6.20.570. - Residential collection —Placement and removal of containers.

Every residential householder shall place each approved container for collection at the curb in front of the premises, or at the curb at the side of the premises where the premises are adjacent to more than one street and at least three (3) feet from an obstruction such as vehicle. No person shall place any such container for collection earlier than sunset of the day preceding the day designated for collection, and all containers and receptacles shall be removed from the place of collection prior to 10:00 p.m. of the day the containers have been emptied. Such containers shall be removed to a storage location which is not visible from any public right-of-way, excluding alleys.

Section 19. Municipal Code Amendment. Title 6 (Health and Sanitation), Chapter 6.20.580 (Same – Care of containers) of the Barstow Municipal Code is hereby amended to read as follows:

Sec. 6.20.580. - Residential collection —Care of containers.

Upon collection, all solid waste containers shall be replaced, by the collector, upright, where found, with the lids replaced, and all solid waste, recyclables, and organic materials containers shall be replaced in an upright position, at the location where found by the collector.

Section 20. Municipal Code Amendment. Title 6 (Health and Sanitation), Chapter 6.20.590 (Same – Special collection services) of the Barstow Municipal Code is hereby amended to read as follows:

Sec. 6.20.590. - Residential collection —Special collection services.

The authorized collector shall provide, upon request from a residential householder, special collection of solid waste, collection of bulky goods (including, but not limited to, white goods and bundled landscaping bulky debris), and collection of special items at such rates as may be established by the collector and authorized by the city and at such times as may be agreed upon by the collector and the person requesting the service. If no agreement is reached, such special collections shall be provided as determined by the city manager or designated representative. Such special collection may include carry-out service, or any other service beyond that required by this chapter or the applicable collection agreement.

Section 21. Municipal Code Amendment. Title 6 (Health and Sanitation), Chapter 6.20.595 (Same – Rejection of waste) of the Barstow Municipal Code is hereby amended to read as follows:

Sec. 6.20.595. - Residential collection —Rejection of waste

When a container is rejected by the collector, a tag, or similar notification will be placed on the container and provided to the owner that indicates the reason the container offered is being rejected for pickup. The notice will identify measures the person offering the container for pickup must follow in order to have the container serviced by the collector. Such measures shall be completed immediately or by the next regular service day and if not completed then container may be picked up at owner's cost. Reasons for rejection may include but are not limited to: overflowing or improperly filled containers, prohibited container contaminants found in any container, and/or hazardous or illegal materials in said containers. Properties having repeated occurrences of rejection of waste may be charged an extra handling fee as set forth by resolution of the city council and may be required to have an adjustment in service level as deemed necessary to prevent nuisances and for the protection of public health, safety and welfare.

Section 22. Municipal Code Amendment. Title 6 (Health and Sanitation), Article VIII (Commercial/Industrial Collection), Chapter 6.20.600 (Same – Frequency of Collection) of the Barstow Municipal Code is hereby amended to read as follows:

Sec. 6.20.610. - Commercial/industrial —Frequency of collection.

The authorized collector shall collect solid waste from commercial/industrial premises not less than once per week. In no event shall such collection schedule permit the accumulation of solid waste in quantities detrimental to public health or safety. The city manager, or designated representative, may require an increase in service levels as deemed necessary to prevent nuisances and for the protection of public health, safety, and welfare.

Section 23. Municipal Code Amendment. Title 6 (Health and Sanitation), Chapter 6.20.620 (Same – Containers) of the Barstow Municipal Code is hereby amended to read as follows:

Sec. 6.20.620. - Commercial/industrial —Containers.

(a) Every commercial/industrial business served by an authorized collector shall use the standard commercial/industrial solid waste, recyclables, or organic materials containers provided by the authorized collector. Containers must have lids that are to be closed at all times, except when adding material. Containers must be accessible at time of service by collector and be free of obstruction by vehicles or other objects. A minimum of 5 feet shall be maintained between collection containers and any vehicle at all times.

(b) Every collector which provides any container or other equipment used for the storage of commercial/industrial solid waste shall:

- (1) Place and maintain on the outside of such container, bin or other equipment, in legible letters and numerals not less than one inch in height, the collector's business name and telephone number, in a color contrasting with the background color of the container; and
- (2) Provide containers on casters or with hasps and locks upon request by the commercial/industrial business owner. All containers shall have lids which are to be kept closed at all times.

- (c) Containers which do not comply with the requirements of this section shall be presumed to be trash and taken by the contract or franchise agent(s) for disposal or potential use as salvaging or recycling containers.

Section 24. Municipal Code Amendment. Title 6 (Health and Sanitation), Chapter 6.20.630 (Same – Maintenance and placement of containers) of the Barstow Municipal Code is hereby amended to read as follows:

Sec. 6.20.630. - Commercial/industrial —Maintenance and placement of containers.

Solid waste, recyclables and organic materials containers provided by the collector shall be maintained in a clean and sanitary condition by the collector. Containers which are not provided by the collector shall be maintained in a clean and sanitary condition by the commercial/industrial business owner. Every commercial/industrial business owner shall provide a solid waste container location on the commercial/industrial premises and shall keep the area in good repair, clean and free of solid waste outside of the container. Every collector shall remove any solid waste or litter that is spilled or deposited on the ground as a result of the collector's emptying of the container or other activities of the collector. This will include dumping the bin with the lids open and allowing the solid waste to fall onto the ground.

Section 25. Municipal Code Amendment. Title 6 (Health and Sanitation), Chapter 6.20.640 (Same – Care of containers) of the Barstow Municipal Code is hereby amended to read as follows:

Sec. 6.20.640. - Commercial/industrial —Care of containers.

Upon collection of approved waste, recyclables, and organic materials by the collector, all containers shall be replaced, upright, where found, with the lids closed. No person, other than the owner thereof, shall, in any manner, break, damage, roughly handle or destroy containers placed on the premises of a commercial/industrial business owner.

Section 26. Municipal Code Amendment. Title 6 (Health and Sanitation), Chapter 6.20.650 (Same – Special circumstances) of the Barstow Municipal Code is hereby amended to read as follows:

Sec. 6.20.650. - Commercial/industrial —Special circumstances.

If particular commercial/industrial business premises require collections at times, frequencies or in a manner such that the collector is unable to perform the collection in the normal course of business, or where unusual quantities of solid waste or special types of material are to be collected and disposed of, or where special methods of handling are required, or where the quantity of solid waste requires the use of multiple (more than three) containers, the collector and the commercial/industrial business owner may make arrangements for such collection on mutually agreeable terms. If the business owner and the collector do not agree as to the methods for the service provided for in this section, the city manager shall determine the method of service. If the collector is unable or unwilling to provide such service, the city manager may authorize the business owner to use another solid waste enterprise for such special service until the collector can provide such service in its normal course of business.

Section 27. Municipal Code Amendment. Title 6 (Health and Sanitation), Chapter 6.20.655 (Same – Rejection of waste) of the Barstow Municipal Code is hereby amended to read as follows:

Sec. 6.20.655. - Commercial/industrial —Rejection of waste

When a container is rejected by the collector, a tag or similar notification will be placed on the container and - provided to the property owner that indicates the reason the container is being rejected for pickup. The notice will identify measures the person offering the container for pickup must follow in order to have the container serviced by the collector. Such measures shall be completed within 24 hours and if not completed then container may be picked up at owner's cost. Reasons for rejection may include but are not limited to: overflowing or improperly filled containers, prohibited container contaminants found in any container, and/or hazardous or illegal materials in said containers. Properties having repeated occurrences of rejection of waste may be charged an extra handling fee as set forth by resolution of the city council and may be required to have an adjustment in service level as deemed necessary to prevent nuisances and for the protection of public health, safety and welfare. Any overflowing or improperly filled container may be cleared immediately by the authorized collector at the request of the City without notification to the owner in order to protect public health, safety and welfare. Any repeated occurrence of rejection of waste at a property may result in the City requiring additional measures to ensure responsible waste management, including but not limited to installation of locking mechanism, construction or improvement of a secure waste enclosure and/or relocating containers to a more suitable location. Additional fees assesses to cover expenses related to cleanup and charges related to required service level changes or frequency are the responsibility of the proper owner.

Section 28. Municipal Code Amendment. Title 6 (Health and Sanitation), Chapter 6.20.660 (Separation of swill (grease and oil) from dry garbage by restaurants) of the Barstow Municipal Code is hereby amended to read as follows:

Sec. 6.20.660. - Separation of swill (inedible kitchen grease/used cooking oil) from dry garbage by restaurants, etc.

Any restaurants and stores in which meats, fruits and vegetables are sold, cafes, hospitals, hotels and other public eating houses producing or having swill or grease/oil shall place all such swill in a suitable container apart from dry garbage so that such swill may be most conveniently collected by the agents or contractors of the city under such restrictions as the city council may, from time to time, impose upon any such restaurants and stores in which meats, fruits and vegetables are sold, cafes, hospitals, hotels and other public eating houses. At no time is it authorized or permitted for those businesses generating grease, fats and oils to discharge into the sewer system. The collection, transportation and rendering of inedible kitchen grease shall be in accordance with all applicable state, federal and local laws to ensure proper management of the material by the business. Any company providing collection, transportation and rendering service for the generator must obtain a city business license and prior to issuance or renewal is subject to review and approval by the Environmental Services Department.

Section 29. Municipal Code Amendment. Title 6 (Health and Sanitation), Chapter 6.20.670 (Same – Separation of recyclable and organic materials, storage) of the Barstow Municipal Code is hereby amended to read as follows:

Sec. 6.20.670. - Separation of recyclable and organic materials, storage.

- (a) The owner, operator, and/or occupant of any premises, business establishment, industry, or other property, vacant or occupied, shall be rebuttably presumed to be the generators of, and be responsible for the safe and sanitary storage of, all solid waste, designated recyclables, and organic materials, accumulated on the property. Recyclable material, and organics shall be stored separately from trash in designated containers, and in a manner consistent with this chapter..
- (b) Designated recyclables and organic materials shall be sorted according to type and/or as established by program guidelines and placed in separate containers, containers with segregated compartments, or commingled (in one recycling container), as agreed upon by the city manager or designated representative and the contract or franchise agent(s). Containers, if more than one, shall be grouped together and placed for collection at the same time as when regular trash collection occurs or at designated recycling collection times (if different from trash collection) and at designated recycling collection locations.
- (c) It shall be unlawful for any person to dispose, dump, or otherwise place material other than designated recyclables or organics in a designated recycling container or at a designated recycling collection or storage location.
- (d) *Exemption.* Designated recyclables or organics which are source-sorted by their generator for the purpose of recycling by selling them to a buy-back center or donating them to a city-licensed nonprofit or community group conducting recycling programs for the purpose of raising funds do not have to be placed in the designated recycling container required by this section, nor placed in a designated recycling collection location in accordance with this section. When designated recyclables or organics are received by a city-licensed nonprofit or community group conducting recycling programs for the purpose of raising funds, they shall be stored and sorted in accordance with this section and transported to a buy-back center for the purpose of recycling.

Section 30. Municipal Code Amendment. Title 6 (Health and Sanitation), Chapter 6.21 (Trash and recycling enclosures), Section 6.21.060 (Recyclable regulations) of the Barstow Municipal Code is hereby amended to read as follows:

Sec. 6.21.060. - Recyclable regulations.

- (a) The regulation of recyclables pertaining to collection, transport and disposal shall be conducted by the city council for the purpose of collecting, transporting and disposing of trash. All pertinent regulations contained under chapter 6.20 shall apply to recyclable materials as necessary.
- (b) A recycling plan containing the following information shall be submitted to the solid waste department for review and approval prior to issuance of certificate of occupancy or business license should an applicant choose to conduct his or her own recycling on site:
 - (1) Identification of targeted materials to be recycled.
 - (2) Collection frequency of trash collection, recycling service, and organic materials recycling.
 - (3) Provide method for tracking/quantifying recyclable materials and organic materials.
 - (4) Method of program promotion and communication with tenants and/or employees.

Section 31. Municipal Code Amendment. Title 6 (Health and Sanitation), Chapter 6.21 (Trash and recycling enclosures), Section 6.21.080 (Enforcement) of the Barstow Municipal Code is hereby amended to read as follows:

Sec. 6.21.080. - Enforcement.

- (a) Compliance with this chapter shall be subject to review and approval by the city prior to issuance of a permit, business license or certificate of occupancy.
- (b) Any violation or failure to comply with any of the provisions of this chapter shall constitute sufficient grounds for refusal of a permit, license, or certificate of occupancy.

Section 32. Municipal Code Amendment. Title 13 (Public Utilities), Chapter 13.22 (Sewer Use Charges, Section 13.22.050, of the Barstow Municipal Code is hereby amended to read as follows:

Sec. 13.22.050. - Sewer use fees a debt.

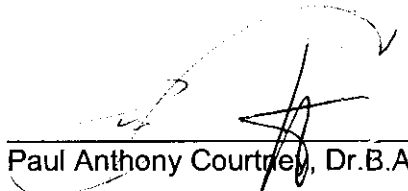
- a) The sewer use fee, including any applicable penalties and collection costs, shall be a civil debt owing the city from the person subject to the fee.
- b) If an invoice for the sewer use fee established by this chapter is unpaid after the due date, a penalty of ten percent shall be charged, and an additional 1½ percent per month shall be charged until the charges, penalties, and all collection costs are paid in full.
- c) If court action is taken to enforce nonpayment of sewer use fees, the user shall pay all reasonable attorney's fees and costs incurred by the city.
- d) In addition to any other remedies provided for herein, should an invoice for the sewer use fee established by this chapter be unpaid after the due date, the user is responsible for all amounts incurred by the city to disconnect and restore sewer service.
- e) An owner of vacant property which does not use water service may request an exemption from the billing for the period of time the property was vacant, pursuant to the procedure set forth in subsection (i)–(4) below. For the purposes of this subsection, "vacant property" means any property that is (a) undeveloped, or (b) unoccupied by any person for a period of at least 30 days preceding the request for exemption. Unauthorized occupancy is not sufficient to relieve the property owner from being billed for sewer service.
 - i. An owner seeking an exemption for vacant property shall submit a written request for the exemption to the city manager or designated representative within 30 days of the last day of the preceding billing cycle. The owner of the property shall have the burden of demonstrating with sufficient evidence that the property is a "vacant property." Sufficient evidence shall be in the form of written documentation from the water utility provider showing that the property has used zero (0) Centum Cubic Feet (CCF) of water for each month during the period for which an exemption is sought.
 - ii. If the exemption is granted, the city manager or designated representative shall provide notice to both the owner and the city's billing office, which shall state that the exemption shall only be effective for the period of time for which the vacancy was established.
 - iii. An exemption may be granted for a maximum period of one year upon proof that the property has been a vacant property for a period of 12 months preceding the date of request on current accounts only.

- iv. Thirty days prior to the expiration of the annual exemption, a notice will be sent to the property owner. Billing for service will resume unless the owner requests a new exemption for a vacant property following the procedures set forth in subsection (e)(i)—(iii) above or unless the property is undeveloped or deemed uninhabitable by the city building department.
- v. Nothing in this subsection shall relieve a person from the payment of the sewer rates imposed for use of the services provided by the city if and when the property is no longer vacant.

Section 33. Severability. Should any provision of this Ordinance, or its application to any person, parcel or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person, parcel or circumstance and, to that end, the provisions hereof are severable.

Section 34. Certification. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

PASSED, APPROVED AND ADOPTED, this 6th day of December, 2021.



Paul Anthony Courtney, Dr.B.A., Mayor

ATTEST:



Andrea Flores, City Clerk



I, Andrea Flores, City Clerk of the City of Barstow, California, do hereby certify that the foregoing Ordinance No. 984-2021 was introduced at a regular meeting of the City Council of the City of Barstow held on the 15th day of November, 2021 was adopted at the regular meeting of the City Council of the City of Barstow on the 6th day of December, 2021 by the following vote:

AYES: COUNCIL MEMBER KRUSE, ROSE, SILVA, MAYOR PRO TEM NOBLE,
AND MAYOR COURTNEY

NOES: NONE

ABSTAIN: NONE

ABSENT: NONE

A handwritten signature in black ink, appearing to read 'A. Flores', is written over a horizontal line.

Andrea Flores, City Clerk



City of Barstow California

Approved
Dec 6, 2021 6:00 PM

Council Ordinance 4864

Solid Waste & Recyclables Municipal Code Amendments

Information

Department: Environmental Services **Sponsors:**
Category: Ordinance

Attachments

Printout
Draft SB 1383 Ordinance_Formatted 2
BMC Amendment Ch. 6_formatted 2
(Upload New Attachment)

Fiscal Impact

There is no fiscal impact as a result of the adoption of the ordinance as the passage of the ordinance does not directly impact solid waste collection rates. When the City negotiates its franchise agreement amendment with Burrtec in the coming months, the programmatic requirements of SB 1383 will be integrated into the agreement and will be accompanied by a rate resolution for consideration.

Executive Summary

The 2nd reading and adoption of Ordinance adding Chapter 6.39 (Mandatory Organics Waste Disposal Reduction) and 2nd reading and adoption of Ordinance amending Chapter 6.20 (Solid Waste & Recyclables) and 13.22.050 (Sewer Use Fees) are being proposed for the purpose of achieving compliance with SB 1383 and increasing specificity to certain waste management processes.

Discussion

At the November 15, 2021 City Council meeting, the solid waste code amendments were introduced and approved as presented. A 2nd reading and adoption is required for both ordinances in order to finalize them for codification into the Barstow Municipal Code.

Recommended Action

Staff recommends Council take two separate actions:

1. Approve the 2nd reading and adoption of Ordinance 983-2021 adding Chapter 6.39 (Mandatory Organics Waste Disposal Reduction Pursuant to SB 1383) by title only, direct the City Clerk to Clerk to publish a summary of this ordinance pursuant to G.C. 54963.
2. Approve the 2nd reading and adoption of Ordinance 984-2021 amending Chapter 6.20 (Solid Waste & Recyclables) and 13.22.050 (Sewer Use Fees) by title only, direct the City Clerk to publish a summary of this ordinance pursuant to G.C. 54963.

Meeting History

Dec 6, 2021 6:00 PM Video **City** **Joint Special Council/BFPD**

Draft

Council

SPEAKERS

LESLEY BENAVIDES, BARSTOW, CALIFORNIA

- Discussed concerns on implementation of SB 1383 and illegal dumping.

RESULT: **APPROVED [UNANIMOUS]**

MOVER: Timothy Silva, Council Member

SECONDER: Marilyn Dyer Kruse, Council Member

AYES: James M. Noble, Marilyn Dyer Kruse, Barbara Mae Rose, Paul Anthony Courtney, Timothy Silva