

**ORDINANCE NO. NS-241**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTE SERENO AMENDING MONTE SERENO MUNICIPAL CODE TITLE 6, CHAPTER 6.10, 'SOLID WASTE, ORGANIC WASTE, AND RECYCLABLE MATERIALS' AND TITLE 9 BY ADDING CHAPTER 9.10, 'CONSTRUCTION & DEMOLITION DEBRIS DIVERSION'**

**WHEREAS**, in September 2016, Governor Jerry Brown signed into law Senate Bill 1383 (SB 1383), establishing methane emissions reduction targets in a statewide effort to reduce emissions of short-lived climate pollutants; and

**WHEREAS**, SB 1383 established targets to achieve 50 percent reduction in the level of statewide disposal of organic waste from 2014 levels by 2020 and a 75 percent reduction by 2025; and

**WHEREAS**, an Ordinance in compliance with SB 1383 requirements was adopted by the City Council on November 10, 2021; and

**WHEREAS**, the City is a member of the West Valley Solid Waste Management Authority; and

**WHEREAS**, the Solid Waste Management Authority has recommended that the City update its City Municipal Code provisions related to the collection of construction and demolition debris and organic waste; and

**WHEREAS**, an amendment to Title 6, Chapter 6.10, 'Solid Waste, Organic Waste, and Recyclable Materials' is recommended to update definitions to comply with SB 1383

**WHEREAS**, an amendment to Title 9 to add Chapter 9.10, 'Construction & Demolition Debris Diversion' is recommended to provide a nonexclusive process for construction and demolition debris removal process.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Monte Sereno as follows:

**Section 1.** Section 6.10.010 of Chapter 6.10 of Title 6 is hereby amended to read as follows:

**"6.10.010 Definitions.**

For purposes of this Chapter the following terms shall have the meaning set out below.

- A. **"Approved C&D Processing Facility"** means any of the facilities, used to process C&D, that have been approved by the Regional Agency.
- B. **"California Code of Regulations" or "CCR"** means the State of California Code of Regulations. CCR references in this chapter are preceded with a number that refers to the relevant Title of the CCR (e.g., "14 CCR" refers to Title 14 of CCR).

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- C. **"CalRecycle"** means California's Department of Resources Recycling and Recovery, which is the Department designated with responsibility for developing, implementing, and enforcing SB 1383 Regulations on cities, counties, special districts, and other regulated entities.
- D. **"Blue Container"** has the same meaning as in 14 Cal. Code Regulations section 18982.2(a)(5) and shall be used for the purpose of storage and collection of source separated recyclable materials.
- E. **"City"** means the City of Monte Sereno, California, a political subdivision of the State of California, and its duly authorized representatives.
- F. **"City Enforcement Official"** has the same meaning as "Enforcement Official" as defined in Section 5.01.010.
- G. **"Commercial Business"** or **"Commercial"** means a non-residential premises including a firm, partnership, proprietorship, joint-stock company, corporation, or association where business activity is conducted including, but not limited to, retail sales, services, wholesale operations, manufacturing, and industrial operations, but excluding businesses conducted upon residential property that are permitted under applicable zoning regulations and are not the primary use of the property, whether for-profit or nonprofit, strip mall, or industrial facility, or as otherwise defined in 14 CCR Section 18982(a)(6), with the exception that multi-family is excluded from the definition of commercial business.
- H. **"Commercial Edible Food Generator"** includes a Tier One or a Tier Two Commercial Edible Food Generator as defined in 14 Cal. Code Regulations sections 18982(a)(73) and (a)(74). For the purposes of this definition, Food Recovery Organizations and Food Recovery Services are not Commercial Edible Food Generators.
- I. **"Community Composting"** means any activity that composts green material, agricultural material, food material, and vegetative food material, alone or in combination, and the total amount of feedstock and compost on-site at any one time does not exceed one hundred (100) cubic yards and seven hundred fifty (750) square feet, as specified in 14 CCR Section 17855(a)(4); or, as otherwise defined by 14 CCR Section 18982(a)(8).
- J. **"Compliance Review"** means a review of records by the City or its designee to determine compliance with this chapter.
- K. **"Compost"** has the same meaning as in 14 CCR Section 17896.2(a)(4), which stated, as of the effective date of this chapter, that "compost" means the product resulting from the controlled biological decomposition of organic solid wastes that are source separated from the municipal solid waste stream, or which are separated at a centralized facility.
- L. **"Compostable Plastics"** or **"Compostable Plastic"** means plastic materials that meet the ASTM D6400 standard for compostability, or as otherwise described in 14 CCR Section 18984.1(a)(1)(A) or 18984.2(a)(1)(C).

- M. **"Container Contamination"** or **"Contaminated Container"** means a container, regardless of color, that contains prohibited container contaminants, or as otherwise defined in 14 CCR Section 18982(a)(55).
- N. **"County"** means the County of Santa Clara, California.
- O. **"County Enforcement Official"** means any official of an authorized department of the County of Santa Clara designated by the City to enforce or administer any portion of this Chapter.
- P. **"Customer"** means the person who receives the exclusive or C&D hauler's services and to whom the exclusive or C&D hauler submits its billing invoice to and collects payment from for collection services provided to a premises. The customer may be either the occupant, owner, or designated responsible person by the owner of the premises, as allowed under the City code.
- Q. **"Construction and Demolition Debris"** or **"C&D Debris"** means discarded building materials, packaging, debris, and rubble resulting from construction, alteration, remodeling, repair or demolition operations on any pavements, excavation projects, houses, commercial buildings, or other structures, excluding excluded materials and universal waste. C&D debris includes rocks, soils, tree remains, and other yard trimmings that result from land clearing or land development operations in preparation for construction.
- R. **"C&D Hauler"** means the collection contractor that has been granted the exclusive or non-exclusive rights to collect C&D debris in the City through the agreement entered into by the collection contractor and the Regional Agency.
- S. **"Covered Project"** means and includes any project which meets the thresholds set forth in section 9.10.010.
- T. **"Designee"** means an entity that the City contracts with or otherwise arranges to carry out any of the City's responsibilities of this chapter as authorized in 14 CCR Section 18981.2. A designee may be a government entity, a hauler, a private entity, or a combination of those entities.
- U. **"Discarded Materials"** means recyclable materials, organic materials, and solid waste discarded by a generator for the purposes of collection by hauler and/or self-hauling, excluding excluded waste.
- V. **"Disposal"** or **"Dispose"** (or any variation thereof) means the final disposition of solid waste, or processing residue at a disposal facility.
- W. **"Dwelling Unit"** means any individual living unit in a single-family dwelling, multi-family dwelling, structure or building, mobile home, or motor home located on a permanent site intended for, or capable of being utilized for, residential living other than a hotel or motel.
- X. **"Edible Food"** means food intended for human consumption, or as otherwise defined in 14 Cal. Code Regulations section 18982(a)(18). For the purposes of this Chapter or as otherwise defined in 14 Cal. Code Regulations section 18982(a)(18), "Edible Food" is not Solid Waste if it is recovered and not discarded. Nothing in this ordinance requires or authorizes the recovery of

Edible Food that does not meet the food safety requirements of the California Retail Food Code.

- Y. "Enforcement Action" means an action of the City or Regional Agency to address non-compliance with this chapter including, but not limited to, issuing administrative citations, fines, penalties, or using other remedies.
- Z. **"Enforcement Entity"** means an appointed designee for the enforcement of this chapter. A designee may be the City enforcement official, Regional Agency's enforcement official, County Enforcement Official, other designee, or a combination or those entities.
- AA. **"Excluded Waste"** means hazardous substance, hazardous waste, infectious waste, designated waste, volatile, corrosive, medical waste, infectious, regulated radioactive waste, and toxic substances or material that facility operator(s), which receive materials from the Jurisdiction and its generators, reasonably believe(s) would, as a result of or upon acceptance, transfer, processing, or disposal, be a violation of local, State, or Federal law, regulation, or ordinance, including: land use restrictions or conditions, waste that cannot be disposed of in Class III landfills or accepted at the facility by permit conditions, or that would present a significant risk to human health or the environment, or cause a nuisance; but not including de minimis volumes or concentrations of waste of a type and amount normally found in single-family or multi-family solid waste after implementation of programs for the safe collection, processing, recycling, treatment, and disposal of batteries and paint in compliance with sections 41500 and 41802 of the Public Resources Code. Excluded Waste does not include used motor oil and filters, household batteries, universal wastes, or latex paint when such materials are defined as allowable materials for collection through the Regional Agency's collection programs and the generator or customer has properly placed the materials for collection pursuant to instructions provided by Regional Agency or its designee for collection services.
- BB. **"Exclusive Hauler"** means the collection contractor that has been granted the exclusive rights to collect recyclable materials, organic materials, and solid waste, in the City through the agreement entered into by the collection contractor and the Regional Agency.
- CC. **"Food Distributor"** means a company that distributes food to entities including, but not limited to, supermarkets and grocery stores, or as otherwise defined in 14 CCR Section 18982(a)(22).
- DD. **"Food Facility"** has the same meaning as set forth in section 113789 of the Health and Safety Code.
- EE. **"Food Recovery"** means actions to collect and distribute food for human consumption that otherwise would be disposed, or as otherwise defined in 14 Cal. Code Regulations section 18982(a)(24).
- FF. **"Food Recovery Organization"** shall have the meaning set forth in 14 Cal. Code Regulations section 18982(a)(25), and means an entity that engages in

the collection or receipt of edible food from commercial edible food generators and distributes that edible food to the public for food recovery either directly or through other entities, including, but not limited to:

1. A food bank as defined in section 113783 of the Health and Safety Code;
2. A nonprofit charitable organization as defined in section 113841 of the Health and Safety code; and
3. A nonprofit charitable temporary food facility as defined in section 113842 of the Health and Safety Code.

A food recovery organization is not a commercial edible food generator for the purposes of this Chapter.

- GG. **"Food Recovery Service"** is defined in 14 Cal. Code Regulations section 18982(a)(26), and means a person or entity that collects and transports Edible Food from a Commercial Edible Food Generator to a Food Recovery Organization or other entities for Food Recovery, or as otherwise defined in 14 CCR Section 18982(a)(26).
- HH. **"Food Scraps"** means those discarded materials that will decompose and/or putrefy including: (i) all kitchen and table food waste; (ii) animal or vegetable waste that is generated during or results from the storage, preparation, cooking, or handling of food stuffs; (iii) discarded paper (including paper containers and cartons) that is contaminated with food scraps and compostables; (iv) fruit waste, grain waste, dairy waste, meat, and fish waste; and, (v) vegetable trimmings, houseplant trimmings and other compostable organic waste common to the occupancy of residential dwellings. Food scraps are a subset of food waste. Food scraps exclude fats, oils, and grease when such materials are source separated from other food scraps.
- II. **"Food Service Provider"** means an entity primarily engaged in providing food services to institutional, governmental, commercial, or industrial locations of others based on contractual arrangements with these types of organizations, or as otherwise defined in 14 CCR Section 18982(a)(27).
- JJ. **"Food-Soiled Paper"** is compostable paper material that has come in contact with food or liquid, such as, but not limited to, compostable paper plates, paper coffee cups, napkins, pizza boxes, and milk cartons. Food-soiled paper is a subset of food waste.
- KK. **"Food Waste"** includes food scraps and food-soiled paper, and includes compostable plastics, unless City, its designee, Regional Agency, or exclusive hauler excludes compostable plastics in the organic materials containers. Food waste is a subset of organic materials.
- LL. **"Generator"** means any person who generates or otherwise creates, by their own action or consumption, any solid waste, organics materials, or recyclable materials, on any parcel within the City.

- MM. **"Gray Container"** has the same meaning as in 14 Cal. Code Regulations section 18982.2(a)(28) and shall be used for the purpose of storage and collection of Solid Waste and excluding Organic Waste.
- NN. **"Green Container"** has the same meaning as in 14 Cal. Code Regulations section 18982.2(a)(29) and shall be used for the purpose of storage and collection of Source Separated Green Container Organic Waste.
- OO. **"Green Waste"** means tree trimmings, grass cuttings, dead plants, leaves, branches, and dead trees (not more than three (3) inches in diameter), garden and tree fruits and vegetables, and similar materials generated and Source Separated from other materials at the premises.
- PP. **"Hauler Route"** means the designated itinerary or sequence of stops for each segment of the City's collection service area, or as otherwise defined in 14 CCR Section 18982(a)(31.5).
- QQ. **"High Diversion Organic Waste Processing Facility"** means a facility that is in compliance with the reporting requirements of 14 Cal. Code Regulations section 18815.5(d) and meets or exceeds an annual average Mixed Waste organic content recovery rate of fifty (50) percent between January 1, 2022 and December 31, 2024, and seventy-five (75) percent after January 1, 2025, as calculated pursuant to 14 Cal. Code Regulations section 18815.5(e) for Organic Waste received from the "Mixed waste organic collection stream" as defined in 14 CCR Section 17402(a)(11.5); or, as otherwise defined in 14 CCR Section 18982(a)(33).
- RR. **"Inspection"** means a site visit where a City, its Designee, or Regional Agency reviews records, containers, and an entity's collection, handling, recycling, or landfill disposal of Organic Waste or Edible Food handling to determine if the entity is complying with requirements set forth in this ordinance, or as otherwise defined in 14 Cal. Code Regulations section 18982(a)(35).
- SS. **"Local Education Agency"** means a school district, charter school, or County office of education that is not subject to the control of City or County regulations related to solid waste, or as otherwise defined in 14 CCR Section 18982(a)(40).
- TT. **"Multi-Family Residential Premises"** or **"Multi-Family"** means of, from, or pertaining to residential premises with five (5) or more dwelling units. Multi-family residential premises do not include hotels, motels, or other transient occupancy facilities, which are considered commercial businesses. Residential premises with fewer than five (5) dwelling units shall be considered a single-family premises for the purpose of this Chapter.
- UU. **"Non-Compostable Paper"** includes, but is not limited to, paper that is coated in a plastic material that will not break down in the composting process, or as otherwise defined in 14 CCR Section 18982(a)(41).
- VV. **"Notice of Violation (NOV)"** means a notice that a violation has occurred that includes a compliance date to avoid an action to seek penalties.

- WW. **“Occupant”** means the Person who occupies a premises.
- XX. **"Organic Materials"** means green waste, food waste, lumber, and wood waste.
- YY. **"Organic Waste"** means solid waste material originated from living organisms and their metabolic waste products, including, but not limited to, food, green material, landscape and pruning waste, organic textiles and carpets, lumber, wood, paper products, printing and writing paper, manure, biosolids, digestate, and sludges or as otherwise defined in 14 Cal. Code Regulations section 18982(a)(46).
- ZZ. **"Organic Waste Generator"** means a person or entity that is responsible for the initial creation of Organic Waste, or as otherwise defined in 14 CCR Section 18982(a)(48).
- AAA. **“Overage”** means Discarded Materials exceeding the container's intended capacity such that the container's lid is lifted by at least one (1) inch (or would be lifted by at least one (1) inch if there was a lid); or, (ii) discarded materials placed on top of or in the immediate vicinity of the container, excluding allowed cardboard.
- BBB. **“Owner”** means the Person(s) holding legal title to real property and/or any improvements thereon and shall include the Person(s) listed on the latest equalized assessment roll of the County Assessor, or as otherwise defined in 14 CCR Section 18982(a)(57).
- CCC. **"Paper Products"** include, but are not limited to, paper janitorial supplies, cartons, wrapping, packaging, file folders, hanging files, corrugated boxes, tissue, and toweling, or as otherwise defined in 14 CCR Section 18982(a)(51).
- DDD. **“Premises”** means any land or building in the City where recyclable materials, organic materials, solid waste, or C&D are generated or accumulated.
- EEE. **"Printing and Writing Papers"** include, but are not limited to, copy, xerographic, watermark, cotton fiber, offset, forms, computer printout paper, white wove envelopes, manila envelopes, book paper, note pads, writing tablets, newsprint, and other uncoated writing papers, posters, index cards, calendars, brochures, reports, magazines, and publications, or as otherwise defined in 14 CCR Section 18982(a)(54).
- FFF. **"Process" or "Processing"** (or any variation thereof) means the controlled separation, recovery, volume reduction, conversion, or recycling of source separated recyclable materials or source separated organic materials including, but not limited to, organized, manual, automated, or mechanical sorting, the use of vehicles for spreading of waste for the purpose of recovery, and/or includes the use of conveyor belts, sorting lines, or volume reduction equipment, or as otherwise defined in 14 CCR Section 17402(a)(20).
- GGG. **"Prohibited Container Contaminants"** means the following: (i) discarded materials, other than source separated recyclable materials that are identified as acceptable for placement in the blue container by the Regional Agency or

the Regional Agency's franchised hauler, that are placed in the blue container; (ii) discarded materials, other than as source separated organic waste that is identified as acceptable for placement in the green container by the Regional Agency or the Regional Agency's franchise hauler, that is placed in the green container; (iii) discarded materials placed in the grey container that are recyclable materials or organic waste that could be properly placed in either a green container or blue container as source separated recyclable materials or source separated organic waste in accordance with collection requirements for blue and green containers; and (iv) excluded waste placed in any container.

HHH. "**Recovered Organic Waste Products**" means products made from California, landfill-diverted recovered organic waste processed in a permitted or otherwise authorized facility, or as otherwise defined in 14 CCR Section 18982(a)(60).

III. "**Recovery**" means any activity or process described in 14 CCR Section 18983.1(b), or as otherwise defined in 14 CCR Section 18982(a)(49).

JJJ. "**Recyclable Materials**" materials that are intended for the purposes of being reused or recycled. The particular materials eligible to be recycled through the City's programs shall be specified from time to time by the Regional Agency.

KKK. "**Recycled-Content Paper**" means paper products and printing and writing paper that consists of at least thirty (30) percent, by fiber weight, postconsumer fiber, or as otherwise defined in 14 CCR Section 18982(a)(61).

LLL. "**Regional Agency**" means the West Valley Solid Waste Management Authority.

MMM. "**Regional Agency Enforcement Official**" means a designated enforcement official from the Regional Agency or other regional or County agency, designated by the City with responsibility for enforcing the ordinance in conjunction or consultation with the City Enforcement Official.

NNN. "**Remote Monitoring**" means the use of the internet of things (IoT) and/or wireless electronic devices to visualize the contents of recyclable materials containers, organic materials containers, and solid waste materials containers for purposes of identifying the quantity of materials in containers (level of fill) and/or presence of prohibited container contaminants.

OOO. "**Renewable Gas**" means gas derived from organic waste that has been diverted from a California landfill and processed at an in-vessel digestion facility that is permitted or otherwise authorized by 14 CCR to recycle organic waste, or as otherwise defined in 14 CCR Section 18982(a)(62).

PPP. "**Route Review**" means a visual inspection of discarded materials containers along a hauler route for the purpose of determining container contamination, and may include mechanical inspection methods such as the use of cameras, or as otherwise defined in 14 CCR Section 18982(a)(65).

QQQ. "**Salvage**" means the controlled removal of C&D debris from a covered project, for the purpose of reuse or storage for later reuse.



RRR. **"SB 1383"** means Senate Bill 1383 of 2016 approved by the Governor on September 19, 2016, as may be subsequently amended.

SSS. **"SB 1383 Regulations"** or **"SB 1383 Regulatory"** means or refers to, for the purposes of this chapter, the short-lived climate pollutants: organic waste reduction regulations developed by CalRecycle that created 14 CCR, Division 7, Chapter 12 and amended portions of regulations of 14 CCR and 27 CCR.

TTT. **"Self-Hauler"** means a person, who hauls Solid Waste, Organic Waste or recyclable material they have generated to another person. Self-hauler also includes a person who back-hauls waste, or as otherwise defined in 14 Cal. Code Regulations section 18982(a)(66). Back-haul means generating and transporting Organic Waste to a destination owned and operated by the Generator using the Generator's own employees and equipment, or as otherwise defined in 14 Cal. Code Regulations section 18982(a)(66)(A). Self-hauler also includes a landscaper.

UUU. **"Service Level"** refers to the size of a customer's container(s) and the frequency of Collection service.

VVV. **"Share Table"** has the same meaning as in Section 114079 of the Health and Safety Code.

WWW. **"Single-Family"** means of, from, or pertaining to any residential premises with fewer than five (5) units.

XXX. **"Solid Waste"** has the same meaning as defined in Public Resources Code section 40191.

YYY. **"Source Separated"** means materials, including commingled recyclable materials, that have been separated or kept separate from the solid waste stream, at the point of generation, for the purpose of additional sorting or processing those materials for recycling or reuse in order to return 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, or as otherwise defined in 14 Cal. Code Regulations section 17402.5(b)(4). For the purposes of the ordinance, Source Separated shall include separation of materials by the generator, property owner, property owner's employee, property manager, or property manager's employee into different containers for the purpose of collection such that Source Separated materials are separated from Solid Waste for the purposes of collection and processing.

ZZZ. **"State"** means the State of California.

AAAA. **"Transportation"** or **"Transport"** means the act of conveying collected materials from one location to another.

BBBB. **"West Valley Clean Water Authority"** means the stormwater pollution prevention authority for the cities of Campbell, Monte Sereno, Saratoga, and the town of Los Gatos.

CCCC. **“Universal Waste”** means waste defined by 22 CCR Subsections 66273.1 through 66273.9, including, but not limited to batteries, fluorescent light bulbs, mercury switches, and E-waste.”

**Section 2.** Section 6.10.020 of Chapter 6.10 of Title 6 is hereby amended to read as follows:

**“6.10.020 Single-family premises requirements.**

- A. Any owner, occupant, or property manager of a single-family premises, except those that meet the self-hauler requirements in Section 6.10.080, shall subscribe to the Regional Agency's discarded materials collection services for the premises. The City Enforcement Official or Regional Agency Enforcement Official shall have the right to review the number and size of a containers for the premises to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and, any owner or occupant of the single-family premises shall adjust the service level for its collection services at the premises as determined necessary by such official to ensure adequate sanitation on the premises and removal and treatment of solid waste, organic waste, and recyclable materials from the premises in accordance with requirements of State law. Generators may additionally manage their solid waste by preventing or reducing their discarded materials, by managing organic waste on-site, and/or using a community composting site pursuant to 14 Cal. Code Regulations section 18984.9(c).
- B. With exception of permitted self-haulers that haul waste in accordance with the requirements of this Chapter, any generator occupying any single-family premises shall place source separated organic waste, including food waste, in the green container; source separated recyclable materials in the blue container; and solid waste in the grey container.”

**Section 3.** Section 6.10.030 of Chapter 6.10 of Title 6 is hereby amended to read as follows:

**“6.10.030 Commercial business and multi-family residential requirements.**

- A. The owner, manager or operator of any commercial businesses or multi-family residential premises shall comply with the following requirements:
  - (1) With exception of permitted self-haulers that haul all waste in accordance with this Chapter, the owner, manager or operator shall subscribe to Regional Agency's discarded materials collection services for the premises and comply with requirements of those services. The City Enforcement Official or Regional Agency Enforcement Official shall have the right to review the number and size of containers for the premises and the frequency of collection to evaluate adequacy of capacity, to avoid overage, provided for each type of collection service for proper separation of materials and containment of materials to ensure adequate sanitation on the premises and removal and treatment of solid waste, organic waste, and recyclable materials from the premises in accordance with requirements of State law; and, the owner, operator, or

manager of such premises shall adjust the service level for the collection services for such premises as determined necessary by such official. If the commercial businesses and multi-family residential dwellings do not increase their service level as requested by the City, its designee, or Regional Agency, the City, its designee, or Regional Agency may require the exclusive hauler to increase their service level and bill the commercial businesses and multi-family residential dwellings for the increased service level required to prevent overages.

- (2) With exception of premises where the owner, manager or operator self-hauls waste in accordance with this Chapter, the owner, manager or operator of such premises shall ensure that each generator on the premises shall participate in the Regional Agency's collection services by placing designated materials in designated containers, and that such generators shall place Source Separated Organic Materials, including food waste, in the Green container; Source Separated Recyclable Materials in the Blue container; and Solid Waste in the Grey Container.
  - (3) The owner, manager, or operator shall supply and allow access to adequate number, size, and location of collection containers with sufficient labels or colors or employees, contractors, tenants, and customers, consistent with Regional Agency's discarded materials collection service or, if self-hauling, in a manner to support its compliance with its self-haul program.
  - (4) Annually provide information to employees, contractors, tenants, and customers about organic waste recovery requirements and about proper sorting of source separated organic materials and source separated recyclable materials.
  - (5) Provide education information before or within fourteen (14) days of occupation of the premises to new tenants that describes requirements to keep source separated organic materials and source separated recyclable materials separate from solid waste and the location of containers and the rules governing their use at each property.
  - (6) Provide or arrange access for the City Enforcement Official and the Regional Agency Enforcement Official to premises during all inspections conducted in accordance with Section 6.10.100 to confirm compliance with the requirements of this Chapter.
- B. Any owner, manager or operator of a commercial business (which shall not include a multi-family residential premises) shall also comply with the following requirements:
- (1) Provide containers for the collection of source separated organic materials and source separated recyclable materials in all indoor and outdoor areas where containers for solid waste are provided for customers, for materials generated by that commercial business. Such containers do not need to be provided in restrooms. If a commercial business does not generate any of the materials that would be collected in one (1) type of container, then the commercial

business does not have to provide that particular container in all areas where solid waste containers are provided for customers. Such containers provided at the commercial business shall have either:

- (i) A body or lid that conforms with the container colors provided through the collection service agreement provided by Regional Agency, with either lids conforming to the color requirements or bodies conforming to the color requirements or both lids and bodies conforming to color requirements.
  - (ii) Container labels or other signage that shall include language or graphic images, or both, indicating the primary material accepted and the primary materials prohibited in that container, or containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the container pursuant to 14 Cal. Code Regulations sections 18984.8 and 18984.9.
- (2) To the extent practical through education, training, inspection, or other measures, shall prohibit employees from placing materials in a container not designated for those materials per the Regional Agency's collection service or, if self-hauling, in a manner to support its compliance with its self-haul program.
  - (3) Periodically inspect recyclable materials containers, organic materials containers, and solid waste materials containers for contamination and inform employees if containers are contaminated and of the requirements to keep contaminants out of those containers pursuant to 14 Cal. Code Regulations section 18984.9(b)(3).
- C. Nothing in this section prohibits a generator from preventing or reducing waste generation, managing organic waste on site, or using a community composting site pursuant to 14 Cal. Code Regulations section 18984.9(c)."

**Section 4.** Section 6.10.040 of Chapter 6.10 of Title 6 is hereby amended to read as follows:

**“6.10.040 Waivers for generators.**

- A. *De Minimis Waivers.* The City Enforcement Official or Regional Agency may waive the obligations imposed on the owner, manager, or operator of any commercial business or multi-family residential premises to subscribe to collection service for recyclable materials or organic materials and to source separate such materials if such person provides documentation that the use of the premises generates recyclable materials and organic materials below the threshold identified in this Section. Such persons requesting a waiver based on their de minimis generation of such materials shall:
- (1) Submit an application to the City, Regional Agency, or exclusive hauler specifying the collection services that they are requesting a waiver from; and
  - (2) Provide documentation that either:
    - (a) The total solid waste generated at the premises requiring collection service is two (2) cubic yards or more per week; and if seeking waiver of

organics collection, the organic waste materials generated at such premises is less than twenty (20) gallons per week of the total waste; and if seeking waiver of recyclables collection, the total recyclable materials generated at such premises is less than twenty (20) gallons per week of the total waste; or

- (b) The total solid waste generated at the premises requiring collection service is less than two (2) cubic yards per week; and if seeking waiver of organics collection, the organic waste materials generated at such premises is less than ten (10) gallons per week of the total waste; and if seeking waiver of recyclables collection, the total recyclable materials generated at such premises is less than ten (10) gallons per week of the total waste.

- (3) Pay any applicable application fee, which may be established by resolution of the City Council or Regional Agency.

Any person granted such a waiver shall provide written verification of continued eligibility to the City and Regional Agency every five (5) years, or other interval deemed appropriate by the City or Regional Agency for special circumstances. Such person shall also notify the City Enforcement Official and Regional Agency if circumstances change such that the premises exceeds the above thresholds allowing for issuance of a waiver, in which case waiver shall be deemed rescinded.

B. *Physical Space Waivers.* The City Enforcement Official or Regional Agency may waive the obligations imposed on the owner, manager, or operator of any commercial business or multi-family residential premises to comply with some or all of the recyclable materials or organic waste collection service requirements if the City has evidence from its own staff, the Regional Agency's franchised hauler, licensed architect, or licensed engineer demonstrating that the premises lacks adequate space for the collection containers required for compliance with the organic waste collection requirements of this Chapter.

A person may request a physical space waiver through the following process:

- (1) Submit an application form to City Manager or designee specifying the type(s) of collection services for which they are requesting a compliance waiver.
- (2) Provide documentation that the premises lacks adequate space for recyclable materials or organic materials containers including documentation from its hauler, licensed architect, or licensed engineer.
- (3) Pay any applicable application fee, which may be established by resolution of the City Council or Regional Agency.

Any person granted such a waiver shall provide written verification of continued eligibility to the City Enforcement Official and Regional Agency every five (5) years, or other interval deemed appropriate by the City or Regional Agency for special circumstances.”

**Section 5.** Section 6.10.070 of Chapter 6.10 of Title 6 is hereby amended to read as follows:

**“6.10.070 Requirements for haulers.**

- A. Any exclusive hauler providing discarded materials collection of recyclable materials, organic waste, or solid waste within the City shall comply with the following requirements and standards with respect to the collection of such materials:
- (1) Through written notice to the City annually on or before January 1, identify the facilities to which they will transport organic waste.
  - (2) The hauler shall transport source separated organic materials to a facility, operation, activity, or property that recovers Organic Waste in accordance with applicable requirements in 14 Cal. Code Regulations, Division 7, Chapter 12, Article 2 and shall comply with all requirements in 14 Cal. Code Regulations, Division 7, Chapter 12, Article 3.
  - (3) The hauler shall transport solid waste to an appropriate disposal facility, and shall transport source separated recyclable materials to an appropriate facility that recovers recyclable materials.
  - (4) Comply with all education, equipment, signage, container labeling, container color, contamination monitoring, reporting, and other requirements contained within any franchise agreement entered into either with the City or with the Regional Agency.
  - (5) The hauler shall comply with reporting requirements in 14 Cal. Code Regulations 18815.4.

This section shall not apply to a hauler that, consistent with Division 30, Part 2, Chapter 9, Article 1 commencing with Section 41950 of the Public Resources Code, transports source separated organic waste to a community composting site.

- B. Exclusive haulers shall have the sole and exclusive right for discarded materials collection services provided for in this code for all residential, multi-family, and commercial businesses located within the City, with the following exceptions:
- (1) Collection and transport of recyclable materials and organic materials other than edible food that have been source separated from solid waste by the generator and that: (i) generator sells or donates to any other person, provided that there is no net payment made by the generator to such other person; or, (ii) have a value equal to or more than the cost of collection.
  - (2) Commercial business owner or resident may collection and transport discarded materials for processing generated in or on their own premises with their own vehicle. However, the owner or resident shall be required to subscribe to and pay for the minimum required level of discarded materials collection service provided by the exclusive hauler.
  - (3) Any items that are source separated at any premises by the generator and sold or donated to other persons, including youth, civic, or charitable organizations.

- (4) Edible food that is collected from a generator by other person(s), such as a person from a food recovery organization or food recovery service, for the purposes of food recovery, or that is transported by the generator to another person(s), such as a person from a food recovery organization, for the purposes of food recovery, regardless of whether the generator donates, sells, or pays a fee to the other person(s) to collect or receive the edible food from the generator.
  - (5) Food scraps that are separated by the generator and used by the generator or distributed to other person(s) for lawful use as animal feed, in accordance with 14 CCR Section 18983.1(b)(7). Food scraps intended for animal feed may be self-hauled by generator or hauled by another party.
  - (6) Containers delivered for recycling under the California Beverage Container Recycling and Litter Reduction Act, Section 14500, et seq. California Public Resources Code.
  - (7) Discarded materials removed from a premises by a contractor (e.g., gardener, landscaper, tree-trimming service, residential clean-out service) as an incidental part of the service being performed, rather than as a separately contracted or subcontracted hauling service; or if such contractor is providing a service which is not provided by the exclusive hauler.
  - (8) Organic materials composted on a residential premises or otherwise legally managed at the site where it is generated or at a community composting site.
  - (9) Animal waste and remains from slaughterhouse or butcher shops, or grease.
  - (10) By-products of sewage treatment, including sludge, sludge ash, grit, and screenings.
  - (11) Excluded materials regardless of their source.
  - (12) Materials generated by State and County facilities located in the City, including but not limited to public schools, provided that the facility self-hauls, has arranged services with other persons, or has arranged services with the contractor through a separate agreement.
- C. Any C&D hauler providing C&D collection services to generators within the City's boundaries shall comply with all requirements contained within its agreement entered into by the C&D hauler and Regional Agency."

**Section 6.** Section 6.10.100 of Chapter 6.10 of Title 6 is hereby amended to read as follows:

**"6.10.100 Prohibited practices.**

- A. No person shall place any prohibited container contaminants into any collection containers that are a part of the Regional Agency's collection service.
- B. No person shall deposit solid waste in any City sewer or plumbing fixture connected thereto, except through residential food scrap disposal units, nor shall any person bury or burn of solid waste within the City.

- C. No person shall place, deposit, scatter, or cause to be placed any rubbish, garbage, brush, trimmings, junk, disabled or discarded automobiles, or other solid waste materials or excluded waste upon any portion of the public streets, alleys, or other public property, other than in a container designated for such purposes consistent with the collection requirements under this Chapter.
- D. No owner or occupant of any premises shall permit or allow the accumulation of any solid waste that is, or may become, a menace to health and sanitation, or a fire hazard.
- E. No person shall place, deposit, or keep any solid waste on any premises, except in containers with correct tight-fitting lids, and of sufficient capacity to hold any accumulation of solid waste generated between scheduled collections or self-hauling. Containers shall be maintained in a sanitary and serviceable condition with lids closed. Containers shall not be overfilled such that they attract animals or create litter. Containers shall not be stored on any public right-of-way or property (unless they are serving that property) and shall be stored so as to be screened from public view. Yard trimmings and other putrescible organic materials may be kept in a small pile as a properly managed compost heap, all of which shall be out of general public view and not become a nuisance.
- F. All C&D debris shall be containerized in roll-off containers. Such containers shall be kept in a suitable location upon such premises, readily accessible to the collector. C&D debris containers shall not be placed on a public right-of-way or private alley.
- G. The exclusive hauler for collection of discarded materials is granted by the City the rights to encroach on the public right of way, including if necessary, bike lanes, for that period during which containers are permitted to be placed by the exclusive hauler's customers in such right of way for curbside collection from a residential or commercial premises during specific times of collection as prescribed in the agreement entered into by the exclusive hauler and the Regional Agency."

**Section 7.** Chapter 6.10 of Title 6 is hereby amended by adding a new Section 6.10.120 to read as follows:

**"6.10.120 Contract.**

- A. For the collection, disposal, and processing of discarded materials, a contract may be entered into by the City or Regional Agency in accordance with the terms and conditions of this Chapter.
- B. For the collection and transport of C&D debris, an exclusive or non-exclusive contract may be entered into by the City or Regional Agency in accordance with the terms and conditions of this Chapter. The Regional Agency may impose a limit on the number of non-exclusive C&D haulers."

**Section 8.** Title 9 is hereby amended by adding a new Chapter 9.10 entitled "Construction & Demolition Debris Diversion" to read as follows:

**"Chapter 9.10 CONSTRUCTION & DEMOLITION DEBRIS DIVERSION**



**Sections:**

**9.10.010 Covered projects.**

**9.10.020 Requirement to divert C&D debris.**

**9.10.030 Deconstruction, salvage, and recovery.**

**9.10.040 Approved C&D processing facilities.**

**9.10.050 Reporting.**

**9.10.060 Violation or misdemeanor.**

**9.10.070 Responsible party.**

**9.10.080 Severability.**

**9.10.010 Covered projects.**

A. Persons applying for a permit from the City for new construction, building renovation, remodel, additions or alterations and demolition projects shall comply with the requirements of this section and all required components of the California Green Building Standards Code, 24 CCR, Part 11 (CALGreen), as amended, if its project is covered by the scope of CALGreen and other applicable requirements of the City. If the requirements of CALGreen, as amended, are more stringent than the requirements of this section, the CALGreen requirements shall apply.

B. All projects within the City, including City-sponsored projects, shall be subject to the Waste Management Plan requirement of section 9.10.060.

C. All new construction and demolition projects within the City, including City-sponsored projects, shall comply with this Chapter and shall submit a Waste Management Plan prior to the beginning of any construction and demolition activities:

- (1) Newly constructed buildings and demolition
- (2) Non-residential renovation, remodel, addition, or alterations to an existing structure within the City, as determined by the building official
- (3) Residential renovation, remodel, addition, or alternations that increase the structure's conditioned area, volume, or size, as determined by the building official.

**9.10.020 Requirement to divert C&D debris.**

A. This section sets forth that all covered projects must comply with the following provisions of the most current California Green Building Standards Code (CALGreen) Sections:

- (1) 4.408.1 Construction Waste Management Residential (recycling requirements)
- (2) 5.408.1 Construction Waste Management Non-Residential (recycling requirements)
- (3) 4.410.2 Recycling by Occupants Residential (recycling enclosure requirements)
- (4) 5.410.1 Recycling by Occupants Non-Residential (recycling enclosure requirements)

(5) 5.408.2 Diversion by Waste Management Non-Residential (universal waste diversion requirements)

B. It is required that at least sixty-five (65) percent of waste tonnage and one hundred (100) percent of excavated soil from new construction, demolition, or existing construction such as addition, alteration, or repair projects shall be diverted from disposal.

**9.10.030 Deconstruction, salvage, and recovery.**

A. Contractors are encouraged to make every structure planned for demolition available for deconstruction, salvage, and recovery prior to demolition; and to recover the maximum feasible amount of salvageable designated recyclable and reusable materials prior to demolition.

B. Recovered and salvaged designated recyclable and reusable materials from the deconstruction phase shall be counted towards the diversion requirements of this Chapter.

**9.10.040 Approved C&D processing facilities.**

A. The Regional Agency is authorized to designate and approve C&D processing facilities. The Regional Agency shall issue an approval only if the owner or operator of the facility submits documentation satisfactory to the Regional Agency and shall obtain third party certification for mixed C&D processing.

B. A mixed C&D processing facility is required to obtain third party certification prior to registration with the Regional Agency. The Regional Agency will apply the standards described in the then-current facility certification program, consistent with the procedures set forth in this chapter, to determine whether a facility qualifies for approval of registration. Any facility certified under a terminated certification program must reapply and receive certification under the then-current program.

C. C&D processing facilities shall, as a condition of their approval, agree to terms and conditions set forth by the Regional Agency.

**9.10.050 Reporting.**

A. No later than thirty (30) days following the completion of a covered project, the contractor shall, as a condition of final approval and for issuance of any certificate of occupancy, certify C&D debris was recycled at the diversion rate set by California's Green Building Standard Code and requirement set forth in section 9.10.20 and submit documentation to department of public works that demonstrates compliance with the requirements of this chapter.

B. The documentation shall be submitted in a form consistent with City requirements and consist of receipts and weight tags or other records of measurement or equivalent documentation from recycling and processing companies, deconstruction contractors, and landfill and disposal companies.

C. Progress reports during construction may be required.

D. All documentation submitted pursuant to this section is subject to verification by City.

E. It is unlawful for any person to submit documentation to City under this section that a person knows to contain any false statements, including but not limited to false statements regarding tonnage of materials recycled or diverted, or to submit any false or fraudulent receipt of weight tags or other record of measurement.

**9.10.060 Violation or misdemeanor.**

A. Each violation of the provisions of this chapter shall constitute a misdemeanor and be subject to the provisions of Section 1.01.010 of this code.

**9.10.070 Responsible party.**

A. Every applicant and/or owner of property on which a covered project occurs shall be responsible for compliance with the provisions of this chapter.

**9.10.080 Severability.**

A. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this ordinance, or any part thereof, is for any reason held to be unconstitutional, invalid, or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this ordinance or any part thereof. The City and Regional Agency hereby declare that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase of this ordinance irrespective of the fact that one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, invalid, or ineffective. To this end, the provisions of this ordinance are declared severable.”

**Section 9. Environmental Review.**

The City Council finds and determines that enactment of this Ordinance is The City Council finds and determines that enactment of this Ordinance is not a project subject to CEQA because it can be seen with certainty that it will not impact the environment (CEQA Guidelines Section 15378).

**Section 10. Effective Date.**

This ordinance shall be in full force and effective 30 days after its adoption.

**Section 11. Severability.**

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction such portion shall be deemed a separate, distinct and independent provision of such Ordinance and shall not affect the validity of the remaining portions thereof.

**Section 12. Certification.**

The City Clerk shall cause this ordinance to be posted and/or published in the manner required by law.

This Ordinance was introduced at the meeting of the City Council on the 2<sup>nd</sup> day of April, 2024, and was adopted at a regular meeting of the City Council on the 16<sup>th</sup> day of April, 2024, by the following vote:

AYES: ROWENA, ELLAHIE, MEKECHUK, CRAIG, WOLSHEIMER  
NOES: NONE  
ABSENT: NONE

DocuSigned by:  
*Evert Wolsheimer*  
7C027F30DFA0429...  
Evert Wolsheimer, Mayor

DocuSigned by:  
*Gloisy Gonzalez-Langarica*  
480E81727D0A486...  
Attest: Gloisy Gonzalez-Langarica, City Clerk

Approved as to form:

DocuSigned by:  
*Kirsten Powell*  
D457EC6B6C884A8...  
Kirsten Powell, City Attorney