

ORDINANCE NO. 3039

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AMENDING SUBDIVISIONS (D) AND (E) OF SECTION 6-8.52, OF CHAPTER 8B, OF TITLE 6 OF THE ONTARIO MUNICIPAL CODE RELATING TO WATER SERVICE CONNECTIONS; AND AMENDING SECTION 6-3.107 OF ARTICLE 1 OF CHAPTER 3, OF TITLE 6, ARTICLE 6 OF CHAPTER 3, OF TITLE 6, AND ADDING SECTIONS 6-3.604 AND 6-3.605 TO ARTICLE 6 OF CHAPTER 3, OF TITLE 6 OF THE ONTARIO MUNICIPAL CODE RELATING TO SOLID WASTE MANAGEMENT.

WHEREAS, the City has established certain requirements that a consumer must comply with before making a new water service connection; and

WHEREAS, the City has determined to amend the Ontario Municipal Code to revise certain of the requirements related to such new service connections; and

WHEREAS, the City has adopted regulations governing solid waste management to comply with state law; and

WHEREAS, because of changes in state law, the City has determined that it is appropriate to amend the Ontario Municipal Code to reflect such changes in the state law governing solid waste management.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF ONTARIO DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council hereby finds and determines that the recitals discussed above are true and correct and are hereby incorporated and adopted as findings and determinations by the City Council as if fully set forth herein.

SECTION 2. Subdivisions (d) and (e) of Section 6-8.52 of Chapter 8B, of Title 6 of the Ontario Municipal Code are hereby amended to read as follows:

Sec. 6-8.52. Water Service Connections.

(d) Service laterals. The City, at its option, may install a service lateral two (2) inches and smaller. The City reserves the right to make a service lateral installation on the basis of actual cost. Services to properties with service laterals larger than two (2) inches shall be installed by the developer of such property.

(e) Installation of water meters. The City shall install all water meters at the developer's or consumer's cost. The City reserves the right to make an installation on the basis of actual cost.

SECTION 3. Section 6-3.107 of Article 1, of Chapter 3 of Title 6 of the Ontario Municipal Code is hereby amended to read as follows:

Sec. 6-3.107. Definitions.

For the purpose of this chapter, unless otherwise apparent from context, certain words and phrases used in this chapter shall have the meanings hereinafter designated. The definitions in this chapter are included for reference purposes only and are not intended to narrow the scope of definitions set forth in federal or state laws or regulations. Words used in this chapter in the singular may include the plural and the plural may include the singular. Use of the masculine shall also mean feminine and neuter.

(a) "Administrative Services Director." The Administrative Services Director of the City of Ontario.

(b) "Applicant." Any individual, firm, limited liability company, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever who applies to the City for the applicable permits to undertake any construction, demolition, or renovation project within the City or to provide recycling collection services within the City.

(c) "Authorized recycling agent." A person with whom the City authorizes by contract or permit to collect its recyclable waste material. An authorized recycling agent may be a municipal collection service, private refuse hauler, private recycling enterprise, or private nonprofit corporation or association.

(d) "Bulky item." Any item unable to be collected through normal collection method, such as appliance, furniture or bundled brush.

(e) "Business." A commercial or public entity, including, but not limited to, a firm, partnership, proprietorship, joint stock company, corporation, or association that is organized as a for-profit or nonprofit entity, or a multifamily residential dwelling.

(f) "Business recycling plan." A completed business recycling plan form, approved by the City for the purpose of compliance with this article, submitted by the applicant for any large project.

(g) "C & D" or "construction and demolition materials." Lumber, paper, cardboard, metals, masonry (brick, concrete, and the like), carpet, plastic, pipe (plastic, metal, and clay), drywall, rocks, dirt, and green waste related to land development. These materials produce debris that is not hazardous waste, defined by Public Resources Code § 40141.

(h) "City." The City of Ontario, California.

(i) "City Manager." The chief administrative officer of the City of Ontario or his or her designee.

(j) "Collection." The operation of gathering together and transporting of garbage, solid waste and refuse to a point of disposal and/or recycling or composting center/facility.

(k) "Collector." A person employed by the City or any other person (or the agents or employees thereof) whom the City shall have duly licensed, franchised, granted a permit to, or contracted with, to collect, carry, transport, compost, and/or recycle garbage, refuse and solid waste within the City.

(l) "Combustible solid waste matter." Matter which includes all magazines, newspapers, hats, minor trimmings from lawns, trees, shrubs, and flower gardens, pasteboard boxes, rags, paper, straw, sawdust, manure, packing material, shavings, boxes, and other solid waste matter that may incinerate through contact with flames of ordinary temperature.

(m) "Commingled." Mixed in one mass; blended.

(n) "Commercial." Any apartment house with four (4) or more units, business, industry, commercial establishment, or construction site, but shall not include residential dwellings.

(o) "Commercial recycler." A business that the City shall have duly licensed, granted a permit to, or contracted with, to collect, carry, transport, compost, and/or recycle commodities within the City.

(p) "Compost." The product resulting from the controlled biological decomposition of organic wastes that are source separated from the municipal solid waste stream or which are separated at a centralized facility. "Compost" includes organic material such as sludge, vegetable, yard, green, or wood wastes, that is not hazardous waste.

(q) "Construction." The building of any facility or structure or any portion thereof including any tenant improvements to an existing facility or structure.

(r) "Construction and demolition debris." Used or discarded materials removed from premises during construction or renovation of a structure resulting from construction, remodeling, repair, or demolition operations on any pavement, house, commercial building, or other structure.

(s) "Container." The City-provided ninety-six (96)-gallon, sixty-four (64)-gallon, or thirty-two (32)-gallon receptacle, collected by automated side-loading residential collection vehicle.

(t) "Conversion rate." The rate set forth in the standardized Conversion Rate Table approved by the City pursuant to this chapter for use in estimating the volume or weight of materials identified in a Waste Management Plan.

(u) "Customer." The owner and/or occupant of any property within the City that is required to participate in the City's solid waste, including green waste, other organics and recyclables, collection program.

(v) "Deconstruction." The careful dismantling of buildings and structures in order to salvage as much as possible.

(w) "Demolition." The decimating, razing, ruining, tearing down or wrecking of any facility, structure, pavement or building, whether in whole or in part, whether interior or exterior.

(x) "Designated recycling collection location." The place where an authorized recycling agent has contracted with either the City or other public agency, or a private entity to pick up recyclable material segregated from other waste material. "Designated recycling collection location" includes, but is not limited to, the curbside or service alley of a residential neighborhood or the service alley or designated area of a commercial enterprise.

(y) "Diversion requirement." The diversion of at least fifty percent (50%) of the total construction and demolition debris generated by a project via reuse or recycling, unless the applicant has been granted an infeasibility exemption pursuant to § 6-3.603, in which case the diversion requirement shall be the maximum feasible diversion rate possible for the circumstances.

(z) "Divert." To use material for any purpose other than disposal in a landfill or transformation facility.

(aa) "Dwelling, multiple." A residential building designed for occupancy by more than one (1) family, consisting of more than one (1) living unit, even where there is no more than one (1) water meter on such premises, but excluding hotels, motels and lodges.

(bb) "Dwelling, single-family." A detached building designed for occupancy by one (1) family and consisting of a solitary living unit.

(cc) "Fire Department." The Fire Department of the City of Ontario.

(dd) "Garbage." Material which includes, but is not restricted to, every accumulation of animal, vegetable, or other material:

(1) Resulting from the preparation and consumption of edible foodstuffs;

(2) Resulting from decay, dealing, or storage of meats, fish, fowl, fruits or vegetables, including the cans, containers, or wrappers wasted along with such materials;

(3) Such industrial, domestic and organic refuses or residue of animals sold for meat;

(4) Fruit, vegetable and animal matter from kitchens, dining rooms, markets, food establishments or any other place using, dealing in or handling meats, fish, fowl, fruits, vegetables, grains, or other foodstuffs; or

(5) Offal, animal excrement or the carcasses of animals, fish or fowl.

(ee) "Green building." The use of materials in a more efficient manner. Green building practices can include salvaging dimensional lumber from structures, using reclaimed aggregates, or designing the structure in way that requires less material.

(ff) "Green waste." Tree and shrubbery trimmings, tree roots less than six (6) inches in diameter, vegetation matter resulting from land clearing, grass, weeds, straw, or leaves, wood chips, sawdust and other household garden organic materials which have been segregated from other refuse materials for the purpose of deposit at a designated collection location, including curbside location, for collection and transportation to a compost facility. Green waste does not include palm fronds, cactus or tree limbs, roots or stumps larger than six (6) inches in diameter.

(gg) "Hazardous waste." A waste, or combination of wastes, which because of its quantity, concentration or physical, chemical, or infectious characteristics may do either of the following:

(1) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or

(2) Pose a substantial present or potential hazard to human health or environment when improperly treated, stored, transported, or disposed of, or otherwise managed. Unless expressly provided otherwise, "hazardous waste" includes extremely hazardous waste and acutely hazardous waste.

(hh) "Large project." Shall have the meaning set forth in § 6-3.602(a).

(ii) "Municipal Code." The City of Ontario Municipal Code.

(jj) "Ontario Municipal Utilities Company." The Ontario Municipal Utilities Company of the City of Ontario.

(kk) "Noncombustible solid waste matter." Matter which includes crockery, bottles, metal vessels, glass, broken brick, tin cans, ashes, and other solid waste matter that shall not incinerate through contact with flames of ordinary temperature.

(ll) "Occupant." One who has certain legal rights to or control over the premises occupied; a tenant or owner.

(mm) "Organics", "organic waste" and "organic material." Material of, related to, or derived from living organisms.

(nn) "Person." An individual, firm, limited liability company, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever.

(oo) "Post-consumer recycled materials." A finished material or product that has served its intended use and would normally be disposed of as solid waste. Examples of post-consumer recycled materials include, but are not limited to old newspaper, office paper, yard waste, steel, glass, aluminum cans, plastic bottles, oil, asphalt, concrete, and tires.

(pp) "Pre-consumer." Materials or by-products generated after manufacturing of a product is completed, but before the product reaches the end-use consumer.

(qq) "Project." Any activity which requires an application for a building or demolition permit, or any similar permit from the City.

(rr) "Property owner." The record owner of a property and includes the homeowner/business owner association of a residential/business condominium project.

(ss) "Receptacle." A container that holds items or matter.

(tt) "Recyclable materials" or "recyclables." Reusable waste materials, including but not limited to, metal, glass, plastic and paper, and green waste, that are to be collected, separated or processed and used as raw materials. "Recyclable material" does not include refuse, hazardous waste or hazardous waste materials.

(uu) "Recycle" or "recycling." The process of collecting, sorting, cleansing, treating, and reconstructing materials that would otherwise become refuse or garbage, and returning them to the economic mainstream in the form of raw material for new, revised, or reconstituted products which meet the quality standards necessary to be used in the marketplace. This includes, without limitation, items intended for "re-use" or "personal use," irrespective of their intended return to economic mainstream or marketplace.

(vv) "Recycled material" or "recycled product." Waste material and by-products that have been recovered or diverted from the solid waste stream and that can be utilized in place of raw or virgin material in the production of a product. "Recycled materials" may consist of material derived from post-consumer waste, manufacturing waste, industrial scrap, agricultural waste, and other items, all of which can be used in the manufacture of new products.

(ww) "Refuse." The designated all-inclusive term for all putrescible and non-putrescible solid and semi-solid waste including, but limited to: garbage, solid waste matter, trash, ashes, industrial wastes, construction and demolition wastes, bulky item waste, manure, vegetable or animal solid and semisolid wastes, combustible and non-combustible wastes. "Refuse" does not include hazardous or household hazardous waste, medical waste, low-level radioactive waste or recyclable materials and green waste.

(xx) "Renovation." Any change, addition, or modification in an existing structure.

(yy) "Residential." Any residential or single-family dwelling or apartment house not utilizing commercial bins.

(zz) "Reuse." Further or repeated use of construction or demolition debris.

(aaa) "Roll-off, temporary service." Placement of roll-off bin or drop body on the public right-of-way, not on private property.

(bbb) "Salvage." The controlled removal of construction or demolition debris from a permitted building or demolition site for the purpose of recycling, reuse, or storage for later recycling or reuse.

(ccc) "Scavenging." The removal of any recyclable and/or waste material without authorization of the property owner and/or the City.

(ddd) "Small project" shall have the meaning set forth in § 3-3.602(b).

(eee) "Solid waste matter." Solid waste matter which is "combustible" and "non-combustible" as defined in this section. "Solid waste matter" shall not include dirt, rocks, building materials, and tree trunks or limbs (as differentiated from minor trimmings), which shall be considered as rubbish or refuse.

(fff) "Street." All streets, highways, avenues, lanes, alleys, courts, places, squares or other public ways in the City which have been or may hereafter be dedicated or open to public use, or such other public property so designated in any law of this state.

(ggg) "Utilities General Manager." The General Manager of the Ontario Municipal Utilities Company, or his or her authorized representative.

SECTION 4. Section 6-3.407 of Article 4, of Chapter 3 of Title 6 of the Ontario Municipal Code is hereby deleted.

SECTION 5. Article 6 of Chapter 3, of Title 6 of the Ontario Municipal Code is hereby amended to read as follows:

Article 6. Business Recycling Requirements

(a) The purpose of this Article is to:

- (1) Promote recycling and diversion of commercial solid waste by requiring certain specified businesses, non-residential properties, commercial buildings and construction and demolition projects to divert recyclable materials from the landfill.

- (2) Comply with California Green Building Standards Code (CalGreen) Sections 301.1.1, 301.3, 4.408 and 5.408, requiring diversion of waste from specified construction and demolition projects.
- (3) Comply with state commercial recycling laws AB 341, requiring recycling by certain specified businesses.
- (4) Comply with state commercial organic waste recycling laws AB 1826, requiring organic waste recycling for certain specified businesses.

(b) Each violation of this article will be considered an infraction and subject to penalties listed in § 1-2.01.

SECTION 6. Chapter 3, of Title 6 of the Ontario Municipal Code is hereby amended by adding Sections 6-3.604 and 6-3.605 read as follows:

Sec. 6-3.604. Mandatory Business Recycling

(a) The following businesses shall recycle and divert from the landfill recyclable materials generated by the business in accordance with this Sec. 6-3.604:

- (1) a commercial business that generates 4 cubic yards or more of solid waste per week;
- (2) a multi-family dwelling of 5 units or more.

(b) Businesses subject to this Sec.6-3.604 shall arrange for recycling services, consistent with state or local laws, rules, regulations or requirements, including a local ordinance or agreement, applicable to the collection, handling, or recycling of solid waste, to the extent that these services are offered and reasonably available from a local service provider. A business subject to this Sec. 6-3.604 shall take at least one of the following actions:

- (1) Source separate recyclable materials from refuse and subscribe to a basic level of recycling service that includes collection, self-hauling, or other arrangements for the pickup of the recyclable materials.
- (2) Subscribe to a recycling service that may include mixed waste processing that yields diversion results comparable to source separation.

(c) A business meeting the conditions of Sec. 6-3.604(a) may request an exemption from the requirements of Sec. 6-3.604(b) by submitting an application on a form prescribed by the Utilities General Manager. After reviewing the exemption request, the Utilities General Manager or his designee shall either approve or disapprove the exemption request. To be eligible for an exemption from requirements of this Section, the business must demonstrate that:

- (1) there are no recyclable materials being generated by any activities of the business;
- (2) there is inadequate storage space for the storage of recyclable materials;
- (3) there is no viable market for the recycling materials or recycling facility available.

Sec. 6-3.605. Mandatory Commercial Business Organics Recycling

(a) A business meeting the conditions of Sec. 6-3.604(a)(1) shall recycle and divert from the landfill organic materials generated by the business, in accordance with the following conditions:

- (1) On and after April 1, 2016, a business that generates eight cubic yards or more of organic waste per week shall arrange for recycling services specifically for organic waste.
- (2) On and after January 1, 2017, a business that generates four cubic yards or more of organic waste per week shall arrange for recycling services specifically for organic waste.
- (3) On and after January 1, 2019, a business that generates four cubic yards or more of commercial solid waste per week shall arrange for recycling services specifically for organic waste.

(b) A business meeting the conditions of Sec. 6-3.604(a)(1) shall arrange for organics recycling services, consistent with state or local laws, rules, regulations or requirements, including a local ordinance or agreement, applicable to the collection, handling, or recycling of recyclable material, to the extent that these services are offered and reasonably available from a local service provider. A business meeting the conditions of Sec. 6-3.604(a)(1) shall take at least one of the following actions:

- (1) Source separate organic waste from other refuse and subscribe to a basic level of organic waste recycling service that includes collection and recycling of organic waste.
- (2) Recycle its organic waste onsite or self-haul its own organic waste for recycling,
- (3) Subscribe to an organic waste recycling service that may include mixed waste processing that specifically recycles organic waste.

(c) A business meeting the conditions of Sec. 6-3.604(a)(1) may request an exemption from the requirements of Sec. 6-3.605(b) by submitting an application on a form prescribed by the Utilities General Manager. After reviewing the exemption request, the Utilities General Manager or his designee shall either approve or disapprove the exemption request. To be eligible for an exemption from the requirements of Sec. 6-3.605(b), the business must demonstrate that:

- (1) there is less than one half of a cubic yard per week of organic waste being generated by any activities of the business;
- (2) there is inadequate storage space for the storage of organic waste,
- (3) there is no viable market for the organic waste or organic waste recycling facility available.

SECTION 7. This Ordinance shall supersede all other previous City Council resolutions and ordinances that may conflict with, or be contrary to, this Ordinance.

SECTION 8. If any provisions of this Ordinance are in conflict with each other, other provisions of the City of Ontario Municipal Code, any other resolution, ordinance, regulation, or policy of the City, the more restrictive provisions shall apply.

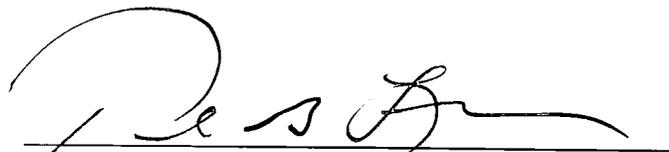
SECTION 9. A full reading of this Ordinance is hereby waived. This Ordinance was introduced at a regular meeting of the City Council of the City of Ontario, California, on January 19, 2016, and thereafter adopted at a regular meeting of the City Council held on the 2nd day of February 2016.

SECTION 10. This Ordinance shall become effective thirty (30) calendar days after its adoption by the City Council.

SECTION 11. If any section, subsection, subdivision, sentence, clause, or phrase in this Ordinance or any part thereof is for any reason held to be unconstitutional or invalid, 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 Council hereby declares that it would have adopted each section irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, or phrases be declared unconstitutional, invalid, or ineffective.

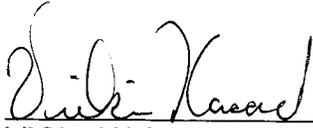
SECTION 12. The Mayor shall sign this Ordinance and the Assistant City Clerk shall certify as to the adoption and shall cause a summary thereof to be published at least once, in a newspaper of general circulation in the City of Ontario, California within fifteen (15) days of the adoption. The Assistant City Clerk shall post a certified copy of this ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

PASSED, APPROVED, AND ADOPTED this 2nd day of February 2016.



PAUL S. LEON, MAYOR

ATTEST:



VICKI KASAD, MMC, ASSISTANT CITY CLERK

APPROVED AS TO FORM:



BEST BEST & KRIEGER LLP
CITY ATTORNEY

