

**ORDINANCE NO. 2120**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HAWTHORNE, CALIFORNIA, REPEALING AND ADDING A NEW CHAPTER 8.17B TO TITLE 8 (HEALTH AND SAFETY) OF THE HAWTHORNE MUNICIPAL CODE (HMC) RELATED TO MANDATORY COMMERCIAL AND MULTI-FAMILY RESIDENTIAL RECYCLING AND AMENDING VARIOUS RELATED DEFINITIONS**

**WHEREAS**, the purpose of this new chapter 8.17B is to establish requirements for the collection and recycling of recyclable materials and collection and organics processing of organic materials generated from commercial facilities, multifamily dwellings, and large events and venues;

**WHEREAS**, these requirements will assist the City of Hawthorne (“City”) in complying with the Integrated Waste Management Act of 1989 (AB 939 - 1989), Large Events and Venues Recycling Law (AB 2176 - 2004), the Alternative Compliance Act of 2008 (SB 1016 - 2008), the Mandatory Commercial Recycling Act (AB341- 2011) and the Mandatory Commercial Organics Recycling Act (AB 1826 - 2014);

**WHEREAS**, these requirements will also help reduce greenhouse gas emissions associated with the mining and manufacturing of goods from virgin materials and associated with the disposal of solid waste in landfills and further protect the natural environment and human health as well as enhance the economy through increased recycling and organics processing activities;

**WHEREAS**, in addition, adoption of this Ordinance will provide exclusions and exemptions for select solid waste customers, commercial generators, and large events and large venues that are not included or able to comply with this chapter or for whom this chapter poses an undue burden;

**WHEREAS**, adoption of this Ordinance will also provide for enforcement through the use of fines for violating the requirements of the new chapter;

**WHEREAS**, the City Council of the City of Hawthorne has determined that adoption of this Ordinance will serve the health, safety and public welfare of the community.

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

**SECTION 1.** The definitions of “Commercial” and “Residential” contained in Section 8.16.010 (Definitions) of Chapter 8.16 (Garbage and Solid Waste) of Title 8 (Health and Safety) shall be amended to read as follows:

“‘Commercial’ means comprised of a business, including any retail outlet, financial establishment, commercial warehouse, manufacturing facility, professional office, hotel or motel and automobile courts, hospital or other health care facility, any nonprofit organization, (such as any church or club), and any multi-family dwellings comprised of ~~greater than five units or more, unless an owner or occupant thereat requests solid waste services in cans or carts because of limited space for bins.~~”

‘Residential’ references single family dwellings, ~~and multi-family dwellings comprised of (1) greater than five units or more if an owner or occupant there at requests solid waste collection service in cans or carts because of limited space for bins, and (2) multi-family dwellings less than five units unless the owner or occupant thereat requests solid waste collection service with bins subject to city approval.~~”

**SECTION 2.** The definition of “Multi-family” contained in Section 8.17.010A (Definitions) of Chapter 8.17A (Permitted Commercial Recycling) of Title 8 (Health and Safety) shall be amended as follows:

“‘Multi-family’ references ~~(1) any structure having multiple residences which may be classified as residential or commercial. residential building comprised of greater than five or more units, unless a customer thereat requests collection in carts because of limited space for bins; and (2) any residential buildings comprised of less than five units if the customer requests collection services with bins, subject to approval by the director.~~”

**SECTION 3.** Chapter 8.17B of Title 8 (Health and Safety) of the Hawthorne Municipal Code (“HMC”) is hereby repealed and replaced with the following new Chapter 8.17B (Mandatory Commercial and Residential Recycling):

## **CHAPTER 8.17B MANDATORY COMMERCIAL AND RESIDENTIAL RECYCLING**

### **8.17.010B Definitions.**

“The following words or phrases, whenever used in this Chapter, shall be construed as defined in this section:

‘Customer’ means a generator that contracts for solid waste removal services and enters into a service agreement with a franchised authorized hauler for solid waste collection services.

‘Generator’ means an owner or responsible party of a commercial property which generates solid waste as a result of its business, commercial activity or other property activity. Generators may include tenants, property managers, and employees and contractors of generators.

‘Large event’ means an event that charges an admission price, or is operated by a local agency, and serves an average of more than 2,000 individuals per day of operation of the event, including, but not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for an event, including, but not limited to, a sporting event or a flea market.

‘Large venue’ means a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility. For purposes of this chapter, a venue facility includes, but is not limited to, a public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts center, fairground, museum, theater, or other public attraction facility. For purposes of this chapter, a site under common ownership or control that includes more than one large venue that is contiguous with other large venues in the site, is a single large venue.

“Organic waste” means food waste, green waste, landscape and pruning waste, nonhazardous wood waste, and food-soiled paper waste that is mixed in with food waste.

The definitions set forth in Section 8.16.010 and 8.17.010A shall also apply to this chapter.

#### **8.17.020B Commercial generators.**

Each commercial generator shall be responsible for ensuring and demonstrating its compliance with the requirements of this chapter. Each commercial generator shall:

A. Ensure the segregation of recyclable materials and organic materials from garbage by placing each type of material in a separate designated receptacle or container, and ensure that employees, contractors, volunteers, customers, visitors, and other persons on site segregate recyclable materials and organic materials.

B. Provide an adequate number and type of labeled receptacles needed for segregating and storing recyclable materials and organic materials, and provide adequate access to these receptacles.

C. Post and maintain signs containing information and instructions on the proper segregation and storage of recyclable materials and organic materials in areas where receptacles are located.

D. Ensure that all receptacles used for collecting and storing recyclable materials, organic materials, and garbage are affixed with signs or labels that display the appropriate information to enable users to clearly differentiate which receptacles are used for recyclable materials, organic materials, and garbage to minimize the contamination of material placed in receptacles.

E. Provide adequate instructions to employees, contractors, and volunteers of the requirements of this chapter, including (1) the requirement and procedures to ensure the

segregation of recyclable materials and organic materials from garbage; (2) the employee's, contractor's, and volunteer's responsibilities regarding compliance with this chapter; and (3) the types and location of receptacles and containers for recyclable materials, organic materials, and garbage.

F. Ensure that instructions or training materials provided to employees, contractors, and volunteers are promptly made available to the City upon request.

G. Ensure that the contents of receptacles are deposited in the proper container and ensure that the contents of the receptacles for recyclable materials and organic materials are not delivered to garbage containers. Commercial generators shall be assessed a premium fee based on the size of the container for recyclable materials and organic materials containers that are collected for garbage disposal by the franchisee if the contents of their recyclable materials and organic materials containers contain unacceptable levels of contamination.

#### **8.17.030B Large Events and Large Venues.**

Large Events and Large Venues shall be responsible for ensuring and demonstrating compliance with the requirements of this chapter. In addition to other requirements in this chapter and the Municipal Code, each Large Event and Large Venue shall:

A. Segregate recyclable materials and ensure that employees, contractors, volunteers, customers, visitors, and other persons on site segregate recyclable materials.

B. Ensure the Large Event and Large Venue has access to an adequate number and type of containers needed for collecting and storing recyclable materials.

C. Provide or ensure the provision of adequate receptacles throughout the Large Event and Large Venue location to make the segregation of recyclable materials and organic materials convenient for employees, volunteers, contractors, vendors, exhibitors, presenters, visitors, attendees, customers, and other persons on site.

D. Ensure that all receptacles used for segregating and storing recyclable materials, organic materials, and garbage are affixed with signs or labels that display the appropriate information to enable users to accurately segregate solid waste and to clearly differentiate which receptacles are used for recyclable materials, organic materials, and garbage, to minimize the contamination of material placed in receptacles.

E. Ensure that the contents of the receptacles for recyclable materials and organic materials are not delivered to garbage containers unless they include unacceptable levels of contamination.

#### **8.17.040B Provisions for self haulers.**

A. Nothing in this chapter shall preclude any person, solid waste customer, commercial generator, multifamily generator, or Large Event and Large Venue from self hauling recyclable

materials or organic materials generated by that entity to a recycling or organics processing facility.

B. Self haulers shall:

1. Comply with the requirements in this chapter by delivering for recycling those items that can be recycled by local recycling facilities and establishments and shall comply by delivering for organics processing those items that are accepted by local organics processing facilities.

2. Provide proof of compliance with this chapter, upon request by the City; proof includes but is not limited to a receipt from a recycling or organics processing facility that clearly identifies the type and quantity of material delivered and an application for Exemption from the Necessity for Refuse Collection.

**8.17.050B Authorized Haulers.**

A. Authorized Haulers shall obtain and maintain a business license with the City.

B. Authorized Haulers shall keep separate garbage, recyclable materials, and organic materials that have been segregated into separate containers by commercial generators, multifamily generators, or Large Event and Large Venues.

C. Authorized Haulers shall ensure that segregated recyclable materials are delivered to a recycling facility and that segregated organic materials are delivered to an organics processing facility, except that a container that contains unacceptable levels of contamination may be delivered for garbage disposal if the solid waste collector notifies the City of the occurrence; the date of the occurrence; and the account name, primary contact, phone number, billing address, and service address for the solid waste customer at which the container is located.

**8.17.060B Exclusions.**

Solid waste customers that subscribe to less than four cubic yards of garbage collection service per week shall be excluded from the requirements of this chapter.

**8.17.070B Exemptions.**

Solid waste customers, commercial generators, and Large Event and Large Venues that can document using the methods described in subsection C of this section that the circumstances described in subsections A and B of this section pertain to their operations shall be exempt from the requirements of this chapter:

A. No Generation of Recyclable Materials. Solid waste customers, commercial generators, and Large Event and Large Venues may be exempt from the requirements of this chapter if the solid waste customer, commercial generator, or Large Event and Large Venue demonstrates to the City that no recyclable materials or organic materials are generated on site.

## B. Space Constraints and Zoning Considerations.

1. Solid waste customers may be exempt from the requirements of this chapter if the City determines that either:

a. There is inadequate space for a solid waste customer to store containers for recyclable materials or organic materials on site and that it is infeasible for the solid waste customer to share recyclable materials or organic materials containers with adjacent commercial facilities or multifamily dwellings; or

b. Compliance with this chapter will result in violating City zoning or other regulations.

2. Commercial generators, multifamily generators, and Large Event and Large Venues may be exempt from the requirements of this chapter if the City determines that either:

a. There is inadequate space for the commercial generator or Large Event and Large Venue to store receptacles for recyclable materials or organic materials on site and that it is infeasible for the commercial generator or Large Event and Large Venue to deposit recyclable or organic materials directly into containers without an intermediate receptacle; or

b. Compliance with this chapter will result in violating City zoning or other regulations.

C. Verification of Exemption. The solid waste customer shall petition the City with a written request for an exemption documenting the circumstances of a claimed exemption. The City may visit the solid waste customer's site; examine the receptacles for garbage, recyclable materials, or organic materials; or take other actions to verify the circumstances identified in the petition. The solid waste customer, commercial generator, or Large Event and Large Venue requesting an exemption shall not be granted an exemption from the requirements of this chapter if the City determines that (1) recyclable materials or organic materials are generated on site, (2) it is feasible for containers and receptacles for recyclable materials and, as necessary, for organic materials to be placed on site, and (3) it is feasible to share recycling containers with an adjacent commercial facility or multifamily dwelling.. The City may require the solid waste customer or commercial generator that is granted an exemption from the requirements of this chapter to submit a renewal of its petition for an exemption every two years from the date the exemption was granted by the City.

### **8.17.080B City authority.**

The City or its designee is authorized to administer and enforce the provisions of this chapter. To the extent permitted by law, the City or its designee may inspect any collection container at a commercial facility, multifamily dwelling, or Large Event and Large Venue and any solid waste collector's load for garbage, recyclable materials, or organic materials. To the extent permitted by law, the City or its designee may also inspect the premises of any commercial facility, multifamily dwelling, or Large Event and Large Venue to determine compliance with the provisions of this chapter.

### **8.17.090B Administrative appeal.**

Unless otherwise expressly provided by the Hawthorne Municipal Code, any person adversely and directly affected by any determination made or action taken by the City pursuant to the provisions of this chapter may file an administrative appeal with the City Clerk. If no appeal is filed within ten days the determination of the City shall be final.

### **8.17.100B Enforcement goals.**

The City shall enforce this chapter with the goal of maximizing participation in the program and ensuring that recyclable materials and organic materials that have been properly segregated by the solid waste customer, commercial generator, multifamily generator, or Large Event and Large Venue are correctly collected and delivered to recycling and organics processing facilities. The City or its designee shall conduct the following activities to enforce this chapter:

A. Develop and disseminate public education and promotional materials relating to the importance of recycling and organics processing and the availability of recycling and organics processing opportunities available to solid waste customers, commercial generators, multifamily generators, and Large Event and Large Venues;

B. Provide technical assistance and training to solid waste customers, commercial generators, multifamily generators, and Large Event and Large Venues to increase recycling;

C. Enforce provisions of the franchise agreement for collection of recyclable materials, organic materials, and garbage with the franchisee to stimulate demand for recyclable materials and organic materials collection service.

### **8.17.110B Enforcement for contamination.**

Enforcement of this chapter regarding contamination in containers for garbage, recyclable materials, and organic materials shall be carried out by the waste hauler. The waste hauler will notify City of customers with excessive or ongoing contamination.

Solid waste collectors shall not be held liable for the failure of solid waste customers to comply with this chapter, unless specified in the franchise, contract, registration certificate, or permit issued by the City.

### **8.17.120B Penalties.**

The City may issue administrative fines for violating this chapter or any rule or regulation adopted pursuant to this chapter, except as otherwise provided in this chapter. The City's procedures on imposition of administrative fines are hereby incorporated in their entirety and shall govern the imposition, enforcement, collection, and review of administrative citations issued to enforce this chapter and any rule or regulation adopted pursuant to this chapter.

**8.17.130B Implementation schedule.**

The schedule for enforcement of this chapter shall be implemented in accordance with the timeline specified in Table 1:

**Table 1**

<b>Date</b>	<b>Entities Affected</b>	<b>Materials Covered</b>
Effective immediately upon adoption	<b>Recyclable Materials:</b> All commercial and multi-family solid waste customers that subscribe to four cubic yards or more of garbage collection service per week.	Recyclable Materials
April 1, 2016	<b>Organic Materials:</b> All commercial and multi-family solid waste customers that generate 8 cubic yards of organic waste per week shall arrange for organic waste recycling services.	Organic Materials
January 1, 2017	<b>Organic Materials:</b> All commercial and multi-family solid waste customers that generate 4 cubic yards of organic waste per week shall arrange for organic waste recycling services.	Organic Materials
January 1, 2019	<b>Organic Materials:</b> Businesses that generate 4 cubic yards or more of commercial solid waste per week shall arrange for organic waste recycling services	Organic Materials

**8.17.140B Other provisions.**

A. No Other Powers Affected. This chapter does not do any of the following:

1. Otherwise affect the authority of the City or its designee to take any other action authorized by any other provision of law.
2. Restrict the power of a City Attorney, District Attorney, or the Attorney General to bring in the name of the people of California any criminal proceeding otherwise authorized by law.
3. Prevent the City or designee from cooperating with, or participating in, a proceeding.
4. Affect in any way existing contractual arrangements including franchises, permits, or licenses previously granted or entered into between the solid waste collectors and City.

B. Cumulative Remedies. Any remedy provided under this chapter is cumulative to any other remedy provided in equity or at law. Nothing in this chapter shall be deemed to limit the right of the City or its solid waste operators to bring a civil action; nor shall a conviction for such violation exempt any person from a civil action brought by the City or its solid waste operators. The fees and penalties imposed under this chapter shall constitute a civil debt and liability owing to the City from the persons, firms, or corporations using or chargeable for such services and shall be collectible in the manner provided by law.

C. Liability. Nothing in this chapter shall be deemed to impose any liability upon the City or upon any of its officers or employees including without limitation under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA).

#### **8.17.150B Disclaimer of liability.**

The degree of protection required by this chapter is considered to be reasonable for regulatory purposes. The standards set forth in this chapter are minimal standards and do not imply that compliance will ensure safe handling of recyclable materials, organic materials, or garbage. This chapter shall not create liability on the part of the City, or any of its officers or employees, for any damages that result from reliance on this chapter or any administrative decision lawfully made in accordance with this chapter. All persons handling solid waste within the boundaries of the City should be and are advised to conduct their own inquiry as to the handling of such materials. In undertaking the implementation of this chapter, the City is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

#### **8.17.160B Duties discretionary.**

Subject to the limitations of due process and applicable requirements of State or Federal laws, and notwithstanding any other provisions of this chapter, whenever the words “shall” or “must” are used in establishing a responsibility or duty of the City, its elected or appointed officers, employees or agents, it is the legislative intent that such words establish a discretionary responsibility or duty requiring the exercise of judgment and discretion.

**SECTION 2. Severability.** If any section, subsection, phrase or clause of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

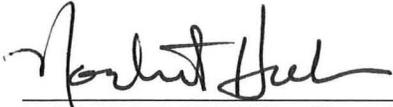
**SECTION 3. City Clerk.** The City Clerk shall certify to the adoption of this ordinance and shall cause this ordinance to be published by title and summary in the manner prescribed by law.

**SECTION 4. Effective Date.** This ordinance shall take effect thirty (30) days after passage thereof.

PASSED, APPROVED AND ADOPTED this 23<sup>rd</sup> day of August, 2016.

  
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ALEX VARGAS, Mayor  
City of Hawthorne, California

ATTEST:

  
\_\_\_\_\_  
NORBERT HUBER, City Clerk  
City of Hawthorne, California

APPROVED AS TO FORM

  
\_\_\_\_\_  
RUSSELL I. MIYAHIRA, City Attorney  
City of Hawthorne, California

STATE OF CALIFORNIA     )  
COUNTY OF LOS ANGELES) §  
CITY OF HAWTHORNE     )

I, **Monica Dicrisci**, the duly appointed Deputy City Clerk of the City of Hawthorne, California, **DO HEREBY CERTIFY** that the foregoing Ordinance, No. 2120 was duly adopted by the City Council of the City of Hawthorne, at their regular meeting of the City Council held **August 23, 2016** and that it was adopted by the following vote, to wit:

AYES: Councilmembers Awad, Reyes English, Michelin, Valentine, Mayor Vargas.

NOES: None.

ABSTAIN: None.

ABSENT: None.

  
\_\_\_\_\_  
Deputy City Clerk  
City of Hawthorne, California