

ORDINANCE NO. 18-16

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MAYWOOD, CALIFORNIA, ADDING TO THE MAYWOOD MUNICIPAL CODE CHAPTER 2, SECTION 6, ARTICLE 4 REGULATING MANDATORY COMMERCIAL RECYCLING IN THE CITY OF MAYWOOD WHICH SHALL BE APPLICABLE TO ALL COMMERCIAL BUSINESS ENTITIES AND MULTI-FAMILY RESIDENTIAL UNITS IN THE CITY OF MAYWOOD

WHEREAS, in 2012, the State of California adopted California Assembly Bill 341 (AB 341), which is designed to reduce greenhouse gas emissions by diverting waste from landfills and to reach California's recycling goal of seventy five percent (75%) by the year 2020 went into effect in **June, 2012;**

WHEREAS, this law requires California commercial businesses and public entities that generate four (4) or more cubic yards per week of waste and multi-family housing complexes with five (5) or more units, to adopt recycling practices; and

WHEREAS, to comply with this State Law, cities and counties are required to adopt a Mandatory Commercial Recycling Ordinance amending Title 6 (Sanitation and Health) of the Maywood Municipal Code that requires all businesses that generate four (4) or more cubic yards per week of waste and multi-family housing complexes with five (5) or more units have a recycling program in place and to comply with refuse sorting requirements.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF MAYWOOD, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

Chapter 2, Section 6, Article 6 of the Maywood Municipal Code is hereby amended to add the following:

6.4.400 PURPOSE

The purpose of this Chapter is to:

(a) Promote recycling and diversion of solid waste from landfill by requiring businesses, non-residential properties, and commercial buildings to source separate recyclable materials from all other solid waste for recycling and diversion from landfill and provide for the collection of recyclable materials.

(b) Comply with state recycling law, the California Integrated Waste Management Act of 1989 (also known as AB 939 and found at Public Resources Code Section 40000 and following), including the requirement that each city and county in California divert 50 percent, or the maximum amount feasible, of recyclable materials from landfills.

(c) Contribute to the reduction of potential greenhouse gas emissions.

(d) Establish requirements for recycling of recyclable materials generated by commercial facilities, properties and *special events*, in order to increase the diversion of recyclable from landfill disposal, thus reducing greenhouse emissions, minimizing waste and helping to ensure the maintenance, restoration, enhancement, and protection of the environment, including natural resources.

(e) Provide an enforcement mechanism to ensure that business, commercial, non-residential properties, and multifamily dwellings provide for the proper collection of recyclable materials and provide protections against illegal scavenging of materials.

(f) Provide an exemption for generators who self-haul, donate or sell their recyclables, as well as provide an exemption process for those businesses that have major site constraints or generate a minimum level of material.

6.4.401 FINDINGS

The Agency finds and determines:

1. State recycling law, the California Integrated Waste Management Act of 1989, as amended, requires cities and counties to reduce, reuse and recycle solid waste generated in the state to the maximum extent feasible before disposal of waste, to conserve water, energy and other natural resources, and to protect the environment.

2. The Agency continues to make progress in maintaining the disposal reduction requirements of the state recycling law, but additional efforts, particularly in the recycling of paper, cardboard, glass, and other recyclable materials generated by businesses, will assist the Agency in maintaining and exceeding the goal of diverting waste from landfill disposal.

3. Reductions in greenhouse gas emissions from solid waste management can be realized by recovering traditional recyclable materials from the waste stream to use in the manufacturing of products from these materials. Traditional recyclable materials have significant intrinsic energy value that displaces fossil fuel energy requirements when introduced back into the manufacturing cycle. Additionally, by remanufacturing products using recycled materials, additional reductions in greenhouse gas emissions are realized through reduced fossil fuel demands in transportation and avoided methane emissions at landfills.

4. Efforts by the Agency and the private sector to encourage voluntary diversion of commercial and special event recyclable materials have not achieved desired levels of diversion. Additional efforts are necessary to ensure continued compliance with the requirements of the state recycling law and to ensure maximum recovery of valuable resources.

5. Mandatory commercial recycling programs in other cities and counties in California, similar to the one implemented by this Chapter, have proven successful.

6. In adopting this ordinance, the Agency agrees to be subject to the terms of this ordinance for all of the Agency's non-residential facilities and properties, including parks and Agency buildings, as well as Agency sponsored or partnered special events.

7. This ordinance requires diversion of Agency's identified recyclable materials by businesses, commercial facilities, commercial properties, and Multi-Family Dwelling Units and the Agency will create and maintain a healthy, viable environment for current and future generations, and will become a model of sustainability.

6.4.402 DEFINITIONS

As used in this Chapter, the following terms shall have the following meanings:

AB 939 means the state recycling law, the California Integrated Waste Management Act of 1989 (California Public Resources Code section 40000 and following).

Agency means the City of Maywood.

Agency Director means the Agency Director, including his or her designee.

Authorized Recycler means any person or business entity which lawfully collects, accepts, transports or otherwise processes Recyclable Materials from Generators for a fee or profit through a proper permit, business license or other regulatory structure or authorization issued by the Agency.

Business means any commercial entity, including, but not limited to: proprietorship, firm, partnership, person in representative or fiduciary capacity, association, venture, trust, corporation which is organized for financial gain or for profit; or non-profit corporation or entity, or industrial or manufacturing, restaurant, retail facility, office, markets, office buildings, hotels, motels, shopping centers, and theaters.

Collect or Collection means to take physical possession of and remove Solid Waste or Recyclable Materials at the place of generation.

Collector Agreement means a commercial solid waste collection agreement for or issued by the Agency to a Hauler.

Collector means a Hauler holding a collector agreement issued by the Agency which authorizes the exclusive or non-exclusive right to provide solid waste handling services within all or part of the jurisdictional boundaries of the Agency.

Commercial Facility(ies) means any facility(ties) that is not a residential facility and includes any commercial facility, including but not limited to, a commercial facility,

restaurant, retail facility, office, manufacturing or industrial facility, markets, office buildings, hotels, motels, shopping centers, theaters, and Multi-Family Dwelling Units, located within the boundaries of the Agency.

Customer means a Generator that contracts for Solid Waste removal services and enters into a service agreement with an Exclusive Hauler or Authorized Recycler for Recycling services. In the event a Business, non-residential property or Commercial Facility shares Solid Waste or Recycling containers and/or service, Customer refers only to the entity that arranges for the service.

Disposal means the final disposition of Solid Waste at a permitted Landfill or other permitted solid waste disposal facility, as defined in California Public Resources Code 40192

Diversion or Divert means the reduction or elimination of Solid Waste from solid waste disposal in accordance with California Public Resources Code 41024.

Food Vendor means any and all sales outlets, stores, shops, vehicles or other places of business located or operating within the jurisdictional boundaries of the Agency that operate primarily to sell or convey foods or beverages to consumers.

Generator means an owner or Responsible Party for a Commercial Facility(ies) or Business, including non-residential property which generates Recyclable or Compostable Materials as a result of its Business, Commercial Facility(ies) or property activity. Generator may also include tenants, property managers for facilities with leased space, employees and contractors of Generator, as well as a Responsible Party for Special Events. Generator also includes the Agency, its facilities, its non-residential properties and Special Events, its sponsors or co-sponsors.

Hauler means any person or commercial entity which lawfully Collects, hauls, or transports Solid Waste for a fee by use of any means, including but not limited to a dumpster truck, roll-off truck, side-load, front-load, rear-load garbage truck or a trailer.

Landfill means a permitted disposal site which accepts Solid Waste.

Multi-Family Dwelling Units means a residential structure having multiple residences which may be classified as residential (with individual billings for each residence) or commercial (with a single billing for each complex).

Recycle or Recycling means the process of collecting, sorting, cleansing, treating, and reconstituting materials that would otherwise become Solid Waste and returning them for use or reuse in the form of raw materials for new, used or reconstituted products which meet the quality standard necessary to be used in the market place as defined in Public Resources Code 40180. Recycling does not include burning, incinerating, or thermally destroying solid waste, as defined in Public Resources Code Section 40201.

Recycling Facility means a Recycling, material recovery or re-use facility that is fully licensed, certified and eligible under federal, state and local laws and regulations and includes those material recovery or reuse facilities or operations that receive, process, and transfer to market Recyclable that have been Source Separated from the Solid Waste stream. The Recycling Facility may be located at a Landfill.

Recyclable Materials means materials that have been separated from the solid waste stream prior to disposal and returning them for use or reuse in the form of raw materials for new, used or reconstituted products which meet the quality standard necessary to be used in the market place and that are not landfilled. Recyclable Materials include any materials identified by Agency Director for which a market exists, including, but not limited to: plastic bottles and jars, paper, cardboard, glass, newspaper, metal containers, cans.

Responsible Party means the individual or entity responsible for the Generator's management of Solid Waste and/or Recycling at the Generator's Commercial Facility, Business, non-residential property, or Special Event.

Rubbish means non-putrescible Solid Waste, such as ashes, paper, cardboard, tin cans, yard waste, wood, glass, bedding, crockery, plastics, rubber-by-products and litter.

Scavenging or Scavenger means the uncontrolled and unauthorized removal of Recyclable Materials at any point in the solid waste management system.

Self-Haul or Self-Hauling means a Generator or Responsible Party who transports his or her own Recyclable or Compostable Materials to a Recycling Facility by using a vehicle owned by that Generator or Generator's employees or the Responsible Party rather than using the hauling services of an Exclusive Hauler or Authorized Recycler.

Solid Waste means all putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, Trash, refuse, paper, Rubbish, ashes, industrial wastes, demolition and construction wastes, discarded home and industrial appliances, dewatered, treated or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semi-solid wastes, and other discarded solid and semi-solid wastes. Solid Waste does not include hazardous waste or low-level radioactive waste defined in Health and Safety Code Section 25117 and 25141.

Source Separated or Source Separation means the process of removing Recyclable Materials from Solid Waste at the place of discard generation, prior to collection, into separate containers that are separately designated for Recyclables or Trash for the purposes of Recycling.

Special Event means a community, public, commercial, recreational or social event which may serve food or drink and which may require a permit from the Agency. Special event may include the temporary or periodic use of a public street, publicly owned site or facility, or public park and which is expected to have 2,000 or more persons in attendance.

Trash means material that is designated for Landfill Disposal by the collector and does not include either Recyclable Materials. The term Trash does not include hazardous waste, as defined in California Health and Safety Code Sections 25117 and 25141.

6.4.403 SOURCE SEPARATION REQUIREMENTS

A. Each Generator shall be responsible for ensuring and demonstrating its compliance with the requirements of this ordinance. Each Generator shall:

1. Source Separate Recyclable Materials from Solid Waste; and
2. Subscribe to a basic level of Recycling service that includes at a minimum, the collection of Recyclable Materials; and
3. Enter into a written service agreement with an Exclusive Hauler or Authorized Recycler; or
4. Complete and retain on-site a Self -Hauling form certifying that all Self Hauling activities will be completed in accordance with this ordinance or any other applicable law or regulation. A copy of such form shall be submitted to the Agency and updated annually with Business License Renewals. A copy of such form shall be available to the Agency Director, upon request.

B. Each Generator shall use containers to collect and store Recyclable Materials and shall designate areas to collect and/or store Recyclable Materials.

C. Each Generator shall prominently post and maintain one or more signs in maintenance or work areas or common areas where Recyclable Materials are collected and/or stored that specify the materials to be Source Separated in addition to collection procedures for such materials.

D. Each Generator shall notify and instruct employees in writing of applicable Source Separation requirements, including outreach and training on what materials are required to be Source Separated and how-to Source Separate such material. A copy of such instruction or training materials shall be provided to the Agency Director or designee upon request.

E. All Recyclable Materials shall be placed for collection in covered collection containers conforming to the following requirements. No container shall be loaded beyond its capacity. It shall be the Generator's responsibility to keep the containers used for the storage and collection of Recyclable Material generated on the premises in a clean and sanitary condition. No material or containers shall be kept or handled in such a manner as to become a nuisance. No putrescible materials shall be commingled with Recyclables. No Recyclable Material shall be allowed to become odoriferous or a producer of vermin. Lids on containers shall remain closed at all times while stored or placed for Collection. The Agency Director is specifically authorized to promulgate rules and regulations regarding any and all Recyclable Material containers including as related to the Recyclable Materials to be placed therein, the placement and maximum weight of high-density materials for Collection and the proper use of containers.

F. Each Generator shall ensure that Recyclable Materials generated at the Generator's site will be taken only to a Recycling or make other arrangements to ensure that the materials are Recycled and not delivered to a Landfill for Disposal. Generator shall not dispose of, or arrange for Disposal of Recyclable Materials by placement in a Landfill except in an emergency situation, or when no viable markets or Recycling Facilities are available, as determined by the Agency Director. Further, all Generators are encouraged to consider Recycling additional materials, whether or not they have been specifically designated by the Agency Director.

G. The Recycling Service Agreement and other Recycling documents shall be available for inspection by the Agency Director or designee, at the principal location of the Generator's Business, Commercial Facility, Special Event or non-residential property during normal business hours.

H. No Collector or Authorized Recycler shall be held liable for the failure of its Customers to comply with such regulations, unless specified in the Collector Agreement, contract or permit issued by the Agency.

6.4.404 COLLECTORS AND AUTHORIZED RECYCLERS

A. No person shall provide services as a Hauler of Recyclables within the boundaries of the Agency without either being: (1) a Collector with the Agency, or (2) an Authorized Recycler.

B. Collectors and Authorized Recyclers shall offer collection service and automatic lift containers, bins or roll-off bins for Recyclable Materials sufficient to accommodate the quantity and types of Recyclable Materials to all of its Customers and shall provide Recycling Services as described in previously.

C. Collectors and Authorized Recyclers shall identify automatic lift containers, bins or roll of bins for Recyclable Materials with its name, recognizable corporate or company logo, and phone number of the Collector or Authorized Recycler that is legible from a distance of fifty (50) feet.

D. Collectors and Authorized Recyclers shall equip and provide automatic lift containers, bins and roll-off bins for Recyclable Materials, with locks and/or other suitable features where feasible, to prevent Scavenging. They shall conduct all activities in accordance with applicable laws, Agency codes and regulations and best management practices. Vehicles and equipment and containers shall be kept in a clean and well-maintained condition.

E. Collectors and Authorized Recyclers shall not take a Customer's Recyclable Materials to a Landfill or other site for Disposal. Such materials shall be taken to a Recycling Facility or Collectors and Authorized Recyclers shall make other arrangements for Recycling the materials instead of Disposal. The Collectors and Authorized Recyclers

shall maintain a copy of a service agreement and/or receipts documenting that the Generator's Recyclable Materials have been properly delivered, as well as any documentation evidencing an event of force majeure which prevented the proper delivery of Recyclable Materials. Such documents shall be available for inspection by the Agency Director at the place of business during normal business hours and maintained for not less than 3 (three) years.

6.4.405 RECYCLING SERVICES

A. The Recycling Services provided by Collectors and Authorized Recyclers shall include, at a minimum, all of the following:

1. Collection of Recyclable Materials at a minimum of two (2) times per month, or more as specified by contract, license or permit;
2. Collection of Recyclable Materials as identified by Agency Director
3. Utilization of Recycling receptacles which comply with Agency standards;
4. Appropriate signage on all Recycling receptacles, containers, chutes and/or enclosures which allows users to clearly and easily identify which containers to use for Recyclables or Trash and be color-coded
5. Occupant Education. For Multi-family facilities, the Responsible Party shall provide information about Recycling Services as follows:

(a) Types of Recyclable Materials accepted, the location of Recycling containers, and the occupant's responsibility to Recycle pursuant to this Chapter. This information shall be distributed to all occupants annually;

(b) All new occupants shall be given information and instructions upon occupancy; and

(c) All occupants shall be given new information and instructions upon any change in Recycling service.

6.4.406 EXEMPTIONS

A. The following shall be exempt from the requirements of this Chapter:

1. The State of California, a special district or other local public agency other than the Agency, as defined, or any employee thereof, when collecting or transporting Recyclable Materials produced by operation or system of the entities described above.

2. Municipal corporations and governmental agencies other than Agency using their own vehicles and employees engaged in the collection, transportation, or disposal of Recyclable Materials within the boundaries of the Agency.

B. Four Cubic Yards or Less

Generator shall be exempt from the requirements in this Chapter if the Business, Commercial Facility or non- residential property generates less than four (4) cubic yards of Solid Waste per week. This exemption does not apply to Special Events unless the Generator demonstrates to the Administrator that the event will produce less than the threshold amount.

C. No Collection System

Generator may not be required to Source Separate Recyclable Materials if the Generator demonstrates to the Agency Director that there is no Collection service or other system available for such materials.

D. No Recyclable Materials

Generator may be exempt from the requirements of this Chapter the Generator demonstrates to the Agency Director that there are no Recyclable Materials being generated by any activities in the Generator’s Business, Commercial Facility, or non-residential property.

E. Space and Zoning

1. Generator may be exempted from the requirements of this Chapter by the Agency Director, if it is determined, through a site visit requested by the Generator, that either:

(a) There is inadequate storage space for automatic lift containers, bins or roll off bins for Recyclable Materials on site or;

(b) Compliance with this Chapter will result in a violation of zoning codes or agency regulations for minimum parking spaces.

2. If, after reviewing the site, the Agency Director determines that it is feasible for Recycling containers to be place either on site then the Generator will not be exempted from these requirements and will be responsible for full compliance with this Chapter.

F. No Markets for Recycled Materials

Generators may be exempted from the requirements of the Chapter when no viable markets or Recycling Facilities are available, as determined by the Agency Director.

G. Exemption Application

If the Generator seeks an exemption, an application for such exemption shall be submitted on a form prescribed by the Agency Director. After reviewing the exemption request, and after an onsite review, if applicable, the Agency Director shall either approve or disapprove the exemption request.

6.4.407 SELF HAUL

A. Nothing in this ordinance shall preclude any person from Self Hauling Recyclable Materials generated by that person to a Recycling Facility. A Generator may transport Recyclable Materials generated at its business or property to a Recycling Facility (rather than hiring a Collector or Authorized Recycler) only if the Generator completes its activity by utilizing a vehicle owned by either the Generator or Generator's employee. This Self Haul exemption does not include contracting for or hiring a third party to transport the Recyclable Materials. A Self Hauler must retain on site a Self-Hauling form certifying that all Self Hauling activities will be completed in accordance with this Chapter or any other applicable law or regulation. The Self Hauling form shall be made available to the Agency Director or designee upon request. At a minimum, the Generator shall provide the following information on the Self-Hauling form:

1. The name, address and telephone number of the Generator's representative that will be signing the Self-Hauling form.
2. A list of the types of Recyclable Materials that are being transported.
3. For each type of Recyclable Material, the amount that is being taken from the Generator's business or property to a Recycling Facility on a quarterly basis.
4. The name and address of the Recycling Facility.
5. A written statement, signed by the Generator or representative, certifying that the Generator is in compliance with the requirements of this Section.

B. The Agency Director may restrict or prohibit Self-Hauling by a Generator if the Agency Director determines, after providing notice and an opportunity for a hearing, that the Generator's Self Hauling activities violate the provisions of this Section or any other applicable law or regulation.

C. Sale or Donation. Nothing in this ordinance shall preclude any Generator from selling or exchanging at fair market value, for reuse or Recycling, Source Separated Recyclable Materials generated from that Business, Commercial Facility or property; or from donating to another entity for reuse or Recycling; Source Separated Recyclable Materials generated from that Business, Commercial Facility or property.

6.4.408 SPECIAL EVENT RECYCLING

A. For a Special Event, in addition to any other conditions the Agency requires as part of the Special Event permit, the Responsible Party shall provide Recycling receptacles throughout the event location to make Source Separation of Recyclable, or Trash

convenient for the employees, volunteers, contractors, and customers of the food vendors and attendees of the event.

B. The minimum number of Recycling receptacles shall equal or exceed the number of Solid Waste receptacles. The Solid Waste and Recycling receptacles shall be placed as close together as possible throughout the event location in order to provide equally convenient access to users.

C. All of the receptacles must have appropriate signage and be color coded to identify the type of refuse to be deposited and meet any additional design criteria established by the Agency by regulation; and

D. Food vendors must have at least one separate container each for Recyclables and Trash for use by customers and visitors. Multiple food vendors that provide disposable food service ware and share a common eating area may share an appropriate number, size, and placement of containers for Recyclables and Trash for convenient use by customers or visitors or have common access to such a container which shall be located within a reasonable proximity of the vendors.

E. The types of Recyclable Materials suitable for deposit into each receptacle shall include at a minimum; plastic bottles and jars, paper, cardboard, glass, newspaper, metal containers, and cans. Each Recycling receptacle shall be clearly identified as a Recycling receptacle and shall display a list of types of Recyclable Materials which may be deposited into the Recyclable receptacle.

F. The Responsible Person shall ensure that the Recyclable Materials deposited into the Recycling receptacles are delivered to a Recycling Facility. The Recycling Facility may be located at a Landfill, but Recyclable Materials shall not be delivered to a Landfill for Disposal.

6.4.409 OWNERSHIP/SCAVENGING OF RECYCLABLE MATERIALS

A. All Recyclable Materials placed in automatic lift containers, bins or roll-off bins for Recyclable Materials provided by any Collector or Authorized Recycler sufficient to accommodate the quantity and types of materials generated by businesses, or non-residential properties, shall be considered owned by and be the responsibility of either the Collector or Authorized Recycler. Without permission of either the Collector or Authorized Recycler, no person shall collect Recyclable Materials placed in such automatic lift containers, bins or roll-off bins by Customers or Generators.

B. All Recyclable Materials placed in Recyclable Materials containers provided or owned by the Generator, shall be considered owned by and be the responsibility of that Generator until the material is placed at a Collector's or Authorized Recycler's designated point of collection or in containers described previously.

C. No person other than the person or Business under contract with the Generator of the Recyclable Materials to collect the Recyclable Materials, shall remove or otherwise interfere with Recyclable Materials which have been placed at a designated Recycling or Recycling Materials collection location.

6.4.410 REPORTING

A. Collectors and Authorized Recyclers shall provide quarterly reports on the dates described below to the Agency Director identifying, at a minimum, the following information, including Special Events:

1. The total number of Customers or commercial accounts they have in the Agency region, the name and address of the facility serviced, and the name of the Responsible Party for Solid Waste and Recyclable Materials management;

2. The frequency of Recyclable Materials collection service provided to the Business, Commercial Facility or property;

3. The Recyclable Materials collected per week by volume in cubic yards and (tons), measured by the size of applicable containers of and removed by them within the Agency region during the previous year; and

4. The location of the Recycling Facility(ies) to which the Recyclable Materials were taken during the previous quarter.

5. Information about non-compliance by Generators.

6. The quarterly reporting periods shall be as follows:

Reporting Period Due Date

January 1-March 30	May 1
April 1- June 30	August 1
July 1- September 30	November 1
October 1-December 31	February 1

B. If the quarterly report is not filed by the due dates above, the report shall be deemed delinquent, and the Collector or Authorized Recycler shall pay to the Agency a delinquent report charge in the amount of \$250.00 a day if past the 48-hour grace period from the above stated delivery dates. If the report remains delinquent for more than fifteen (15) days past the grace period, the amount shall be increased to \$500.00 per day.

A. The Collector's or Authorized Recycler's failure to file the reports required by this Section shall, at the option of the Agency, constitute cause for termination or suspension of its Collector Agreement or other permit status.

6.4.411 IMPLEMENTATION AND ENFORCEMENT

A. Director Authority

The Director is authorized to administer and enforce the provisions of this Chapter, beginning with Section 6.4.403 and following. The Director or anyone designated by the Director to be an enforcement officer may exercise such enforcement powers. To the extent permitted by law, the Director may inspect any collection container, collection vehicle load, or receiving facility for collected Trash, or Recyclables.

B. Administrative Appeal

Unless otherwise expressly provided by the Agency's Code, any person adversely and directly affected by any determination made or action taken by the Director pursuant to the provisions of this Chapter may file an administrative appeal. If no appeal is filed within the time prescribed and consistent with Agency's procedures in the Agency's Codes, the determination or action of the Director shall be final.

C. Incremental Notification and Enforcement

1. If the Exclusive Hauler or Authorized Recycler first finds more than 10 percent of incorrect materials in a Collection container, they shall notify the Generator by written notice attached to the Recycling container and shall provide a copy of the notice to the Agency Director.

2. If the Exclusive Hauler or Authorized Recycler finds more than 10 percent of incorrect materials in a collection container a second time within 30 days, they shall notify the Generator by a written "Second Notice" attached to the Recycling container and shall provide a copy of this Second Notice to the Agency Director for possible follow up and enforcement.

3. After the Exclusive Hauler or Authorized Recycler has already left two or more notices or tags for that Customer and that type of container, the Exclusive Hauler or Authorized Recycler may refuse to empty the container, if contamination occurs a third time within 30 days of the second noted violation, subject to California Code of Regulations Title 14, Section 17331, or as determined by the Agency Director. If the container is not emptied, the Exclusive Hauler or Authorized Recycler must leave a tag and send a written notice to the Generator, identifying the incorrect materials and describing what action must be taken for the materials to be collected. If not cured within two (2) business days due to excessive contamination the Exclusive Hauler or Authorized Recycler may collect these materials as solid waste and charge the generator regular disposal fees for each container of contaminated materials.

4. The Exclusive Hauler or Authorized Recycler shall, in addition to the above, upon request, provide to the Agency Director a list of the names and addresses of those Customers or Responsible Parties who have received tags or notices or whose containers

have not been emptied due to non-compliance with this Chapter, or copies of the tags or notices. The Exclusive Hauler or Authorized Recycler shall also provide to the Agency Director, upon request, a list of the names, addresses, and service levels of the Customers and any additional information required by the Agency Director.

D. Administrative Citations

The Director may issue administrative citations for violations of this Chapter or of any rule or regulation adopted pursuant to this Chapter, except as otherwise provided in this Chapter. Agency's procedures on imposition of administrative fines are hereby incorporated in its 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; provided, however, that the Director may adopt regulations providing for lesser penalty amounts.

E. Notices of Violations

A Notice of Violation shall be issued and served upon the Generator, Exclusive Hauler or Authorized Recycler for any violations of this Chapter. Upon curing a violation, the Generator or Responsible Party may request special service of the containers at an additional expense, or may opt to wait until their next scheduled service day for the container to be serviced.

F. Remedies and Penalties

For the 4th and any subsequent violations, within 30 days of a previous violation, public nuisance proceedings and/or code enforcement proceedings under the Agency's Code shall apply, in addition to the administrative penalties approved by resolution of the Agency Board, as modified from time to time. The Agency Director has the authority to impose administrative penalties for the Notices of Violations. The amount of the administrative penalty shall not be more than \$500.00 for each violation.

G. Additional Remedies

The Director may seek injunctive relief or civil penalties in the Superior Court in addition to the above remedies and penalties.

H. Additional provision

All administrative civil penalties collected from actions brought pursuant to this Chapter shall be paid to the Agency Director and shall be deposited into a special account (or Solid Waste account) that is available to fund activities to implement the applicable provisions of this Chapter.

6.4.412 OTHER ACTIONS AND REMEDIES

A. No other powers affected

This Chapter (Section 6.4.412 and following) does not do any of the following:

1. Otherwise affect the authority of the Agency Director, or 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 Agency Director or designee from cooperating with, or participating in, a proceeding specified in 6.4.411 above.
4. Affect in any way existing contractual arrangements including Exclusive permits or licenses previously granted or entered into between the Exclusive Hauler or Authorized Recycler and Agency.

B. Cumulative Remedies

Any remedy provided under this article is cumulative to any other remedy provided in equity or at law. Nothing in this article shall be deemed to limit the right of the Agency or its authorized collection agent(s) to bring a civil action; nor shall a conviction for such violation exempt any person from a civil action brought by the Agency or its authorized collection agent(s). The fees and penalties imposed under this article shall constitute a civil debt and liability owing to the Agency 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 article shall be deemed to impose any liability upon the Agency or upon any of its officers or employees including without limitation under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA).

6.4.413 FORMS, REGULATIONS AND GUIDELINES

A. After public notice and a public hearing, the Director may adopt necessary forms, rules, regulations, and guidelines which may be necessary or desirable to aid in the administration or enforcement of the provisions of this article, including all necessary

policies and procedures for the issuance of the permits, administration of this article, collection of fees and bonds and/or indemnities, or proof(s) of insurance.

B. The Agency shall provide information on its website regarding what materials are accepted as Recyclables and Trash under this Chapter.

6.4.414 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 Recyclables or Trash. This Chapter shall not create liability on the part of the Agency, 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 discarded materials within the boundaries of the Agency 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 Agency is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officer 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.

6.4.414 DUTIES ARE DISCRETIONARY

Subject to the limitations of due process and applicable requirements of State or federal laws, and notwithstanding any other provisions of this Code, whenever the words "shall" or "must" are used in establishing a responsibility or duty of the Agency, 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.

6.4.415 SEVERABILITY

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The City Council of the City of Maywood hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

6.416. EFFECTIVE DATE

This ordinance shall take effect after thirty (30) days have elapsed after its adoption.

PASSED, APPROVED AND ADOPTED this 10th day of October, 2018.

City of Maywood

Ramon Medina, Mayor

Attest:

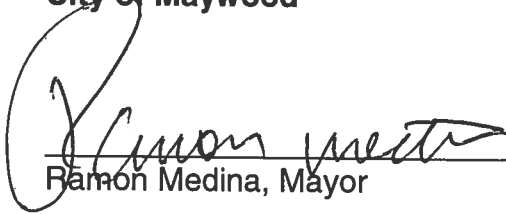
City Clerk / Deputy City Clerk

Approved as to form:


Michael B. Montgomery, City Attorney

PASSED, APPROVED AND ADOPTED this 10th day of October, 2018.

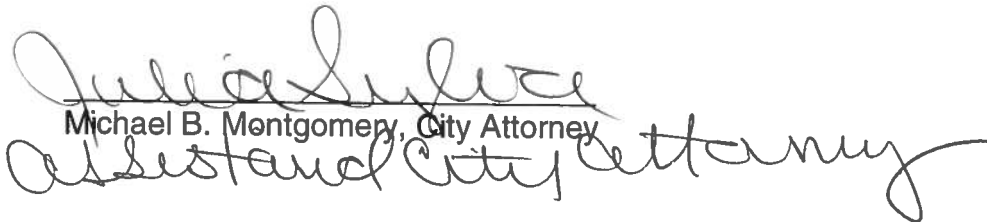
City of Maywood


Ramon Medina, Mayor

Attest:


City Clerk / Deputy City Clerk

Approved as to form:


Michael B. Montgomery, City Attorney
Assistant City Attorney

CERTIFICATION

The City Clerk shall certify to the passage and adoption of this ordinance and shall cause the same to be published or posted according to law and transmitted to the Board of Supervisors for consideration.

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss
CITY OF MAYWOOD:)

I, Gerry Mayagoitia, City Clerk, or Guillermo Padilla, Deputy City Clerk, City of Maywood, California, DO HEREBY CERTIFY that the foregoing Ordinance, being Ordinance No. 18-16 was duly introduced and approved by the City Council of the City of Maywood at a regular meeting held on the 27th day of September, 2018, with second reading and adopted and passed by said City Council at a regular meeting held on the 10th day of October, 2018 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Attest:



City Clerk / Deputy City Clerk

