

**ORDINANCE NO. 2015-02**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FOWLER ADDING ARTICLE 2, RECYCLING, TO CHAPTER 2 OF TITLE 6 OF THE FOWLER MUNICIPAL CODE PERTAINING TO SOLID WASTE COLLECTION, AND MAKING OTHER CONFORMING AMENDMENTS TO ARTICLE 1 DEFINITIONS AND ARTICLE 4 VIOLATIONS**

THE CITY COUNCIL OF THE CITY OF FOWLER DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 6-2.101, subsection (h) of Article 1, of Chapter 2, of Title 6, of the Fowler Municipal Code is amended to read as follows:

**6-2.101 Definitions.**

(h) "Recyclable material" shall be as defined in Article 2 of this chapter.

SECTION 2. Article 2, of Chapter 2, of Title 6, of the Fowler Municipal Code is hereby added to read as follows:

**Article 2. Commercial and Multi-Family Recycling.**

**6-2.200 Findings and Intent.**

The Council finds and determines:

State recycling law, the California Integrated Waste Management Act of 1989, as amended, and AB341 (Chapter 476, Statutes of 2011), 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.

The Council desires to meet and exceed the requirements of state recycling law by implementing a mandatory recycling program for Businesses, which includes multi-family dwellings.

**6-2.201 Definitions.**

For purposes of this article, unless otherwise apparent from the context, certain words or phrases used in this article are defined as follows. In addition, the definitions set forth in article 1 of this chapter shall be applied to this article. In the event of a conflict between the definitions in article 1 and this article, the definitions in this article shall prevail.

(a) "Business" means any of the following, whether operating for profit or not for profit:

(1) A commercial entity, including retail, restaurants, shopping centers, theaters, offices, and mixed use facilities;

- (2) An industrial or manufacturing facility, including agricultural operations;
- (3) Hotels, motels, hospitals, medical facilities, and nursing and care facilities;
- (4) A multi-family dwelling with five or more units;
- (5) A mobile home park;
- (6) Any person or entity engaged in the construction, demolition or restoration of structures or landscapes.

(b) “Collection Service Operator” means any person, firm, corporation, partnership, or association, or the agents or employees thereof, other than a Contract agent, which has a permit, license, or other authorization from the City to collect and transport Recyclable Materials.

(c) “Recyclable Materials” means materials that have been Source Separated from solid waste for the purpose of returning them, through processing and available markets, 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 the City Manager, or his or her designee, for which a viable economic market exists, including, but not limited to: plastic bottles and jars, paper, cardboard, glass, newspaper, metal containers, cans, used motor oil, or aluminum.

(d) “Recycling Facility” means a 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 Materials that have been Source Separated from the Solid Waste stream. A Recycling Facility may be owned or operated by a for-profit or not-for-profit person or entity, including a not-for-profit person or entity that accepts donations of Recyclable Materials.

(e) “Self Haul” or “Self Hauling” means a Business or Responsible Party who transports its own Recyclable Materials to a Recycling Facility by using a vehicle owned by the Business and operated by the employees of the Business, or by the Responsible Party, rather than using the hauling services of a Contract agent or Collection Service Operator.

(f) “Responsible Party” means the individual or entity responsible for management or promotion of a Special Event.

(g) “Source Separated” or “Source Separation” means the process of removing Recyclable Materials from Solid Waste at the place of generation, prior to collection, into separate containers that are separately designated for Recyclable Materials.

(h) “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 City. Special events may include the temporary or periodic use of a public street, publicly owned site or facility, or public park.

**6-2.202 Recycling Requirements.**

- (a) Each Business or Responsible Party shall be responsible for ensuring and demonstrating its compliance with the requirements of this article.
- (b) Each Business or Responsible Party shall:
  - (1) Source Separate Recyclable Materials from Solid Waste; and
  - (2) Arrange for Recyclable Materials collection service; and
  - (3) Utilize the services of the Contract agent or a Collection Service Operator to provide Recyclable Materials collection service; or
  - (4) Complete and retain on-site a Self Hauling form certifying that all Self Hauling activities will be completed in accordance with this article or any other applicable law or regulation. A copy of such form shall be available to the City Manager upon request.
- (c) Each Business or Responsible Party shall use containers to collect and store Recyclable Materials and shall designate areas to collect and/or store Recyclable Materials. Containers provided by the Contract agent or Collection Service Operator may be utilized to satisfy this requirement.
- (d) Each Business or Responsible Party shall notify and instruct employees, agents, volunteers, and occupants 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. Training materials provided by the Contract agent or Collection Service Operator may be utilized to satisfy this requirement.
- (e) All Recyclable Materials containers are subject to the following requirements. No container shall be loaded beyond its capacity. It shall be the Business's or Responsible Party's responsibility to keep the containers 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 Recyclable Materials. No Recyclable Materials shall be allowed to become odoriferous or a producer of vectors. Lids on containers shall remain closed at all times while stored or placed for collection.
- (f) Each Business or Responsible Party shall ensure that Recyclable Materials generated at the Business's or Responsible Party's site will be taken only to a Recycling Facility. Subscribing to the Recyclable Materials collection service provided by the City's Contract agent or a Collection Service Operator shall satisfy this requirement. Businesses or Responsible Parties shall not dispose of, or arrange for disposal of, Recyclable Materials by placement in a landfill except in an emergency situation.

**6-2.203 Authorized Recyclable Materials Collectors.**

- (a) No person shall place containers, collect or transport Recyclable Materials within the corporate boundaries of the City unless that person is a Contract agent or a Collection Service Operator.
- (b) The Contract agent or Collection Service Operator shall offer collection service using lined cardboard boxes, carts, bins or roll-off containers for Recyclable Materials sufficient to accommodate the quantity and types of Recyclable Materials for each Business or Responsible Party.
- (c) The Contract agent or Collection Service Operator shall not take Recyclable Materials directly to a landfill or other site for disposal. Such materials shall be taken to a Recycling Facility. A Collection Service Operator other than the Contract agent shall maintain a copy of a service agreement and/or receipts documenting that the Business's or Responsible Party's Recyclable Materials have been properly delivered to a Recycling Facility. Such documents shall be available for inspection by the City Manager from the Collection Service Operator during normal business hours and maintained for not less than three (3) years.
- (d) The provision of collection services to Businesses or Responsible Parties may be subject to a determined percentage franchise fee applied to rates and collected and paid to the City by the Contract agent or Collection Service Operator in amount established by ordinance or resolution, or in any contract entered into by the City.

**6-2.204 Recyclable Materials Collection Services.**

- (a) The Recycling Services provided by the Contract agent or Collection Service Operator shall include, at a minimum, all of the following:
  - (1) Collection of Recyclable Materials from Businesses at a minimum of one (1) time per week, or at a lesser frequency as specified by contract, license or permit, or by the City Manager;
  - (2) Collection of the Recyclable Materials identified by the City Manager;
  - (3) Utilizing containers that meet requirements the City Manager may from time to time prescribe, or are set forth in any contract between the Contract agent and the City or the license, permit or authorization issued to a Collection Service Operator, including but not limited to container size, container labeling, container color, or the use of hasps or locks, for the purpose of discouraging scavenging and facilitating ease of use for Businesses and their employees or occupants, by written guidance, resolution or contract.
  - (4) Education. For each Business, the Contract agent or Collection Service Operator shall provide information about Recyclable Materials collection services as follows:

(a) The Health Department is hereby specifically required to enforce the provisions of this chapter and shall have the right to enter any and all premises for the purpose of determining the sanitary condition thereof, and any person denying or obstructing such entry shall be subject to a penalty as provided in this chapter.

(b) It shall be unlawful for any person to violate the requirements of this chapter in any manner or to interfere with the collection or disposal of garbage, rubbish, refuse or recyclable materials by any person authorized by license or contract to collect and dispose of such garbage, rubbish, refuse or recyclable materials. A violation of any provision of this chapter shall be punished as a misdemeanor as set forth in Section 1-2.01 of Chapter 2 of Title 1 of this Code.

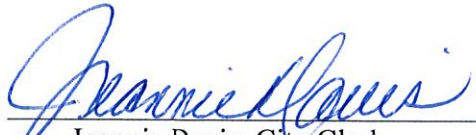
(c) Any remedy provided under this chapter is cumulative to any other remedy provided in equity or at law. Nothing in this chapter shall be deemed to limit the right of the City or its authorized collection agent(s) to bring a civil action; nor shall a conviction for such violation exempt any person from a civil action brought by the City or its authorized collection agent(s). The fees and penalties imposed under this article shall constitute a civil debt and liability owing to the City and shall be collectible in the manner provided by law.

SECTION 4. EFFECTIVE DATE.

This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

APPROVED: April 7, 2015

  
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David Cardenas, Mayor

  
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Jeannie Davis, City Clerk

The foregoing Ordinance was introduced at a regular meeting of the City Council held on March 3, 2015, and was adopted at a regular meeting of said Council held on April 7, 2015 by the following vote, to wit:

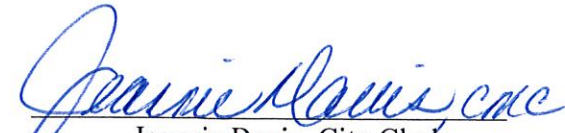
AYES: Cardenas, Parra, Hammer, Monis, Simonian

NOES: None

ABSENT: None

ABSTAIN: None

Dated: April 7, 2015

  
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Jeannie Davis, City Clerk

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