

ORDINANCE NO. 731

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DESERT HOT SPRINGS, CALIFORNIA ADDING CHAPTER 8.10 "RECYCLING OF COMMERCIAL SOLID WASTE AND ORGANIC WASTE" OF TITLE 8 "HEALTH AND SAFETY" TO THE DESERT HOT SPRINGS MUNICIPAL CODE RELATING TO COMMERCIAL AND ORGANIC WASTE RECYCLING

WHEREAS, the City of Desert Hot Springs ("City") is a charter city organized pursuant to Article XI of the California Constitution; and

WHEREAS, the California Integrated Waste Management Act of 1989 requires each jurisdiction to develop a source reduction and recycling element of an integrated waste management plan to achieve a fifty percent reduction or diversion of solid waste from landfills; and

WHEREAS, Assembly Bill (AB) 341 requires that businesses that generate more than 4 cubic yards of commercial solid waste per week or is a multifamily residential dwelling of 5 units or more to arrange for recycling services consistent with state and local law; and

WHEREAS, AB 341 requires all jurisdictions within California to implement a commercial solid waste recycling program; and

WHEREAS, AB 1826 requires that businesses that generate 2 cubic yards or more of commercial solid waste per week or is a multifamily residential dwelling of 5 units or more to arrange for organic waste recycling services consistent with state and local law; and

WHEREAS, AB 827 requires businesses who are subject to AB 341 or AB 1826, and that provide customers access to the business, to provide customers with a recycling bin or container for that waste stream that is visible, easily accessible, adjacent to each bin or container for trash other than that recyclable waste stream; and

WHEREAS, the City Council is committed to compliance with state law on recycling and diversion of waste; and

WHEREAS, the City's authorized waste collector contractor provides commercial solid waste and organic waste collection and recycling services to businesses; and

WHEREAS, the City Council desires to add Chapter 8.10 to create recycling program that complies with state standards; and

WHEREAS, the City Council finds that the adding Chapter 8.10 to the Desert Hot Springs Municipal Code is in the best interest of the public health, safety and welfare of the residents of the City.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Desert Hot Springs as follows:

Section 1. RECITALS

That the foregoing recitals are true and correct and are herein adopted by this reference.

**Section 2. ADDITION OF CHAPTER 8.10 "RECYCLING OF
COMMERCIAL SOLID WASTE AND ORGANIC WASTE"
OF TITLE 8 "HEALTH AND SAFETY" OF THE DESERT
HOT SPRINGS MUNICIPAL CODE**

Chapter 8.10 ("Recycling of Commercial Solid Waste and Organic Waste") of Title 8 ("Health and Safety") of the Desert Hot Springs Municipal Code is hereby added to read in its entirety as follows:

Chapter 8.10 Recycling of Commercial Solid Waste and Organic Waste

8.10.010 Definitions

- A. "Business" means 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.
- B. "Commercial solid waste" includes all types of solid waste generated by a store, office, or other commercial or public entity source, including a business or a multifamily dwelling of five or more units.
- C. "Full-service restaurant" means an establishment with the primary business purpose of serving food, where food may be consumed on the premises, and an employee of the establishment takes all of the following actions:
 - 1. The consumer is escorted or assigned to an assigned eating area. The employee may choose the assigned eating area or may seat the consumer according to the consumer's need for accommodation or other request.
 - 2. The consumer's food and beverage orders are taken after the consumer has been seated at the assigned seating area.
 - 3. The food and beverage orders are delivered directly to the consumer.
 - 4. Any requested items associated with the consumer's food or beverage order are brought to the consumer.
 - 5. The check is delivered directly to the consumer at the assigned eating area.
- D. "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.
- E. "Self-hauler" means a business that hauls its own waste rather than contracting for that service. "Self-haul" means to act as a self-hauler.

8.10.020 Mandatory Recycling Program

A. A business that generates four cubic yards or more of commercial solid waste per week, two cubic yards of organic waste per week, or is a multifamily residential dwelling of five units or more shall arrange for recycling services, consistent with the following requirements:

- 1. Arrange for the regular collection of commercial recyclable materials through the City's authorized waste collection contractor;**
- 2. Maintain containers on the premises, which are to be provided by the City's authorized waste collection contractor, for the collection of commercial recyclable materials;**
- 3. Source separate commercial recyclable materials from waste, and place the recyclable materials in the appropriate containers for collection as designated by the City's authorized waste collection contractor; and**
- 4. A business that provides customers access to the business shall provide customers with a commercial solid waste recycling bin or container to collect material purchased on the premises. The containers must be:**
 - i. Adjacent to each bin or container for trash other than recyclable commercial solid waste, except in restrooms.**
 - ii. Visible and easily accessible.**
 - iii. Clearly marked with educational signage indicating what is appropriate to place in the commercial solid waste recycling bin or container in accordance with state law and the local jurisdiction's solid waste ordinances and practices.**
- 5. Full-service restaurants are exempt from the requirements of this chapter if the full-service restaurant provides its employees a commercial solid waste recycling bin or container to collect material purchased on the premises and implements a program to collect recyclable commercial solid waste.**
- 6. A property owner of a multifamily residential dwelling may require tenants to source separate their recyclable materials to aid in compliance with this section.**

B. A business that generates two cubic yards or more per week of commercial solid waste, or is a multifamily residential dwelling of five units or more shall arrange for organics recycling services, consistent with the following requirements:

- 1. Arrange for the regular collection of organics recyclable materials through the City's authorized waste collection contractor;**
- 2. Maintain containers on the premises, which are to be provided by the City's authorized waste collection contractor, for the collection of organics recyclable materials;**

3. Source separate organics recyclable materials from waste, and place the recyclable materials in the appropriate containers for collection as designated by the City's authorized waste collection contractor; and
4. A business that provides customers access to the business shall provide customers with an organic waste recycling bin or container to collect material purchased on the premises for immediate consumption. The bins and containers shall be:
 - i. adjacent to each bin or container for trash other than recyclable organic waste, except in restrooms.
 - ii. visible and easily accessible.
 - iii. clearly marked with educational signage indicating what is appropriate to place in the organic waste recycling bin or container in accordance with state law and the local jurisdiction's solid waste ordinances and practices.
5. Full-service restaurants are exempt from the requirements of this chapter if the full-service restaurant provides its employees an organic waste recycling bin or container to collect material purchased on the premises for immediate consumption and implements a program to collect recyclable organic waste.
6. Multi family residential dwellings are not required to divert food waste under subsection (B). Multi family residential dwellings are required to divert landscaping or yard trimmings.
7. A business that is a multifamily dwelling is not required to arrange for the organic waste recycling services specified in subsection (b) for food waste that is generated by the business.
8. When arranging for gardening or landscaping services, the contract or work agreement between a business subject to this section and a gardening or landscaping service shall require that the organic waste generated by those services be managed in compliance with this chapter.

8.10.030 Additional Regulations

The City Manager or designee may adopt necessary forms, rules, regulations, and guidelines that may be necessary or desirable to aid in the administration or enforcement of the provisions of this chapter.

8.10.040 Fee Collection

The City Manager or designee may implement a system allowing for the City to charge and collect a fee from businesses that are subject to this chapter in order to recover the City's costs in complying with the commercial solid waste and organics recycling requirements set forth in California Public Resources Code chapters 12.8 and 12.9.

8.10.050 Education

The City Manager or his designee shall work with the City's authorized waste collection contractor to conduct outreach and educate businesses subject to the requirements of this chapter about its requirements and facilitate compliance.

8.10.060 Enforcement

- A. The City Manager or designee is authorized to administer and enforce the provisions of this chapter.
- B. It is unlawful and a public nuisance to violate or fail to comply with any provision this chapter. A new and separate offense occurs for each day during any portion of which a violation of or failure to comply with this chapter is committed, continued, maintained, caused, or permitted.
- C. The City may enforce this chapter through any remedies permitted by law, including but are not limited to, the remedies in Title 1 and Title 4 of this code. The remedies provided for herein shall be cumulative and not exclusive.

Section 3. SEVERABILITY

That, should any provision, section, paragraph, sentence or word of this ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this ordinance as hereby adopted shall remain in full force and effect.

Section 4. REPEAL OF CONFLICTING PROVISIONS

That all the provisions of the Municipal Code as heretofore adopted by the City of Desert Hot Springs that are in conflict with the provisions of this ordinance are hereby repealed.

Section 5. AMENDING OF BAIL SCHEDULE

That the City Attorney's Office is hereby directed to determine whether this ordinance necessitates amendment of the City's Bail Schedule and to cause such necessary amendments to be made and filed with the local branches of the Superior Court of the County of Riverside.

Section 6. EFFECTIVE DATE

That this ordinance shall be effective thirty days after the second reading of the ordinance.

Section 7. CERTIFICATION

That the City Clerk shall certify to the passage of this ordinance and shall cause the same to be published according to law.

PASSED AND ADOPTED by the City Council of the City of Desert Hot Springs at a regular meeting held on the 16th day of February, 2021, by the following vote:

AYES: 5 – Betts; Gardner; Nuñez; Pye; and Mayor Matas.

NOES: None.

ABSENT: None.

ABSTAIN: None.


[SIGNATURES FOLLOW ON THE NEXT PAGE]

ATTEST:



Jerryl Soriano, City Clerk

APPROVED:



Scott Matas, Mayor

APPROVED AS TO FORM:



Jennifer A. Mizrahi, City Attorney