

**ORDINANCE NO. 3518 C.S.**

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF MONTEREY**

**AMENDING ARTICLE 1 OF CHAPTER 14 OF THE MONTEREY CITY CODE RELATED TO  
SOLID WASTE AND RECYCLING**

THE COUNCIL OF THE CITY OF MONTEREY DOES ORDAIN, as follows:

**SECTION 1:**

WHEREAS, the legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989 and subsequent additions and amendments thereto (codified at California Public Resources Code Section 40000 *et seq.*) has declared that it is within the public interest to authorize, and to require local agencies to make adequate provisions for Solid Waste handling within their jurisdictions, and has established a Solid Waste management process, which requires cities and other local agencies to implement plans for source reduction, reuse, and recycling as part of their integrated waste management practices;

WHEREAS, the City of Monterey has adopted regulations pertaining to the collection, transportation, and disposal of Solid Waste and recyclables produced within the City;

WHEREAS, the City desires to amend Article 1 of Chapter 14 of the Monterey City Code to bring the City's Solid Waste and recycling regulations into conformance with its exclusive franchise agreement and with its current practices related to the collection, transportation, and disposal of Solid Waste and recyclables, and to enable the City to continue its compliance with the goals of the California Integrated Waste Management Act; and

WHEREAS, the City of Monterey determined that the proposed action is not a project as defined by the California Environmental Quality Act (CEQA)(CCR, Title 14, Chapter 3 ("CEQA Guidelines), Article 20, Section 15378). In addition, CEQA Guidelines Section 15061 includes the general rule that CEQA applies only to activities which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Because the proposed action and this matter have no potential to cause any effect on the environment, or because it falls within a category of activities excluded as projects pursuant to CEQA Guidelines section 15378, this matter is not a project. Because the matter does not cause a direct or any reasonably foreseeable indirect physical change on or in the environment, this matter is not a project. Any subsequent discretionary projects resulting from this action will be assessed for CEQA applicability.

**SECTION 2:** Monterey City Code, Chapter 14, Article 1, is hereby amended to read as follows:

**ARTICLE 1.**

**IN GENERAL**

**Sec. 14-0. Definitions.** For the purpose of this Article, the following words and phrases shall have the meanings respectively ascribed to them below.

(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) "City Manager" means the City Manager and his/her authorized designee.

(c) "Commercial premises" means all Premises except residential Premises.

(d) "Construction and Demolition Material" means the waste building materials, packaging and rubble resulting from construction, remodeling, repair and demolition operations on pavements, houses, commercial buildings and other structures.

(e) "Franchisee" means the person, firm, corporation or other enterprise or organization, or his or her authorized agents and employees, that is a party to the exclusive franchise agreement with the City of Monterey for the collection of Solid Waste and Recyclable Materials.

(f) "Hazardous Waste" shall mean any waste, 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, an increase in serious irreversible illness, or an increase in incapacitating reversible illness.

2. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

3. Unless expressly provided otherwise, "Hazardous Waste" includes extremely hazardous waste and acutely Hazardous Waste as those terms are defined in the California Health and Safety Code sections 25115 and 25110.02, respectively, as may be amended.

(e) "Multifamily dwelling" means any permanent Premises of at least two units used for residential purposes, where the units do not receive separate or individual Solid Waste collection service. By way of illustration, Multifamily dwelling includes apartment buildings, attached single-family dwellings, such as townhouses and condominiums, and mobile home parks, in which the units do not receive separate or individual Solid Waste collection service.

Multifamily dwelling does not include any hotel, motel, guesthouse, residential care facility, extended care facility, sorority or fraternity house, school, dormitory, residential service facility, emergency residential shelter, or hospital.

(f) "Occupant" means any person occupying residential or commercial Premises located within the territorial limits of the City of Monterey, or within the limits of an area where the City and/or its Franchisee has agreed to provide Solid Waste disposal services, whether or not the person owns the Premises that he/she occupies.

(g) "Organic Waste" means food waste, green waste, landscape and pruning waste, nonhazardous wood waste and food soiled paper waste that is mixed with food waste.

(h) "Premises" means individual residential Premises or individual commercial Premises, or both.

(i) "Recyclable Materials" means materials that have been separated from the Solid Waste stream prior to disposal and returned 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, but are not limited to, plastic bottles and jars, paper, cardboard, glass, newspaper, and metal containers.

(j) "Solid Waste" means all putrescible and nonputrescible solid, semisolid, and liquid waste, including garbage, trash, refuse, paper, rubbish, yard waste, food scraps, ashes, industrial waste, Construction and Demolition waste, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge that is not Hazardous Waste, manure, vegetable or animal solid and semisolid waste, and other discarded solid and semisolid waste. This includes any material that has any recyclable content or value.

"Solid waste" does not include any of the following waste:

1. Hazardous Waste, as defined in this Article.
2. Radioactive waste regulated pursuant to the Radiation Control Law (California Health and Safety Code Section 114960, et. seq., as may be amended).
3. Medical waste regulated pursuant to the Medical Waste Management Act (California Health and Safety Code Section 117600 et. seq., as may be amended). Untreated medical waste shall not be disposed of in a Solid Waste container or Solid Waste landfill, as defined in the Public Resources Code Section 40195.1. Medical waste that has been treated and deemed to be Solid Waste shall be regulated in accordance with this Article.
4. Electronic Waste (E-waste) or any unwanted electrical device, including but not limited to televisions, computers, cell phones, radios, printers and speakers.

(k) "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 designated for Recyclable Material, Organics and trash.

(l) "Special Event" means any special event, regardless of size, sponsored by any commercial or non-profit organization, group, or individual, which is held within the City of Monterey, and at which food and/or drinks are being provided for public consumption. This definition shall apply whether such food and/or drinks are prepared within or outside of the Monterey City limits.

#### **Sec. 14-1. Service Required; Collection**

(a) The owner or Occupant of each Premises within the City, or the owner of any other Premises upon which Solid Waste may be produced or accumulated, shall obtain and maintain adequate disposal service from the City, its agents, or its Franchisee, and shall be liable for and shall pay the full amount of any and all fees or charges imposed for such services. The owner and Occupant shall be jointly and severally liable for maintenance of, and payment for the disposal services required herein. If a tenant, lessee, or other Occupant fails to initiate or pay for disposal services, it shall be the responsibility of the property owner to initiate and pay for such services.

(b) "Adequate disposal service" shall mean a sufficient number and/or capacity of Solid Waste containers to hold any accumulation of Solid Waste generated on the Premises between times for collection. Collection shall occur on at least a weekly basis, or more frequently if required by the City and/or the Franchisee.

(c) No person shall place any Solid Waste into a Solid Waste container without permission of the owner or tenant of the property on which the container sits.

(d) It shall be unlawful to hire any Solid Waste collection transporter besides the City's Franchisee.

##### **1. Exceptions:**

- i. Residents and Businesses may haul their own Solid Waste to a Solid Waste, recycling, or donation facility.
- ii. A Business may haul the Solid Waste it generates as an ancillary service to the primary work provided by the Business, including but not limited to landscaping, gardening, construction, and demolition companies.
- iii. Persons engaged in the Business of destroying or disposing of secret, confidential or sensitive documents may transport and dispose of said documents as part of their services.
- iv. Donations of material, if the collecting agency does not receive monetary compensation.

(e) Residential Solid Waste and recycling containers shall be placed for collection adjacent to the street prior to the scheduled time for pickup. Except when authorized by the City Manager upon a showing of reasonable necessity, no person shall leave any residential container or containers, or any other items for collection on specially designated collection dates, at the street curb or in any other place on the property visible from the street before 6:00 p.m. on the day prior to the day of pickup, or beyond 7:00 p.m. the day of collection.

(f) Commercial containers shall not be stored on any public right-of-way or property, and shall be screened from public view, except on the day of pickup, and shall be returned to their stored location within two hours of pickup.

(g) Containers for Solid Waste collection shall be placed in such a manner as to be safe and accessible to collection personnel.

(h) No collection shall be made or commence in residential zones by the City, its agents, or Franchisee, before the hour of 6:00 a.m. or after the hour of 5:00 p.m., except on order of the City Manager.

(i) If an Occupant and/or owner of any Premises fail to procure the Solid Waste disposal services required herein or fail to pay for the required services, the City may initiate disposal services at the property and the cost thereof shall constitute a charge against the owner. If the charge or debt for said services has not been satisfied in full within ninety (90) days, the City Manager shall recommend adoption of a resolution by the City Council imposing the debt, including the City's administrative costs, as a lien or special assessment against the property in accordance with the procedures set forth in Article 3 of Chapter 1 of the Monterey City Code.

#### **Sec. 14-1.5. Storage of Solid Waste.**

(a) It shall be unlawful for any person to place, keep or deposit any Solid Waste, or other items for collection, on any street, alley, sidewalk, public way or any public or private property or Premises except in a suitable container for collection, except for those items set out for collection on specially designated collection dates established by Franchisee.

(b) Small amounts of yard waste may, however, be kept in a small pile or as a compost heap out of general public view.

(c) Solid Waste must be maintained in such a manner that it does not create odor, vector, or litter impacts to the community or create a public or private nuisance.

(d) All containers shall be stored out of public view and on the parcel that they are servicing except when placed out for collection.

(e) The Planning Commission shall adopt standards for the construction or renovation of Solid Waste enclosures for commercial and Multifamily dwellings consisting of 5 units or more, which standards shall be required as a condition of any building permit issued by the City.

## **Sec. 14-2. Solid Waste Containers.**

### **(a) In General.**

1. Unless exempt, Occupants of every Premises shall maintain and utilize sufficient containers provided by the City's Franchisee with close-fitting lids and of sufficient capacity to hold any accumulation of Solid Waste generated between times for collection.

2. Container lids must be closed fully at all times, including when containers are placed out for collection.

3. Extra containers may be provided by Occupants so long as each container does not exceed 32 gallons in capacity and does not exceed seventy (65) pounds when full. The Franchisee may impose additional charges for collecting extra containers.

4. Containers must be maintained in a sanitary condition with lids closed and screened from public view.

### **(b) Restaurants and Food Facilities.**

1. Each restaurant and facility preparing or serving food shall utilize appropriate equipment necessary to store or dispose of all food waste material.

2. All food waste and Solid Waste containing food waste shall be kept in leak-proof and rodent-proof containers and shall be contained so as to minimize odor, insect or vector development by covering with close-fitting lids.

3. All wet solid or food waste must be placed in a sealed plastic bag before being placed in a trash container.

4. All food waste and Solid Waste shall be removed and disposed of in a sanitary manner as frequently as may be necessary to prevent the creation of a public or private nuisance. Waste storage areas of food facilities shall be kept clean and free of litter, uncontained Solid Waste, and vermin, and shall be free from noxious odors.

5. No liquids shall be placed in waste containers. All non-hazardous liquid waste, including any liquid waste resulting from Solid Waste accumulation, storage, or from cleaning of Solid Waste containers in a storage area, must be discharged into the City sewer system.

c) Excluded Items. It shall be unlawful for any person to store, place, keep, or deposit in any Solid Waste or recycling container, or collection of yard waste, any of the following:

1. Dead animals.

2. Cooking oil renderings.

3. Fish and fish parts, except that residential Occupants may dispose of up to ten (10) pounds of fish or fish parts when sealed in a plastic bag.

4. Wearing apparel, bedding, equipment, instruments, utensils or other Solid Waste from any home or other place where any infectious or contagious disease is present.

5. Medical waste, including pathological specimens (i.e., all tissues, specimens of blood elements, excreta and secretions obtained from patients or laboratory animals) and any substance that may harbor or transmit pathogenic organisms.

6. Hazardous Waste, including household Hazardous Waste and materials including but not limited to motor oil, antifreeze, paints, solvents, and batteries.

7. Liquid waste. All liquid waste shall be drained prior to placing waste in Solid Waste disposal containers.

8. Electronic Waste.

Disposal of such items may be made only in compliance with rules and regulations established by this Article and the California Health and Safety Code.

### **Sec. 14-3. Mandatory Recycling**

(a) All commercial locations and all Multifamily dwellings consisting of more than one unit must have a recycling program.

(b) A recycling program must include the separation of Recyclable Materials from garbage, including but not limited to glass, plastics, cardboard, paper, metals and similar items to those that can be recovered by the City's Franchisee.

(c) A recycling program must also include proper container signage and/or education materials for employees, tenants or other approved users that indicate how to properly separate waste materials.

(d) The goal of the recycling program shall be to divert at least 50% of waste generated on site from being disposed as refuse designated for disposal in a landfill.

(e) If the City's Franchisee is not utilized to meet the requirements of this section, the refuse account owner must provide written certification to the satisfaction of the City Manager that another system is in place for recovery and diversion of waste from the landfill.

### **Sec. 14-3.1. Recovery of Organic Waste**

(a) On and after April 1, 2016, a Business that generates eight (8) cubic yards or more of Organic Waste per week shall arrange for recycling services specifically for Organic Waste.

(b) On and after January 1, 2017, a Business that generates four (4) cubic yards or more of Organic Waste per week shall arrange for recycling services specifically for Organic Waste.

(c) On and after January 1, 2019, a Business that generates four (4) cubic yards or more of Solid Waste per week, shall arrange for recycling services specifically for Organic Waste, unless the Business does not generate Organic Waste.

(d) On or after January 1, 2020, if CalRecycle, a state agency, determines that statewide disposal of Organic Waste has not been reduced to 50 percent of the level of disposal during 2014, a Business that generates two (2) cubic yards or more per week of commercial Solid Waste shall arrange for Organic Waste recycling services, unless the Business does not generate Organic Waste.

(e) Organic Waste recycling may be completed by any one of the following:

1. Subscribe to Organics collection services offered by the Franchisee
2. Recycle or compost Organic Waste for use onsite
3. Self -haul Organic Waste to a permitted location for recycling or composting
4. A landscaper may remove green waste on behalf of a Business if the requirements of Section 14-1 (d)(1)(ii) are met and the Organic material is taken to a permitted recycling or composting facility.

(f) The City may require written certification of adequate recycling practices from any Business owner that chooses an Organics recycling method other than Section 14.3-1 (e)(1).

(g) The City may require written certification from any Business owner that declares that his or her Business does not produce Organic Waste.

#### **Sec. 14-4. Food Providers and Special Events**

(a) Owners or managers of all food providers and Special Events must provide adequate Solid Waste collection service to their employees, contractors, customers and guests.

(b) Owners or managers of food providers and Special Events that are expected to host more than 100 persons (including employees) must supply adequate Solid Waste collection, including appropriate containers, placed in appropriate locations, to make Source Separation of Recyclable Materials and refuse convenient for employees, contractors, customers and guests of the food provider or Special Event. The containers must:

1. Be of adequate size and number based on the Solid Waste quantities reasonably anticipated to be generated at the location.
2. Bear the appropriate signage and be color coded to identify the type of Solid Waste to be deposited, blue for recyclable material and brown/black for refuse, and meet any additional design criteria as determined by the City of Monterey.
3. Be of sufficient quantity for the size of the event and placed in groups of at least two, including a refuse and recycling container, to provide equally convenient access to users.

(c) Owners or managers of food providers and Special Events that are expected to host more than 100 persons must also provide information or training for employees or contractors on how to Source Separate refuse and recyclable material.



(d) All food providers and Special Events shall comply with the Environmentally Acceptable Food Packaging (Chapter 14, Article 3) and Retail Bag Regulations (Chapter 14, Article 4) of the Monterey City Code.

**Sec. 14-5. Unauthorized Collection of Recyclable Material and Other Items for Collection.**

It shall be unlawful for any person, other than the customer, the City or its Franchisee, to remove or take any items placed in Solid Waste containers for collection.

**Sec. 14-6. Collection Charges.**

Rates for collection of Solid Waste shall be established by resolution of the City Council.

(a) Residential service:

1. All regular residential collection charges shall be due and payable tri-annually in advance on the first day of January, May and September of each year. All other charges shall be due and payable at the time collection is made.
2. The charge for any service started during a billing cycle is payable in advance but will be prorated if stopped prior to the end of the paid period. Charges shall become delinquent if not paid within twenty five (25) days of the billing date.
3. Delinquent accounts shall be subject to a penalty of 1.5% per month or \$10.00, whichever is greater. Accounts paid one year in advance shall receive a discount of 10%.

(b) Commercial service.

1. Commercial accounts shall be billed monthly in advance, and shall be due and payable on or before the first day of the billing month prior to which service is provided.
2. Accounts shall become delinquent if not paid within fifteen (15) days of the time payment is due. Delinquent accounts shall be subject to a penalty of 1.5% per month or \$10.00, whichever is greater.

**Sec. 14-7. Suspension of Service.**

(a) The owner or Occupant of any Premises not producing or accumulating Solid Waste may request in writing from the City Manager a temporary suspension of service.

(b) The City Manager may grant such suspension of service upon a showing that the services are not necessary.

(c) The City Manager shall cause periodic inspections of Premises with suspended service, and if it is found that Solid Waste is present or service needed, regular Solid Waste collection shall be resumed immediately.

**Sec. 14-8. Enforcement and Penalties**

(a) Penalty. Violation of any of the provisions of this Article shall be punishable by any criminal, civil, or administrative means as set forth in City Code section 1.7.

(b) Notwithstanding any other legal remedy, violation of any of the provisions of this Article shall constitute a public nuisance and shall be subject to abatement, injunction or other civil remedy as appropriate.

**SECTION 3:** All ordinances and parts of ordinances in conflict herewith are hereby repealed.

**SECTION 4:** This ordinance shall be in full force and effect thirty (30) days from and after its final passage and adoption.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF MONTEREY this 7<sup>th</sup> day of July, 2015, by the following vote:

AYES:	5	COUNCILMEMBERS:	Downey, Haffa, Smith, Barrett, Roberson
NOES:	0	COUNCILMEMBERS:	None
ABSENT:	0	COUNCILMEMBERS:	None
ABSTAIN:	0	COUNCILMEMBERS:	None

APPROVED:

ATTEST:

  
\_\_\_\_\_  
Mayor of said City

  
\_\_\_\_\_  
City Clerk thereof

