## ORDINANCE NO. 2944

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AMENDING CHAPTER 3, OF TITLE 6 OF THE ONTARIO MUNICIPAL CODE RELATED TO SOLID WASTE SERVICES AND FEES.

WHEREAS, it is the policy of the City of Ontario (the "City") that the accumulation, collection, removal, disposal, composting, and recycling of refuse shall be controlled by the City for the protection of the public health, safety, and welfare and to contribute toward the diminution of health hazards and pollution in the City; and

WHEREAS, the City Council finds that to give practical effect to this policy, a comprehensive system for the periodic collection, removal, disposal, composting and/or recycling of refuse from all premises in the City is essential and benefits all residents of the City; and

WHEREAS, the City currently has in place uniform requirements and regulations for direct and indirect users of the refuse and recycling collection services of the City which allow the City to comply with all applicable state and federal laws, including, but not limited to, The Integrated Waste Management Act of 1989, State Assembly Bill 75, Public Resources Code §§ 49520-49524, California Code Title 14 Division 7 and any subsequent amendments to each; and

WHEREAS, the City Council has determined that certain amendments to the City Municipal Code are necessary in order to reflect changes in the organizational management of the city and to regulate those persons who are authorized and permitted to haul recycled material within the City; and

WHEREAS, although the City's solid waste service charges are not proposed to be increased at this time, the City has determined to amend the City Municipal Code to authorize future rate increases to be adopted by an ordinance approved by the City Council, which ordinance shall not be codified in the City Municipal Code; and

WHEREAS, in accordance with the California Environmental Quality Act ("CEQA") and the CEQA Guidelines, the City Staff has determined that the amendments to the Municipal Code are not a project pursuant to Section 15378 of the CEQA Guidelines because the activity concerns general policy and procedure making and are exempt from CEQA pursuant to Section 10561 (b)(3) because the activity does not result in a physical change the environment.

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

<u>SECTION 1</u>. The forgoing recitals are true and correct and are hereby incorporated and adopted as findings and determinations by the City Council as if fully set forth herein.

<u>SECTION 2.</u> Section 6-3.107 of Chapter 3, Title 6 the Municipal Code is hereby amended to read as follows:

Sec. 6-3.107. Definitions.

For the purpose of this chapter, unless otherwise apparent from context, certain words and phrases used in this chapter shall have the meanings hereinafter designated. The definitions in this chapter are included for reference purposes only and are not intended to narrow the scope of definitions set forth in federal or state laws or regulations. Words used in this chapter in the singular may include the plural and the plural may include the singular. Use of the masculine shall also mean feminine and neuter.

- (a) "Administrative Services/Finance Director" means the Administrative Services/Finance Director of the City of Ontario.
- (b) "Applicant" means any individual, firm, limited liability company, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever who applies to the City for the applicable permits to undertake any construction, demolition, or renovation project within the City or to provide recycling collection services within the City.
- (c) "Authorized recycling agent" means a person with whom the City authorizes by contract or permit to collect its recyclable waste material. An authorized recycling agent may be a municipal collection service, private refuse hauler, private recycling enterprise, or private nonprofit corporation or association.

(Pub. Res. Code Section 40105)

- (d) "Bulky item" means any large item such as an appliance, furniture or bundled brush.
- (e) "Business recycling plan" means a completed business recycling plan form, approved by the City for the purpose of compliance with this article, submitted by the applicant for any large project.
- (f) "C & D or construction and demolition materials" means lumber, paper, cardboard, metals, masonry (brick, concrete, and the like), carpet, plastic, pipe (plastic, metal, and clay), drywall, rocks, dirt, and green waste related to land development. These materials produce debris that is not hazardous waste, as defined by Public Resources Code Section 40141.
  - (g) "City" means the City of Ontario, California.
- (h) "City Manager" means the chief administrative officer of the City of Ontario or his or her authorized designee.

- (i) "Collection" means the operation of gathering together and transporting of garbage, solid waste and refuse to a point of disposal and/or recycling or composting center/facility.
- (j) "Collector" means a person employed by the City or any other person (or the agents or employees thereof) whom the City shall have duly licensed, franchised, granted a permit to, or contracted with, to collect, carry, transport, compost, and/or recycle garbage, refuse and solid waste within the City.
- (k) "Combustible solid waste matter" means matter which includes all magazines, newspapers, hats, minor trimmings from lawns, trees, shrubs, and flower gardens, pasteboard boxes, rags, paper, straw, sawdust, manure, packing material, shavings, boxes, and other solid waste matter that may incinerate through contact with flames of ordinary temperature.
  - (I) "Commingled" means mixed in one mass; blended.
- (m) "Commercial" means any apartment house with four (4) or more units, business, industry, commercial establishment, or construction site, but shall not include residential dwellings.
- (n) "Commercial recycler" means a business the City has duly licensed, granted a permit to, or contracted with, to collect, carry, transport, compost, and/or recycle commodities within the City.
- (o) "Compost" means the product resulting from the controlled biological decomposition of organic wastes that are sources separated from the municipal solid waste stream or which are separated at a centralized facility. "Compost" includes sludge, vegetable, yard, green, or wood wastes, that is not hazardous waste.
- (p) "Construction" means the building of any facility or structure or any portion thereof including any tenant improvements to an existing facility or structure.
- (q) "Construction and demolition debris" means used or discarded materials removed from premises during construction or renovation of a structure resulting from construction, remodeling, repair, or demolition operations on any pavement, house, commercial building, or other structure.
- (r) "Container" means the City-provided ninety-six (96) gallon, sixty-four (64) gallon, or thirty-two (32) gallon receptacle, collected by automated side-loading residential collection vehicles.
- (s) "Customer" means the owner and/or occupant of any property within the City that is required to participate in the City's solid waste, including green waste and recyclables, collection program.
- (t) "Deconstruction" means the careful dismantling of buildings and structures in order to salvage as much as possible.

- (u) "Demolition" means the decimating, razing, ruining, tearing down or wrecking of any facility, structure, pavement or building, whether in whole or in part, whether interior or exterior.
- (v) "Designated recycling collection location" means the place where an authorized recycling agent has contracted with either the City or other public agency, or a private entity to pick up recyclable material segregated from other waste material. "Designated recycling collection location" includes, but is not limited to, the curbside or service alley of a residential neighborhood or the service alley or designated area of a commercial enterprise.
- (w) "Diversion requirement" means the diversion of at least fifty percent (50%) of the total construction and demolition debris generated by a project via reuse or recycling, unless the applicant has been granted an infeasibility exemption pursuant to Section 6-3.603, in which case the diversion requirement shall be the maximum feasible diversion rate possible for the circumstances.
- (x) "Divert" means to use material for any purpose other than disposal in a landfill or transformation facility.
- (y) "Dwelling, multiple" means a residential building designed for occupancy by more than one (1) family, consisting of more than one (1) living unit, even where there is no more than one (1) water meter on such premises, but excluding hotels, motels and lodges.
- (z) "Dwelling, single-family" means a detached building designed for occupancy by one (1) family and consisting of a solitary living unit.
  - (aa) "Fire Department" means the Fire Department of the City of Ontario.
- (bb) "Garbage" means material which includes, but is not restricted to, every accumulation of animal, vegetable, or other material:
  - (cc) Resulting from the preparation and consumption of edible foodstuffs;
- (dd) Resulting from decay, dealing, or storage of meats, fish, fowl, fruits or vegetables, including the cans, containers, or wrappers wasted along with such materials;
- (ee) Such industrial, domestic and organic refuses or residue of animals sold for meat;
- (ff) Fruit, vegetable and animal matter from kitchens, dining rooms, markets, food establishments or any other place using, dealing in or handling meats, fish, fowl, fruits, vegetables, grains, or other foodstuffs; or
  - (gg) Offal, animal excrement or the carcasses of animals, fish or fowl.

- (hh) "Green building" means the use of materials in a more efficient manner. Green building practices can include salvaging dimensional lumber from structures, using reclaimed aggregates, or designing the structure in way that requires less material.
- (ii) "Green waste" means tree and shrubbery trimmings, tree roots less than six (6) inches in diameter, vegetation matter resulting from land clearing, grass, weeds, straw, or leaves, wood chips, sawdust and other household garden organic materials which have been segregated from other refuse materials for the purpose of deposit at a designated collection location, including curbside location, for collection and transportation to a compost facility. Green waste does not include palm fronds, cactus or tree limbs, roots or stumps larger than six (6) inches in diameter.
- (jj) "Hazardous waste" means a waste, or combination of wastes, 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 or an increase in serious irreversible, or incapacitating reversible illness; or
  - (2) Pose a substantial present or potential hazard to human health or environment when improperly treated, stored, transported, or disposed of, or otherwise managed. Unless expressly provided otherwise, "hazardous waste" includes extremely hazardous waste and acutely hazardous waste.
  - (kk) "Large project" shall have the meaning set forth in Section <u>6-3.602(a)</u>.
  - (II) "Municipal Code" means the City of Ontario Municipal Code.
- (mm) "Municipal Utilities Company" means the Municipal Utilities Company of the City of Ontario.
- (nn) "Noncombustible solid waste matter" means matter which includes crockery, bottles, metal vessels, glass, broken brick, tin cans, ashes, and other solid waste matter that shall not incinerate through contact with flames of ordinary temperature.
- (00) "Occupant" means a person who has certain legal rights to or control over the premises occupied; a tenant or owner.
- (pp) "Person" means an individual, firm, limited liability company, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever.
- (qq) "Post-consumer recycled materials" means a finished material or product that has served its intended use and would normally be disposed of as solid waste. Examples of post-consumer recycled materials include, but are not limited to old newspaper, office paper, yard waste, steel, glass, aluminum cans, plastic bottles, oil, asphalt, concrete, and tires.

- (rr) "Pre-consumer" means materials or by-products generated after manufacturing of a product is completed, but before the product reaches the end-use consumer.
- (ss) "Project" means any activity which requires an application for a building or demolition permit, or any similar permit from the City.
- (tt) "Property owner" includes the homeowner/business owner association of a residential/business condominium project.
  - (uu) "Receptacle" means a container that holds items or matter.
- (vv) "Recyclable materials" or "recyclables" means reusable waste materials, including but not limited to, metal, glass, plastic and paper, and green waste, that are to be collected, separated or processed and used as raw materials. "Recyclable material" does not include refuse, hazardous waste or hazardous waste materials.
- (ww) "Recycle" or "recycling" means the process of collecting, sorting, cleansing, treating, and reconstructing materials that would otherwise become refuse or garbage, and returning them to the economic mainstream in the form of raw material for new, revised, or reconstituted products which meet the quality standards necessary to be used in the marketplace. This includes, without limitation, items intended for "re-use" or "personal use," irrespective of their intended return to economic mainstream or marketplace.
- (xx) "Recycled material" or "recycled product" means waste material and byproducts that have been recovered or diverted from the solid waste stream and that can be utilized in place of raw or virgin material in the production of a product. "Recycled materials" may consist of material derived from post-consumer waste, manufacturing waste, industrial scrap, agricultural waste, and other items, all of which can be used in the manufacture of new products.
- (yy) "Refuse" means the designated all-inclusive term for all putrescible and non-putrescible solid and semi-solid waste including, but limited to: garbage, solid waste matter, trash, ashes, industrial wastes, construction and demolition wastes, bulky item waste, manure, vegetable or animal solid and semisolid wastes, combustible and non-combustible wastes. "Refuse" does not include hazardous or household hazardous waste, medical waste, low-level radioactive waste or recyclable materials and green waste.
- (zz) "Renovation" means any change, addition, or modification in an existing structure.
- (aaa) "Residential" means any residential or single-family dwelling or apartment house of three (3) units or less not utilizing commercial bins.

- (bbb) "Reuse" means further or repeated use of construction or demolition debris.
- (ccc) "Roll-off, temporary service" means placement of roll-off bin or drop body on the public right-of-way, not on private property.
- (ddd) "Salvage" means the controlled removal of construction or demolition debris from a permitted building or demolition site for the purpose of recycling, reuse, or storage for later recycling or reuse.
- (eee) "Scavenging" means the removal of any recyclable and/or waste material without authorization of the property owner and/or the City.
  - (fff) "Small project" shall have the meaning set forth in Section 3-3.602(b).
- (ggg) "Solid waste matter" means solid waste matter which is "combustible" and "non-combustible" as defined in this section. "Solid waste matter" shall not include dirt, rocks, building materials, and tree trunks or limbs (as differentiated from minor trimmings), which shall be considered as rubbish or refuse.
- (hhh) "Street" means all streets, highways, avenues, lanes, alleys, courts, places, squares or other public ways in the City which have been or may hereafter be dedicated or open to public use, or such other public property so designated in any law of this state.
- SECTION 3. Section 6-3.305 of Chapter 3, Title 6 the Municipal Code is hereby amended to read as follows:

Sec. 6-3.305. Exemption from service.

Any customer may make an application for exemption from integrated waste collection services on the basis that a developed property is unoccupied, and that no refuse, green waste or recyclable materials shall be placed or offered for collection by the City or its authorized collector, from such property. The City Manager may temporarily exempt such property from participation in the City's integrated waste collection program for the limited period while the property is unoccupied; provided, that any such statement or representation shall be made in affidavit form, fully sworn to by the person making such statement or representation and filed with the Municipal Utilities Company. An exemption shall be valid only for the time that the statements made in the affidavit continue to be true. Any violation of provisions of the exemption shall result in termination of the exemption and shall require the customer to subscribe to the integrated waste collection services in accordance with this chapter.

<u>SECTION 4.</u> Section 6-3.309 of Chapter 3, Title 6 the Municipal Code is hereby amended to read as follows:

Sec. 6-3.309. Residential collections of bulky items.

- (a) Residents are entitled to four (4) free bulky item pick-ups per calendar year, on an appointment basis that is to be made one (1) week prior to the desired collection day. Items are to be identified to ensure efficient and proper collection. Additional collections are subject to charges listed in § 6-3.401(f) of this chapter.
- (b) Materials to be collected shall be limited to five (5) individual items that can be easily handled by two (2) persons.
- (c) If the bulky item pick-up exceeds the resident's bulky item collection limits as specified in subsection (b), the City may pick up the bulky item and charge the resident according to fees listed in § 6-3.401(f). The resident will be notified of possible charges by mail at least seven (7) days prior to collection.

<u>SECTION 5.</u> Section 6-3.311 of Chapter 3, Title 6 the Municipal Code is hereby amended to read as follows:

Sec. 6-3.311. Commercial collection receptacles.

(a) All commercial establishments shall utilize one of the various size commercial collection bins or commercial drop bodies available through the City for the collection of refuse, recyclables and green waste. The City Manager may establish the minimum level of required collection service pursuant to the procedures in § 6-3.201.

<u>SECTION 6.</u> Section 6-3.402 of Chapter 3, Title 6 the Municipal Code is hereby amended to read as follows:

Sec. 6-3.402. Special service charges.

- (a) Charges for special services shall be based on actual costs of collection and disposal as determined by the City Manager.
- (b) The City Manager may establish charges solid waste collection services for special events or circumstances.

<u>SECTION 7.</u> Section 6-3.406 of Chapter 3, Title 6 the Municipal Code is hereby amended to read as follows:

Sec. 6-3.406. Excess tonnage, weight violations.

All drop body refuse containers and compactors are limited to a maximum of twelve (12) tons. It is the customer's responsibility to ensure that the containers are not overloaded. If excess tonnage is apparent, the City may require the excess tonnage to be off-loaded by the customer prior to City collection. In the event the City hauls excess tonnage, charges for violation of weight limitations in excess of twelve (12) tons of refuse matter per commercial drop body, in addition to the existing disposal charges in effect at the time of disposal for actual weight over twelve (12) tons, shall be imposed on the customer. The rates for excess tonnage and weight violations shall be established from time to time by resolution of the City Council.

<u>SECTION 8.</u> Section 6-3.602 of Chapter 3, Title 6 the Municipal Code is hereby amended to read as follows:

Sec. 6-3.602. Construction and demolition recycling plan.

Wastes going to landfill from construction and demolition activities must be minimized to the greatest extent possible by recycling, deconstruction for reuse, or by use of "green building" practices. Material targeted for recycling shall include concrete, asphalt, clean wood (unpainted or untreated), brick, metal, cardboard and sheetrock. The City Manager may modify the targeted materials based on available markets.

- (a) A construction and demolition recycling plan shall be submitted for conducting the following types of development activities:
  - 1. The construction of any building other than a single-family residential building;
  - 2. The demolition or renovation of and/or additions of tenant improvements to any building other than a single-family residential building whereby the total costs are projected to be greater than or equal to One Hundred Thousand Dollars (\$100,000.00);
  - 3. Any City-sponsored construction; or
  - 4. Any City-sponsored demolition or renovation whereby the total costs are projected to be greater than or equal to One Hundred Thousand Dollars (\$100,000.00).
- (b) A construction and demolition recycling plan is not required for smaller demolition and renovation projects within the City whose total costs are less than One Hundred Thousand Dollars (\$100,000.00). Customers performing these types of projects shall be encouraged to divert at least fifty percent (50%) of all project-related construction and demolition debris from landfill to recycling or reuse operations.
- (c) In preparing the construction and demolition recycling plan, customers for building or demolition permits involving the removal of all or part of an existing structure shall consider deconstruction to the maximum extent feasible.
- (d) Plans may be required to be submitted on City-approved forms. Plans shall focus on diverting at least fifty percent (50%) of the total construction and demolition debris generated by the project for reuse or recycling, and shall include, but not be limited to, the following information:
  - 1. The estimated volume or weight of the project construction and demolition debris to be generated, by materials type, the estimated volume or weight of construction and demolition debris that can feasibly be diverted for reuse or recycling and the estimated volume or weight of construction

and demolition debris that will be hauled as refuse. In estimating the volume or weight of materials identified in the Construction and Demolition Recycling Plan, the customer shall use the standardized conversion rates approved by the City for this purpose;

- 2. A drawing that identifies an area for the loading and collection of recyclable materials with appropriate access for collection vehicles;
- 3. A description of how the materials will be separated at the source and/or recycled by utilizing the services of a processor;
- 4. Identification of the recycled materials to be used in the construction or remodeling of the facility;
- 5. Identification of the proposed vendor or facility proposed to collect or receive recycled material; and
- 6. A description of green building practices in use, if any.
- (e) All customers with projects subject to the provisions of this chapter shall implement, at a minimum, the measures identified in the construction and demolition recycling plan and shall demonstrate compliance with the following construction site requirements:
  - 1. Construction waste and demolition debris shall be removed from the construction site on a regular basis and shall not be stored on site and in the open for a period in excess of four (4) weeks, provided that such waste is not hazardous or noxious and does not constitute a nuisance, in which case it must be appropriately secured and regularly removed from the construction site;
  - 2. Reasonable efforts shall be demonstrated to provide for segregation of recyclable construction materials and demolition debris for diversion from landfills; and
  - 3. Construction waste and demolition debris that may become windblown shall be containerized to prevent litter.
- (f) No demolition permit or building permit shall be issued for any development activity subject to this chapter unless the construction and demolition recycling plan has been approved by the City.
- (g) The issuance of the certificate of occupancy will be conditional on submittal of a report that documents the construction and demolition debris recycled. The report shall be submitted to the City Manager and shall contain the following information:

- 1. The estimated and actual quantities of all construction waste and demolition debris listed in the construction and demolition recycling plan;
- 2. Copies of recycling receipts or other pertinent documentation that demonstrates waste diversion and recycling in conformance with the approved construction and demolition recycling plan. Customers shall make reasonable efforts to ensure that all construction and demolition debris diverted for recycling or hauled to landfill are measured and recorded using the most accurate method of measurement available. To the extent practical, all construction and demolition debris shall be weighed by measurement on scales in compliance with all regulatory requirements for accuracy and maintenance. For construction and demolition debris for which weighing is not practical due to small size or other considerations, a volumetric measurement shall be used. For conversion of volumetric measurements to weight, customers shall use the standardized conversion rates approved by the City for this purpose; and
- 3. Any additional information the customer believes is relevant to determining its efforts to comply in good faith with this section.
- SECTION 9. The rate for excess tonnage and weight violation charges authorized pursuant to Ontario Municipal Code section 6-3.406 adopted by the City Council pursuant to Ordinance No. 2880, on February 4, 2008, and as set forth in Exhibit A, attached hereto and by this reference incorporated herein, shall remain in full force and effect until otherwise amended by a resolution duly adopted the City Council.
- SECTION 10. If any section, subsection, subdivision, sentence, clause, or phrase in this Ordinance or any part thereof is for any reason held to be unconstitutional or invalid, ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this ordinance or any part thereof. The City Council hereby declares that it would have adopted each section irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, or phrases be declared unconstitutional, invalid, or ineffective.
- <u>SECTION 11.</u> A full reading of this Ordinance is hereby waived. This Ordinance was introduced at a regular meeting of the City Council of the City of Ontario, California, on November 15, 2011, and thereafter adopted at a regular meeting of the City Council held on the 6<sup>th</sup> day of December, 2011.
- <u>SECTION 12</u>. This Ordinance shall become effective thirty (30) calendar days after its adoption by the City Council.
- SECTION 13. The Mayor shall sign this Ordinance and the City Clerk shall certify as to the adoption and shall cause a summary thereof to be published at least once, in a newspaper of general circulation in the City of Ontario, California within fifteen (15) days of the adoption. The City Clerk shall post a certified copy of this ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

<u>SECTION 14.</u> City staff is directed to file a Notice of Exemption within five (5) days of the adoption of this Ordinance.

PASSED, APPROVED, AND ADOPTED this 6<sup>th</sup> day of December 2011.

PAUL S. LEON, MAYOF

ATTEST:

2:0 2.1 NMC Cul Ct Clo mary E. Wirtes, MMC, CITY CLERK

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP

**CITY ATTORNEY** 

STATE OF CALIFORNIA	,
COUNTY OF SAN BERNARDINO	,
CITY OF ONTARIO	,

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. 2944 was duly introduced at a regular meeting of the City Council of the City of Ontario held November 15, 2011 and adopted at the regular meeting held December 6, 2011 by the following roll call vote, to wit:

AYES: MAYOR/COUNCIL MEMBERS: LEON, DORST-PORADA, WAPNER,

MAUTZ AND BOWMAN

NOES: COUNCIL MEMBERS: NONE

ABSENT: COUNCIL MEMBERS: NONE

MARY E. WIRTES, MMC, CITY CHERK

(SEAL)

I hereby certify that the foregoing is the original of Ordinance No. 2944 duly passed and adopted by the Ontario City Council at their regular meeting held December 6, 2011 and that Summaries of the Ordinance were published on November 22, 2011 and December 13, 2011, in the Inland Valley Daily Bulletin newspaper.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

## EXHIBIT A TO ORDINANCE NO. 2944 EXCESS TONNAGE AND WEIGHT VIOLATION CHARGES

The rates for excess tonnage and weight violations authorized pursuant to Ontario Municipal Code Section 6-3.046 are as follows:

Service	Current
Charge per ton (>12) for excess weight	\$107