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CITY COUNCIL

## AGENDA BILL

For the Regular Meeting of: July 27, 2021Originating Department: Public Works

Department Director: \_\_\_\_\_

  
 Arturo Cervantes

Interim City Manager: \_\_\_\_\_

  
 Chris Jeffers

**SUBJECT: ORDINANCE ADDING CERTAIN SECTIONS TO CHAPTER 13.100 (SOLID WASTE HANDLING AND RECYCLING SERVICES)**

**PURPOSE:** To adopt an Ordinance No. 2021-08-CC to codify the requirements of Assembly Bill 341 (Solid Waste: Diversion) and Assembly Bill 1826 (Solid Waste: Organics). The City Council conducted the 1st reading of the proposed Ordinance at the July 6, 2021 meeting and approved it on a 5-0 vote.

**RECOMMENDED ACTIONS:** The City Council will consider waiving the reading in full and adopting Ordinance No. 2021-08-CC to add Part 8. Recycling of Commercial Solid Waste and Organic Waste, and Sections 13.100.430 (Definitions), 13.100.440 (Commercial Solid Waste Recycling), 13.100.450 (Organic Waste Recycling), 13.100.460 (Fees) and 13.100.470 (Enforcement Provisions), to Chapter 13.100 (Solid Waste Handling and Recycling Services), of Title 13 (Franchises), of the South Gate Municipal Code.

**NOTICING REQUIREMENTS:** A public hearing notice was duly published in the *Los Angeles Wave*, a newspaper of general circulation, on Thursday, May 27, 2021.

**FISCAL IMPACT:** There is no impact to the General Fund. However, the proposed Ordinance has an enforcement structure that includes monetary penalties to be assessed on non-compliant commercial businesses and multi-family dwelling with five or more unit, including schools, hospitals, and nonprofit organizations.

**ANALYSIS:** Ordinance No. 2021-08-CC was introduced during the regularly scheduled City Council Meeting of July 13, 2021. The Ordinance adds "Part 8. Recycling of Commercial Solid Waste and Organic Waste" to codify the requirements of AB 314 and AB 1826 to Chapter 13.100 (Solid Waste Handling and Recycling Services) of the South Gate Municipal Code. These bills stipulate provisions for mandatory commercial solid waste recycling and mandatory commercial organic waste recycling. The summary below highlights these requirements.

- Pursuant to AB 341 a Waste Generators is defined as a business that generates four cubic yards of commercial solid waste per week, or a business that is a multi-family dwellings consisting of five or more units.
- Pursuant to AB 1826, a Waste Generator was originally defined as a business that generates four cubic yards of organic waste per week, or a multi- family dwelling units of five or more units. As of January 1, 2020, AB 1826 volume threshold was reduced to two cubic yards of organic waste per week.

- Solid Waste Recycling Program - Pursuant to AB 341, Waste Generators shall source separate recyclable materials and subscribe to a basic level of recycling service that includes collection, self-hauling, or making other arrangements for the pickup of recyclable materials.
- Organic Waste Recycling Program - Pursuant to AB 1826, Waste Generators shall source separate organic recyclable materials (green waste and food scraps) and subscribe to a basic level of organic waste recycling services that includes collection, onsite recycling, self-hauling or making other arrangements for the pickup, sale or donation of organic recyclable materials. Waste generators that are multifamily dwellings are excluded from being required to recycle food scraps.
- Annual Reporting - Waste Generators that have not subscribed to service through the City's Waste Hauler must annually report to the City information regarding compliance with AB 341 and AB 1826, by March 15 of each year. That report requires information on the approach to their recycling program, and materials and tonnage being recycled.
- Enforcement – The City may issue Waste Generators that do not comply with reporting criteria a warning or citation, based on the level of non-compliance. The City may take other compliance actions such as revoking a self-hauling permit or requiring enrollment in recycling and/or organic recycling collection services.
- Fees - The City may charge and collect a fee from a Waste Generators to recover the City's costs incurred in (a) enforcing the new section of the Code, which fees may be set at a future time, and (b) creating, implementing and administering the commercial solid waste and organic waste recycling programs, which fees and programs are already in place through the Waste Management Franchise Agreement.

The City has an AB 341 non-compliance fee that applies to Waste Generators. The monthly amount of the fee is \$71.74. This is 10 percent more than the monthly cost of basic service which is \$65.22. That includes a 2-yard bin for recycling, serviced once per week. The non-compliance fee is designed to encourage compliance with State requirements. The City does not have an AB 1826 non-compliance fee. The basic service to comply with AB 1826 is \$62.38/month, which includes a 64-gallon cart to recycle organics, serviced once per week.

**BACKGROUND:** Several years ago, the State legislature passed laws that impacted the handling of solid waste. In 2011, the State adopted Assembly Bill (AB) 341 (Solid Waste: Diversion). This bill required Waste Generators to arrange for recycling services, and municipalities to implement a commercial solid waste recycling services program. It established a goal of diverting 75 percent of solid waste, as compared to 2014, by 2020. In 2014, the State adopted AB 1826 (Solid Waste: Organics). This bill required Waste Generators to arrange for organic waste recycling services, inclusive of green waste and food scraps. Since their approval, the City, as well as commercial businesses and qualifying multi-family dwellings of five or more units, have been required to comply with all of the requirements of AB341 and AB 1826.

In 2020, during a routine audit by CalRecycle, the City was found deficient in the implementation of programs required by AB 341 and AB 1826. CalRecycle indicated that the City was not meeting "good faith effort" criteria for AB 341 and AB 1826. Good faith effort means all reasonable and feasible efforts made by the jurisdiction to implement its commercial solid waste recycling and commercial organic waste recycling programs. In general, compliance by multi-family dwellings and commercial businesses remains low. Currently, there are 174 and 465 multi-family dwellings with five or more units and 222 and 800 commercial businesses that are not complying with AB 341 and AB 1826, respectively.

As their compliance mechanism, CalRecycle approved the “2020 MCR/MORE South Gate Program Action Plan,” under which the City was required to (1) provide a letter to the business community for voluntary compliance, (2) provide public outreach of the programs, and (3) codify the requirements of AB 341 and AB 1826 to provide an enforcement mechanism for compliance. The proposed Ordinance before the City Council will meet the third requirement. Further, in accordance with items one and two, the City issued a letter to businesses on December 17, 2020. The letter aimed to educate businesses of the requirements of AB 341 and AB 1826, and of reporting requirements.

One of the goals of the proposed Ordinance is to encourage commercial businesses and qualifying multi-family residential properties to comply with current State laws. Currently, the State enforces AB 341 and AB 1826, however, their enforcement actions have not resulted in encouraging compliance. The proposed Ordinance will provide the City the ability to support the enforcement efforts.

If adopted, the proposed Ordinance may result in increasing the City’s overall diversion rate on record with CalRecycle, which is currently at 43.6%. State law requires the diversion rate to be at 50% or more.

Some Waste Generators may feel that reporting requirements are onerous. Currently, Waste Management conducts the reporting requirements for Waste Generator that are subscribed to service, at no additional cost. Waste Management is available to provide support and training to non-compliant Waste Generators at no cost.

**ATTACHMENTS:** A. Proposed Ordinance No. 2021-08-CC

GD:lc

**ORDINANCE NO. 2021-08-CC**

**CITY OF SOUTH GATE  
COUNTY OF LOS ANGELES**

**ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SOUTH GATE,  
CALIFORNIA, ADDING PART 8. RECYCLING OF COMMERCIAL SOLID  
WASTE AND ORGANIC WASTE, AND SECTIONS 13.100.430  
(DEFINITIONS), 13.100.440 (COMMERCIAL SOLID WASTE RECYCLING),  
13.100.450 (ORGANIC WASTE RECYCLING), 13.100.460 (FEES) AND  
13.100.470 (ENFORCEMENT PROVISIONS), TO CHAPTER 13.100 (SOLID  
WASTE HANDLING AND RECYCLING SERVICES), OF TITLE 13  
(FRANCHISES), OF THE SOUTH GATE MUNICIPAL CODE**

**WHEREAS**, Chapter 13.100 (Solid Waste Handling and Recycling Services), of Title 13 (Franchises), of the South Gate Municipal Code contains ordinances pertaining to solid waste handling and recycling services within the City of South Gate (“City”);

**WHEREAS**, in 2011 Assembly Bill 341 (Solid Waste: Diversion) was enacted, modifying the California Public Resources Code to establish new laws pertaining to solid waste recycling;

**WHEREAS**, in 2014 Assembly Bill 1826 (Solid Waste: Organics) was enacted, further modifying the California Public Resources Code to establish new laws pertaining to organic waste recycling;

**WHEREAS**, the City has created and implemented the recycling programs mandated by those Bills;

**WHEREAS**, to enhance the City’s ability to enforce participation in and compliance with those programs by businesses located within the City, the City Council desires to add new provisions to Chapter 13.100 of the South Gate Municipal Code addressing the requirements of those Bills; and

**WHEREAS**, the City Council did conduct a duly noticed public hearing on June 8, 2021 and July 13, 2021, to take public testimony and consider introducing this Ordinance.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SOUTH GATE,  
CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1.** The City Council does hereby declare that the above recitals are true and correct and incorporated herein by reference.

**SECTION 2.** Part 8. Recycling of Commercial Solid Waste and Organic Waste, and Sections 13.100.430 (Definitions), 13.100.440 (Commercial Solid Waste Recycling), 13.100.450 (Organic Waste Recycling), 13.100.460 (Fees) and 13.100.470 (Enforcement Provisions), are hereby added

to Chapter 13.100 (Solid Waste Handling and Recycling Services), of Title 13 (Franchises), of the South Gate Municipal Code to read as follows:

**Title 13 (Franchises)**  
**Chapter 13.100 (Solid Waste Handling and Recycling Services)**

**Part 8. Recycling of Commercial Solid Waste and Organic Waste**

**Sections:**

- 13.100.430 Definitions.**
- 13.100.440 Commercial Solid Waste Recycling.**
- 13.100.450 Organic Waste Recycling.**
- 13.100.460 Fees.**
- 13.100.470 Enforcement Provisions.**

**13.100.430 Definitions.**

For the purposes of this Part 8, the words, terms and phrases as defined in this Section shall be construed as hereinafter set forth, unless it is apparent from the context that a different meaning is intended:

- A. Business. "Business" means (i) 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 (ii) a multifamily residential dwelling.
- B. Commercial Solid Waste. "Commercial solid waste" means all types of solid wastes generated by stores, offices and other commercial sources, excluding residences, and excluding industrial wastes.
- C. Organic Waste. "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.
- D. Self-Haul. "Self-haul" means to act as a self-hauler.
- E. Self-Hauler/Self-Hauling. "Self-hauler" or "Self-hauling" means a business that hauls its own waste rather than contracting for that service.
- F. Waste Generator. "Waste generator" means (i) a business (other than a multifamily residential dwelling) operating in the City of South Gate that generates more than four (4) cubic yards of commercial solid waste per week, and (ii) a multifamily residential dwelling of five units or more.

*Statutory Reference: Public Resources Code §§ 42649.1 & 42649.8*

**13.100.440 Commercial Solid Waste Recycling.**

- A. A business that is a waste generator shall arrange for recycling services consistent with this Section 13.100.440 by taking at least one of the following actions:

1. Source separate recyclable materials from solid waste and subscribe to a basic level of recycling service that includes collection, self-hauling, or other arrangements (which must comply with the requirements of this Chapter 13.100) for the pickup of recyclable materials. A waste generator that elects to self-haul shall obtain a self-hauling permit from the City and shall otherwise comply with the requirements of Section 13.100.420 above.
  2. Subscribe to a recycling service that may include mixed waste processing that yields diversion results comparable to source separation.
- B. A property owner of a multifamily residential dwelling may require tenants to source separate their recyclable materials to aid in compliance with this Section 13.100.440.  
*Statutory Reference: Public Resources Code § 42649.2*

**13.100.450 Organic Waste Recycling.**

- A. A business that is a waste generator shall arrange for recycling services specifically for organic waste consistent with this Section 13.100.450. The requirements of this Section 13.100.450 shall be in addition to, and not instead of, the requirements of Section 13.100.440.
- B. A business that is a waste generator shall take at least one of the following actions:
1. Source separate organic waste from other waste and subscribe to a basic level of organic waste recycling service that includes collection and recycling of organic waste.
  2. Recycle its organic waste onsite or self-haul its own organic waste for recycling. A waste generator that elects to self-haul shall obtain a self-hauling permit from the City and shall otherwise comply with the requirements of Section 13.100.420 above.
  3. Subscribe to an organic waste recycling service that may include mixed waste processing that specifically recycles organic waste.
  4. Make other arrangements consistent with any of the following: (a) a franchise granted by the City; (b) a contract, license, or permit to collect solid waste previously granted by the City; or (c) the existing right of a business to sell or donate its recyclable organic waste materials.
- C. A business that is a property owner may require a lessee or tenant of that property to source separate their organic waste to aid in compliance with this Section 13.100.450.
- D. A business generating organic waste which is subject to this Section 13.100.450 shall arrange for the recycling services required by this Section in a manner that is consistent with the requirements of this Part 8.
- E. The contract or work agreement between a business subject to this Section 13.100.450 and a gardening or landscaping service shall require that the organic waste generated by those services be managed in compliance with this Part 8. The “gardener’s exclusion” set forth

in Section 13.100.180 above is not intended to, and shall not, limit the applicability of this Subsection E.

- F. A business that is a multifamily dwelling is not required to arrange for the organic waste recycling services specified in Subsection B of this Section 13.100.450 for food waste that is generated by the business.

*Statutory Reference: Public Resources Code § 42649.81*

**13.100.460 Fees.**

- A. The City may charge and collect a fee from a business that is a waste generator in order to recover the City's costs incurred in any or all of the following: (i) enforcing Section 13.100.440; (ii) creating, implementing, revising, replacing or administering the commercial solid waste recycling program which the City is obligated to implement pursuant to Public Resources Code Section 42649.3; and (iii) otherwise complying with the requirements of Chapter 12.8 (Recycling of Commercial Solid Waste) of Part 1 (Integrated Waste Management) of Division 30 (Waste Management) of California's Public Resources Code.

- B. In addition to the fee authorized by Subsection A above, the City may also charge and collect a fee from a business that is a waste generator in order to recover the City's costs incurred in any or all of the following: (i) enforcing Section 13.100.450; (ii) creating, implementing, revising, replacing or administering the organic waste recycling program which the City is obligated to implement pursuant to Public Resources Code Section 42649.82 and (iii) otherwise complying with the requirements of Chapter 12.9 (Recycling of Organic Waste) of Part 1 (Integrated Waste Management) of Division 30 (Waste Management) of California's Public Resources Code.

*Statutory Reference: Public Resources Code §§ 42649.6 & 42649.85*

**13.100.470 Enforcement Provisions.**

- A. Each business that is a waste generator must, by March 15 of each year, report to the City (on forms approved by the City) information regarding that business' compliance with Sections 13.100.440 and 13.100.450. That report shall include information as to (i) how commercial solid waste and organic waste are being recycled; (ii) the types of commercial solid waste and organic waste being recycled; (iii) the yearly total amount, in pounds or tons, of commercial solid waste and organic waste being recycled; and (iv) any other information reasonably requested by the City relative to the business' compliance with Sections 13.100.440 and 13.100.450.

- B. Any business that has not submitted the report required under Subsection A above by March 15 may be issued a warning by the City.

- C. Any business that has not submitted the report required under Subsection A above by April 1 may be issued a citation by the City. The citation will require payment by the business of a fine in an amount to be determined by the City.

- D. Subsequent failures by a business to comply with the requirements of Subsection A above may subject the business to additional fines and penalties, at such times and in such amounts as the City deems necessary to enforce compliance with the provisions of this Part 8.

E. In addition to the remedies set forth in Subsections C and D above, the City shall have the right to take other actions which the City deems necessary to enforce a business' compliance with the provisions of this Part 8, including without limitation (i) revoking the business's self-hauling permit, if any, and/or (ii) enrolling the business in any commercial solid waste recycling program and/or any organic waste recycling program operated by the City or by a waste hauler franchised by the City.

*Statutory Reference: Public Resources Code §§ 42649.3(e) & 42649.82(e)(1)*

**SECTION 3.** If any Section, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this Ordinance, and each and every Section, Subsection, sentence, clause and phrase thereof not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

**SECTION 4.** This Ordinance shall take effect on the thirty-first (31<sup>st</sup>) day after its adoption.

**SECTION 5.** The City Clerk shall certify to the adoption of this Ordinance and shall cause the same to be published as required by law.

**PASSED, APPROVED and ADOPTED** this 27 day of July 2021.


**CITY OF SOUTH GATE:**

By: \_\_\_\_\_  
Al Rios, Mayor

**ATTESTED:**

By: \_\_\_\_\_  
Carmen Avalos, City Clerk  
(SEAL)

**APPROVED AS TO FORM:**

By:  \_\_\_\_\_  
Raul F. Salinas, City Attorney