

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIALTO, CALIFORNIA, AMENDING CHAPTER 8.08 OF THE RIALTO MUNICIPAL CODE, TITLED "REFUSE COLLECTION", TO INCLUDE PROVISIONS PERTAINING TO MANDATORY COMMERCIAL RECYCLING AND MANDATORY COMMERCIAL ORGANICS RECYCLING AS IMPOSED UPON THE CITY OF RIALTO BY THE STATE OF CALIFORNIA PURSUANT TO ASSEMBLY BILL 341 (2011), SENATE BILL 1018 (2012), AND ASSEMBLY BILL 1826 (2014), AND EXPOSING THE CITY OF RIALTO TO SIGNIFICANT FINES AND PENALTIES FOR FAILURE TO ADOPT SAME.

**WHEREAS**, the State of California through its Legislature initiated regulations mandating recycling on all residents and businesses in California through Assembly Bill 32 in 2006; and

**WHEREAS**, the State of California through its Legislature adopted Assembly Bill 341 and Senate Bill 1018 mandating commercial recycling on all businesses in California allowing for education and voluntary compliance, but mandating forced compliance through adoption of Codes by Cities and Counties as dictated by CalRecycle; and

**WHEREAS**, the State of California through its Legislature adopted Assembly Bill 1826 mandating commercial organics recycling on all businesses in California, and mandating green waste recycling for applicable multi-family residential properties in California allowing for education and voluntary compliance, but mandating forced compliance through adoption of Codes by Cities and Counties as dictated by CalRecycle; and

**WHEREAS**, over the last several years the City through its solid waste franchise contractor has educated the community and developed a program and pursued voluntary compliance of businesses and applicable multi-family properties subject to the forced imposition of the recycling laws upon them; and

**WHEREAS**, in 2017 the State of California through CalRecycle sent all Cities and Counties in California correspondence referred to as the "Any Time Letter" wherein CalRecycle reiterated the requirements to comply with the mandatory commercial recycling and mandatory

1 organics recycling laws imposed upon all businesses and applicable multi-family properties  
2 through Assembly Bill 341, Senate Bill 1018, and Assembly Bill 1826, (the "Recycling Laws");  
3 and

4       **WHEREAS**, the State of California through CalRecycle is not satisfied with the level of  
5 voluntary compliance the City of Rialto has achieved for mandatory recycling, and has reminded  
6 the City of Rialto of its obligation to adopt appropriate codes imposing recycling on all businesses  
7 and applicable multi-family properties in accordance with the Recycling Laws; and  
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9       **WHEREAS**, the State of California through CalRecycle may ultimately levy fines and  
10 penalties upon the City of Rialto of up to \$10,000 per day if CalRecycle determines the City of  
11 Rialto has not complied with the State's mandatory recycling regulations pursuant to the Recycling  
12 Laws; and

13       **WHEREAS**, to avoid the potential exposure to significant fines and penalties, the City  
14 Council of the City of Rialto is forced to incorporate the Recycling Laws mandating commercial  
15 recycling (AB 341) and commercial organics recycling (AB 1826) on the part of businesses and  
16 applicable multi-family properties into the Rialto Municipal Code.

17       **NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF RIALTO DOES**  
18 **ORDAIN AS FOLLOWS:**

19       **SECTION 1.** Section 8.08.064 is hereby added to Chapter 8.08 of Title 8 of the Rialto  
20 Municipal Code to read as follows:

21       **8.08.064 - Mandatory commercial recycling/diversion.**

22       A. For purposes of this section, "business" means a commercial or public entity  
23 including. But not limited to, a firm, partnership, proprietorship, joint-stock company, corporation,  
24 or association that is organized as a for-profit or nonprofit entity, strip mall, school, school district,  
25 special district, federal, state, local, regional agency or facility. "Business" also includes a multi-  
26 family residential dwelling or mobilehome park of five or more dwelling units.

27       B. Any business generating four or more cubic yards of solid waste per week and any  
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1 multi-family residential dwelling of five or more dwelling units shall reuse, recycle, compost, or  
2 otherwise divert its commercial solid waste from disposal by taking one, or any combination, of  
3 the following actions:

4 1. Source separate recyclable materials from the solid waste being discarded  
5 and subscribe with the City's refuse collector, for the pick-up of the recyclable materials  
6 separately from the solid waste to divert the recyclable materials from disposal.

7 2. Source separate recyclable materials from the solid waste and self-haul them  
8 to a certified Materials Recovery Facility (MRF) or other mixed waste processing facility  
9 for diversion from disposal.

10 i. Each business subject to this Section that does not subscribe with  
11 City's refuse collector for pick-up of its recyclable materials shall be responsible for  
12 ensuring and demonstrating its compliance with the requirements of this Section to  
13 the City Manager or his/her designee with satisfactory proof of acceptable levels of  
14 waste diversion on a quarterly basis (March, June, September and December). The  
15 failure of a business to demonstrate its compliance with the requirements of this  
16 Section shall constitute a violation of this chapter, and that business shall be subject  
17 to administrative fines in accordance with Chapter 1.10 of this Municipal Code.

18 ii. To comply with subsection (B)(2) of this section, property owners of  
19 multifamily complexes may require tenants to source separate their recyclable  
20 materials. Tenants must source separate their recyclable materials as required by  
21 property owners of multi-family complexes subject to this Section.

22 C. The City's refuse collector shall implement a commercial solid waste recycling  
23 program that consists of education, outreach and monitoring of businesses, that is designed to divert  
24 commercial solid waste from businesses.

25 D. Nothing in this Section is intended to prevent or limit the existing right of any  
26 business to donate, sell or otherwise dispose of its recyclable materials as provided by §41952 of  
27 the Public Resources Code.

28 E. Any undefined terms used in this section shall have the same meaning as those terms

are defined in Division 30 of the California Public Resources Code, and any accompanying or implementing regulations.

**SECTION 2.** Section 8.08.064 is hereby added to Chapter 8.08 of Title 8 of the Rialto Municipal Code to read as follows:

**8.08.064 - Mandatory commercial organics recycling/diversion.**

A. For purposes of this section, "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, strip mall, school, school district, special district, federal, state, local, regional agency or facility. "Business" also includes a multi-family residential dwelling or mobile home park of five or more units.

B. For purposes of this section, "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.

C. Any business and any multi-family residential dwelling of five or more units generating two or more cubic yards of solid waste per week shall recycle, compost, or otherwise divert its commercial solid waste from disposal by taking one, or any combination, of the following actions:

1. Source separate organic waste from the solid waste being discarded, and subscribe with the City's refuse collector for the pick-up of the organic materials separately from the solid waste to divert the materials from disposal.

2. Source separate organic waste from the solid waste and self-haul them to a certified organic processing and recycling facility for diversion from disposal.

i. Each business subject to this Section that does not subscribe with City's refuse collector for pick-up of its organic materials shall be responsible for ensuring and demonstrating its compliance with the requirements of this Section to the City Manager or his/her designee with satisfactory proof of acceptable levels of organics recycling on a quarterly basis (January, April, July, and October). The failure of a business to demonstrate its compliance with the requirements of this

1 Section shall constitute a violation of this chapter, and that business shall be subject  
2 to administrative fines in accordance with Chapter 1.10 of this Municipal Code.

3 ii. To comply with subsection (insert section number), property owners  
4 of multifamily complexes may require its contracted landscapers to recycle the  
5 green waste materials and provide satisfactory proof that the materials are being  
6 properly recycled and diverted from disposal.

7 D. The City's refuse collector shall implement a commercial organics recycling  
8 program that consists of education, outreach and monitoring of businesses, that is designed to divert  
9 organic materials from covered businesses.

10 E. Nothing in this Section is intended to prevent or limit the existing right of any  
11 business to donate, sell or otherwise dispose of its organics materials as provided by §41952 of the  
12 Public Resources Code.

13 F. Any undefined terms used in this section shall have the same meaning as those terms  
14 are defined in Division 30 of the California Public Resources Code, and any accompanying or  
15 implementing regulations.

16 **SECTION 3.** CEQA

17 The City Council exercises its independent judgment and finds that this ordinance is not  
18 subject to the California Environmental Quality Act (CEQA) pursuant to the State CEQA  
19 Guidelines, California Code of Regulations, Title 14, Chapter 3, Section 15308, which exempts  
20 "actions by regulatory agencies for protection of the environment." This Ordinance is consistent  
21 with the goals of California State Assembly Bills 939, 341, and 1826.

22 **SECTION 4.** Severability.

23 The City Council declares that, should any provision, section, paragraph, sentence or word  
24 of this ordinance be rendered or declared invalid by any final court action in a court of competent  
25 jurisdiction, or by reason of any preemptive legislation, the remaining provisions, sections,  
26 paragraphs, sentences or words of this ordinance as hereby adopted shall remain in full force and  
27 effect

28 **SECTION 5.** Effective Date.

This ordinance shall take effect thirty (30) days after the date of its adoption.

## **SECTION 6.** Publication and Posting

The City Clerk is authorized and directed to cause this Ordinance to be posted and published within fifteen (15) days after its passage in a newspaper of general circulation and circulated within the City in accordance with Government Code Section 36933(a) or, to cause this Ordinance to be posted and published in the manner required by law using the alternative summary and pasting procedure authorized under Government Code Section 39633(c).

**PASSED, APPROVED AND ADOPTED** by the City Council of the City of Rialto this  
 \_\_\_\_ day of \_\_\_\_\_, 2022.

DEBORAH ROBERTSON, Mayor

**ATTEST:**

BARBARA MCGEE, City Clerk

**APPROVED AS TO FORM:**

ERIC VAIL, City Attorney  
Burke, Williams & Sorensen, LLP

1 STATE OF CALIFORNIA )

2 COUNTY OF SAN BERNARDINO ) ss

3 CITY OF RIALTO )

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5 I, Barbara A. McGee, City Clerk of the City of Rialto, do hereby certify that the foregoing  
6 Ordinance No. \_\_\_\_\_ was duly passed and adopted at a regular meeting of the City Council  
7 of the City of Rialto held on the \_\_\_\_\_ day of \_\_\_\_\_, 2021.

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9 Upon motion of Councilmember \_\_\_\_\_, seconded by Councilmember \_\_\_\_\_,  
10 the foregoing Ordinance No. \_\_\_\_\_ was duly passed and adopted.

11 Vote on the Motion:

12 AYES:

13 NOES:

14 ABSTAIN:

15 ABSENT:

16 IN WITNESS WHEREOF, I have hereunto set my hand and the Official Seal of the City of  
17 Rialto, this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

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BARBARA A. McGEE, City Clerk