



# City of Rialto

## Legislation Text

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For City Council Meeting [December 14, 2021]

TO: Honorable Mayor and City Council

APPROVAL: Marcus Fuller, City Manager

FROM: Michael Tahan, Interim Public Works Director

Request City Council to Introduce **Ordinance No. 1664** 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.

### **(ACTION)**

### **BACKGROUND**

Mandatory Commercial Recycling (MCR) was one of the measures adopted in the Assembly Bill 32 Scoping Plan by the Air Resources Board (ARB) pursuant to the California Global Warming Solutions Act (Chapter 488, Statutes of 2006). The MCR Measure focuses on increased commercial waste diversion as a method to reduce greenhouse gas (GHG) emissions. To achieve the measure's objective, an additional two (2) to three (3) million tons of material annually needs to be recycled from the commercial sector by the year 2020 and beyond.

The MCR regulation was adopted at CalRecycle's January 17, 2012, Monthly Public Meeting. This regulation reflects the statutory provisions of AB 341 (Chesbro, Chapter 476, Statutes of 2011) and provides additional procedural clarifications. The regulation was approved by the Office of Administrative Law on May 7, 2012, and became effective immediately. On June 27, 2012, the Governor signed Senate Bill 1018 which included an amendment that requires a business that generates four (4) cubic yards or more of commercial solid waste per week to arrange for recycling services.

In October 2014, Governor Brown signed AB 1826 Chesbro (Chapter 727, Statutes of 2014), requiring businesses to recycle their organic waste on and after April 1, 2016, depending on the amount of waste they generate per week. This law, referred to as Mandatory Organics Recycling or MORE, also requires that on and after January 1, 2016, local jurisdictions across the state implement an organic waste recycling program to divert organic waste generated by businesses, including multifamily residential dwellings that consist of five or more units. Organic waste, for the purposes of AB 1826, means food waste, green waste, landscape and pruning waste, nonhazardous wood waste, and food-soiled paper waste that is mixed in with food waste.

The law phased in the requirements for businesses over time, while offering an exemption process

for rural counties. Additionally, the law contained a 2020 trigger that further increased the scope of affected businesses. As such, in September of 2020, CalRecycle reduced the threshold to two (2) cubic yards of solid waste (solid waste is the total of trash, recycling, and organics) generated by covered businesses.

In 2017, CalRecycle sent all jurisdictions a notice of review referred to as the “At Any Time” letter wherein CalRecycle reiterates the jurisdiction requirements to comply with MCR and MORE and how CalRecycle will exercise its statutory authority to review jurisdictions’ compliance. A copy of the letter is included as **Attachment 1**. Since that time CalRecycle staff has inquired about the City of Rialto’s MCR and MORE ordinances which were determined to be used as a last resort. Many cities have adopted a MCR and MORE ordinance, including San Bernardino, Rancho Cucamonga, Yucaipa, San Bernardino County, Montclair and others.

**ANALYSIS/DISCUSSION**

Since the inception of MCR and MORE, the City of Rialto, along with Burrtec Waste, has focused on education and outreach in the effort to obtain compliance with the mandatory recycling requirements. Additionally, Burrtec has developed and implemented Commercial Recycling and Commercial Organics Recycling collection programs that are available to all business and multi-family accounts. To mitigate cost hurdles which were identified as obstacles to participation, the City adopted a rate structure that provided for commercial solid waste recycling services at no additional charge and commercial food waste recycling services at rates comparable to trash collection services. **Table 1** below shows the cost for the available bin options serviced one time per week. There is no additional cost for recycling service.

**Table 1**

Recycling Compliance AB 341 & AB 1826				
Container Type	Rate	Container Size	Container Quantity	Service Frequency
Recycling	no additional charge	60gal	1	1x/week
		2cy		
		3cy		
Greenwaste	\$33.82	60gal		
		1.5cy		
		3cy		
Foodwaste	\$49.47	65gal		
		2cy		
	\$196.56			

\*There is no additional charge for recycling service as long as the service level is equal to or less than the trash service level.

This approach has gained the compliance of many of the Rialto business accounts, but Rialto is still below the compliance thresholds required by CalRecycle as shown by the compliance data in the **Table 2** and **Table 3**.

**Table 2**

<b>AB 341 September 2021</b>	Compliant	Non-Compliant	Total Accounts	Compliance Rate
Commercial	535	123	658	81%
Multi-Family	69	29	98	70%

**Table 3**

<b>AB 1826 September 2021</b>	Compliant	Non-Compliant	Total Accounts	Compliance Rate
Commercial	222	636	858	26%
Multi-Family	58	40	98	59%

Despite the City’s efforts through education and voluntary compliance over the last nine (9) years, the City has not reached CalRecycle’s requirement of 100% compliance. To address AB 341 and AB 1826, the Rialto City Attorney has developed an ordinance for Mandatory Commercial Recycling (MCR) and Mandatory Commercial Organics Recycling (MORe). The draft ordinance is included as **Attachment 2**.

Failure to comply with MCR and MORe requirements which the state has established as elements of AB 939, the California Integrated Waste Management Act of 1989, could result in City fines of up to \$10,000 per day. In addition to the monetary fines, CalRecycle could place the City of Rialto on a formal plan whereby CalRecycle holds the City to a strict timeline for meeting required milestones.

**ENVIRONMENTAL IMPACT**

The approval of a Mandatory Commercial Recycling and Mandatory Commercial Organics Recycling ordinance is exempt from the California Environmental Quality Act (CEQA) review in accordance with Section 15268, Ministerial Projects. Section 15268 allows for public agencies to make non-discretionary determinations as part of implementing its regulations.

**GENERAL PLAN CONSISTENCY**

Approval of this action complies with the City of Rialto General Plan Goals and Policies:

**Measure 8.43:** Provide Solid Waste and Recycling Programs, which states: continue to meet the community’s needs for solid waste disposal and recycling, and provide that operations are done in an efficient and cost-effective manner.

**LEGAL REVIEW**

The City Attorney has reviewed and supports this staff report and Ordinance.

**FINANCIAL IMPACT**

Operating Budget Impact

Approval of a Mandatory Commercial Recycling and Mandatory Commercial Organics Recycling ordinance does not impact the operating budget.

Capital Improvement Budget Impact

There is no impact to the Capital Improvement Budget related to the approval of a Mandatory Commercial Recycling and Mandatory Commercial Organics Recycling ordinance.

Licensing

A Business License application and payment of a Business License tax is not required for this action.

**RECOMMENDATION**

Staff recommends that the City Council introduce **Ordinance No. 1664** 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.