



Town Council Agenda Report

Date: March 23, 2021

To: Honorable Mayor and Town Council

Subject: INTRODUCE ORDINANCE No.545 - AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, AMENDING SECTION 6.20.023 OF THE APPLE VALLEY MUNICIPAL CODE REGARDING MANDATORY COMMERCIAL RECYCLING AND ORGANICS DIVERSION.

From: Douglas Robertson, Town Manager

Submitted by: Guy Eisenbrey, CCEO
Code Enforcement Manager

Budgeted Item: Yes No N/A

RECOMMENDED ACTION

- A. **Find** that the proposed adoption of Ordinance No. 545 is not subject to and is exempt from CEQA based upon a finding that, under section 15061(b)(3) of the CEQA Guidelines, it can be seen with certainty that there is no possibility that the proposed amendment may have a significant effect on the environment.
- B. **Move** to waive the reading of Ordinance No. 545 in its entirety and read by title only.
- C. **Move** to introduce Ordinance No. 545 amending Section 6.20.023 of the Apple Valley Municipal Code regarding mandatory commercial recycling and organics diversion.
- D. **Direct** staff to file a Notice of Exemption.

BACKGROUND

The purpose of this amendment is to align the Town's Municipal Code with the provisions set forth in Assembly Bill 1826 and the intent of Town Council's goals and directives as determined by professional and expert staff. This amendment serves to add organic waste into the Town's mandatory recycling diversion ordinance and reducing the threshold to two cubic yards of solid waste generated by covered businesses. As a result of this review and pursuant to the provisions set forth in Assembly Bill 1826, the following changes are proposed to be made to the Town's Municipal Code.

None of these proposed changes intends to alter the Town Council's overarching intent of the Code itself.

The recommended changes are shown below. A ~~strickthrough~~ in the Municipal Code text shows proposed deletions and **bold with underlined** text shows proposed additions to the code sections.

Section 6.20.023 - Mandatory commercial recycling/ **and organics** diversion.

(a) For purposes of this Section, the following definitions shall apply.

(1) ~~(a) For purposes of this Section, "business" includes~~ **"Business" shall include** any 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" ~~shall also includes~~ **include** a multi-family residential dwelling of five ~~units~~ or more **units**.

(2) "Organic Waste" shall include food waste, green waste, landscape and pruning waste, non-hazardous wood waste, and food-soiled paper waste that is mixed with food waste.

~~(b) On or before July 1, 2012, any business~~ **All businesses** generating four ~~two~~ or more cubic yards of solid waste per week shall reuse, recycle, compost, or otherwise divert its commercial solid waste from disposal by taking one, or any combination, of the following actions:

(1) Source separate recyclable materials **and organic waste** from the solid waste ~~being discarded~~ and subscribe with the Town's franchise **solid waste** hauler for the pick-up of the recyclable materials **and organic waste** separately from the solid waste to divert them from disposal; ~~or~~

(2) Apply for exception to this Section for reasons including, but not limited to:

~~(2)~~ **(i)** Source separate recyclable materials **and organic waste** from the solid waste and self-haul them to the Victor Valley Materials Recovery Facility (MRF) or other mixed waste **or organic waste** processing facility for diversion from disposal;

~~(i)~~ Each business subject to this Section which does not subscribe with the franchise hauler for pick-up of its recyclable materials shall be responsible for ensuring and demonstrating its compliance with the requirements of this Section to the Town

~~Manager or his or her designee with satisfactory proof of acceptable levels of waste diversion.~~

~~(ii) To comply with Section 6.20.023(b), property owners of multi-family complexes may require tenants to source separate their recyclable materials. Tenants must source separate their recyclable materials as required by property owners of multi-family complexes subject to this Section. Demonstrate compliance with the requirements of this Section to the Town Manager or their designee with satisfactory proof of acceptable recyclable and organic waste diversion;~~

~~(iii) Demonstrate a lack of sufficient space to provide additional recycling or organic waste recycling bins;~~

~~(iv) Apply for limited term exceptions for extraordinary and unforeseen events; and~~

~~(v) Proof of compliance is required for approval and shall be made available for inspection by Town personnel when requested for periodic compliance audits.~~

~~**(3) Multi-family dwellings are required to divert green waste and landscape and pruning waste only and are not required to have a food waste diversion program under this Section.**~~

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

FISCAL IMPACT

None.

ATTACHMENTS:

A. Ordinance No. 545

ORDINANCE NO. 545

ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY AMENDING SECTION 6.20.023 OF THE APPLE VALLEY MUNICIPAL CODE REGARDING MANDATORY COMMERCIAL RECYCLING AND ORGANICS DIVERSION

WHEREAS, in October 2014 Governor Brown signed Assembly Bill 1826 (“AB 1826”) requiring businesses to recycle their organic waste on and after April 1, 2016, depending on the amount of waste they generate per week; and

WHEREAS, AB 1826 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; and

WHEREAS, 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 with food waste; and

WHEREAS, the law phased in the requirements for businesses over time; and

WHEREAS, the law contained a 2020 trigger that further increased the scope of affected businesses; and

WHEREAS, in September 2020, CalRecycle reduced the threshold to two cubic yards of solid waste generated by covered businesses; and

WHEREAS, in accordance with the CalRecycle implementation schedule which requires that local jurisdictions include organic waste in their mandatory commercial recycling diversion, the Town now wishes to update Section 6.20.023.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY DOES ORDAIN AS FOLLOWS:

SECTION 1. The recitals set forth above are true and correct and are hereby adopted as finding in support of this Ordinance as if fully set forth herein.

SECTION 2. Section 6.20.023 of the Apple Valley Municipal Code is hereby amended to read in its entirety as follows:

“6.20.023 - Mandatory commercial recycling and organics diversion.

- (a) For purposes of this Section, the following definitions shall apply.
 - (1) "Business" shall include any 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" shall also include a multi-family residential dwelling of five or more units.

- (2) "Organic Waste" shall include food waste, green waste, landscape and pruning waste, non-hazardous wood waste, and food-soiled paper waste that is mixed with food waste.
- (b) All businesses generating two or more cubic yards of solid waste per week shall reuse, recycle, compost, or otherwise divert its commercial solid waste from disposal by taking one, or any combination, of the following actions:
- (1) Source separate recyclable and organic waste from the solid waste and subscribe with the Town's franchise solid waste hauler for the pick-up of the recyclable materials and organic waste separately from the solid waste to divert them from disposal; or
 - (2) Apply for exception to this Section for reasons including, but not limited to:
 - (i) Source separate recyclable and organic waste from the solid waste and self-haul them to the Victor Valley Materials Recovery Facility (MRF) or other mixed waste or organic waste processing facility for diversion from disposal.;
 - (ii) Demonstrate compliance with the requirements of this Section to the Town Manager or their designee with satisfactory proof of acceptable recyclable and organic waste diversion;
 - (iii) Demonstrate a lack of sufficient space to provide additional recycling or organic waste recycling bins;
 - (iv) Apply for limited term exceptions for extraordinary and unforeseen events; and
 - (v) Proof of compliance is required for approval and shall be made available for inspection by Town personnel when requested for periodic compliance audits.
 - (3) Multi-family dwellings are required to divert green waste and landscape and pruning waste only and are not required to have a food waste diversion program under this Section.
- (c) Nothing in this Section is intended to prevent or limit the existing right of any business to donate, sell or otherwise dispose of its own recyclable materials as provided by Public Resources Code § 41952."

SECTION 3. This Ordinance is exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines, as it is not a

“project” and has no potential to result in a direct or reasonably foreseeable indirect physical change to the environment. 14 Cal. Code Regs. § 15378(a). Further, this Ordinance is exempt from CEQA as there is no possibility that this Ordinance or its implementation would have a significant negative effect on the environment. 14 Cal. Code Regs. § 15061(b)(3). The Planning Department staff shall cause a Notice of Exemption to be filed as authorized by CEQA and the State CEQA Guidelines.

SECTION 4. Severability. If any section, sentence, clause or phrase of this Ordinance or the application thereof to any entity, person or circumstance is held for any reason to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The Town Council of the Town of Apple Valley hereby declares that it would have adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

SECTION 5. Effective Date. This Ordinance shall become effective thirty (30) days following its adoption.

SECTION 6. Notice of Adoption. The Town Clerk of the Town of Apple Valley shall certify to the adoption of this Ordinance and cause publication to occur in a newspaper of general circulation and published and circulated in the Town in a manner permitted under section 36933 of the Government Code of the State of California.

PASSED, APPROVED, AND ADOPTED by the Town Council of the Town of Apple Valley, California, at a regular meeting of the Town Council held on the 27 day of April, 2021 by the following vote:

ATTEST:

Curt Emick, Mayor

La Vonda M-Pearson, Town Clerk
Approved as to form:

Approved as to content:

Thomas A. Rice, Town Attorney

Douglas B. Robertson, Town Manager