

CITY OF ALAMEDA ORDINANCE NO. _____

New Series

AMENDING ALAMEDA MUNICIPAL CODE CHAPTER 21 (SOLID WASTE AND RECYCLING) TO COMPLY WITH SENATE BILL 1383 AND CONFORM WITH ALAMEDA COUNTY WASTE MANAGEMENT AUTHORITY'S ORGANICS REDUCTION AND RECYCLING ORDINANCE

WHEREAS, in 2016, Senate Bill (SB) 1383 was signed into law to reduce short-lived climate pollutants, including methane from landfills, and requires jurisdictions to implement measures, set forth in the regulations adopted pursuant to SB 1383 in the California Code of Regulations, to reduce the amount of organic material deposited in landfills; and

WHEREAS, the City of Alameda (City) is a member of the Alameda County Waste Management Authority (WMA) a joint powers agency comprised of all the cities in Alameda County, the County, and two sanitary districts; and

WHEREAS, on July 28, 2021 the WMA adopted the Organics Reduction and Recycling Ordinance (ORRO), Ordinance 2021-02; and

WHEREAS, on November 16, 2021, the City adopted Ordinance 3310 to comply with SB 1383 and conform with the ORRO; and

WHEREAS, on January 16, 2022, the City entered into an agreement with the WMA to carry out various responsibilities in connection with the City's compliance with the SB 1383 regulations and the Alameda Municipal Code; and

WHEREAS, an amendment to the AMC is necessary to align the penalties for violation of the City's solid waste and recycling requirements with SB 1383 and the ORRO; and

WHEREAS, by the staff report, testimony, and documentary evidence presented at the November 1, 2022 City Council meeting, the City Council has been provided with additional information upon which the findings and actions set forth in this Ordinance are based.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Alameda:

Section 1. Section 21-24.1 (Projects Subject to Waste Management Plan (WMP) Requirement) of Article VI (Waste Management Plans) of Chapter XXI (Solid Waste and Recycling) of the Alameda Municipal Code is hereby amended to read as follows:

21-24.1 – Projects Subject to Waste Management Plan (WMP) Requirement.

- a. *Mandatory Compliance.* All projects within the City, including City-sponsored projects, which the City reasonably determines will cost one hundred thousand

(\$100,000.00) dollars or more to construct shall be subject to the WMP requirement of subsection 21-24.1A. ~~Failure to comply with any of the terms of this chapter shall be punishable as an infraction pursuant to subsection 1-5.1 of this Code or as an administrative citation pursuant to section 1-7 of this Code.~~

For purposes of this provision, one or more permits for construction or demolition issued within a short period of time (as for example, the time between the application for the initial approval and the issuance of a certificate of occupancy or final inspection approval for that initial approval) and with respect to the same premises or with respect to multiple premises owned by the same person shall be deemed a single "project" unless the City Manager determines that treating such permits as involving multiple projects will not obstruct the accomplishment of the purposes of this chapter.

- b. *Deconstruction.* In preparing the WMP, C&D applicants shall consider deconstruction, to the maximum extent feasible, to prioritize reuse of the materials.
- c. *Compliance as a Condition of Approval.* Compliance with the provisions of this article shall be a condition of approval on any building or demolition permit issued by the City and the City Manager shall provide the applicant written notice of that fact.

Section 2. Section 21-30.2 (Penalties) of Article VII (Enforcement) of Chapter XXI (Solid Waste and Recycling) of the Alameda Municipal Code is hereby amended to read as follows:

21-30.2 - Penalties.

a. Any person or party who violates any provision of this chapter shall be guilty of an infraction, which shall be punished by a fine not exceeding two hundred fifty (\$250.00) dollars.

b. Any person or party who violates any provision of this chapter may be issued an administrative citation pursuant to Chapter 1-7 of this Code. ~~Notwithstanding the standard fines set forth in Chapter 1-7, a fine of one hundred (\$100.00) dollars shall be assessed for any first violation, a fine of two hundred (\$200.00) dollars shall be assessed for any second violation within a three (3) year period and a fine of five hundred (\$500.00) dollars shall be assessed for any third and subsequent violation within a three (3) year period.~~

c. Notwithstanding the standard fines set forth in Chapter 1-7, for violations of Sections 21-2.9, 21-2.10, 21-2.11, and 21-2.12 of this Code the penalty levels are as follows:

- 1. For a first violation, the amount of the penalty shall be fifty (\$50.00) to one hundred (\$100.00) dollars per violation.

2. For a second violation, the amount of the penalty shall be one hundred (\$100.00) to two hundred (\$200.00) dollars per violation.

3. For a third or subsequent violation, the amount of the penalty shall be two hundred and fifty (\$250.00) to five hundred (\$500.00) dollars per violation.

The enforcement agency of this chapter, including the City and the WMA, may establish regulations to guide the implementation of the citation process, including establishing factors for consideration of penalty ranges. Movement within the established penalty ranges shall be based on legitimate law enforcement considerations, such as the severity of the violation, prior notice, opportunity and timeliness of any subsequent curative actions, and impact of any violation on the public.

de. The City and the people of the State of California may enforce, and seek to enjoin the violation of, any provision of this chapter by means of a civil action. The burden of proof in such cases shall be preponderance of the evidence. As part of any civil action brought by the people of the State of California or City to enforce this article, a court may assess a civil penalty in an amount not to exceed two thousand five hundred (\$2,500.00) dollars per violation per day.

ed. The remedies provided herein are not exclusive, and nothing herein shall preclude any person from seeking any other remedies, penalties or procedures provided by law.

fe. Enforcement Timelines.

1. The following provisions of this chapter may be enforced beginning on January 1, 2022: Section 21-2.9 concerning requirements for commercial business generators and multi-family Generators; Section 21-2.10 concerning waivers for commercial business generators and multi-family generators; Section 21-23.14 concerning requirements for franchisees and permittees; Section 21-4 concerning requirements for facility operators; Section 21-2.13 concerning requirements for self-haulers, and inspections related to compliance with those sections.

2. The following provisions of this chapter may be enforced beginning on January 1, 2024: Section 21-2.8 concerning requirements for single-family and multi-plex generators; Section 21-2.11 concerning requirements for commercial edible food generators; and Section 21-2.12 concerning requirements for food recovery organizations and services, and inspections related to compliance with those sections.

g. The enforcement agency for the provisions of this Section 21-30.2 is the City and, where authorized by the City, the WMA, and any other designee of the City.

Section 3. FINDINGS. In adopting this Ordinance, the City Council finds and determines as follows:

1. The proposed amendment to the Alameda Municipal Code is consistent with the City's 2018 Zero Waste Implementation Plan.
2. The City Council's action is exempt from further review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15061(b)(3) (no significant environmental impact), 15308 (Actions by Regulatory Agencies for Protection of the Environment), and 15378 (not a project).

Section 4. SEVERABILITY. If any provision of this Ordinance is held by a court of competent jurisdiction to be invalid, this invalidity shall not affect other provisions of this Ordinance that can be given effect without the invalid provision and therefore the provisions of this Ordinance are severable. The City Council declares that it would have enacted each section, subsection, paragraph, subparagraph and sentence notwithstanding the invalidity of any other section, subsection, paragraph, subparagraph or sentence.

Section 5. IMPLIED REPEAL. Any provision of the Alameda Municipal Code inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to the extent necessary to effect the provisions of this Ordinance.

Section 6. EFFECTIVE DATE. This Ordinance shall be in full force and effect from and after the expiration of thirty (30) days from the date of its final passage.

Section 7. AUTHORITY. This Ordinance is enacted pursuant to the City of Alameda's general police powers, Section 1-2 of the Charter of the City of Alameda, and Article XI of the California Constitution.

Presiding Officer of the City Council

| Attest: _____
Lara Weisiger, City Clerk

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I, the undersigned, hereby certify that the foregoing Ordinance was duly and regularly adopted and passed by the Council of the City of Alameda in a regular meeting assembled on the _____ day of November 2022, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

IN WITNESS, WHEREOF, I have hereunto set my hand and affixed the official seal of said City this _____ day of November 2022.

Lara Weisiger, City Clerk
City of Alameda

APPROVED AS TO FORM:

Yibin Shen, City Attorney
City of Alameda