

Agenda Item No. D-8

DATE SUBMITTED 1/27/2021

SUBMITTED BY COMMUNITY DEVELOPMENT DIRECTOR

DATE ACTION REQUIRED 2/3/2021

COUNCIL ACTION (X)

PUBLIC HEARING REQUIRED ()

RESOLUTION ()

ORDINANCE 1ST READING ()

ORDINANCE 2ND READING (X)

CITY CLERK'S INITIALS (X)

**IMPERIAL CITY COUNCIL
AGENDA ITEM**

SUBJECT: DISCUSSION/ACTION: ADOPTION OF ORDINANCE NO. 811 MANDATING GREEN WASTE/ORGANIC RECYCLING FOR COMMERCIAL ENTITIES AND SELECT MULTI-FAMILY RESIDENTIAL UNITS PURSUANT TO AB 1826

1. 2ND Reading by Title Only of Ordinance No. 811 mandating green waste/organic recycling for commercial and select multi-family residential entities pursuant to AB 1826.

DEPARTMENT COMMUNITY DEVELOPMENT
INVOLVED:

BACKGROUND/SUMMARY:

The State of California has made organic recycling mandatory. The signing of AB1826 into law, has made organics recycling mandatory for certain commercial and multi-family operations. During April 2016, AB 1826 began requiring that certain operations recycle their organic waste. The bill required that full implementation occur during the year 2020. The goal of the mandatory organics recycling law (AB 1826) is to help California achieve aggressive increased recycling and greenhouse gas emission reductions goals. IVRMA, Republic Services, and City Staff have been promoting the mandate and meeting with businesses. Due to State Law mandating these requirements, the best fit approach is to adopt a mandatory ordinance, which will assist the City in reaching compliance with State Law requirements and will grant the ability to assist businesses that are non-compliant with State Laws regarding recycling, with becoming compliant. The City has formulated an Ordinance in efforts to become compliant with the AB 1826. The City along with Professional Waste haulers will implement the mandates, once the Ordinance is formally adopted. If the City does not adopt the ordinance and fails to comply with State Law, it exposes the City to potential fines of up to \$10,000 per day of non-compliance. There is a fee imposed by Republic Services for the commercial businesses and multi-family operations. Please see attached information regarding fees.

The draft ordinance was brought before the council as a workshop/discussion item on January 6, 2021.

The Public Hearing and First Reading of the Ordinance were conducted on January 16, 2021. There were no public comments received "for or against" the ordinance during the public hearing.

FISCAL IMPACT: N/A	ADMIN SERVICES SIGN INITIALS <u>178</u>
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STAFF RECOMMENDATION: It is recommended that the ordinance be approved.	DEPT. INITIALS <u>Lsat.</u>
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MANAGER'S RECOMMENDATION: <u>conduct 2d reading and adoption</u>	CITY MANAGER'S INITIALS <u>OTM</u>
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MOTION:

SECONDED:

AYES:

NAYES:

APPROVED ()

DISAPPROVE ()

REJECTED ()

DEFERRED ()

ORDINANCE NO. 811

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
IMPERIAL ADDING CHAPTER 10B TO THE CITY OF
IMPERIAL MUNICIPAL CODE REGARDING THE
MANDATORY COMMERCIAL AND MULTI-FAMILY
RESIDENTIAL RECYCLING**

WHEREAS, legislative action such as the Integrated Waste Management Act of 1989 (AB 939), the Solid Waste Disposal Measurement Act of 2008 (SB 1016), the Mandatory Commercial Recycling Act of 2011 (AB 341), and the Mandatory Commercial Organics Recycling Act of 2014 (AB 1826) have placed new requirements on the collection and recycling of recyclable materials and processing of organic materials generated from commercial premises and multi-family dwellings within the City of Imperial (City); and

WHEREAS, these requirements will also help reduce greenhouse gas emissions associated with the disposal of solid waste in landfills and further protect the natural environment and human health as well as enhance the economy through increased recycling and organic materials processing activities; and

WHEREAS, failure to comply with elements of these regulations may result in the potential of a \$10,000 per day fine if the City fails to adopt a local ordinance to mandate compliance or follow the state regulations in this area; and

WHEREAS, the Imperial City Council has determined that adoption of such an Ordinance will serve the health, safety, and public welfare of the community; and

WHEREAS, the City Council held a public hearing on January 20, 2021, to review the pertinent facts and consider all arguments for and against the proposed text amendments.

THE CITY COUNCIL OF THE CITY OF IMPERIAL DOES ORDAIN AS FOLLOWS:

SECTION 1: Chapter 10B of the Municipal Code is hereby enacted to read as follows:

**CHAPTER 10-B
MANDATORY COMMERCIAL AND MULTI-FAMILY RESIDENTIAL
RECYCLING-COLLECTION AND DISPOSAL**

- Section 10B-1 - Definitions.
- Section 10B-2 - Application of this chapter.
- Section 10B-3 - Solid waste customers.
- Section 10B-4 - Commercial generators.
- Section 10B-5 - Special events.
- Section 10B-6 - Self-haulers.

Section 10B-7 - Reserved.
Section 10B-8 - City authority.
Section 10B-9 - Enforcement.
Section 10B-10 - Penalties.
Section 10B-11 - No effect on other powers.
Section 10B-12 - Disclaimer of liability.
Section 10B-13 - Duties discretionary.

10B-1 - Definitions.

CalRecycle means the State of California's Department of Resources Recycling and Recovery, and, as this department was structured prior to January 1, 2010, the California Integrated Waste Management Board (CIWMB).

Community Development Director means the Community Development Director of the City of Imperial or his or her designee.

Commercial premises means premises upon which business activity is conducted, including but not limited to retail sales, services, wholesale operations, manufacturing and industrial operations, but excluding residential premises upon which business activities are conducted when such activities are permitted under applicable zoning regulations and are not the primary use of the property. Notwithstanding any provision to the contrary in this ordinance or City Code, premises upon which the following uses (as defined in the City Code) are occurring shall be deemed to be commercial premises: adult residential facilities, assisted living facilities, convalescent homes, dormitories, extended stay motels, group residential facilities, group care facilities, hotels, and motels.

Commercial generator means any legal entity, except a special event, that generates solid waste at a commercial or industrial facility, that may include businesses; charitable or nonprofit organizations, including hospitals, educational institutions, and civic or religious organizations; governmental organizations, agencies, or entities; and nonresidential tenants or entities that lease or occupy space. "Commercial generator" also includes the city and its facilities and nonresidential properties. The entity that is the commercial generator is the commercial generator and account holder.

Composting center, station or facility a facility the principal function of which is to receive and to process organic waste through composting.

Container means any and all types of receptacles, including carts, bins and roll-off boxes.

Disposal means the ultimate disposition of solid waste collected at a landfill or otherwise in full regulatory compliance. "Disposal" does not include recycling or organic materials processing.

Food wastes means all kitchen and table food scraps, animal or vegetable waste that is generated during or results from the storage, preparation, cooking or handling of food stuffs; discarded compostable paper that is contaminated with food waste; fruit waste, grain waste, dairy waste, meat, and fish waste, which has been source separated from other solid waste. Food waste is a subset of organic materials and excludes hazardous materials.

Franchisee means any solid waste collector authorized by the city council pursuant to the procedures established in this chapter.

Multi-family dwelling means a residential structure with five or more residences including apartment buildings, mobile home parks, trailer parks, and condominium buildings. Multi-family dwelling units generally receive refuse collection service through the use of shared bins.

Multi-family generator means tenants, residents, other occupants, and custodians or janitors of multi-family dwellings. Except as otherwise determined, as for condominium units, the owner of the multi-family generator is the customer and account holder.

Organic materials means food wastes, green wastes, wood wastes, and yard wastes, and other organic material as defined by CalRecycle, collectively or individually.

Organic materials collector means any person or persons, firm, partnership, joint venture, association or corporation engaged in the collection or transportation of organic materials generated in the city.

Organic materials processing facility means a permitted facility where organic material is sorted, mulched, or separated for the purposes of recycling, reuse or composting in compliance with applicable law and regulations.

Premises means any land or building where solid waste, recyclable materials, or organic materials are generated or accumulated.

Receptacle means a container used for the temporary collection and storage of solid waste, whose contents are periodically transferred to a larger container from which a solid waste collector directly collects the solid waste.

Recyclable material or recyclables means solid waste that is source separated, segregated, or recovered through mixed waste processing, has some potential economic value, and is set aside, handled, packaged, or offered for collection in a manner different from refuse in order to allow it to be processed for recycling.

Recycling center, station or facility means a permitted or licensed facility whose principal function is to receive, store, convert, separate, or transfer recyclable materials for processing in compliance with applicable law and regulations.

Recycling collector means any person or persons, firm, partnership, joint venture, association or corporation engaged in the collection and transportation of recyclable materials generated in the city.

Recycling operator means a person or persons, firm, partnership, joint venture, association or corporation engaged in the collection and recycling of recyclable materials.

Refuse means solid waste or debris, except sewage, construction and demolition debris, recyclables, and/or organic materials placed in source-separated containers for collection.

Refuse collector means synonymous with solid waste collector.

Residential premises means premises upon which dwelling units exist, including, without limitation, single-family and multi-family dwellings, apartments, boarding or rooming houses, condominiums, mobile homes and accessory dwelling units. Notwithstanding any provision to the contrary in this ordinance or the City Code, premises upon which the following uses are

occurring shall not be deemed to be residential premises, and rather shall be deemed to be commercial premises: adult residential facilities, assisted living facilities, convalescent homes, dormitories, extended stay motels, group residential facilities, hotels, motels, and any other businesses not specifically listed that may be classified as commercial premises (as opposed to residential) as determined by city on a case by case basis.

Segregate means source separation of any of the following: the placement of recyclable materials, organic materials, and refuse each in separate and designated containers; the binding of recyclable materials separately from other waste material; the physical separation from each other of recyclable materials, organic materials, and refuse.

Self-haul means to transport one's own recyclable materials to a recycling facility or organic materials to an organic materials processing facility by using a vehicle owned by the transporting entity rather than using the hauling services of a solid waste collector.

Self-hauler means a solid waste customer, commercial generator, multi-family generator, or special event that transports its own recyclable materials to a recycling facility or organic materials to an organic materials processing facility by using a vehicle owned by that transporting entity rather than using the hauling services of a solid waste collector.

Solid waste customer means the legal entity responsible for managing solid waste at any residential premise, commercial premises or multi-family dwelling, including subscribing to solid waste collection services with a solid waste collector or where allowed, self-hauling solid waste, or the entity to whom the solid waste collector submits billing invoices for collection.

Special event means a community, public, commercial, recreational, or social event which may serve food or drink, and which may require a permit from the city. "Special events" may include the temporary or periodic use of a public street, publicly owned site or facility, privately owned site or facility, or public park. "Special event" includes the legal entity responsible for the special event, including but not limited to the owner, manager, or organizer, which may be the city.

Sec. 10B-2 - Application of this chapter.

- (a) *Exclusions.* Commercial solid waste customers, multi-family dwelling solid waste customers and entities responsible for special events who generate fewer than two cubic yards of refuse for collection service per week shall be excluded from the requirements of this chapter.
- (b) *Exemptions.* Multi-family generators, commercial generators, and special events that can document using the methods described in subsection (e) of this section that the circumstances described in subsections (d)(2)(i) and (ii) of this section pertain to their operations shall be exempt from the requirements of this chapter:
- (c) *No generation of recyclable materials and/or organic materials.* Solid waste customers, commercial generators, and special events may be exempt from the requirements of this chapter if the solid waste customer, commercial generator, or special event unless that customer demonstrates to the sole satisfaction of the city manager or her designee that based upon the criteria set out in this chapter, no recyclable materials or organic materials are generated on site.

- (d) *Space constraints and zoning considerations.*
- (1) Residential solid waste customers may be exempt from the requirements of this chapter if the city determines that either:
 - (i) There is inadequate space for a solid waste customer to store containers for recyclable materials or organic materials on site and that it is infeasible for the solid waste customer to share recyclable materials or organic materials containers with adjacent commercial premises or multi-family dwellings; or
 - (ii) Compliance with this chapter will result in violating city zoning or other regulations.
 - (2) Commercial generators, multi-family generators, and special events may be exempt from the requirements of this chapter if the city determines that either:
 - (i) The solid waste customer that is responsible for managing solid waste for the commercial generator, multi-family generator, or special event is excluded or exempt from providing containers for recyclable materials or organic materials; or
 - (ii) There is inadequate space for the commercial generator or special event to store receptacles for recyclable materials or organic materials on site and that it is infeasible for the commercial generator or special event to deposit recyclable or organic materials directly into containers without an intermediate receptacle; or
 - (iii) Compliance with this chapter will result in violating city zoning or other regulations.
- (e) *Verification of exemption.* The solid waste customer, commercial generator, or special event shall petition the city manager with a written request for an exemption documenting the circumstances of a claimed exemption. The city manager through her designee may visit the solid waste customer's, commercial generator's, or special event's site; examine the receptacles for refuse, recyclable materials, or organic materials; or take other actions to verify the circumstances identified in the petition. The solid waste customer, commercial generator, or special event requesting an exemption shall not be granted an exemption from the requirements of this chapter if the city determines that (1) recyclable materials or organic materials are generated on site, (2) it is feasible for containers and receptacles for recyclable materials and, as necessary, for organic materials to be placed on site, and (3) it is feasible to share recycling containers with an adjacent commercial premises or multi-family dwelling.
- (f) The city by resolution may impose an administrative fee on petitioning entities to cover the costs of processing such petitions. The city may require the solid waste customer, commercial generator, or special event that is granted an exemption from the requirements of this chapter to submit a renewal of its petition for an exemption every two years from the date the exemption was granted by the city.

Sec. 10B-3 - Solid waste customers.

Each commercial customer, multi-family dwelling or entity responsible for a special event, shall be responsible for ensuring and demonstrating its compliance with the requirements of this chapter. Each solid waste customer shall:

- (a) Subscribe to an adequate level of service for recyclable materials and, when applicable, organic materials generated at the commercial premises, multi-family dwelling, or special event if the customer does not self-haul those recyclable materials or organic materials to a recycling or organics materials processing facility pursuant to the provisions of section 10B-6 of this chapter.
- (b) Provide, directly or through the solid waste collector, appropriate and sufficient containers, placed in appropriate and accessible locations with adequate signage, to ensure maximum segregation of recyclable materials by all commercial generators, multi-family generators, and special events and to ensure maximum segregation of organic materials by food service providers.
- (c) Provide, post and maintain signs containing information and instructions on the proper segregation and storage of recyclable materials and organic materials in areas where containers are located. The signs shall meet the requirements of CalRecycle when available and the hauler shall provide sample signs.
- (d) Ensure that all containers used for collecting and storing recyclable materials and organic materials (1) are labeled with or have adjacent to the container signs that display the appropriate information to enable users to clearly differentiate which containers are used for recyclable materials, organic materials, and refuse; (2) display the name of the solid waste collector that provides collection service of the container; and (3) ensure that users of the containers make efforts to minimize the contamination of material placed in the containers.
- (e) Distribute this Chapter 10B and appropriate educational materials to all commercial generators, multi-family generators, and legal entities responsible for special events at the commercial premises or multi-family dwelling at least once each year by mail or personal delivery. All new commercial generators, multi-family generators, and special events shall receive this information upon occupancy or contracting for service.
- (f) Educational materials shall include (1) the requirement and procedures to ensure the accurate segregation of recyclable materials and organic materials from refuse; (2) the commercial generator's, multi-family generators, or special event's responsibilities regarding compliance with this chapter; and (3) the types and location of recyclable materials, organic materials, and refuse containers.
- (g) Ensure that instructions or training materials provided to commercial generators, multi-family generators, and special events are promptly made available to the city upon request.
- (h) Ensure that the contents of the recyclable materials and organic materials containers are not collected for refuse disposal unless the contents of these containers include unacceptable levels of contamination.
- (i) Customers shall pay an additional fee based on the size of the container for recyclable materials and organic materials containers that are collected for refuse disposal by the franchisee if the contents of their recyclable materials and organic materials containers contain unacceptable levels of contamination as defined pursuant to Chapter 10 of the Municipal Code.

Sec. 10B-4 - Commercial generators.

In addition to the requirements of section 10B-3, each commercial generator shall be responsible for ensuring and demonstrating its compliance with the requirements of this chapter. Each commercial generator shall:

- (a) Ensure the segregation of recyclable materials and organic materials from refuse by placing each type of material in a separate designated receptacle or container, and ensure that employees, contractors, volunteers, customers, visitors, and other persons on site segregate recyclable materials and organic materials.
- (b) Provide an adequate number and type of labeled receptacles needed for segregating and storing recyclable materials and organic materials and provide adequate access to those receptacles.
- (c) Post and maintain signs containing information and instructions on the proper segregation and storage of recyclable materials and organic materials in areas where receptacles are located.
- (d) Ensure that all receptacles used for collecting and storing recyclable materials, organic materials, and refuse are labeled with signs or labels that display the appropriate information to enable users to clearly differentiate which receptacles are used for recyclable materials, organic materials, and refuse, to minimize the contamination of material placed in receptacles.
- (e) Provide adequate instructions to employees, contractors, and volunteers of the requirements of this chapter, including (1) the requirement and procedures to ensure the segregation of recyclable materials and organic materials from refuse; (2) the employee's, contractor's, and volunteer's responsibilities regarding compliance with this chapter; and (3) the types and location of receptacles and containers for recyclable materials, organic materials, and refuse.
- (f) Ensure that instructions or training materials provided to employees, contractors, and volunteers are promptly made available to the city upon request.
- (g) Ensure that the contents of receptacles are deposited in the proper container and ensure that the contents of the receptacles for recyclable materials and organic materials are not delivered to refuse containers.
- (h) Commercial generators may be assessed an additional fee based on the size of the container for recyclable materials and organic materials containers that are collected for refuse disposal by the franchisee if the contents of their recyclable materials and organic materials containers contain unacceptable levels of contamination.

Sec. 10B-5 - Special events.

The entity responsible for a special event shall be responsible for ensuring and demonstrating compliance with the requirements of this chapter. In addition to other requirements in this chapter and the Municipal Code, each special event shall:

- (a) Segregate recyclable materials and, for special events that include food service or use food service establishments, organic materials from refuse by placing each type of material in a separate designated receptacle or container, and ensure that employees, contractors, volunteers, customers, visitors, and other persons on site segregate recyclable materials and organic materials.
- (b) Ensure the special event has access to an adequate number and type of containers needed for collecting and storing recyclable materials and, when applicable, organic materials generated at and by the special event.
- (c) Provide or ensure the provision of adequate receptacles throughout the special event location to make the segregation of recyclable materials and organic materials convenient for employees, volunteers, contractors, vendors, exhibitors, presenters, visitors, attendees, customers, and other persons on site.
- (d) Provide or ensure the provision of an equal or greater number of receptacles for recyclable materials and, when applicable, organic materials to receptacles for refuse. Individual receptacles for recyclable materials, organic materials, and refuse shall be placed as close together as possible throughout the special event location in order to provide equally convenient access to receptacles for recyclable materials and organic materials as to receptacles for refuse.
- (e) Ensure that all receptacles used for segregating and storing recyclable materials, organic materials, and refuse are affixed with signs or labels that display the appropriate information to enable users to accurately segregate solid waste and to clearly differentiate which receptacles are used for recyclable materials, organic materials, and refuse, to minimize the contamination of material placed in receptacles.
- (f) Require food vendors and food service establishments to have at least one separate receptacle each for recyclable materials, organic materials, and refuse for use by employees, contractors, custodians, customers, visitors, and other persons on site.
- (g) Distribute chapter requirements and appropriate informational materials to all vendors, exhibitors, and other commercial generators during event planning and setup.
- (h) Ensure that the contents of the receptacles for recyclable materials and organic materials are not delivered to refuse containers unless they include unacceptable levels of contamination.

Sec. 10B-6 - Self-haulers.

- (a) Nothing in this chapter shall preclude any person, solid waste customer, commercial generator, multi-family generator, or special event from self-hauling recyclable materials or organic materials generated by that entity to a recycling or organics materials processing facility before placement in the solid waste stream.
- (b) Self-haulers shall:

- (1) Comply with the requirements in this chapter by delivering for recycling those items that can be recycled by local recycling facilities and establishments and shall comply by delivering for organic materials processing those items that are accepted by local organic materials processing facilities.
 - (2) Provide proof of compliance with this chapter, upon request by the city; proof includes but is not limited to a receipt from a recycling or organic materials processing facility that clearly identifies the type and quantity of material delivered and an application for exemption from the necessity for refuse collection.
- (c) Notwithstanding, self-haulers shall not dispose of any solid waste in any manner not permitted by this chapter. To do so is a violation of this chapter punishable as set out in section 10B-10.

Sec. 10B-7 - Reserved.

Sec. 10B-8 - City authority.

The Community Development Department Director may designate staff to act as a Code Enforcement Officer and is authorized to administer and enforce the provisions of this chapter. To the extent permitted by law, the appointed Code Enforcement Officer per the Community Development Department Directors Discretion, may inspect any collection container and any solid waste collector's load for refuse, recyclable materials, or organic materials. To the extent permitted by law, the city or its designee may also inspect the premises of any residential premise, commercial premises, multi-family dwelling, or special event or self-hauler's load to determine compliance with the provisions of this chapter.

Sec. 10B-9 - Enforcement.

The city shall enforce this chapter with the goal of maximizing the amount of recyclable materials and organic materials properly segregated and ensuring that recyclable materials and organic materials that have been properly segregated by the solid waste customer, commercial premise, multi-family generator, or special event are correctly collected and delivered to recycling and organics materials processing facilities. The city shall require the solid waste collector to conduct the following activities to enforce this chapter:

- (a) Provide details on the requirements of this chapter to affected solid waste customers, commercial premises, multi-family generators, and special events;
- (b) Develop and disseminate public education and promotional materials relating to the importance of recycling and organic materials processing and the availability of recycling and organic materials processing opportunities available to solid waste customers, commercial generators, multi-family generator, and special events;
- (c) Provide technical assistance and training to solid waste customers, commercial generator, multi-family generators, and special events to increase recycling; and

- (d) Enforce provisions of the franchise agreement for collection of recyclable materials, organic materials, and refuse with the franchisee to stimulate demand for recyclable materials and organic materials collection service.

Sec. 10B-10 - Penalties.

- (a) The city may issue administrative fines for violating this chapter or any rule or regulation adopted pursuant to this chapter, except as otherwise provided in this chapter. The city's procedures on imposition of administrative fines are hereby incorporated in their entirety and shall govern the imposition, enforcement, collection, and review of administrative citations issued to enforce this chapter and any rule or regulation adopted pursuant to this chapter; provided, however, that the city may adopt regulations providing for lesser penalty amounts for solid waste customers, commercial premises, or special events.
- (b) A violation notice shall be issued and served upon the solid waste collector, solid waste customer, commercial premises, or special event for violations of this chapter. When a violation notice is served, public nuisance proceedings and/or code enforcement proceedings under the city's code shall apply.
- (c) All administrative civil penalties collected from actions brought pursuant to this chapter shall be paid to the city and shall be deposited into an earmarked account that is available to fund activities to implement the applicable provisions of this chapter.
- (d) Notwithstanding, the city attorney may seek injunctive relief or civil penalties in the superior court or may pursue any other remedy legally available to the city.
- (e) Violations and Administrative Citation Regulation Service Fines are outlined in Resolution No. 2009-48.

Sec. 10B-11 - No effect on other powers.

- (a) This chapter does not do any of the following:
 - (1) Otherwise affect the authority of the city or its designee to take any other action authorized by any other provisions of law or regulations.
 - (2) Restrict the power of a city attorney, district attorney, or the attorney general to bring in the name of the people of California any criminal proceeding otherwise authorized by law.
 - (3) Prevent the city from cooperating with, or participating in, any proceeding.
 - (4) Affect in any way existing contractual arrangements including franchises, permits, or licenses previously granted or entered into between the solid waste collectors and city.
- (b) *Cumulative remedies.* Any remedy provided under this chapter is cumulative to any other remedy provided in equity or at law. Nothing in this chapter shall be deemed to limit the right of the city or its solid waste operators to bring a civil action; nor shall a conviction for such violation exempt any person from a civil action brought by the city or its solid waste operators. The fees and penalties imposed under this chapter shall constitute a civil debt and

liability owing to the city from the persons, firms, or corporations using or chargeable for such services and shall be collectible in the manner provided by law.

- (c) *Liability.* Nothing in this chapter shall be deemed to impose any liability upon the city or upon any of its officers or employees including without limitation under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA).

Sec. 10B-12 - Disclaimer of liability.

The degree of protection required by this chapter is considered to be reasonable for regulatory purposes. The standards set forth in this chapter are minimal standards and do not imply that compliance will ensure safe handling of recyclable materials, organic materials, or refuse. This chapter shall not create liability on the part of the city, or any of its officers or employees, for any damages that result from reliance on this chapter or any administrative decision lawfully made in accordance with this chapter. All persons handling solid waste within the boundaries of the city should be and are advised to conduct their own inquiry as to the handling of such materials. In undertaking the implementation of this chapter, the city is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

Sec. 10B-13 - Duties discretionary.

Subject to the limitations of due process and applicable requirements of state or federal laws, and notwithstanding any other provisions of this chapter, whenever the words "shall" or "must" are used in establishing a responsibility or duty of the city, its elected or appointed officers, employees or agents, it is the legislative intent that such words establish a discretionary responsibility or duty requiring the exercise of judgment and discretion.

SECTION 2: Effective Date. This ordinance shall take effect and shall be in force thirty (30) days after the date of adoption, and prior to the expiration of fifteen (15) days from the passage thereof, shall be published at least once in a newspaper of general circulation printed and published in the County of Imperial, together with the names of the members of the City Council voting for and against the same.

PASSED, ADOPTED AND APPROVED by the City Council of the City of Imperial, this 3rd day of February, 2021.

Mayor of the City of Imperial

ATTEST:

By _____
City Clerk