

ORDINANCE NO. 4245

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF HUNTINGTON BEACH  
AMENDING CHAPTER 3.02 OF THE HUNTINGTON BEACH MUNICIPAL CODE  
PURCHASE OF GOODS AND SERVICES

WHEREAS, State recycling law, Assembly Bill 939 of 1989, the California Integrated Waste Management Act of 1989 (California Public Resources Code Section 40000, et seq., as amended, supplemented, superseded, and replaced from time to time), requires cities and counties to reduce, reuse, and recycle (including composting) Solid Waste generated in their jurisdictions to the maximum extent feasible before any incineration or landfill disposal of waste, to conserve water, energy, and other natural resources, and to protect the environment; and

WHEREAS, State recycling law, Assembly Bill 341 of 2011 places requirements on businesses and Multi-Family property owners that generate a specified threshold amount of Solid Waste to arrange for recycling services and requires the City to implement a mandatory commercial recycling program; and

WHEREAS, State organics recycling law, Assembly Bill 1826 of 2014 requires businesses and Multi-Family property owners that generate a specified threshold amount of Solid Waste, Recycling, and Organic Waste per week to arrange for recycling services for that waste, requires the City to implement a recycling program to divert Organic Waste from businesses subject to the law, and requires the City to implement a mandatory commercial organics recycling program; and

WHEREAS, SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016, requires CalRecycle to develop regulations to reduce organics in landfills as a source of methane. The regulations place requirements on multiple entities, including the City, residential households, Commercial Businesses and business owners, Commercial Edible Food Generators, haulers, self-haulers, Food Recovery Organizations, and Food Recovery Services to support achievement of Statewide Organic Waste disposal reduction targets; and

WHEREAS, SB 1383 Regulations require the City to adopt and enforce an ordinance or other enforceable mechanism to implement relevant provisions of the SB 1383 Regulations. This ordinance will also help reduce food insecurity by requiring Commercial Edible Food Generators to arrange to have the maximum amount of their Edible Food, that would otherwise be disposed, be recovered for human consumption; and

WHEREAS, this Ordinance implements the requirements of AB 341, AB 1826, and the SB 1383 Regulations.

WHEREAS, SB1383 regulations require the City to adopt procurement requirements for purchasing paper and landscape services.

The City Council of the City of Huntington Beach does hereby ordain as follows:

SECTION 1. Chapter 3.02.025 is hereby amended adding new definitions in alphabetical order, to read as follows, with all other definitions remaining the same:

“Direct Service Provider” means a person, company, agency, district, or other entity that provides a service or services to the City pursuant to a contract or other written agreement

“Paper Products” include, but are not limited to, paper janitorial supplies, cartons, wrapping, packaging, file folders, hanging files, corrugated boxes, tissue, and toweling.

“Printing and Writing Papers” include, but are not limited to, copy, xerographic, watermark, cotton fiber, offset, forms, computer printout paper, white wove envelopes, manila envelopes, book paper, note pads, writing tablets, newsprint, and other uncoated writing papers, posters, index cards, calendars, brochures, reports, magazines, and publications.

“Recycled-Content Paper” means Paper Products and Printing and Writing Paper that consists of at least 30 percent, by fiber weight, postconsumer fiber.

SECTION 2. Chapter 3.020.165 is hereby added to read as follows:

“3.02.165 SB 1383 Procurement Requirements

(A) Any direct service provider of landscaping, maintenance, renovation, and construction shall comply with the City’s SB 1383 Procurement requirements.

- (1) Use Compost and SB 1383 Eligible Mulch, as practicable, produced from recovered Organic Waste, for all landscaping renovations, construction, or maintenance performed for the City, whenever available, and capable of meeting quality standards and criteria specified. SB 1383 Eligible Mulch used for land application shall comply with 14 CCR, Division 7, Chapter 12, Article 12 and must meet or exceed the physical contamination, maximum metal concentration and pathogen density standards specified in 14 CCR Section 17852(a)(24.5)(A)(1) through (3).
- (2) Keep and provide records of Procurement of Recovered Organic Waste Products (either through purchase or acquisition) to City, upon completion of projects. Information to be provided shall include:
  - a. General description of how and where the product was used and if applicable, applied;
  - b. Source of product, including name, physical location, and contact information for each entity, operation, or facility from whom the Recovered Organic Waste Products were procured;
  - c. Type of product;
  - d. Quantity of each product; and,

e. Invoice or other record demonstrating purchase or procurement.

(B) All vendors providing Paper Products and Printing and Writing Paper shall:

- (1) If fitness and quality are equal, provide Recycled-Content Paper Products and Recycled-Content Printing and Writing Paper that consists of at least 30 percent, by fiber weight, postconsumer fiber instead of non-recycled products whenever recycled Paper Products and Printing and Writing Paper are available at the same or lesser total cost than non-recycled items.
- (2) Provide Paper Products and Printing and Writing Paper that meet Federal Trade Commission recyclability standard as defined in 16 Code of Federal Regulations (CFR) Section 260.12.
- (3) Certify in writing, under penalty of perjury, the minimum percentage of postconsumer material in the Paper Products and Printing and Writing Paper offered or sold to the City. This certification requirement may be waived if the percentage of postconsumer material in the Paper Products, Printing and Writing Paper, or both can be verified by a product label, catalog, invoice, or a manufacturer or vendor internet website.
- (4) Certify in writing, on invoices or receipts provided, that the Paper Products and Printing and Writing Paper offered or sold to the City is eligible to be labeled with an unqualified recyclable label as defined in 16 Code of Federal Regulations (CFR) Section 260.12 (2013).
- (5) Provide records to the City or its Designee of all Paper Products and Printing and Writing Paper purchases within thirty (30) days of the purchase (both recycled-content and non-recycled content, if any is purchased) made by any division or department or employee of the City. Records shall include a copy (electronic or paper) of the invoice or other documentation of purchase, written certifications as required in Sections 3.12.165(b)(3) and 3.12.165(b)(4) for recycled-content purchases, purchaser name, quantity purchased, date purchased, and recycled content (including products that contain none), and if non-recycled content Paper Products or Printing and Writing Papers are provided, include a description of why Recycled-Content Paper Products or Printing and Writing Papers were not provided.

SECTION 3. CEQA. SB 1383 Regulations were the subject of a program environmental impact report (EIR) prepared pursuant to the California Environmental Quality Act (CEQA). The proposed amendments to Chapter 8.21 of the HBMC are consistent with the SB 1383 Regulations and the Program EIR. No mitigation measures identified in the Program EIR are applicable to the City's enactment of the proposed ordinance amendments. Moreover, none of the conditions requiring a subsequent or supplemental EIR, as described in Public Resources Code Section 21166 and California Environmental Quality Act (CEQA) Guidelines Sections 15162 and 15163, have occurred. Additionally, the proposed ordinance is exempt from CEQA pursuant to Section 15308, Class 8 of the CEQA Guidelines as an action that will not have a significant impact on the environment and as an action taken by a regulatory agency for the protection of the environment, specifically, for the protection of the climate. No unusual circumstances exist that would cause the proposed ordinance to have a significant effect on the environment.

SECTION 4. This ordinance shall become effective 30 days after its adoption.

PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
City Attorney 

REVIEWED AND APPROVED:

INITIATED AND APPROVED:

\_\_\_\_\_  
City Manager

  
\_\_\_\_\_  
Director of Public Works

**LEGISLATIVE DRAFT**  
**HBMC CHAPTER 3.02**

**3.02.025 Definitions**

**Bid or Proposal Documents.** The documents, including their attachments and addenda, which set forth instructions to bidders or proposers, and are disseminated for the purpose of soliciting bids or proposals.

**City Manager.** The City Manager or his/her designee.

**City Employee.** An individual who performs services for the City in the capacity of an elected or appointed official, or as a compensated employee of the City or of a temporary services agency retained by the City. "City employee" does not include independent contractors.

**Contract.** Agreements, regardless of what they may be labeled, between the City and one or more other parties for the purchase or disposition of goods and/or services.

**Contractor/Vendor/Supplier.** Any person who has entered into an agreement with the City for the provision or disposition of goods and/or services.

**Direct Service Provider** means a person, company, agency, district, or other entity that provides a service or services to the City pursuant to a contract or other written agreement.

**Environmentally Preferred Purchasing (EPP).** The current EPP Best Practices Guide to assist in the procurement of services, goods and materials that have the lowest life cycle cost; and provide the basis for securing environmentally friendly and sustainable purchasing practices.

**Finance Director.** The Finance Director or his or her designee.

**Financial Interest.**

1. Ownership of any interest or involvement in any relationship from which, or as a result of which, a person has received compensation within the past year, or is entitled to, or is currently receiving compensation;
2. Ownership, whether wholly or in part, of any property or business; or
3. Status as an officer, director, trustee, partner, employee, or manager of a business.

**Goods.** Articles moveable at the time of sale, including but not limited to equipment, supplies and materials.

**Gratuity.** A gift, payment, loan, advance, deposit of money, or service, presented or promised in return for or in anticipation of favorable consideration in the procurement process. "Gratuity" does not include the compensation paid by or due from the City or from a temporary service agency under contract with the City to an employee in connection with the employee's services for the City.

**Immediate Family.** Any spouse, child, stepchild, parent or stepparent of a City employee. The relationship of parent to child includes both natural and adoptive relationships.

**Local Business.** A business entity with one or more fixed offices and/or locally taxable distribution points within the boundaries of the City of Huntington Beach which holds a current and valid City business license with a Huntington Beach business street address.

**Maintenance and Repair Services.** Services intended to preserve and/or restore a public work to a clean, safe, efficient and/or continually usable condition. Maintenance and repair services may include, but are not limited to: carpentry, electrical, painting, plumbing, glazing and other craftwork to preserve a facility

in the condition for which it was intended; repairs, cleaning and other operations on machinery and other equipment permanently attached to a facility as fixtures; the mowing, pruning, and trimming of lawns, grass, trees, shrubs, bushes and hedges; and the regular removal or relocation of by-products or waste products accumulated at City facilities as the result of ongoing environmental processes.

**Paper Products** include, but are not limited to, paper janitorial supplies, cartons, wrapping, packaging, file folders, hanging files, corrugated boxes, tissue, and toweling.

**Person.** Any individual, partnership, limited partnership, association, corporation, labor union, committee, club, or governmental, public or quasi-public entity.

**Printing and Writing Papers** include, but are not limited to, copy, xerographic, watermark, cotton fiber, offset, forms, computer printout paper, white wove envelopes, manila envelopes, book paper, note pads, writing tablets, newsprint, and other uncoated writing papers, posters, index cards, calendars, brochures, reports, magazines, and publications.

**Procurement.** The acquisition of goods and/or services by the City, including but not limited to purchasing, rental or leasing, and all functions and procedures pertaining to such acquisitions.

**Professional Services.** Services that involve the exercise of professional discretion and independent judgment based on an advanced or specialized knowledge, expertise or training gained by formal studies or experience. Such services include, but are not limited to, those provided by appraisers, architects, attorneys, engineers, instructors, insurance advisors, physicians and other specialized consultants. The procurement of professional services is governed by Chapter 3.03.

**Recycled-Content Paper** means Paper Products and Printing and Writing Paper that consists of at least 30 percent, by fiber weight, postconsumer fiber.

**Responsible Bidder.** A bidder determined by the awarding authority:

1. To have the ability, capacity, experience and skill to provide the goods and/or services in accordance with bid specifications;
2. To have the ability to provide the goods and/or services promptly, or within the time specified, without delay;
3. To have equipment, facilities and resources of such capacity and location to enable the bidder to provide the goods and/or services;
4. To be able to provide future maintenance, repair, parts and service for the use of the goods purchased, if appropriate;
5. To have a record of satisfactory or better performance under prior contracts with the City and other purchasers where such bidder has previously been awarded such contracts;
6. To have complied with laws, regulations, guidelines and orders governing prior or existing contracts performed by the bidder, if applicable;
7. To meet the City standards for environmentally preferable procurement.

**Responsive Bidder.** A bidder determined by the Purchasing/Central Services Manager to have submitted a bid or proposal which conforms in all material respects to the requirements of the bid or proposal documents.

**Services.** Work performed or labor, time and effort expended by an independent contractor.

**Specifications.** A description of the physical or functional characteristics or of the nature of the required goods and/or services.



**Surplus Personal Property.** Goods owned by the City which are no longer needed or which are obsolete or unserviceable, property that is a by-product (scrap metal, used tires and oil, etc.), or any unclaimed, seized or abandoned personal property in the possession or custody of the department of public safety which may be legally disposed of by the City.

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