

## ORDINANCE NO. 19-1011

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### **AN ORDINANCE OF THE CITY OF OREGON CITY AMENDING THE OREGON CITY MUNICIPAL CODE BY ADDING A NEW CHAPTER 8.26 BUSINESS FOOD WASTE REQUIREMENTS**

**WHEREAS**, Metro regulates solid waste generated within the Metro region pursuant to Metro's constitutional, statutory, and charter authority and as set forth in Metro Code; and

**WHEREAS**, on or about July 26, 2018, Metro adopted Ordinance No. 18-1418 to implement business food waste requirements to recycle and reduce food waste; and

**WHEREAS**, the Metro region has had a voluntary business food waste collection program in place for over ten years, yet only fourteen percent of the total food waste is recovered; and

**WHEREAS**, the State of Oregon Department of Environmental Quality, via Oregon Revised Statutes 459A.010, has set a food waste recovery goal of 25% by 2020; and

**WHEREAS**, the State of Oregon Department of Environmental Quality has added a required food waste collection program for nonresidential generators for compliance with state law under Oregon Administrative Rule 340 Division 90; and

**WHEREAS**, the City Commission of Oregon City seeks to comply with Oregon Administrative Rule 340-090-0040 and Metro Recycling and Waste Reduction mandating requirements for food waste disposal.

#### **NOW, THEREFORE, THE CITY OF OREGON CITY ORDAINS AS FOLLOWS:**

**Section 1.** The Oregon City Municipal Code is hereby amended by the addition of a new Chapter 8.26 "Business Food Waste Requirements" to read as follows:

#### **CHAPTER 8.26 BUSINESS FOOD WASTE REQUIREMENTS**

##### **8.26.010 – Purpose**

The purpose of this chapter is to comply with the Business Food Waste Requirement set forth in Metro Code Chapter 5.10. The business food waste requirement provides an opportunity to increase recycling of food waste and to assist the Metro region to achieve waste reduction goals. This Chapter is not intending for this requirement to apply to food that is fit for human consumption and accepted for donation by a charitable organization or the use of food waste for animal consumption in compliance with applicable regulations

##### **8.26.020 – Definitions**

As used in this title, the following words and terms shall have the meanings herein ascribed to them, unless the content makes such meaning contradictory thereto:

"Business" means any person or persons, or any entity, corporate or otherwise, engaged in commercial, professional, charitable, political, industrial, educational, or other activity that is nonresidential in nature, including public bodies.

"Covered Business" means any entity, corporate or otherwise, engaged in commercial, professional, charitable, political, industrial, educational, or other activity that is nonresidential in nature, including public bodies, producing food waste as defined in this chapter.

"City" means the City of Oregon City, Oregon.

"Food separate" means to separate food waste items from other solid waste.

"Food waste" is solid waste generated from the distribution, storage, preparation, cooking, handling, selling or serving of food for human consumption. Food waste includes but is not limited to excess, spoiled or unusable food and includes inedible parts commonly associated with food preparation such as pits, shells, bones, rinds, and peels. Food waste does not include liquids or large amounts of oils and meats which are collected for rendering, fuel production or other non-disposal applications, or any food fit for human consumption that has been set aside, stored properly and is accepted for donation by a charitable organization or any food collected to feed animals in compliance with applicable regulations.

"Franchise" includes a franchise, certificate, contract, or license issued by a local government unit authorizing a person to provide solid waste management services.

"Source separate" means to separate recyclable material from other solid waste.

#### 8.26.040 – Applicability

The requirements of this chapter shall apply to all Covered Businesses within the City, except any business activity exempt from a Business License, as defined in Oregon City Municipal Code 5.04.030.

Covered businesses subject to the business food waste requirement include but are not limited to:

- a. Cafeterias and Buffets
- b. Caterers
- c. Correctional Facilities
- d. Food Service Contractors
- e. Restaurants
- f. Grocery Retail
- g. Grocery Wholesale
- h. Specialty Food Markets
- i. Warehouse Clubs

Covered businesses subject to the business food waste requirement only if the entity has a full-service restaurant or on-site food preparation or service:

- a. Colleges and Universities
- b. Drinking Places
- c. Elementary and Secondary Schools
- d. Hospitals

- e. Hotels
- f. Nursing and Residential Care
- g. Retirement and Assisted Living

#### 8.26.050 - Business Food Waste Requirements

1. Businesses shall:
  - a. Food separate from the waste stream all food waste items;
  - b. Provide and maintain food waste container in all internal maintenance or work areas in sizes and quantities sufficient to allow all food waste to be collected and stored; and
  - c. Post accurate signs or adhere labels where food items are collected or stored that identify the materials that the business must source separate and provide source separation instructions.
2. Businesses must comply with the food waste requirements as determined by the quantity of food waste they generate per week. Implementation will begin with the business group producing more than 1000 pounds and will progress to the other groups according to the dates noted below.
  - Business Group 1 March 31, 2020-March 31, 2021  $\geq 0.5$  ton (1,000 pounds) per week food waste generated
  - Business Group 2 March 31, 2021-Sept. 30, 2022  $\geq 0.25$  ton (500 pounds) per week food waste generated
  - Business Group 3 Sept. 30, 2022-Sept. 30, 2023  $\geq 0.125$  ton (250 pounds) per week food waste generated

Covered Businesses that demonstrate they generate less than 250 pounds per week of food waste are not subject to food waste requirements.

3. Persons and entities that own, manage, or operate premises with business tenants and that provide garbage collection service to those business tenants, shall provide food waste collection systems adequate to enable the business tenants to comply with the requirements of this section.

#### 8.26.070 - Certification Requirements

1. A business that is required to have a business license pursuant to Chapter 5.04 of this Code shall certify to the City in writing, in a form approved by the city manager, upon application for an initial business license and with each annual application for renewal of a business license, that the business is in compliance with the requirements of Oregon City Municipal Code 8.26.050.
2. Failure to submit a certification as required shall be grounds for denial of issuance or renewal of a business license.
3. A business that is not required to have a business license pursuant to Chapter 5.04 of this Code, or that is exempted from the business license requirement by state law, shall certify to the City in writing at least once each calendar year, in a form approved by the city manager, that it is in compliance with the requirements of Oregon City Municipal Code 8.26.050.

#### 8.26.080 – Violations

Code enforcement and penalties will be used as a last resort and reserved for those few uncooperative businesses that refuse to improve their waste prevention recycling practices. Code enforcement actions will be handled as follows:

1. Businesses found to be out of compliance may receive a written notice of non-compliance that describes the violation, how the violation can be cured, and an offer of assistance.
2. If the business does not rectify the violation within the timeframe specified, the enforcement procedures and penalties found in Chapter 1.24 of this Code may be used.

**Section 2. Severability.** If any provision of this Ordinance, or its application to any person or circumstances is held to be unconstitutional or invalid for any reason, the remainder of this Ordinance or the application of the provisions to other persons or circumstances shall not be affected.

Read for the first time at a regular meeting of the City Commission held on the 4th day of September 2019, and the City Commission enacted the foregoing Ordinance this 18th day of September 2019.

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DAN HOLLADAY, Mayor

Attested to this 4th day of September 2019:

Approved as to legal sufficiency:

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Kattie Riggs, City Recorder

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City Attorney