

ORDINANCE NO. 2024-770

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FORTUNA
CALIFORNIA, AMENDING TITLE 8 – HEALTH AND SAFETY OF THE FORTUNA
MUNICIPAL CODE BY REVISING CHAPTER 8.14– ORGANIC REDUCTION AND
RECYCLING ORDINANCE**

WHEREAS, the City of Fortuna (“City”) is a municipal corporation, duly organized under the constitution and laws of the State of California; and

WHEREAS, on June 20, 2023, the City Council passed and adopted Ordinance No. 2023-761, which added Chapter 8.14 to Title 8 of the Fortuna Municipal Code (“FMC”), to implement relevant provisions of Senate Bill 1383 regulating organic waste collection services, generators of organic waste, waste haulers, and generators and processors of edible food, together with enforcement mechanisms and administrative civil penalties for violations of local regulations; and

WHEREAS, pursuant to Section 4 of Ordinance No. 2023-761, Ordinance No. 2023-761 was effective as of January 1, 2024; and

WHEREAS, pursuant to Section 4 of Ordinance No. 2023-761, the City Council amended Chapter 8.14 to Title 8 of the Fortuna Municipal Code to provide for deferred implementation of certain requirements set forth in Chapter 8.14 to allow time for the City to complete its Franchise Agreement negotiations and to ensure the necessary equipment and regional facilities are available to process the organics waste for recycling; and

WHEREAS, the City Council intends, by this Ordinance, to further amend certain provisions of Chapter 8.14 of the FMC to provide for further deferred implementation of certain requirements set forth in Chapter 8.14 to allow additional time for the City to complete its Franchise Agreement negotiations and to ensure the necessary equipment and regional facilities are available to process the organics waste for recycling; and

WHEREAS, the City Council has considered the staff report, supporting documents, public testimony, and all appropriate information that has been submitted with this Ordinance.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF FORTUNA DOES ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The above recitals are each incorporated by reference and adopted as findings by the City Council.

SECTION 2. CEQA. The City Council finds, pursuant to the California Environment Quality Act (CEQA), Guidelines section 15378, that this Ordinance is not a Project as defined by CEQA. Furthermore, the Ordinance is exempt from CEQA pursuant to CEQA Guidelines section 15061(b)(3) as it is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment.

SECTION 3. Fortuna Municipal Code Amendment. Section 8.14.070 (Requirements For Commercial Edible Food Generators) of the Fortuna Municipal Code is amended by deleting the text shown below as bold-strike-through-text and adding the text shown below in bold-underlined-text.

8.14.070. REQUIREMENTS FOR COMMERCIAL EDIBLE FOOD GENERATORS

- (a) Tier One Commercial Edible Food Generators must comply with the requirements of this section commencing July 1, 2024, and Tier Two Commercial Edible Food Generators must comply commencing January 1, 2024, pursuant to 14 CCR Section 18991.3 or such later deadline established by State law or regulations.
- (b) Large Venue or Large Event operators not providing food services, but allowing for food to be provided by others, shall require Food Facilities operating at the Large Venue or Large Event to comply with the requirements of this section, commencing January 1, 2024 or such later deadline established by State law or regulations.
- (c) On and after July 1, 2024, Commercial Edible Food Generators shall comply with the following requirements:
 - (1) Arrange to safely recover for human consumption the maximum amount of Edible Food that would otherwise be disposed.
 - (2) Enter into a contract or other written agreement with Food Recovery Organizations Food Recovery Services for: (i) the collection for Food Recovery of Edible Food that would otherwise be disposed; or, (ii) acceptance of Edible Food that would otherwise be disposed that the Commercial Edible Food Generator self-hauls to the Food Recovery Organization for Food Recovery.
 - (3) Use best efforts to abide by all contractual or written agreement requirements specified by the Food Recovery Organization or Food Recovery Service on how Edible Food should be prepared, packaged, labeled, handled, stored, distributed or transported to the Food Recovery Organization or Service.
 - (4) Not intentionally donate food that has not been prepared, packaged, handled, stored and/or transported in accordance with the safety requirements of the California Retail Food Code.
 - (5) Not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery Organization or a Food Recovery Service.
 - (6) Allow the Enforcement Agency to review records upon request, including by providing electronic copies or allowing access to the premises, pursuant to 14 CCR Section 18991.4.
 - (7) Keep records that include the following information, or as otherwise specified in 14 CCR Section 18991.4:
 - (A) A list of each Food Recovery Service or Food Recovery Organization that collects or receives its Edible Food pursuant to a contract or written agreement established under 14 CCR Section 18991.3(b).
 - (B) A copy of all contracts and written agreements established under 14 CCR Section 18991.3(b) and/or this chapter.

- (C) A record of the following information for each of those Food Recovery Services or Food Recovery Organizations:
 - (i) The name, address and contact information of the Food Recovery Service or Food Recovery Organization.
 - (ii) The types of food that will be collected by or self-hauled to the Food Recovery Service or Food Recovery Organization.
 - (iii) The established frequency that food will be collected or self-hauled.
 - (iv) The quantity of food, measured in pounds recovered per month, collected or self-hauled to a Food Recovery Service or Food Recovery Organization for Food Recovery.
- (D) If it has not entered into a contract or written agreement with Food Recovery Organizations or Food Recovery Services pursuant to subsection (c)(2) above, **a Commercial Edible Food Generator shall maintain** a record that describes (i) its direct donation of Edible Food to end recipients (including employees) and/or (ii) its food waste prevention practices that result in it generating no surplus Edible Food that it can donate.
- (8) Tier One Commercial Edible Food Generators and Tier Two Commercial Edible Food Generators shall provide, upon request, a Food Recovery report to the Enforcement Agency that includes the information in Section 8.14.070(c)(7). Entities shall provide the requested information within 60 days of the request.
- (9) **Unless waived pursuant Section 8.14.060 of this Chapter, Commercial Edible Food Generators shall register with the County of Humboldt Division of Environmental Health as a Commercial Edible Food Generator. Commercial Edible Food Generator registration will require an annual fee in an amount to cover costs, as set by resolution or ordinance of the Humboldt County Board of Supervisors. No part of the registration fee shall be refundable.**
- (10) **Registered Commercial Edible Food Generators shall submit to annual inspection by the County of Humboldt Division of Environmental Health for compliance with this Section.**
- (d) Nothing in this Ordinance shall be construed to limit or conflict with (1) the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share table and school food donation guidance pursuant to Senate Bill 557 of 2017 (approved by the Governor of the State of California on September 25, 2017, which added Article 13 commencing with Section 49580 to Chapter 9 of Part 27 of Division 4 of Title 2 of the Education Code, and to amend Section 114079 of the Health and Safety Code, relating to food safety, as amended, supplemented, superseded and replaced from time to time); or (2) otherwise applicable food safety and handling laws and regulations.

- (e) Nothing in this Ordinance prohibits a Commercial Edible Food Generator from donating Edible Food directly to end recipients for consumption, pursuant to Health and Safety Code Section 114432(a).
- (f) The Enforcement Agency for the provisions of this section is the CITY and any other Designee of the CITY.

SECTION 4. Severability. If any provision of this Ordinance or the application thereof is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such invalidity shall not affect the remaining provisions or application of the remaining provisions of this Ordinance, which can be given effect without the invalid provisions or application.

SECTION 5. Effective Date. These Ordinance amendments shall become effective thirty (30) days after adoption by the City Council. The Clerk shall cause this Ordinance to be published in the manner required by Government Code section 36933.

INTRODUCED AND FIRST READING PERFORMED on this 6th day of January 2025 by the following vote:

AYES:
NAYS:
ABSENT:
ABSTAIN:

Mike Johnson, Mayor

ATTEST:

Siana L. Emmons, City Clerk

SECOND READING PERFORMED AND ADOPTED on the 21st day of January 2025 by the following vote:

AYES:
NAYS:
ABSENT:
ABSTAIN:

Mike Johnson, Mayor

ATTEST:

Siana L. Emmons, City Clerk