

**ORDINANCE NO. 2008-245**

**AN ORDINANCE OF THE TOWN OF WINDSOR  
AMENDING ARTICLE 1 OF CHAPTER 6  
OF TITLE I GENERAL PROVISIONS  
GOVERNMENTAL ORGANIZATION AND ADMINISTRATION  
OF THE TOWN'S MUNICIPAL CODE TO ADD  
ENVIRONMENTALLY PREFERABLE PURCHASING REQUIREMENTS**

**THE TOWN COUNCIL OF THE TOWN OF WINDSOR DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1. Section 1-6-110 Amended and Section 1-6-135 Added.**

Section 1-6-110 of the Town of Windsor Municipal Code is hereby amended and Section 1-6-135 of the Town of Windsor Municipal Code is hereby added as follows:

**1-6-110 Purchasing Award; Factors to Be Considered.**

Guidelines for evaluating bids shall include:

- a. The bid price. A five percent (5%) preference shall be granted to vendors whose place of business is within the boundaries of the Town, and who have all current applicable Town licenses and permits;
- b. The ability, capacity and skill of the bidder to perform the contract or provide the service required;
- c. The ability of the bidder to perform the contract or provide the service promptly, or within the time specified, without delay or interference;
- d. The reputation and experience of the bidder, including the Town's previous experience with the bidder;
- e. The quality, availability, and adaptability of the supplies or contractual services to the particular use required;
- f. The ability and availability of the bidder to provide future maintenance and service for the use of the subject of the contract;
- g. The conditions attached to the bid by the bidder;
- h. Ability to comply with environmentally preferable purchasing requirements described under Section 1-6-135.

**1-6-135 Environmentally Preferable Purchasing Requirements.**

- a. This article is adopted in order to:
  1. Conserve natural resources, such as water, fuels, fiber, and minerals.
  2. Encourage waste stream diversions and reduced land filling of waste.
  3. Minimize environmental impacts, such as pollution and habitat destruction.
  4. Eliminate or reduce toxics that create hazards to workers, our community, and the environment.
  5. Support strong recycling markets, reduce Town operating costs where possible, and reduce materials that are landfilled.
  6. Increase the use and availability of environmentally preferable products.

7. Identify environmentally preferable products and distribution systems.
8. Identify, encourage, and give recognition to manufacturers and vendors that reduce environmental impacts in their production and distribution systems or services.
9. Create a model for successfully purchasing environmentally preferable products that encourages other purchasers in our community to adopt similar goals, and support the Town of Windsor Greenhouse Gas Emissions Gas Reduction Action Plan adopted August 20, 2008.
10. Consider life cycle cost analysis when making purchasing decisions.

b. The Town Council hereby authorizes and directs the Town Manager to:

1. Select environmentally preferable products and services that include recycled content, are durable and long-lasting, conserve energy and water, use agricultural fibers and residues, use unbleached or chlorine-free manufacturing processes, are lead-free and mercury-free, and reduce greenhouse gas emissions, when feasible.
2. Promote product efficiency and effectiveness.
3. Purchase products and services that minimize environmental impacts, toxics, pollution, waste, and hazards to worker and community safety to the greatest extent practicable.
4. Encourage and support standardization and consider life cycle costs when making purchases for the Town, such as vehicles, computers, and workstations.
5. Encourages diversion to the waste stream through beneficial reuse.

c. Procedures

1. The health and safety of workers and citizens is of utmost importance and takes precedence over all other policies.
2. The Town of Windsor has made significant investments in developing a successful recycling system and recognizes that recycled content products are essential to the continuing viability of that recycling system. Therefore, to the greatest extent practicable, recycled content shall be included in products that also meet other specifications, such as chlorine-free or agricultural bio-based products.
3. Nothing contained in this policy shall be construed as requiring a department, purchaser, or contractor to procure products that do not perform adequately for their intended use, exclude adequate competition, or are not available at a reasonable price in a reasonable period of time.
4. Nothing contained in this policy shall be construed as requiring the Town, department, purchaser, or contractor to take any action that conflicts with local, state, or federal requirements.
5. This policy is intended to supplement other requirements of the Town of Windsor's Purchasing Policies and Procedures as provided in the Town Code.

d. Specifications

1. Source Reduction

The Town shall purchase remanufactured and recycled products, such as laser toner cartridges, tires, motor oil, furniture, equipment, and automotive parts whenever practicable, but without reducing safety, quality, or effectiveness.

The Town shall require equipment purchased after the adoption of this policy to be

compatible with source reduction targets as referred to in this policy, when practicable. The Town shall consider short-term and long-term costs in comparing product alternatives, when feasible. This includes evaluation of total costs expected during the time a product is owned, including, but not limited to, acquisition, extended warranties, operation, supplies, maintenance, disposal costs, and expected lifetime compared to other alternatives.

Products that are durable, long lasting, reusable, or refillable are preferred whenever feasible.

The Town requests vendors to reduce packaging or use the minimum amount necessary for product protection, to the greatest extent practicable.

Packaging that is reusable, recyclable, or able to be composted is preferred, when suitable uses and programs exist.

Vendors shall be encouraged to take back and reuse pallets and packaging materials, or the Town shall find alternatives for landfill disposal.

Suppliers of electronic equipment, including, but not limited to, cell phones, computers, monitors, printers, and copiers, shall be encouraged to take back equipment for reuse or environmentally safe recycling when the Town has completed its use of that equipment or discards or replaces it, whenever possible. The Town shall encourage the purchase of rechargeable batteries whenever feasible.

## 2. Recycled Content Products

- 2.1 All products for which the United States Environmental Protection Agency (U.S. EPA) has established minimum recycled content standard guidelines, such as those for printing paper, office paper, janitorial paper, construction, landscaping, parks and recreation, transportation, vehicles, miscellaneous, and non-paper office products, shall contain the highest post-consumer content practicable, but no less than the minimum recycled content standards established by the U.S. EPA Guidelines, whenever practical. The EPA has developed the Comprehensive Procurement Guidelines, (CPG) for the designation of products.
- 2.2 Copiers and printers bought or leased shall be designed for use with recycled content products.
- 2.3 In accordance with California Public Contract Code, Sec. 10409, the Town shall purchase re-refined lubricating and industrial oil for use in its vehicles and other equipment, as long as it is certified by the American Petroleum Institute (API) as appropriate for use in such equipment and is available.
- 2.4 When specifying asphalt concrete, aggregate base, or Portland cement concrete for road and other construction projects, the Town shall use recycled, reusable, or reground materials, when practicable.
- 2.5 The Town shall encourage the use of fly ash and other recyclable material content in any concrete foundation projects.
- 2.6 The Town shall specify and purchase recycled content transportation products, including signs, cones, parking stops, delineators, and barricades, whenever practical.
- 2.7 All pre-printed recycled content papers intended for distribution that are purchased or produced shall contain a statement that the paper is comprised of recycled content.
- 2.8 Allow, as a general rule, the procurement of a product with a recycled or recyclable content over a virgin product if the price is within five percent (5%) of the virgin product,

- when products are equivalent (See 2.1 EPA Guidelines).
- 2.9 The Town shall make previously used and/or leftover office supplies available for office reuse, located in each Town office building. Examples of these supplies are binders, folders, organizers, etc. The Town will also broadcast emails and/or post notes to advertise the availability of reusable products at each work center.
  3. Energy Savings
    - 3.1 Where applicable, energy-efficient equipment shall be purchased with the most up-to-date, economically feasible, and proven energy efficiency functions. This includes, but is not limited to, high efficiency space heating systems and cooling systems.
    - 3.2 When practicable, the Town shall replace inefficient lighting with energy-efficient equipment.
    - 3.3 All products purchased by the Town and for which the U.S. EPA Energy Star certification is available shall meet the Energy Star certification and possess the Energy Star label, when practicable. When products with Energy Star labels are not available, choose energy-efficient products that are in the upper 25% of energy efficiency as designated by the Federal Energy Management Program.
  4. Green Building- Construction and Renovations
    - 4.1 The Town will comply with the adopted Town of Windsor Green Building Ordinance for the construction of all permanent municipal building and renovation projects that exceed 1,000 sq. ft in area.
  5. Water Savings
    - 5.1 The Town shall purchase water-saving products, whenever practicable.
    - 5.2 The Town shall adhere to the Town of Windsor Low Water Use Landscape Guidelines on any new or renovated project.
  6. Landscaping
    - 6.1 All landscape renovations, construction, and maintenance by the Town, including workers and contractors providing landscaping services for the Town, shall employ sustainable landscape management techniques for design, construction, and maintenance whenever possible, including, but not limited to, integrated pest management, grass cycling, drip irrigation, composting, and procurement and use of mulch and compost that give preference to those produced from regionally generated plant debris and/or food waste programs.
    - 6.2 Plants should be selected to minimize water waste and increase survivability by choosing species that are appropriate to the microclimate, species that can grow to their natural size in the space allotted them, and perennials rather than annuals for color. Native and drought-tolerant plants that require no or minimal watering once established are preferred. Invasive species shall be avoided.
    - 6.3 Hardscapes and landscape structures constructed of recycled content materials are encouraged. The Town shall limit the amount of impervious surfaces in the landscape, where practicable and where life cycle costs are considered. Permeable substitutes, such as permeable asphalt or pavers, are encouraged for walkways, patios, and driveways, when practical and considering the Americans with Disabilities Act (ADA), and other code or compliant issues.
  7. Toxics and Pollution
    - 7.1 To the extent practicable, no cleaning or disinfecting products (i.e. for janitorial or

- automotive use) shall contain ingredients that are carcinogens, mutagens, or teratogens. These include chemicals listed by the U.S. EPA or the National Institute for Occupational Safety and Health on the Toxics Release Inventory and those listed under Proposition 65 by the California Office of Environmental Health Hazard Assessment.
- 7.2 The use of chlorofluorocarbon (CFC) containing refrigerants, solvents, and other products shall be phased out, and new purchases shall not contain them.
- 7.3 All surfactants and detergents shall be biodegradable, where practicable, and shall not contain phosphates.
- 7.4 When maintaining buildings and landscapes, the Town shall manage pest problems through prevention and physical, mechanical, and biological controls where practicable. The Town Community Services Department has adopted and implemented integrated pest management (IPM) practices using the least toxic pest control. IPM practices shall be utilized by all other departments and Town contractors, whenever practicable.
- 7.5 When maintaining buildings, the Town shall use products with the lowest amount of volatile organic compounds (VOCs), highest recycled content, and low or formaldehyde free when purchasing materials such as paint, carpeting, adhesives, furniture, and casework where practicable.
- 7.6 The Town shall consider the use of carpet squares where practicable.
- 7.7 The Town shall reduce or eliminate its use of products that contribute to the formation of dioxins and furans. This includes, but is not limited to: (a) Purchasing paper, paper products, and janitorial paper products that are unbleached or that are processed without chlorine or chlorine derivatives, whenever possible; and (b) prohibiting purchase of products that use polyvinyl chloride (PVC) such as, but not limited to, office binders, furniture, flooring, and medical supplies, whenever practicable.
- 7.8 The Town shall purchase products and equipment with no lead or mercury whenever possible.
- 7.9 When purchasing or replacing vehicles, the Town shall consider fuel efficient and decreased emission alternatives, such as compressed natural gas, bio-based fuels, hybrids, electric batteries, and fuel cells, as available, and as they meet the Town's work needs.
- 7.10 The Town will establish a limited number of standard vehicles and equipment and options on those vehicles to streamline the purchase, repair, maintenance, warranty, and operator training.
- 7.11 Vehicle fuels made from renewable energy sources, such as non-wood, plant-based contents (e.g. vegetable oils), are encouraged whenever practicable and where approved by State air pollution control bodies and the Original Equipment Manufacturer (OEM).
8. Forest Conservation  
To the greatest extent practicable, the Town shall not procure wood products such as lumber that originates from forests harvested in an environmentally unsustainable manner. When possible, the Town shall give preference to wood products that are certified to be sustainably harvested by a comprehensive, performance-based certification system. The certification system shall include independent third-party audits, with standards equivalent to those of the Forest Stewardship Council (FSC) certification.
9. Agricultural Bio-Based Product  
Paper, paper products, and construction products made from non-wood, plant-based

contents such as agricultural crops and residues are encouraged, whenever practicable.

#### 10. Implementation

The Town Manager or his/her designee shall implement this article in coordination with other appropriate Town personnel.

Successful bidders shall certify in writing that the environmental attributes claimed in competitive bids are accurate. In compliance with State law, vendors shall be required to specify the minimum or actual percentage of recovered and post-consumer material in their products, even when such percentages are zero.

Upon request, Town employees making the selection from competitive bids shall be able to provide justification for product choices that do not meet the Environmentally Preferable Purchasing criteria in this policy.

Purchasers are encouraged to include businesses certified by the Bay Area Green Business Program in requests for products and services.

Vendors, contractors, and grantees shall be encouraged to comply with applicable sections of this policy for products and services provided to the Town, where practicable.

The Town shall conduct an education program on Environmentally Preferable Purchasing for appropriate Town employees and vendors.

#### 11. Program Evaluation

The Town shall periodically evaluate the success of this policy's implementation.

#### 12. Definitions

12.1 "Agricultural Bio-Based Products" means commercial or industrial products (other than food or feed) that utilize agricultural crops or residues but do not include products made from forestry materials.

12.2 "Bay Area Green Business Program" is a partnership of governments and businesses that certify the environmental performance of government agencies and businesses.

12.3 "Buyer" means anyone authorized to purchase or contract for purchases on behalf of the Town and its subdivisions.

12.4 "Chlorine-free" means products processed without chlorine or chlorine derivatives.

12.5 "Contractor" means any person, group of persons, business, consultant, designing architect, association, partnership, corporation, supplier, vendor, or other entity that has a contract with the Town or serves in a subcontracting capacity with an entity having a contract with the Town for the provision of goods or services.

12.6 "Dioxins and furans" are a group of chemical compounds that are classified as persistent, bioaccumulative, and toxic by the Environmental Protection Agency.

12.7 "Energy Star" means the U.S. EPA's energy efficiency product labeling program.

12.8 "Energy Efficient Product" means a product that is in the upper 25% of energy efficiency for all similar products, or that is at least 10% more efficient than the minimum level that meets Federal standards.

12.9 "Federal Energy Management Program" is a program of the Department of Energy that issues a series of *Product Energy Efficiency Recommendations* that identify recommended efficiency levels for energy-using products.

12.10 "Forest Stewardship Council" is a global organization that certifies responsible, on-the-ground forest management according to rigorous standards developed by a broad variety of stakeholder groups.

12.11 "Integrated Pest Management" (IPM) is an ecosystem-based strategy that focuses on long-

term prevention of pests or their damage through a combination of techniques such as biological control, habitat manipulation, modification of cultural practices, and use of resistant varieties. Pesticides are used only after monitoring indicates they are needed according to established guidelines, and treatments are made with the goal of removing only the target organism. Pest control materials are selected and applied in a manner that minimizes risks to human health, beneficial and non-target organisms, and the environment.

- 12.12 “Greenhouse Gases” occur naturally in the atmosphere, while others result from human activities. Naturally occurring greenhouse gases include water vapor, carbon dioxide, methane, nitrous oxide, and ozone. Certain human activities, however, add to the levels of most of these naturally occurring gases: (a) *Carbon dioxide* is released to the atmosphere when solid waste, fossil fuels (oil, natural gas, and coal), and wood and wood products are burned; (b) *methane* is emitted during the production and transport of coal, natural gas, and oil. Methane emissions also result from the decomposition of organic wastes in municipal solid waste landfills, and the raising of livestock; (c) *nitrous oxide* is emitted during agricultural and industrial activities, as well as during combustion of solid waste and fossil fuels, and; (d) very powerful greenhouse gases that are not naturally occurring include *hydrocarbons* (HFCs), *perfluorocarbons* (PFCs), and *sulfur hexafluoride* (SF6), which are generated in a variety of industrial processes. Each greenhouse gas differs in its ability to absorb heat in the atmosphere. HFCs and PFCs are the most heat-absorbent. Methane traps over 21 times more heat per molecule than carbon dioxide, and nitrous oxide absorbs 270 times more heat per molecule than carbon dioxide. Often estimates of greenhouse gas emissions are presented in units of millions of metric tons of carbon equivalent (MMTCE), which weighs each gas by its GWP value, or Global Warming Potential.
- 12.13 “Post-consumer Material” means a finished material which would normally be disposed of as a solid waste, having reached its intended end-use and completed its life cycle as a consumer item, and does not include manufacturing or converting wastes.
- 12.14 “Practical” and “Practicable” mean when feasible and compatible with local, state, and federal law, without reducing safety, quality, or effectiveness and where the product or service is available at a reasonable cost in a reasonable period of time, based on life cycle costs.
- 12.15 “Pre-consumer Material” means material or by-products generated after manufacture of a product is completed but before the product reaches the end-use consumer. Pre-consumer material does not include mill and manufacturing trim, scrap, or broke which is generated at a manufacturing site and commonly reused on-site in the same or another manufacturing process.
- 12.16 “Proposition 65” means a list of chemicals that are known to the State of California to cause cancer, birth defects, or other reproductive harm.
- 12.17 “Recovered Material” means fragments of products or finished products of a manufacturing process, which has converted a resource into a commodity of real economic value, and includes pre-consumer and post-consumer material but does not include excess resources of the manufacturing process.
- 12.18 “Recycled Content” means the percentage of recovered material, including pre-consumer and post-consumer materials, in a product.

- 12.19 “Recycled Content Standard” means the minimum level of recovered material and/or post-consumer material necessary for products to qualify as “recycled products.”
- 12.20 “Recycled Product” means a product that meets the Town’s recycled content policy objectives for post-consumer and recovered material.
- 12.21 “Remanufactured Product” means any product diverted from the supply of discarded materials by refurbishing and marketing said product without substantial change to its original form.
- 12.22 “Reused Product” means any product designed to be used many times for the same or other purposes without additional processing except for specific requirements such as cleaning, painting, or minor repairs.
- 12.23 “Source Reduction” refers to products that result in a net reduction in the generation of waste compared to their previous or alternate version and includes durable, reusable, and remanufactured products; products with no, or reduced, toxic constituents; and products marketed with no, or reduced packaging.
- 12.24 “Green Building Ordinance” is a program that promotes the use of environmentally friendly materials in the construction and remodeling of buildings.
- 12.25 “Surfactants” are materials that can greatly reduce the surface tension of water when used in very low concentrations.
- 12.26 “Toxics Release Inventory” (TRI) is a publicly available U.S. EPA database that contains information on toxic chemical releases and other waste management activities reported annually by certain covered industry groups as well as federal facilities.
- 12.27 “U.S. EPA Guidelines” means the Comprehensive Procurement Guidelines established by the U.S. Environmental Protection Agency for federal agency purchases as of May 2002, and any subsequent versions adopted.
- 12.28 “Water-Saving Products” are those that are in the upper 25% of water conservation for all similar products, or at least 10% more water-conserving than the minimum level that meets the Federal standards.

**SECTION 2. – Severability.**

If any part of this Ordinance or the application thereof to any person is held invalid, the remainder of the Ordinance and the application of such provisions to other persons shall not be affected thereby.

**SECTION 3. – Effective Date.**

This Ordinance shall take effect and be in force thirty (30) days following its adoption.

**SECTION 4. – Posting.**

The Town Clerk of the Town of Windsor shall cause this Ordinance to be published or to be posted in at least three (3) public places in the Town of Windsor in accordance with Section 36933 of the Government Code of the State of California.



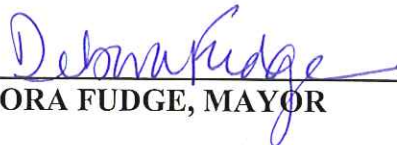
**PASSED, APPROVED AND ADOPTED** this 15<sup>th</sup> day of October 2008, by the following vote:

**AYES:** COUNCILMEMBERS GOBLE, PARKER, SALMON AND  
MAYOR FUDGE

**NOES:** NONE

**ABSTAIN:** NONE

**ABSENT:** COUNCILMEMBER ALLEN

  
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**DEBORA FUDGE, MAYOR**

**ATTEST:**

  
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**MARIA DE LA O, TOWN CLERK**