

ORDINANCE NO. 2021-06

AN ORDINANCE REPEALING IN ITS ENTIRETY CHAPTER 8.04 “GARBAGE DISPOSAL” AND REPLACING CHAPTER 8.04 BY ADDING A NEW CHAPTER 8.04 “RECYCLING AND SOLID WASTE DISPOSAL” TO THE MARINA MUNICIPAL CODE

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THE CITY COUNCIL OF THE CITY OF MARINA DOES HEREBY ORDAIN AS FOLLOWS:

1. Chapter 8.04. Chapter 8.04 entitled “Garbage Disposal” is hereby repealed in its entirety.

2. Chapter 8.04. Chapter 8.04 entitled “Recycling and Solid Waste Disposal” is hereby added to the Municipal Code to read as set forth on the attached 32 pages, marked Exhibit “A,” and incorporated herein by this reference thereto.

2. Environmental. In accordance with the California Environmental Quality Act (CEQA), staff finds that this ordinance is not subject to California Environmental Quality Act (CEQA) pursuant to the State CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, Sections: 15060(c)(2), because the proposed ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment; 15061(b)(3), because the proposed ordinance is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment; and 15308, because the proposed ordinance involves regulatory actions to assure protection of the environment. Therefore, the adoption of this ordinance is exempt from CEQA and no further environmental review is necessary..

3. Effective Date. This Ordinance shall be in full force and effect on January 1, 2022, 45 days after its final passage and adoption.

4. Severability. If any portion of this Ordinance is found to be unconstitutional or invalid the City Council hereby declares that it would have enacted the remainder of this Ordinance regardless of the absence of any such invalid part.

5. Posting of Ordinance. Within fifteen (15) days after the passage of this Ordinance, the City Clerk shall cause it to be posted in the three (3) public places designated by resolution of the City Council.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Marina duly held on November 2, 2021, and was passed and adopted at a regular meeting duly held on November 16, 2021, by the following vote:

AYES: COUNCIL MEMBERS: Medina Dirksen, Burnett, Biala, Delgado

NOES: COUNCIL MEMBERS: None

ABSENT: COUNCIL MEMBERS: Berkley

ABSTAIN: COUNCIL MEMBERS: None

ATTEST:

Bruce C. Delgado, Mayor

Anita Sharp, Deputy City Clerk

Chapter 8.04

RECYCLING AND SOLID WASTE DISPOSAL

Sections:

8.04.010	Definitions.
8.04.020	Accumulation of Solid Waste.
8.04.030	Solid Waste receptacles—Required.
8.04.040	Solid Waste receptacles—Specifications.
8.04.050	Bulky Items too large to be placed in containers.
8.04.060	Placing Litter on Street, Sidewalk, Alley, or Public Place.
8.04.070	Improper Deposit of Solid Waste.
8.04.080	Burning of Solid Waste prohibited.
8.04.090	Scavenging.
8.04.110	Collection.
8.04.120	Location of receptacles and containers.
8.04.130	Solid Waste removal—Restricted to City-Authorized Service Providers.
8.04.140	Weekly removal.
8.04.150	Construction and Demolition Debris Requirements.
8.04.160	Collection rates and charges.
8.04.170	Billing.
8.04.180	Liability for payment.
8.04.190	Rules and regulations.
8.04.200	Method of transportation of Solid Waste.
8.04.210	Contract.
8.04.220	Requirements for Single-Family Premises
8.04.230	Requirements for Multi-Family Residential Dwellings
8.04.240	Requirements for Commercial Businesses
8.04.250	Containers – Commercial Enclosures
8.04.260	Waivers for Multi-Family Premises and Commercial Premises
8.04.270	Requirements for Commercial Edible Food Generators
8.04.280	Requirements for Food Recovery Organizations and Services
8.04.285	Community Composting Operations
8.04.290	Self-Hauler Requirements
8.04.300	Compliance with CALGreen Recycling Requirements
8.04.310	Model Water Efficient Landscaping Ordinance Requirements
8.04.320	Inspections and Investigations by City
8.04.330	Enforcement
8.04.350	Effective Date

8.04.010 Definitions.

The following words, when used in this chapter, shall have the meanings respectively ascribed to them as follows:

A. “Agreement” means a contract entered into between the City and a service provider providing for, among other things, the award of a Franchise, payment of Franchise Fees, and procedures for the service provider’s collection, transportation, processing, and/or disposal of Discarded Materials and the setting of rates and charges for services.

B. “Alternative Daily Cover (ADC)” has the same meaning as in Section 20690 of Title 27 of the California Code of Regulations.

“Alternative Intermediate Cover (AIC)” has the same meaning as in Section 20700 of Title 27 of the California Code of Regulations.

C. “Applicable Law” means all laws, statutes, rules, regulations, guidelines, permits, actions, determinations, orders, approvals, or requirements of the United States, State of California, regional or local government authorities, agencies, boards, commissions, courts, or other bodies having applicable jurisdiction, that from time to time apply to or govern the management of Discarded Materials, or any other materials described in this Chapter.

D. “Bin” means a metal Container with a hinged lid and wheels, less than ten (10) cubic yards in size, for the deposit of Discarded Materials, designed to be collected with a front- or rear-loading collection vehicle.

E. “Bulky Item” means discarded appliances (including refrigerators), furniture, tires, carpets, mattresses, Yard Trimmings and/or wood waste, and similar large items which can be handled by two (2) people, weigh no more than two hundred (200) pounds, and require special collection due to their size or nature, but can be collected without the assistance of special loading equipment (such as forklifts or cranes) and without violating vehicle load limits. Bulky Items must be generated by the customer and at the service address wherein the Bulky Items are collected. Bulky Items do not include abandoned automobiles, large auto parts, trees, construction and demolition debris, or items herein defined as Excluded Waste.

F. “CalRecycle” means California’s Department of Resources Recycling and Recovery, which is the Department designated with responsibility for developing, implementing, and enforcing SB 1383 Regulations on jurisdictions (and others).

G. “California Code of Regulations” or “CCR” means the State of California Code of Regulations. CCR references in this ordinance are preceded with a number that refers to the relevant Title of the CCR (e.g., “14 CCR” refers to Title 14 of CCR).

H. “Cart” means a plastic Container with a hinged lid and wheels, and a capacity of twenty (20), thirty-two (32), sixty-four (64), or ninety-six (96) gallons (or similar volumes) that is serviced by an automated or semi-automated collection vehicle.

I. “City” and “Municipal Code” mean the city of Marina and the Marina Municipal Code as it may be revised and amended from time to time.

J. “City-Authorized Service Provider” means a permittee or Franchisee authorized by the City Council which has received written approval, through an Agreement or otherwise, to collect, transport, process, or dispose of Discarded Materials within the City.

K. “City Enforcement Official” is defined in the Municipal Code at Section 1.12.020 and includes and means the City Manager or other executive in charge or their authorized person(s) who is/are partially or whole responsible for enforcing the ordinance.

L. “Commercial Business” or “Commercial” means of, from or pertaining to non-Residential Premises where business activity is conducted, including, but not limited to, retail sales, services, wholesale operations, manufacturing, and industrial operations, but excluding businesses conducted upon Residential property which are permitted under applicable zoning regulations and are not the primary use of the property.

M. “Commercial Edible Food Generator” includes a Tier One or a Tier Two Commercial Edible Food Generator as defined in this Section 3 or as otherwise defined in 14 CCR Section 18982(a)(73) and (a)(74). For the purposes of this definition, Food Recovery Organizations and Food Recovery Services are not Commercial Edible Food Generators pursuant to 14 CCR Section 18982(a)(7).

N. “Compliance Review” means a review of records by a City to determine compliance with this ordinance.

O. “Community Composting” means any activity that Composts green material, agricultural material, food material, and vegetative food material, alone or in combination, and the total amount of feedstock and Compost on-site at any one time does not exceed 100 cubic yards and 750 square feet, as specified in 14 CCR Section 17855(a)(4); or, as otherwise defined by 14 CCR Section 18982(a)(8).

P. “Compactor” means a mechanical apparatus that compresses materials together with the Container that holds the compressed materials or the Container that holds the compressed materials if it is detached from the mechanical compaction apparatus. Compactors include two (2) to eight (8) cubic yard Bin Compactors serviced by front-end loader collection vehicles and ten (10) to fifty (50) cubic yard Drop Box Compactors serviced by roll-off collection vehicles.

Q. “Compost” has the same meaning as in 14 CCR Section 17896.2(a)(4), which stated, as of the effective date of this ordinance, that “Compost” means the product resulting from the controlled biological decomposition of organic Solid Wastes that are Source Separated from the municipal Solid Waste stream, or which are separated at a centralized facility.

R. “Compostable Plastics ” or “Compostable Plastic” means plastic materials that meet the ASTM D6400 standard for compostability, or as otherwise described in 14 CCR Section 18984.1(a)(1)(A) or 18984.2(a)(1)(C).

S. “Container Contamination” or “Contaminated Container” means a container, regardless of color, that contains Prohibited Container Contaminants, or as otherwise defined in 14 CCR Section 18982(a)(55).

T. “Construction and Demolition Debris” or “C&D Debris” means discarded building materials, packaging, debris, and rubble resulting from construction, alteration, remodeling, repair or demolition operations on any pavements, excavation projects, houses, Commercial buildings, or other structures, excluding Excluded Waste

U. “Container” means a receptacle used to accumulate Discarded Materials on Premises for scheduled or periodic collection. Containers may be Carts, bags, Bins, Drop Boxes, Compactors, public litter containers, or other City-approved receptacles.

V. “Contractor” means any person or entity holding, or required to hold, a contractor’s license of any type under Applicable Law, or who performs (whether as applicant, contractor, subcontractor or owner-builder) any construction, demolition, remodeling, or landscaping service relating to Commercial or Residential Premises.

W. “Council” means the city council of Marina.

X. “Customer” means a Person subscribing with a City-Authorized Service Provider for collection services.

Y. “Designated Waste” means non-Hazardous Waste which may pose special Disposal problems because of its potential to contaminate the environment, and which may be Disposed of only in Class II Disposal sites or Class III Disposal sites pursuant to a variance issued by the California Department of Health Services. Designated Waste consists of those substances classified as Designated Waste by the State, in California Code of Regulations Title 23, Section 2522 as may be amended from time to time.

Z. “Designee” means an entity that the City contracts with or otherwise arranges to carry out any of the City’s responsibilities of this ordinance as authorized in 14 CCR Section 18981.2. A Designee may be a government entity, a hauler, a private entity, or a combination of those entities.

AA. “Director of Public Works” means the Director of Public Works for the City of Marina or any designee of the Director of Public Works as being authorized to address specific issues covered by this Chapter.

BB. “Discarded Materials” means any one or combination of Recyclable Materials, Organic Materials, Salvageable Materials, C&D Debris, and Solid Waste placed by a Generator in a collection container and/or at a location for the purposes of collection excluding Excluded Waste.

CC. “Drop Box” means an open-top Container with a capacity of ten (10) to forty (40) cubic yards that is serviced by a roll-off collection vehicle.

DD. “Edible Food” means food intended for human consumption, or as otherwise defined in 14 CCR Section 18982(a)(18). For the purposes of this ordinance or as otherwise defined in 14 CCR Section 18982(a)(18), “Edible Food” is not Solid Waste if it is recovered and not discarded. Nothing in this ordinance or in 14 CCR, Division 7, Chapter 12 requires or authorizes the Recovery of Edible Food that does not meet the food safety requirements of the California Retail Food Code.

EE. “Electronic Waste” means any discarded electronic devices and components as well as substances involved in their manufacture or use as defined under various Federal, State, local, or municipal laws, rules, orders, regulations, statutes, ordinances, codes, decrees, or requirements, as they may be amended from time to time, of any government authority regulating, relating to, or imposing liability or standards of conduct concerning any Hazardous Waste.

FF. “Enforcement Action” means an action of the City to address non-compliance with this ordinance including, but not limited to, issuing administrative citations, fines, penalties, or using other remedies.

GG. “Excluded Waste” means Hazardous Waste, Household Hazardous Waste, Medical Waste, Universal Waste, volatile, corrosive, radioactive and toxic substances or materials, waste that would, as a result of or upon disposal, be a violation of local, State or Federal law, regulation or ordinance, including land use restrictions or conditions, waste that cannot be disposed of in Class III landfills, waste that would present a significant risk to human health or the environment, or otherwise cause a nuisance; but not including de minimis volumes or concentrations of waste of a type and amount normally found in Residential Discarded Materials after implementation of programs for the safe collection, recycling, treatment, and disposal of batteries and paint in compliance with Sections 41500 and 41802 of the California Public Resources Code. Excluded Waste does not include Recyclable Materials or Organic Materials which have been properly source separated and placed by a Generator for collection by a City-Authorized Service Provider, pursuant to the City-Authorized Service Provider’s Agreement with the City.

HH. “Food Distributor” means a company that distributes food to entities including, but not limited to, Supermarkets and Grocery Stores, or as otherwise defined in 14 CCR Section 18982(a)(22).

II. “Food Facility” has the same meaning as in Section 113789 of the Health and Safety Code.

JJ. “Food Recovery” means actions to collect and distribute food for human consumption that otherwise would be disposed, or as otherwise defined in 14 CCR Section 18982(a)(24).

KK. “Food Recovery Organization” means an entity that engages in the collection or receipt of Edible Food from Commercial Edible Food Generators and distributes that Edible Food to the public for Food Recovery either directly or through other entities or as otherwise defined in 14 CCR Section 18982(a)(25), including, but not limited to:

- (1) A food bank as defined in Section 113783 of the Health and Safety Code;
- (2) A nonprofit charitable organization as defined in Section 113841 of the Health and Safety code; and,
- (3) A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.

A Food Recovery Organization is not a Commercial Edible Food Generator for the purposes of this ordinance and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7).

If the definition in 14 CCR Section 18982(a)(25) for Food Recovery Organization differs from this definition, the definition in 14 CCR Section 18982(a)(25) shall apply to this ordinance.

LL. “Food Recovery Service” means a person or entity that collects and transports Edible Food from a Commercial Edible Food Generator to a Food Recovery Organization or other entities for Food Recovery, or as otherwise defined in 14 CCR Section 18982(a)(26). A Food Recovery Service is not a Commercial Edible Food Generator for the purposes of this ordinance and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7).

MM. “Food Scraps” and “Food Soiled Paper” means discarded food and food-soiled materials that will decompose and/or putrefy. Food Scraps is a subset of Organic Materials; and compostable paper material that has come in contact with food or liquid, such a, but not limited to, compostable paper plates, paper coffee cups, napkins, pizza boxes and milk cartons.

NN. “Food Waste” means Food Scraps and Food-Soiled Paper.

OO. “Food Waste Self-Hauler” means a Self-Hauler who generates and hauls, utilizing their own employees and equipment, an average of one cubic yard or more per week, or 6,500 pounds or more per quarter of their own Food Waste to a location or facility that is not owned and operated by that Self-Hauler. Food Waste Self-Haulers are a subset of Self-Haulers.

PP. “Franchise” means the exclusive or non-exclusive rights granted by the City Council to provide collection services to Customers in the City.

QQ. “Franchise Fee” means the fee paid by a Franchisee to City for the privilege to hold a Franchise.

RR. “Franchisee” means the holder of a Franchise in the City.

SS. “Franchised Discarded Materials” means those categories of Discarded Materials required to be collected or otherwise handled by a Franchisee, as described in and pursuant to a Franchise Agreement, unless exempt as described in Section 8.04.130 herein.

TT. “Generator” means any Person whose act or process produces Discarded Materials, or whose act first causes Discarded Materials to become subject to regulation.

UU. “Grocery Store” means a store primarily engaged in the retail sale of canned food; dry goods; fresh fruits and vegetables; fresh meats, fish, and poultry; and any area that is not separately owned within the store where the food is prepared and served, including a bakery, deli, and meat and seafood departments, or as otherwise defined in 14 CCR Section 18982(a)(30).

VV. “Hauler Route” means the designated itinerary or sequence of stops for each segment of the City’s collection service area, or as otherwise defined in 14 CCR Section 18982(a)(31.5).

WW. “Hazardous Substance” means any of the following: (a) any substances defined, regulated or listed (directly or by reference) as "Hazardous Substances", "hazardous materials", "Hazardous Wastes", "toxic

waste", "pollutant", or "toxic substances", or similarly identified as hazardous to human health or the environment, in or pursuant to: (i) the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, 42 USC §9601 et seq. (CERCLA); (ii) the Hazardous Materials Transportation Act, 49 USC §1802, et seq.; (iii) the Resource Conservation and Recovery Act, 42 USC §6901 et seq.; (iv) the Clean Water Act, 33 USC §1251 et seq.; (v) California Health and Safety Code §§25115-25117, 25249.8, 25281, and 25316; (vi) the Clean Air Act, 42 USC §7901 et seq.; and, (vii) California Water Code §13050; (b) any amendments, rules or regulations promulgated thereunder to such enumerated statutes or acts currently existing or hereafter enacted; and, (c) any other hazardous or toxic substance, material, chemical, waste or pollutant identified as hazardous or toxic or regulated under any other Applicable Law currently existing or hereinafter enacted, including, without limitation, friable asbestos, polychlorinated biphenyl's (PCBs), petroleum, natural gas, and synthetic fuel products, and by-products.

XX. "Hazardous Waste" means all substances defined as Hazardous Waste, acutely Hazardous Waste, or extremely Hazardous Waste by the State in Health and Safety Code §25110.02, §25115, and §25117 or in the future amendments to or recodifications of such statutes or identified and listed as solar panels from residential premises, and Hazardous Waste by the U.S. Environmental Protection Agency (EPA), pursuant to the Federal Resource Conservation and Recovery Act (42 USC §6901 et seq.), all future amendments thereto, and all rules and regulations promulgated thereunder.

YY. "Household Hazardous Waste" or "HHW" means Hazardous Waste generated at Residential Premises within the City. HHW includes: Electronic Waste, Universal Waste, paint, stain, varnish, thinner, adhesives, auto products such as old fuel, used motor oil, used oil filters, cleaners and sprays, pesticides, fertilizers and other garden products, needles, syringes, and lancets.

ZZ. "Infectious Waste" means (a) equipment, instruments, utensils and other fomites of a disposable nature from the rooms of patients who are suspected to have or have been diagnosed as having a communicable disease and must, therefore, be isolated as required by public health agencies; (b) laboratory wastes, including pathological specimens (i.e., all tissues, specimens of blood elements, excreta and secretions obtained from patients or laboratory animals) and disposable fomites (any substance that may harbor or transmit pathogenic organisms) attendant thereto; and/or (c) surgical operating room pathologic specimens - including recognizable anatomical parts, human tissue, anatomical human remains and disposable materials from hospitals, clinics, outpatient areas and emergency rooms, as defined in 14 CCR Section 17225.36. .

AAA. "Inspection" means a site visit where a City reviews records, containers, and an entity's collection, handling, recycling, or landfill disposal of Recyclable Materials, Organic Waste, Solid Waste or Edible Food handling to determine if the entity is complying with requirements set forth in this ordinance, or as otherwise defined in 14 CCR Section 18982(a)(35).

BBB. "Large Event" means an event, including, but not limited to, a sporting event or a flea market, that charges an admission price, or is operated by a local agency, and serves an average of more than 2,000 individuals per day of operation of the event, at a location that includes, but is not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being

used for an event. If the definition in 14 CCR Section 18982(a)(38) differs from this definition, the definition in 14 CCR Section 18982(a)(38) shall apply to this ordinance.

CCC. “Large Venue” means a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility. For purposes of this ordinance and implementation of 14 CCR, Division 7, Chapter 12, a venue facility includes, but is not limited to, a public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts center, fairground, museum, theater, or other public attraction facility. For purposes of this ordinance and implementation of 14 CCR, Division 7, Chapter 12, a site under common ownership or control that includes more than one Large Venue that is contiguous with other Large Venues in the site, is a single Large Venue. If the definition in 14 CCR Section 18982(a)(39) differs from this definition, the definition in 14 CCR Section 18982(a)(39) shall apply to this ordinance.

DDD. “Litter” means Discarded Materials, debris, vehicle parts, and all other materials, things, or objects which if thrown, distributed by the elements, or deposited as hereinafter prohibited tends to create a public nuisance, blight or danger to the public health, safety and welfare.

EEE. “Local Education Agency” means a school district, charter school, or county office of education that is not subject to the control of city or county regulations related to Solid Waste, or as otherwise defined in 14 CCR Section 18982(a)(40).

FFF. “Medical Waste” means materials which are generated or produced as a result of diagnosis, treatment, or immunization of humans or animals; the production or testing of biologicals and sharps waste; laboratory waste including human or animal specimen cultures from medical and pathology laboratories; cultures and stock of infectious agents from research and industrial laboratories; waste from the production of bacteria, viruses, spores, discarded live and attenuated vaccines used in human health care or research, and discarded animal vaccines; human or animal surgery specimens or tissues; waste containing materials contaminated with excretion exudates or secretions from humans that are required to be isolated by infection control staff, the attending physician, or local health officer to protect others from highly communicable diseases; biomedical waste generated at hospitals, public or private medical clinics, dental offices, research laboratories, pharmaceutical industries, blood banks, mortuaries, veterinary facilities and other similar establishments that are identified in Health and Safety Code Section 25117.5 as may be amended from time to time.

GGG. “Multi-Family Residential Dwelling” or “Multi-Family” means any Residential Premises, other than a Single-Family Premises, with five or more dwelling units used for Residential purposes (regardless of whether residence therein is temporary or permanent). Multi-Family is a subset of Residential. Multi-Family Premises do not include hotels, motels, or other transient occupancy facilities, which are considered Commercial Businesses

HHH. “MWELo” refers to the Model Water Efficient Landscape Ordinance (MWELo), 23 CCR, Division 2, Chapter 2.7.

III. “Non -Local Entity” means the following entities that are not subject to the City’s enforcement authority, or as otherwise defined in 14 CCR Section 18982(a)(42):

- (1) Special district(s) located within the boundaries of the City, including the Monterey Peninsula Unified School District and Marina Coast Water District.
- (2) Federal facilities, including military installations, located within the boundaries of the City including the Bureau of Land Management and Department of Veteran’s Affairs.
- (3) Facilities operated by the State park system located within the boundaries of the City.
- (4) Public universities (including community colleges) located within the boundaries of the City, including California State University Monterey Bay and the Monterey Peninsula College.
- (5) Monterey County Facilities

JJJ. “Notice of Violation (NOV)” means a notice that a violation has occurred that includes a compliance date to avoid an action to seek penalties, or as otherwise defined in 14 CCR Section 18982(a)(45) or further explained in 14 CCR Section 18995.4.

KKK. “Organic Materials” means those materials approved by the City for collection in its organic materials collection program. Organic Materials include Yard Trimmings and Food Scraps and Food-Soiled Papers that are set aside, handled, packaged, or offered for collection in a manner different from Solid Waste for the purpose of processing. No Discarded Material shall be considered Organic Materials, however, unless such material is separated from Solid Waste and Recyclable Materials.

LLL. “Organic Materials Container” shall be used for the purpose of storage and collection of Source Separated Organic Materials.

MMM. “Organic Waste” means Solid Wastes containing material originated from living organisms and their metabolic waste products, including but not limited to food, green material, landscape and pruning waste, organic textiles and carpets, lumber, wood, Paper Products, Printing and Writing Paper, manure, biosolids, digestate, and sludges or as otherwise defined in 14 CCR Section 18982(a)(46). Biosolids and digestate are as defined by 14 CCR Section 18982(a).

NNN. “Owner” means the Person(s) holding legal title to real property and/or any improvements thereon and shall include the Person(s) listed on the latest equalized assessment roll of the County Assessor.

OOO. “Paper Products” include, but are not limited to, paper janitorial supplies, cartons, wrapping, packaging, file folders, hanging files, corrugated boxes, tissue, and toweling, or as otherwise defined in 14 CCR Section 18982(a)(51).

PPP. “Person” means every natural person and every company, firm, organization, partnership, copartnership, association, trust, joint venture, public entity or corporation.

QQQ. “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, or as otherwise defined in 14 CCR Section 18982(a)(54).

RRR. “Premises” means any permanent and transient human dwelling, place of residence, place of recreation, rooming house, hotel, motel, apartment, court, trailer camp, boardinghouse, eating place, shop and place of business, or any other housing accommodation, building, grounds, or location, where Solid Waste or Discarded Materials are or may be produced, generated or accumulated, including all sidewalk, curb, gutter, and street and alley areas adjacent thereto. All structures on the same legal parcel which are owned by the same person shall be considered as one premises.

SSS. “Prohibited Container Contaminants” means the following: (i) Discarded Materials placed in the Recyclable Materials Container that are not identified as acceptable Source Separated Recyclable Materials for the City’s Recyclable Materials Container; (ii) Discarded Materials placed in the Organic Materials Container that are not identified as acceptable Source Separated Organic Materials for the City’s Organic Materials Container; (iii) Discarded Materials placed in the Solid Waste Container that are acceptable Source Separated Recyclable Materials and/or Source Separated Organic Materials to be placed in City’s Organic Materials Container and/or Recyclable Materials Container; and, (iv) Excluded Waste placed in any container.

TTT. “Recovered Organic Waste Products” means products made from California, landfill-diverted recovered Organic Waste processed in a permitted or otherwise authorized facility, or as otherwise defined in 14 CCR Section 18982(a)(60).

UUU. “Recovery” means any activity or process described in 14 CCR Section 18983.1(b), or as otherwise defined in 14 CCR Section 18982(a)(49).

VVV. “Recyclable Materials” means those Discarded Materials approved by the City for collection in its recyclables collection program set aside, handled, packages or offered for collection in a manner different from Solid Waste for the purpose of recycling. No Discarded Material shall be considered Recyclable Materials, however, unless such material is separated from Solid Waste and Organic Materials.

WWW. “Recyclable Materials Container” shall be used for the purpose of storage and collection of Source Separated Recyclable Materials.

XXX. “Regional Agency” means regional agency as defined in Public Resources Code Section 40181.

YYY. “Regional or County Agency Enforcement Official” means a regional or county agency enforcement official, designated by the City with responsibility for enforcing the ordinance in conjunction or consultation with City Enforcement Official.

ZZZ. “Remote Monitoring” means the use of the internet of things, physical objects that are embedded with sensors, processing ability, software, and other technologies (IoT), and/or wireless electronic devices to visualize the contents of Recyclable Materials Containers, Organic Materials Containers, and Solid Waste

Containers for purposes of identifying the quantity of materials in containers (level of fill) and/or presence of Prohibited Container Contaminants.

AAAA. “Renewable Gas” means gas derived from Organic Waste that has been diverted from a California landfill and processed at an in-vessel digestion facility that is permitted or otherwise authorized by 14 CCR to recycle Organic Waste, or as otherwise defined in 14 CCR Section 18982(a)(62).

BBBB. “Residential” means of, from, or pertaining to any property, Premises or place on which is constructed one or more buildings or other structures containing one or more dwelling units. Residential includes both Multi-Family and Single-Family Premises, apartments, condominiums, townhouse complexes, mobile home parks, and cooperative apartments.

CCCC. “Responsible Party” means the owner, property manager, tenant, lessee, occupant, or other designee that subscribes to and pays for Recyclable Materials, Organic Materials, and/or Solid Waste collection services for a Premises in the City, or, if there is no such subscriber, the owner or property manager of a Single-Family Premises, Multi-Family Premises, or Commercial Premises. In instances of dispute or uncertainty regarding who is the Responsible Party for a Premises, Responsible Party shall mean the owner of a Single-Family Premises, Multi-Family Premises, or Commercial Premises.

DDDD. “Restaurant” means an establishment primarily engaged in the retail sale of food and drinks for on-Premises or immediate consumption, or as otherwise defined in 14 CCR Section 18982(a)(64).

EEEE. “Route Review” means a visual Inspection of containers along a Hauler Route for the purpose of determining Container Contamination and may include mechanical Inspection methods such as the use of cameras, or as otherwise defined in 14 CCR Section 18982(a)(65).

FFFF. “Salvageable Materials” means Discarded Materials that may be subsequently re-used in their original form for the same or similar purpose.

GGGG. “SB 1383” means Senate Bill 1383 of 2016 approved by the Governor on September 19, 2016, which added Sections 39730.5, 39730.6, 39730.7, and 39730.8 to the Health and Safety Code, and added Chapter 13.1 (commencing with Section 42652) to Part 3 of Division 30 of the Public Resources Code, establishing methane emissions reduction targets in a Statewide effort to reduce emissions of short-lived climate pollutants as amended, supplemented, superseded, and replaced from time to time.

HHHH. “SB 1383 Regulations” or “SB 1383 Regulatory” means or refers to, for the purposes of this ordinance, the Short-Lived Climate Pollutants: Organic Waste Reduction regulations developed by CalRecycle and adopted in 2020 that created 14 CCR, Division 7, Chapter 12 and amended portions of regulations of 14 CCR and 27 CCR.

IIII. “Self-Haul” means to act as a Self-Hauler.

JJJJ. “Self-Hauler” means a person, who hauls Solid Waste, Organic Waste or Recyclable Material they have generated to another person. Self-hauler also includes a landscaper, or a person who back-hauls waste.

Back-haul means generating and transporting Recyclable Materials or Organic Waste to a destination owned and operated by the Generator or Responsible Party using the Generator's or Responsible Party's own employees and equipment, or as otherwise defined in 14 CCR Section 18982(a)(66)(A).

KKKK. "Single-Family" means any detached or attached house or residence designed or used for occupancy by one family. Single-Family may include Residential units of a duplex, tri-plex, or four-plex Residential structure. Single-Family is a subset of Residential.

LLLL. "Solid Waste" has the same meaning as defined in State Public Resources Code Section 40191, which defines Solid Waste as all putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semi-solid wastes, and other discarded solid and semisolid wastes, with the exception that Solid Waste does not include any of the following wastes:

- (1) Hazardous waste, as defined in the State Public Resources Code Section 40141.
- (2) Radioactive waste regulated pursuant to the State Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the State Health and Safety Code).
- (3) Medical waste regulated pursuant to the State Medical Waste Management Act (Part 14 (commencing with Section 117600) of Division 104 of the State Health and Safety Code). Untreated medical waste shall not be disposed of in a Solid Waste landfill, as defined in State Public Resources Code Section 40195.1. Medical waste that has been treated and deemed to be Solid Waste shall be regulated pursuant to Division 30 of the State Public Resources Code.
- (4) Recyclable Materials, Organic Waste, and Construction and Demolition Debris when such materials are Source Separated.

MMMM. "Solid Waste Container" shall be used for the purpose of storage and collection of Solid Waste.

NNNN. "Source Separated" or "Source-Separated (materials)" means materials, including commingled Recyclable Materials and Organic Materials, that have been separated or kept separate from the Solid Waste stream, at the point of generation, for the purpose of additional sorting or processing those materials for recycling or reuse in order to return them to the economic mainstream in the form of raw material for new, reused, or reconstituted products, which meet the quality standards necessary to be used in the marketplace, or as otherwise defined in 14 CCR Section 17402.5(b)(4). For the purposes of the ordinance, Source Separated shall include separation of materials by the Generator, Responsible Party, or Responsible Party's employee, into different containers for the purpose of collection such that Source-Separated materials are separated from Solid Waste for the purposes of collection and processing.

OOOO. “Source Separated Organic Materials” means Organic Materials that are Source Separated and placed in an Organic Materials Container.

PPPP. “Source Separated Recyclable Materials” means Recyclable Materials that are Source Separated and placed in a Recyclable Materials Container.

QQQQ “State” means the State of California.

RRRR. “Supermarket” means a full-line, self-service retail store with gross annual sales of two million dollars (\$2,000,000), or more, and which sells a line of dry grocery, canned goods, or nonfood items and some perishable items, or as otherwise defined in 14 CCR Section 18982(a)(71).

SSSS. “Tier One Commercial Edible Food Generator” means a Commercial Edible Food Generator that is one of the following:

- (1) Supermarket.
- (2) Grocery Store with a total facility size equal to or greater than 10,000 square feet.
- (3) Food Service Provider.
- (4) Food Distributor.
- (5) Wholesale Food Vendor.

If the definition in 14 CCR Section 18982(a)(73) of Tier One Commercial Edible Food Generator differs from this definition, the definition in 14 CCR Section 18982(a)(73) shall apply to this ordinance.

TTTT. “Tier Two Commercial Edible Food Generator” means a Commercial Edible Food Generator that is one of the following:

- (1) Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.
 - (2) Hotel with an on-site Food Facility and 200 or more rooms.
 - (3) Health facility with an on-site Food Facility and 100 or more beds.
 - (4) Large Venue.
 - (5) Large Event.
 - (6) A State agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet.
 - (7) A Local Education Agency facility with an on-site Food Facility.
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If the definition in 14 CCR Section 18982(a)(74) of Tier Two Commercial Edible Food Generator differs from this definition, the definition in 14 CCR Section 18982(a)(74) shall apply to this ordinance.

UUUU. “Trash hauler” or “yard cleaner” means any person who cleans up, collects, transports and disposes of Discarded Materials or Yard Trimmings, but not Solid Waste, all as herein defined, within the city. (Ord. 76-11 § 1, 1976)

VVVV. “Universal Waste” means all wastes as defined by Title 22, Subsections 66273.1 through 66273.9 of the California Code of Regulations. These include, but are not limited to, batteries, fluorescent light bulbs, mercury switches, and Electronic Waste.

WWWW. “Wholesale Food Vendor” means a business or establishment engaged in the merchant wholesale distribution of food, where food (including fruits and vegetables) is received, shipped, stored, prepared for distribution to a retailer, warehouse, distributor, or other destination, or as otherwise defined in 14 CCR Section 189852(a)(76).

XXXX. “Yard Trimmings” or “Yard Waste” mean those discarded plant or otherwise non-animal organic waste materials resulting from normal yard and landscaping installation, maintenance, or removal that will decompose and/or putrefy. Yard Trimmings is a subset of Organic Materials.

8.04.020 Accumulation of Solid Waste.

It shall be unlawful for the owner, occupant, or manager of any Premises to allow the accumulation of any Discarded Materials in, on, or under any Premises at any time which is, or may become, a menace to health and sanitation or a fire hazard. It shall be unlawful for the owner, occupant, or manager of any Premises to ever at any time suffer, permit, or allow any Discarded Materials of any kind to remain in, on, or under such Premises for a period exceeding seven days. Any unauthorized accumulation of Discarded Materials on any property or Premises is hereby declared an unlawful public nuisance, is hereby prohibited, and may be abated pursuant to the provisions of this Chapter.

8.04.030 Solid Waste Containers—Required.

A. It shall be the duty of every occupant or person in possession, charge or control of any premises, and every other person having Solid Waste in the city, to provide or cause to be provided and at all times keep, or cause to be kept in a sanitary condition suitable and sufficient watertight cans or receptacles, adequate to contain without leakage or escape of odors, the amount of Solid Waste ordinarily accumulated at such place during the intervals of collection provided hereunder. (Ord. 76-11 § 3, 1976)

B. Contractors engaged in construction, alteration, remodeling, repair or demolition operations on any pavements, excavation projects, houses, Commercial buildings, or other structures that are not Self Hauling

shall utilize Drop Box service provided by the City-Authorized Service Provider for the removal of all Construction and Demolition Debris.

8.04.040 Solid Waste Containers—Specifications.

Each Solid Waste container shall be constructed of galvanized iron or heavy plastic and shall have a tight-fitting cover, suitable bales or handles on the outside, and a capacity of not less than fifteen gallons or more than ninety-six gallons; provided, however, that Solid Waste containers for commercial or industrial establishments may be of such specifications as shall meet with the approval of the city official assigned to supervise the work of Solid Waste collection and disposal, or the City-Authorized Service Provider if the work is being done under contract with the city. If the city's City-Authorized Service Provider provides Solid Waste receptacles or containers, every occupant or person in possession, charge or control of any premises, and every other person having Solid Waste, shall use the provided receptacles or containers. All persons occupying multiple dwellings must plainly mark their receptacles or containers so that the ownership thereof will be known.

8.04.050 Bulky Items too large to be placed in Containers.

Items of Solid Waste which are too bulky to fit into the prescribed receptacle, such as refrigerators, sofas, etc., shall be stored within a building on the premises until special collection service is provided. (Ord. 76-11 § 5, 1976)

8.04.060 Placing Litter on Street, Sidewalk, Alley, or Public Place.

It shall be unlawful for any Person to throw, place, scatter, or deposit, or cause to be thrown, placed, scattered, or deposited, upon any street, sidewalk, alley, or public place in the City, any Litter, except that a property owner, occupant, tenant, Customer, or their employee may place properly containerized or packaged materials at the curbside, parkway, or alley on regularly scheduled days provided by the City-Authorized Service Provider for removal of the same. Any Litter or other Discarded Materials located in the public right of way immediately adjacent to a Premises shall be deemed to have originated from that Premises unless the owner thereof can prove, to the reasonable satisfaction of the Director of Public Works, that such materials did not originate from their property. Any Litter or other Discarded Materials containing names, addresses, or other identifying information shall be deemed to have originated with the person or location identified therein.

8.04.070 Improper Deposit of Solid Waste and Discarded Materials.

A. It shall be unlawful for any Person to place, deposit, keep, or bury any Discarded Materials on, in, or under any Premises, as hereinafter provided. It shall be unlawful for any Person to deposit any Solid Waste or Discarded Materials in any City sewer or plumbing fixture or pipe connected thereto, except through an approved mechanical device which shreds and grinds said material. It shall be unlawful for any Person to bury Discarded Materials.

B. It is unlawful for any Person to place, deposit or dump, or cause to be placed, deposited or dumped in any Containers reserved for the use of any other household, business or other entity (including the general public, in the case of public litter containers), any Discarded Materials without express written permission from such household, business or other entity. Businesses and residents shall not rely on public litter containers for the deposit of materials generated at their household or business.

C. The provisions of this chapter shall not apply to small amounts of material used for composting or gardening upon premises by the owner or occupant thereof in such a manner so that same is not deemed to be a public nuisance or a hazard to the public health and safety.

8.04.080 Burning of Solid Waste or Discarded Materials prohibited.

It shall be unlawful for any Person to burn any Solid Waste or Discarded Materials, or any other material described in this Chapter in or on any Commercial or Residential Premises, fire place or pit, street, alley, park, or public place within the City limits.

8.04.090 Scavenging.

It shall be unlawful for Persons other than the appropriate City-Authorized Service Provider to collect Discarded Materials placed for collection in Containers labeled for use in connection with waste management program(s) sponsored by the City or a City-Authorized Service Provider. .

8.04.110 Collection.

The city shall provide for the collection and removal by a City-Authorized Service Provider of all Solid Waste within the city not less often than once every seven days and the City-Authorized Service Provider shall collect and remove all Solid Waste from all places or premises within the city as provided herein. (Ord. 76-11 § 11, 1976)

8.04.120 Location of receptacles and Containers.

Solid Waste and Discarded Materials Containers shall be located in such place on the premises as to be readily accessible for removal and emptying the same, but shall not be placed within the limits of any street or other public place in said city, or in such a place or manner as to constitute a nuisance.

8.04.130 Solid Waste removal—Restricted to City Authorized Service Providers.

A. It is unlawful for any person to collect or remove, or to cause or permit to be collected or removed, any Solid Waste within the city, or to transport or cause or permit to be transported, any Solid Waste on or along any public street or alley or other public place in the city; provided, however, that the provisions of this section shall not apply to any person in the employ of the city who shall be assigned by the city to the work of Solid Waste disposal, or to any person with whom the city has entered into or may hereafter enter into a contract for the collection, transportation and disposal of Solid Waste or to any employee for such time as such contract shall be in force.

B. It is unlawful for any person other than an employee of the city or a City-Authorized Service Provider working for the city to engage in the collection, removal or disposal of Solid Waste in the city; provided, however, that the provisions of this section shall not preclude the occupant or person in possession, charge or control of the premises upon which such Solid Waste is accumulated from removing his own Solid Waste to a public dump, or to engage the occasional services of a trash hauler or yard cleaner who would perform such tasks under the direction of said occupant or person.

C. It is unlawful for any person in any manner to interfere with the collection, removal or disposal of Solid Waste by the city or by a City-Authorized Service Provider working under contract with the city.

8.04.140 Weekly removal.

Solid Waste and Discarded Materials shall be removed not less often than once every seven days.

8.04.150 Construction and Demolition Debris Requirements.

Self-Hauling Contractors, and City-Authorized Service Providers of C&D Debris collection service and the operation of other related programs within the City shall at all times comply with the following:

A. Applicable Law as it may be amended from time to time, including without limitation all laws related to management of C&D Debris, preparation of C&D Debris management plans and reports, and diversion of C&D Debris from disposal; and,

B. All written and published City policies and/or administrative guidelines regarding the collection, tracking, and/or reporting of C&D Debris.

8.04.160 Collection rates and charges.

A. The rates for collection of Solid Waste in the city shall be such as are established by resolution of the city council or, if the work is being done by a City-Authorized Service Provider, by contract between the city and the City-Authorized Service Provider. Fees for services not covered by a contract between the City-Authorized Service Provider and the city shall be established by the City-Authorized Service Provider, and disagreements with respect thereto shall be resolved by the city council.

B. The City, through an Agreement(s) with a City-Authorized Service Provider(s), shall provide a discount for low-income senior citizen Customers. Such discount shall be available for any Customer aged sixty-five (65) years or above, provided that such Customer demonstrates that they receive assistance under third party utility discount programs such as PG&E's California Alternate Rates for Energy ("CARE") ratepayer assistance program. The amount of the discount, along with the application requirements shall be documented and published by City and City-Authorized Service Provider (s) through the Franchise Agreement or other written policy.

8.04.170 Billing.

Fees for collection of Solid Waste refuse shall be billed by the city or by its City-Authorized Service Provider and shall be payable on a monthly or quarterly basis as determined by the city council.

8.04.180 Liability for payment.

The city council finds that the periodic collection of Solid Waste benefits the occupants of all places and premises in the city and therefore all such occupants are made liable for the collection fees specified in this chapter. In the case of premises containing more than one dwelling unit or place of business, or both, such fees may be billed to the landlord, who shall collect such fees levied against the occupants of the dwelling units or places of business located on the premises and shall transmit the amount so collected to the city. In the event the landlord fails to collect such fees from any such occupant and remit the same to the city, the landlord shall be liable to the city for the payment of such fees. Fees imposed by this chapter shall be a civil debt to the city from the person or persons who are liable for payment of the same.

8.04.190 Rules and regulations.

The city council may make such rules and regulations not inconsistent with the provisions of this chapter as may be necessary, reasonable and proper to effect the expedient, economical and efficient collection and removal of Solid Waste by the City-Authorized Service Provider, but in no case shall collection services less

often than once every seven days be permitted. The time for collection shall be between the hours of six a.m. and six p.m. in the residential district and before ten a.m. in commercial and industrial districts.

8.04.200 Method of transportation of Solid Waste.

A. If Solid Waste service is provided by a City-Authorized Service Provider, the City-Authorized Service Provider shall remove Solid Waste or carry it through the streets of the city only in vehicles having metallic or metal lined beds, with proper covers, to protect against the Solid Waste being offensive. The Solid Waste must be protected from wind and rain and be loaded in such a manner that none of it shall drop or spill upon the ground. Such conveyance shall be so constructed as to be absolutely dustproof and so arranged as to not permit dust or other matter to sift through or fall upon said streets or alleys. Such vehicles must comply with all health and sanitary laws of the city and of the state.

B. It is unlawful for any Solid Waste to be removed and carried on or along the streets and alleys of the city except that the same shall be carried, conveyed or hauled in a conveyance so constructed as to prevent dust or other matter from sifting through or falling upon the streets and alleys. The contents of such conveyance must be further protected as to prevent the same from being blown upon the streets, alleys and adjacent lands.

8.04.210 Contract.

A. For the collection and disposal of Solid Waste a contract for a period of not to exceed fifteen years, with an option period not to exceed ten years, may be entered into by the city in accordance with and subject to the terms and conditions of this chapter. Such contract shall be awarded after notice calling for sealed proposals therefor by publication in a newspaper of general circulation printed, published and circulated in the city, which publication shall be at least ten days prior to the day fixed for opening bids. A contract shall be awarded to the responsible bidder who bids therefor the lowest rate to the people of the city and the highest consideration to the city. The council shall have the right to reject any and all bids and to readvertise for bids or negotiate a contract therefor.

B. Such contract shall contain a schedule of monthly or quarterly rates.

C. Such contract shall provide that the City-Authorized Service Provider shall collect and dispose of the Solid Waste in the city in the manner provided in this chapter. Such City-Authorized Service Provider may be required to furnish a cash or surety bond to the city in the sum of ten thousand dollars, conditioned upon the faithful performance of the contract and the provisions of this chapter. Such City-Authorized Service Provider shall have the sole and exclusive right to collect all Solid Waste in the city and transport the same through the public ways and streets of the city and to dispose of same, and it is unlawful for any person other than the City-Authorized Service Provider to collect, remove or dispose of Solid Waste in the city except as otherwise provided herein.

D. Such contract may further provide that the City-Authorized Service Provider shall be required to dispose of all such Solid Waste so collected at such disposal sites as directed by the city.

E. Such contract shall also require that said City-Authorized Service Provider procure for the term of the contract workmen's compensation insurance in accordance with the provisions of the Labor Code of the state.

F. Such contract shall also require that such City-Authorized Service Provider carry public liability insurance with policy limits of not less than three hundred thousand dollars for the death of or injury to one person, and one million dollars for the death of or injury to more than one person arising out of a single occurrence, and property damage insurance with policy limits of not less than fifty thousand dollars upon each of the trucks or other vehicles used by him in carrying out the work called for in the contract. Such insurance shall cover both the city and the City-Authorized Service Provider. (Ord. 95-3 § 1, 1995; Ord. 80-11 § 1, 1980; Ord. 76-11 § 21, 1976)

8.04.220 Requirements for Single-Family Premises

Responsible Parties of Single-Family Premises shall comply with the following requirements:

- (1) Subscribe to and pay for City's three -container collection services for weekly collection of Recyclable Materials, Organic Materials, and Solid Waste generated by the Single-Family Premises and comply with requirements of those services as described below in Section 8.04.220(2). City shall have the right to review the number and size of a Generator's containers to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials. The Responsible Parties for Single-Family Premises shall adjust their service level for their collection services as requested by the City.
- (2) Participate in the City's three-container collection service(s) in the manner described below.
 - (A) Place and/or direct its Generators to place Source Separated Organic Materials, including Food Waste, in the Organic Materials Container; Source Separated Recyclable Materials in the Recyclable Materials Container; and Solid Waste in the Solid Waste Container.
 - (B) Not place and/or direct its Generators to not place Prohibited Container Contaminants in collection containers and not place materials designated for the Organic Materials Containers or Recyclable Materials Containers in the Solid Waste Containers.

8.04.230 Requirements for Multi-Family Residential Dwellings

- (a) Responsible Parties of Multi-Family Premises shall provide or arrange for Recyclable Materials, Organic Materials, and Solid Waste collection services consistent with this ordinance.
- (b) Except for Responsible Parties of Multi-Family Premises that meet the Self-Hauler requirements in Section 8.04.290 of this ordinance, Responsible Parties of Multi-Family Premises shall:
 - (1) Subscribe to and pay for City's three-container collection services and comply with requirements of those services for all Recyclable Materials, Organic Materials, and Solid Waste generated at the Multi-Family Premises as further described below in this Section. City shall have the right to review the number and size of the Multi-Family Premises'

collection containers and frequency of collection to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials. The Responsible Party of a Multi-Family Premises shall adjust their service level for their collection services as requested by the City or its Designee.

- (2) Participate in the City's three-container collection service(s) for at least weekly collection of Recyclable Materials, Organic Materials, and Solid Waste in the manner described below.
 - (A) Place and/or direct its Generators to place Source Separated Organic Materials, including Food Waste, in the Organic Materials Container; Source Separated Recyclable Materials in the Recyclable Materials Container; and Solid Waste in the Solid Waste Container.
 - (C) Not place and/or direct its Generators to not place Prohibited Container Contaminants in collection containers and to not place materials designated for the Organic Materials Containers or Recyclable Materials Containers in the Solid Waste Containers.
- (3) Supply and allow access to adequate number, size and location of collection containers with sufficient labels or colors for employees, contractors, tenants, and customers, consistent with City's Recyclable Materials Container, Organic Materials Container, and Solid Waste Container collection service or, if Self-Hauling, consistent with the Multi-Family Premises' approach to complying with Self-Hauler requirements in Section 8.04.290 of this ordinance.
- (4) Annually provide information to employees, contractors, tenants, and customers about Recyclable Materials and Organic Waste Recovery requirements and about proper sorting of Recyclable Materials, Organic Materials, and Solid Waste.
- (5) Provide education information before or within fourteen (14) days of occupation of the Premises to new tenants that describes requirements to Source Separate Recyclable Materials and Organic Materials and to keep Source Separated Organic Materials and Source Separated Recyclable Materials separate from each other and from Solid Waste (when applicable) and the location of containers and the rules governing their use at each property.
- (6) Provide or arrange access for City or its Designee to their properties during all Inspections conducted in accordance with this ordinance to confirm compliance with the requirements of this ordinance.

8.04.240 Requirements for Commercial Businesses

- (a) Responsible Parties of Commercial Businesses shall provide or arrange for Recyclable Materials, Organic Materials, and Solid Waste collection services consistent with this ordinance.
- (b) Except Responsible Parties of Commercial Businesses that meet the Self-Hauler requirements in Section 8.04.290 of this ordinance, Responsible Parties of Commercial Premises shall:
 - (1) Subscribe to and pay for City's three-container collection services and comply with requirements of those services for all Recyclable Materials, Organic Materials, and Solid Waste generated at the Commercial Premises as further described below in this [Section 8.04.240](#). City shall have the right to review the number and size of a Commercial Premises' containers and frequency of collection to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials. The

Responsible Party of the Commercial Business shall adjust their service level for their collection services as requested by the City or its Designee.

- (2) Participate in the City's three-container collection service(s) for at least weekly collection of Recyclable Materials, Organic Materials, and Solid Waste in the manner described below.
 - (A) Place and/or direct its Generators to place Source Separated Organic Materials, including Food Waste, in the Organic Materials Container; Source Separated Recyclable Materials in the Recyclable Materials Container; and Solid Waste in the Solid Waste Container.
 - (C) Not place and/or direct its Generators to not place Prohibited Container Contaminants in collection containers and to not place materials designated for the Organic Materials Containers or Recyclable Materials Containers in the Solid Waste Containers.
 - (3) Supply and allow access to adequate number, size and location of collection containers with sufficient labels or colors (conforming with Section 8.04.240(b)(4) below) for employees, contractors, tenants, and customers, consistent with City's Recyclable Materials Container, Organic Materials Container, and Solid Waste Container collection service or, if Self-Hauling, consistent with the Commercial Premises' approach to complying with Self-Hauler requirements in Section 8.04.290 of this ordinance.
 - (4) Provide containers for the collection of Source Separated Recyclable Materials and Source Separated Organic Materials in all indoor and outdoor areas where Solid Waste containers are provided for customers, for materials generated by that Commercial Business. Such containers shall be visible and easily accessible. Such containers do not need to be provided in restrooms. If a Commercial Business does not generate any of the materials that would be collected in one type of container, then the Responsible Party of the Commercial Business does not have to provide that particular container in all areas where Solid Waste containers are provided for customers. Pursuant to 14 CCR Section 18984.9(b), the containers provided by the Responsible Party of the Commercial Business shall have either:
 - (A) A body and lid that conforms with the container colors provided through the collection service provided by City, with either lids conforming to the color requirements or bodies conforming to the color requirements or both lids and bodies conforming to color requirements. The Responsible Party of the Commercial Business is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the requirements of the subsection prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first.
 - (B) Container labels that include language or graphic images, or both, indicating the primary material accepted and the primary materials prohibited in that container, or containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the container. Pursuant 14 CCR Section 18984.8, the container labeling requirements are required on new containers commencing January 1, 2022.
 - (5) To the extent practical through education, training, Inspection, and/or other measures, prohibit employees from placing materials in a container not designated for those materials per the City's Recyclable Materials Container, Organic Materials Container, and Solid Waste collection service or, if Self-Hauling, per the instructions of the Commercial Business's
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Responsible Party to support its compliance with Self-Hauler requirements in Section 8.04.290 of this ordinance.

- (6) Periodically inspect Recyclable Materials Containers, Organic Materials Containers, and Solid Waste Containers for contamination and inform employees if containers are contaminated and of the requirements to keep contaminants out of those containers pursuant to 14 CCR Section 18984.9(b)(3).
 - (7) Annually provide information to employees, contractors, tenants, and customers about Recyclable Materials and Organic Waste Recovery requirements and about proper sorting of Recyclable Materials, Organic Materials, and Solid Waste.
 - (8) Provide education information before or within fourteen (14) days of occupation of the Premises to new tenants that describes requirements to Source Separate Recyclable Materials and Organic Materials and to keep Source Separated Organic Materials and Source Separated Recyclable Materials separate from each other and from other Solid Waste and the location of containers and the rules governing their use at each property.
- (9) Provide or arrange access for City or its Designee to their properties during all Inspections conducted in accordance with this ordinance to confirm compliance with the requirements of this ordinance.

8.04.250 Containers – Commercial Enclosures

All Commercial Customers shall comply with the following requirements regarding Container enclosures:

- A. All Commercial Container enclosures shall have adequate space accommodations for Solid Waste, Recyclable Materials and Organic Materials Containers, in accordance with Applicable Law, and the City's Standard Plans and Specifications.
- B. All new Commercial developments must include adequate space accommodations for enclosures in accordance with Applicable Law, and are subject to a plan check process including review, at a minimum, by the Director of Public Works.
- C. Enclosures must be located in places convenient for the removal of Discarded Materials and must be approved by the Director of Public Works. Enclosures, including gates and gate hardware, must be maintained in good working condition, and readily accessible by the City or City-Authorized Service Provider. If an enclosure is not adequately maintained, service may be withheld until the condition is remedied to the satisfaction of the Director of Public Works.

8.04.260 Waivers for Multi-Family Premises and Commercial Premises

- (a) De Minimis Waivers for Multi-Family Premises and Commercial Premises that are not in Low-Population Areas. The City may waive a Responsible Party's obligation to comply with some or all Recyclable Materials and/or Organic Waste requirements of this ordinance if the Responsible Party of the Commercial Business or Multi-Family Premises provides documentation that the Commercial Business or Multi-Family Premises meets one of the criteria in subsections (1) and (2) below. For the purposes of subsections (1) and (2), the total Solid Waste shall be the sum of weekly container capacity measured in cubic yards for Solid Waste, Recyclable Materials, and Organic Materials collection service.
 - (1) The Commercial Business's or Multi-Family Premises' total Solid Waste collection service is two (2) cubic yards or more per week and Recyclable Materials and Organic Materials subject

- to collection in Recyclable Materials Container(s) or Organic Materials Container(s) comprises less than twenty (20) gallons per week per applicable material stream of the Multi-family Premises' or Commercial Business's total waste (i.e., Recyclable Materials in the Recyclable Materials stream are less than twenty (20) gallons per week or Organic Materials in the Organic Materials stream are less than twenty (20) gallons per week); or,
- (2) The Commercial Business's or Multi-Family Premises' total Solid Waste collection service is less than two (2) cubic yards per week and Recyclable Materials and Organic Materials subject to collection in a Recyclable Materials Container(s) or Organic Materials Container(s) comprises less than ten (10) gallons per week per applicable material stream of the Multi-family Premises' or Commercial Business's total waste (i.e., Recyclable Materials in the Recyclable Materials stream are less than ten (10) gallons per week or Organic Materials in the Organic Materials stream are less than ten (10) gallons per week).
- (b) Physical Space Waivers. The City may waive a Commercial Business's or Multi-Family Premises' obligation to comply with some or all of the Recyclable Materials and/or Organic Waste collection service requirements if the City has evidence from its own staff, a hauler, licensed architect, or licensed engineer demonstrating that the Premises lacks adequate space for Recyclable Materials Containers and/or Organic Materials Containers required for compliance with the Recyclable Materials and Organic Materials collection requirements of Section 5 or 6 as applicable.
- (c) Review and Approval of Waivers by City. Waivers shall be granted to Responsible Parties by City according to the following process:
- (1) Responsible Parties of Premises seeking waivers shall submit a completed application form to the City Manager or their designee for a waiver specifying the waiver type requested, type(s) of collection services for which they are requesting a waiver, the reason(s) for such waiver, and documentation supporting such request.
 - (2) Upon waiver approval, City shall specify that the waiver is valid for five (5) years.
 - (3) Waiver holder shall notify City if circumstances change such that Commercial Business's or Multi-Family Premises' may no longer qualify for the waiver granted, in which case waiver will be rescinded.
 - (4) Any waiver holder must cooperate with the City for compliance Inspections and enforcement as stated in Sections 8.04.320 and 8.04.330.
 - (5) Waiver holder shall reapply to the City Manager or their designee for a waiver upon the expiration of the waiver period and shall submit any required documentation, and/or fees/payments as required by the City. Failure to submit a completed application shall equate to an automatic denial of said application.
 - (6) The City Manager may revoke a waiver upon a determination that any of the circumstances justifying a waiver are no longer applicable.

8.04.270 Requirements for Commercial Edible Food Generators

- (a) Tier One Commercial Edible Food Generators must comply with the requirements of this Section commencing January 1, 2022, and Tier Two Commercial Edible Food Generators must comply commencing January 1, 2024, pursuant to 14 CCR Section 18991.3.
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- (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.
- (c) Commercial Edible Food Generators shall comply with the following requirements:
- (1) Arrange to recover the maximum amount of Edible Food that would otherwise be disposed.
 - (2) Contract with or enter into a written agreement with Food Recovery Organizations or Food Recovery Services for: (i) the collection of Edible Food for Food Recovery; or, (ii) acceptance of the Edible Food that the Commercial Edible Food Generator Self-Hauls to the Food Recovery Organization for Food Recovery.
 - (3) Not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery Organization or a Food Recovery Service.
 - (4) Allow the City's designated enforcement entity or designated third party enforcement entity to access the Premises and review records pursuant to 14 CCR Section 18991.4.
 - (5) 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 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 or written agreements established under 14 CCR Section 18991.3(b).
 - (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.
 - (6) Maintain records required by this section for five (5) years.
 - (7) No later than December 1 of each year commencing no later than December 1, 2022 for Tier One Commercial Edible Food Generators and December 1, 2025 for Tier Two Commercial Edible Food Generators, provide an annual Food Recovery report, including the name and contact information of the Food Recovery Service or the Food Recovery Organization collecting food from the Edible Food Generator, to the City that includes the following information:
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- (A) The amount, in pounds, of edible food donated to a Food Recovery Service or Food Recovery Organization annually; and,
 - (B) The amount, in pounds of edible food rejected by a Food Recovery Service or Food Recovery Organization annually.
 - (C) Any additional information required by the City Manager or their designee.
- (d) Nothing in this ordinance shall be construed to limit or conflict with 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).

8.04.280 Requirements for Food Recovery Organizations and Services

- (a) Food Recovery Services collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(1):
 - (1) The name, address, and contact information for each Commercial Edible Food Generator from which the service collects Edible Food.
 - (2) The quantity in pounds of Edible Food collected from each Commercial Edible Food Generator per month.
 - (3) The quantity in pounds of Edible Food transported to each Food Recovery Organization per month.
 - (4) The name, address, and contact information for each Food Recovery Organization that the Food Recovery Service transports Edible Food to for Food Recovery.
- (b) Food Recovery Organizations collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(2):
 - (1) The name, address, and contact information for each Commercial Edible Food Generator from which the organization receives Edible Food.
 - (2) The quantity in pounds of Edible Food received from each Commercial Edible Food Generator per month.
 - (3) The name, address, and contact information for each Food Recovery Service that the organization receives Edible Food from for Food Recovery.
- (c) Maintain records required by this section for five years.
- (d) Food Recovery Organizations and Food Recovery Services that have their primary address physically located in the City and contract with or have written agreements with one or more Commercial Edible Food Generators pursuant to 14 CCR Section 18991.3(b) shall report to the City the total pounds of Edible Food recovered in the previous calendar year from the Tier One and Tier Two Commercial

Edible Food Generators they have established a contract or written agreement with pursuant to 14 CCR Section 18991.3(b). The annual report shall be submitted to the City no later than December 1 of each year.

- (e) In order to support Edible Food Recovery capacity planning assessments or other studies conducted by the County, City, special district that provides Solid Waste collection services, or its designated entity, Food Recovery Services and Food Recovery Organizations operating in the City shall provide information and consultation to the City, upon request, regarding existing, or proposed new or expanded, Food Recovery capacity that could be accessed by the City and its Commercial Edible Food Generators. A Food Recovery Service or Food Recovery Organization contacted by the City shall respond to such request for information within 60 days unless a shorter timeframe is otherwise specified by the City.
- (f) Food Recovery Organizations and Food Recovery Services that have their primary address physically located in the City and contract with or have written agreements with one or more Commercial Edible Food Generators shall include language in all agreements with Tier 1 and Tier 2 edible food generators located in the City identifying and describing the California Good Samaritan Act of 2017.

8.04.285 Community Composting Operations

Community Composting operators with operations located in the City's boundaries, upon City's request, shall provide information to the City to support Organic Waste capacity planning, including, but not limited to, an estimate of the amount of Organic Waste anticipated to be handled at the Community Composting operation. Entities contacted by the City shall respond within 60 days.

8.04.290 Self-Hauler Requirements

- (a) Every Self-Hauler shall Source Separate its Recyclable Materials and Organic Materials (materials that City otherwise requires Generators or Responsible Parties to separate for collection in the City's Recyclable Materials and Organic Materials collection program) generated on-site from Solid Waste in a manner consistent with 14 CCR Section 18984.1 and the City's collection program. Self-Haulers shall deliver their materials to facilities described in subsection (b) below. Alternatively, Self-Haulers may or choose not to Source Separate Recyclable Materials and Organic Materials and shall haul its Solid Waste (that includes Recyclable Materials and Organic Materials) to a High Diversion Organic Waste Processing Facility that is approved by the City.
- (b) Self-Haulers that Source Separate their Recyclable Materials and Organic Materials shall haul their Source Separated Recyclable Materials to a facility that recovers those materials; haul their Source Separated Organic Waste to a facility, operation, activity, or property that processes or recovers Source Separated Organic Waste; haul their Solid Waste to a disposal facility or transfer facility or operation that processes or disposes of Solid Waste; and, transport manure to a facility that manages manure in conformance with 14 CCR Article 12 and such that the manure is not landfilled, used as Alternative Daily Cover (ADC), or used as Alternative Intermediate Cover (AIC).
- (c) Self-Haulers that are Responsible Parties of Commercial Businesses or Multi-Family Premises shall keep records of the amount of Recyclable Materials, Organic Waste, and Solid Waste delivered to each facility, operation, activity, or property that processes or recovers Recyclable Materials and Organic Waste and processes or disposes of Solid Waste or shall keep records of Solid Waste delivered to High Diversion Organic Waste Processing Facilities. These records shall be subject to Inspection by the City or its designee. The records shall include the following information:
 - (1) Delivery receipts and weight tickets from the entity accepting the Recyclable Materials, Organic Materials, and Solid Waste.

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- (2) The amount of material in cubic yards or tons transported by the Generator or Responsible Party to each entity.
 - (3) If the material is transported to an entity that does not have scales on-site or employs scales incapable of weighing the Self-Hauler's vehicle in a manner that allows it to determine the weight of materials received, the Self-Hauler is not required to record the weight of material but shall keep a record of the entities that received the Recyclable Materials, Organic Materials, and Solid Waste.
 - (d) Self-Haulers shall retain all records and data required to be maintained by this Section for no less than five (5) years after the Recyclable Materials, Organic Materials, and/or Solid Waste was first delivered to the facility accepting the material.
 - (e) Self-Haulers that are Commercial Businesses or Multi-Family Premises shall provide copies of records required by this Section to City if requested by the City Manager and shall provide the records at the frequency requested by the City.
 - (e) A Single-Family Generator or Single-Family Responsible Party that Self-Hauls Recyclable Materials, Organic Waste, or Solid Waste is not required to record or report information in Section 8.04.290(c) and 8.04.290(d).
 - (f) Pursuant to 14 CCR Section 18815.9, Food Waste Self-Haulers are required to maintain records and report to CalRecycle information on the tons of Food Waste Self-Hauled and the facilities or each use of such material. Food Waste Self-Haulers shall provide to the City, on a quarterly basis, copies of all reports they are required to report to CalRecycle.

8.04.300 Compliance with CALGreen Recycling Requirements

- (a) Persons applying for a permit from the City for new construction and building additions and alternations shall comply with the requirements of this Section and all required components of the California Green Building Standards Code, 24 CCR, Part 11, known as CALGreen, as amended, if its project is covered by the scope of CALGreen or more stringent requirements of the City. If the requirements of CALGreen are more stringent than the requirements of this Section, the CALGreen requirements shall apply.

Project applicants shall refer to City's building and/or planning code for complete CALGreen requirements.

- (b) For projects covered by CALGreen or more stringent requirements of the City, the applicants must, as a condition of the City's permit approval, comply with the following:
 - (1) Where five (5) or more Multi-Family dwelling units are constructed on a building site, provide readily accessible areas that serve occupants of all buildings on the site and are identified for the storage and collection of Recyclable Materials Container and Organic Materials Container materials, consistent with the three container collection program offered by the City, or comply with provision of adequate space for recycling for Multi-Family Premises and Commercial Premises pursuant to Sections 4.408.1, 4.410.2, 5.408.1, and 5.410.1 of the California Green Building Standards Code, 24 CCR, Part 11 as amended provided amended requirements are more stringent than the CALGreen requirements for adequate recycling space effective January 1, 2020.
 - (2) New Commercial or Multi-Family construction or additions resulting in more than 30% increase of the floor area shall provide readily accessible areas identified for the storage and
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collection of Recyclable Materials Container and Organic Materials Container materials, consistent with the three container collection program offered by the City, or shall comply with provision of adequate space for recycling for Multi-Family Premises and Commercial Premises pursuant to Sections 4.408.1, 4.410.2, 5.408.1, and 5.410.1 of the California Green Building Standards Code, 24 CCR, Part 11 as amended provided amended requirements are more stringent than the CALGreen requirements for adequate recycling space effective January 1, 2020.

- (3) Comply with CALGreen requirements and applicable law related to management of C&D, including diversion of Organic Waste in C&D from disposal. Comply with Section 8.04.150 of this Ordinance, and all written and published City policies and/or administrative guidelines regarding the collection, recycling, diversion, tracking, and/or reporting of C&D.

8.04.310 Model Water Efficient Landscaping Ordinance Requirements

- (a) Property owners or their building or landscape designers, including anyone requiring a building or planning permit, plan check, or landscape design review from the City, who are constructing a new (Single-Family, Multi-Family, public, institutional, or Commercial) project with a landscape area greater than 500 square feet, or rehabilitating an existing landscape with a total landscape area greater than 2,500 square feet, shall comply with 23 CCR, Division 2, Chapter 2.7, Sections 492.6(a)(3)(B) (C), (D), and (G) of the MWELo, including sections related to use of Compost and mulch as delineated in this Section 8.04.310.
- (b) The following Compost and mulch use requirements that are part of the MWELo are now also included as requirements of this ordinance. Other requirements of the MWELo are in effect and can be found in 23 CCR, Division 2, Chapter 2.7.
- (c) Property owners or their building or landscape designers that meet the threshold for MWELo compliance outlined in Section 8.04.310(a) above shall:
 - (1) Comply with Sections 492.6 (a)(3)(B)(C), (D) and (G) of the MWELo, which requires the submittal of a landscape design plan with a soil preparation, mulch, and amendments section to include the following:
 - (A) For landscape installations, Compost at a rate of a minimum of four cubic yards per 1,000 square feet of permeable area shall be incorporated to a depth of six (6) inches into the soil. Soils with greater than six percent (6%) organic matter in the top six (6) inches of soil are exempt from adding Compost and tilling.
 - (B) For landscape installations, a minimum three- (3) inch layer of mulch shall be applied on all exposed soil surfaces of planting areas except in turf areas, creeping or rooting groundcovers, or direct seeding applications where mulch is contraindicated. To provide habitat for beneficial insects and other wildlife up to five percent (5%) of the landscape area may be left without mulch. Designated insect habitat must be included in the landscape design plan as such.
 - (C) Organic mulch materials made from recycled or post-consumer materials shall take precedence over inorganic materials or virgin forest products unless the recycled post-consumer organic products are not locally available. Organic mulches are not required where prohibited by local fuel modification plan guidelines or other applicable local ordinances.

- (2) The MWELO compliance items listed in this Section are not an inclusive list of MWELO requirements; therefore, property owners or their building or landscape designers that meet the threshold for MWELO compliance outlined in shall consult the full MWELO for all requirements.
- (d) If, after the adoption of this ordinance, the California Department of Water Resources, or its successor agency, amends 23 CCR, Division 2, Chapter 2.7, Sections 492.6(a)(3)(B) (C), (D), and (G) of the MWELO September 15, 2015 requirements in a manner that requires City to incorporate the requirements of an updated MWELO in a local ordinance, and the amended requirements include provisions more stringent than those required in this Section, the revised requirements of 23 CCR, Division 2, Chapter 2.7 shall be enforced.

8.04.320 Inspections and Investigations by City

- (a) City representatives and/or its designated entity, including Designees are authorized to conduct Inspections and investigations, at random or otherwise, of any collection container, collection vehicle loads, or transfer, processing, or disposal facility for materials collected from Generators, or Source Separated materials to confirm compliance with this ordinance by Generators, Responsible Parties of Commercial Businesses, Responsible Parties of Multi-Family Premises, Commercial Edible Food Generators, haulers, Self-Haulers, Food Recovery Services, and Food Recovery Organizations, subject to applicable laws. This Section does not allow City to enter the interior of a private residential property for Inspection.
- (b) Regulated entity shall provide or arrange for access during all Inspections (with the exception of residential property interiors) and shall cooperate with the City's representative or its Designee during such Inspections and investigations. Such Inspections and investigations may include confirmation of proper placement of materials in containers, inspection of Edible Food Recovery activities, review of required records, or other verification or Inspection to confirm compliance with any other requirement of this ordinance. Failure of a Responsible Party to provide or arrange for: (i) access to an entity's Premises; (ii) installation and operation of Remote Monitoring equipment (optional); or (ii) access to records for any Inspection or investigation is a violation of this ordinance and may result in penalties described in Section 8.04.330.
- (c) Any records obtained by the City during its Inspections, Remote Monitoring, and other reviews shall be subject to the requirements and applicable disclosure exemptions of the Public Records Act as set forth in Government Code Section 6250 et seq.
- (d) City representatives, its designated entity, and/or Designee are authorized to conduct any Inspections, Remote Monitoring, or other investigations as reasonably necessary to further the goals of this ordinance, subject to applicable laws.
- (e) City shall receive, review and investigate written complaints from persons regarding an entity that may be potentially non-compliant with SB 1383 Regulations, including receipt of anonymous complaints.

8.04.330 Enforcement

- (a) Violation of any provision of this ordinance shall constitute grounds for issuance of a Notice of Violation and assessment of a fine by a City Enforcement Official or representative. Enforcement Actions under this ordinance are issuance of an administrative citation and assessment of a fine in accordance with the provisions of this ordinance and Chapter 1.12 of the Municipal Code entitled "Administrative Fines" and as it may be amended from time to time The City's procedures on imposition of administrative fines set forth in Chapter 1.12 are hereby incorporated in their entirety, as

modified from time to time, and shall govern the imposition, enforcement, collection, and review of administrative citations issued to enforce this ordinance and any rule or regulation adopted pursuant to this ordinance, except as otherwise indicated in this ordinance.

- (b) Other remedies allowed by law may be used, including civil action or prosecution as misdemeanor or infraction. City may pursue civil actions in the California courts to seek recovery of unpaid administrative citations. City may choose to delay court action until such time as a sufficiently large number of violations, or cumulative size of violations exist such that court action is a reasonable use of City staff and resources.
- (c) Enforcement pursuant to this ordinance may be undertaken by the City Enforcement Official, which may be the City Manager or her or his designated entity, legal counsel, or combination thereof.
- (d) Process for Enforcement
 - (1) City Enforcement Officials or Regional or County Enforcement Officials and/or their designee(s) will monitor compliance with the ordinance randomly and through Compliance Reviews, Route Reviews, investigation of complaints, and an Inspection program (that may include Remote Monitoring). Section 8.04.320 establishes City's right to conduct Inspections and investigations.
 - (2) For incidences of Prohibited Container Contaminants found in containers, City may issue a notice of contamination to any Generator or Responsible Party found to have Prohibited Container Contaminants in a container. Such notice will be provided via a cart tag or other communication immediately upon identification of the Prohibited Container Contaminants or within 14 calendar days after determining that a violation has occurred. If the City observes Prohibited Container Contaminants in a Responsible Party's containers on more than three (3) consecutive occasions, the City may assess contamination processing fees or contamination penalties on the Generator.
 - (3) With the exception of violations of contamination of container contents addressed under Section 8.04.330(d)(2), City shall issue a Notice of Violation requiring compliance within a maximum of 60 days of issuance of the notice.
 - (4) Absent compliance by the respondent within the deadline set forth in the Notice of Violation, City may commence an action to impose penalties, via an administrative citation and fine.

Notices shall be sent to "owner" at the official address of the owner maintained by the County Assessor on the latest equalized assessment roll or if no such address is available, to the owner at the address of the Multi-Family Premises or Commercial Premises or to the Responsible Party for the collection services, depending upon available information.

- (e) Penalty Amounts for Types of Violations

The penalty levels are as follows:

- (1) For a first violation, the amount of the base penalty shall be \$100 per violation.
 - (2) For a second violation, the amount of the base penalty shall be \$200 per violation.
 - (3) For a third or subsequent violation, the amount of the base penalty shall be \$500 per violation.
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(f) Compliance Deadline Extension Considerations

City may extend the compliance deadlines set forth in a Notice of Violation issued in accordance with this Section if it finds that there are extenuating circumstances beyond the control of the respondent that make compliance within the deadlines impracticable, including the following:

- (1) Acts of God such as earthquakes, wildfires, flooding, and other emergencies or natural disasters;
- (2) Delays in obtaining discretionary permits or other government agency approvals; or,
- (3) Deficiencies in Organic Waste recycling infrastructure or Edible Food Recovery capacity and the City is under a corrective action plan with CalRecycle pursuant to 14 CCR Section 18996.2 due to those deficiencies.

(g) Appeals Process

Persons receiving an administrative citation containing a penalty for an uncorrected violation may request a hearing to appeal the citation in accordance with Municipal Code Chapter 1.12. A hearing will be held only if it is requested within the time prescribed and consistent with City's procedures in the City's codes for appeals of administrative citations. Evidence may be presented at the hearing. The City Manager will appoint a hearing officer who shall not be the enforcement official and shall conduct the hearing and issue a final written order.

(h) Civil Penalties for Non-Compliance

Beginning January 1, 2024, if the City determines that a Generator, Responsible Party, Self-Hauler, hauler, Tier One or Tier Two Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance with this ordinance, it shall document the noncompliance or violation, issue a Notice of Violation, and take Enforcement Action pursuant to this Section, as needed.

8.04.350 Effective Date

This ordinance shall be effective commencing on January 1, 2022.
