

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LA HABRA, CALIFORNIA, REPEALING IN ITS ENTIRETY CHAPTER 8.04 "GARBAGE AND RUBBISH COLLECTION AND DISPOSAL" OF TITLE 8 "HEALTH AND SAFETY" AND REPLACING IT WITH CHAPTER 8.04 "SOLID WASTE COLLECTION AND DISPOSAL" RELATING TO SOLID WASTE RECYCLABLE MATERIALS AND ORGANIC WASTE RECYCLING REQUIREMENTS PER SENATE BILL 1383

WHEREAS, Article 11, Section 7 of the California Constitution authorizes cities to make and enforce within their limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws; and

WHEREAS, in 1989, the State approved Assembly Bill No. 939 enacting the California Integrated Waste Management Act of 1989 ("AB 939" or the "Act") (Public Resources Code §§ 4000 et seq.) which requires cities to adopt and implement plans to reduce solid waste by maximizing reuse and recycling; and

WHEREAS, AB 939 further provides that all aspects of solid waste handling, such as the frequency of solid waste collection, the means of solid waste collection and transportation, levels of service, charges and fees for services, and the nature, location and extent of providing solid waste services are of local concern, and authorizes cities to furnish any necessary services for itself, through other local agencies, or through a solid waste enterprise; and

WHEREAS, in 2011, the State approved AB 341, which requires businesses that generate four (4) or more cubic yards of refuse per week, and multi-family residential premises with five (5) or more dwelling units, to arrange for recycling services consistent with State law; and

WHEREAS, in 2015, the State approved AB 1826, which requires business that generates two (2) or more cubic yards of solid waste per week, and multi-family residential premises with five (5) or more dwelling units and that generate two (2) or more cubic yards of solid waste per week, to arrange for organic recycling services; and

WHEREAS, in 2016, the State approved SB 1383, the Short-lived Climate Pollutant Reduction Act, which requires the California Department of Resources Recycling and Recovery (CalRecycle) to develop regulations to reduce organics in landfills as a source of methane. As adopted by CalRecycle, these SB 1383 regulations (SB 1383 Regulations) place requirements on multiple entities including the city, residential households, commercial businesses, commercial edible food generators, haulers, self-haulers, food recovery organizations, and food recovery services to support achievement of statewide organic waste disposal reduction targets; and

WHEREAS, in 2019, the State approved AB 827, which requires certain business to provide their customers access to recycling containers; and

WHEREAS, the SB 1383 Regulations require the city to adopt and enforce an ordinance or other enforceable mechanism to implement relevant provisions of the SB 1383 Regulations; and

WHEREAS, this ordinance implements the requirements of AB 939, AB 341, AB 1826, AB 827, and the SB 1383 Regulations; and

WHEREAS, the City Council has determined this amendment to and restatement of Chapter 8.04 of the La Habra Municipal Code (“LHMC”), concerning the handling of refuse and recycling materials, is necessary to enable the city to implement and enforce its rules and regulations relating to the handling of solid waste in a manner consistent with State law.

PASSED, APPROVED, AND ADOPTED this ____ day of _____, 2021.

Rose Espinoza
Mayor

ATTEST:

Laurie Swindell, CMC
City Clerk

STATE OF CALIFORNIA }
COUNTY OF ORANGE } SS.
CITY OF LA HABRA }

I, Laurie Swindell, CMC, City Clerk of the City of La Habra, do hereby certify that the above and foregoing is a true and correct copy of Ordinance No. ____ introduced at a regular meeting of the City Council of the City of La Habra held on the 6th day of December, 2021, and duly adopted at a regular meeting held on the ____ day of _____, 2021, by the following vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:

Witness my hand and the official seal of the City of La Habra on this ____ day of _____, 2021.

Laurie Swindell, CMC
City Clerk

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ARTICLE I. DEFINITIONS AND GENERAL PROVISION

8.04.10. Purpose.

The purpose of this chapter is to regulate solid waste handling to protect public health, safety, and welfare and to meet the city's obligations under state law. The city is obligated to implement plans for solid waste source reduction, reuse, and recycling to meet specified waste diversion targets, and enforce State recycling laws.

8.04.20. Effective Date.

This ordinance shall be effective commencing January 1, 2022.

8.04.30. Definitions.

Unless it is apparent from the context that another meaning is intended, the following words and terms shall have the meaning as set forth in this section.

- (A) "AB 341" ("Assembly Bill 341") means that state law adopted in 2011 that requires commercial businesses that meet specified waste generation thresholds to arrange for recycling services.
- (B) "AB 827" means the state law adopted in 2019 that requires businesses to provide customer's access to recycling containers. Full-service restaurants, as defined in this section, are exempt from AB 827.
- (C) "AB 939" means the California Integrated Waste Management Act of 1989 (California Public Resources Code Section 40000 et seq.).
- (D) "AB 1826" means that state law adopted in 2015 that requires commercial businesses that meet specified waste generation thresholds to arrange for organic waste recycling services.
- (E) "Anaerobic digestion" means in-vessel controlled system of digestion, such as, but not limited to a treatment facility for the digestion of organics to produce methane and reduce the volume of organics sent to landfills.
- (F) "Back-haul" means transporting recyclable materials or organic waste to a destination owned and operated by the waste generator using a vehicle or trailer that was originally used to deliver products or finished good to the waste generator's location.
- (G) "Bin" means a metal container with hinged lids and wheels and a capacity from two (2) to six (6) cubic yards.
- (H) "Blue container" means a container used for storage and collection of source separated recyclables materials or source separated blue container organic waste. A blue container means a container where either: 1) the lid of the container is blue in color, or, 2) the body

of the container is blue in color and the lid is either blue, gray, or black in color. (See also definition of 'Source Separated Blue Container Organic Waste.')

- (I) "Biohazardous waste" has the same meaning as the term "biohazardous waste" in California Health and Safety Code section 117690.
- (J) "CalRecycle" means California's Department of Resources Recycling and Recovery, which is authorized to implement and enforce State laws related to waste and recycling.
- (K) "California Code of Regulations" or "CCR" means the State of California Code of Regulations. CCR references in this Chapter are preceded with a number that refers to the relevant Title of the CCR (e.g., "14 CCR" refers to Title 14 of CCR).
- (L) "Cart" means a plastic container with a hinged lid and wheels serviced by an automated or semi-automated truck with a capacity of no less than 32-gallons and no greater than 101-gallons.
- (M) "Chapter" mean this Chapter 8.04 of the La Habra Municipal Code.
- (N) "City" means the City of La Habra and all the territory within its city limits.
- (O) "City enforcement official" means the city manager or his or her designee.
- (P) "C&D" means construction and demolition debris.
- (Q) "Collect" or "Collection" means the act of taking physical possession of discarded materials at residential or commercial premises within the city, and transporting it to a facility for reuse, salvage, recycling, processing, composting, transfer, disposal, or transformation.
- (R) "Commercial business" or "Commercial" means a firm, partnership, proprietorship, joint-stock company, corporation, or association, whether for-profit or nonprofit, located in a strip mall, industrial facility, or a multi-family residential premises with five (5) or more dwelling units. A multi-family residential premises that consists of fewer than five (5) units is not a commercial business for purposes of this chapter.
- (S) "Commercial edible food generator" includes a tier one or a tier two commercial edible food generator as defined in this section. For the purposes of this definition, food recovery organizations and food recovery services are not commercial edible food generators.
- (T) "Compliance review" means a review of records of a commercial business by the city or its designee to determine compliance with this chapter and/or State law.
- (U) "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.

- (V) "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 that are separated at a centralized facility.
- (W) "Compostable plastics" means plastic material that meets the American Society for Testing and Materials (ASTM) D6400 standard for compostability (sections 5.1 through 6.4.2 published May 2019).
- (X) "Container" means any and all types of solid waste receptacles, including carts, bins, and rolloff boxes.
- (Y) "Container contamination" or "contaminated container" means a container, regardless of color, that contains prohibited container contaminants.
- (Z) "Customer" means the person receiving solid waste handling services from the franchisee pursuant to the terms of the franchise agreement.
- (AA) "Construction and demolition debris" ("C&D Debris") means any solid waste generated at a premises that is directly related to construction or demolition activities. These activities include, but are not limited to, construction, demolition, remodeling, grading, land clearing, or renovation on any residential, commercial, institutional or industrial building, road, driveway, walkway or other structure. C&D debris includes but is not limited to, concrete, asphalt paving, asphalt roofing, lumber, gypsum board, rock, soil and metal.
- (BB) "Designee" means a person (or persons) that the city contracts with or otherwise arranges to carry out any of the city's responsibilities of this chapter. Designee may be one or more City employees, government entities, haulers, a private entity, or a combination of these persons.
- (CC) "Disposal" means the management of solid waste through landfill disposal or transformation at a permitted solid waste facility.
- (DD) "Diversion" (or any variation thereof including "divert") means activities which reduce or eliminate discarded materials from disposal including, but not limited to, reuse, salvage, recycling, and composting.
- (EE) "Edible food" means food intended for human consumption. Edible food is not considered discarded materials if it is recovered and not discarded. Nothing in this chapter requires or authorizes the recovery of edible food that does not meet the food safety requirements of the California Retail Food Code. Notwithstanding the foregoing, this term shall be defined as in 14 CCR section 18982.
- (FF) "Enforcement action" means an action of the city to address non-compliance with this Article including, but not limited to, issuing administrative citations, fines, penalties, or using other civil, criminal and administrative remedies allowed by law.

(GG) "Excluded waste" means hazardous substance, hazardous waste, infectious waste, designated waste, volatile, corrosive, medical waste, infectious, regulated radioactive waste, and toxic substances or material that facility operator(s), which receive materials from the city and its generators, reasonably believe(s) would, as a result of or upon acceptance, transfer, processing, or 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 or accepted at the facility by permit conditions, waste that in city's, or its designee's reasonable opinion would present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose city, or its designee, to potential liability; but not including de minimis volumes or concentrations of waste of a type and amount normally found in single-family or multi-family solid waste after implementation of programs for the safe collection, processing, 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 used motor oil and filters, household batteries, universal wastes, electronic waste, and/or latex paint when such materials are defined as allowable materials for collection through the city's collection programs and the generator or customer has properly placed the materials for collection pursuant to instructions provided by city or its designee for collection services.

(HH) "Facility(ies)" means any plant or site used for the purposes of handling discarded materials including, but not limited to, disposal sites, material recovery facilities, and transfer, recycling, composting, and processing facilities.

(II) "Food distributor" means a company that distributes food to entities including, but not limited to, supermarkets and grocery stores.

(JJ) "Food facility" means a permanent or temporary operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption at the retail level. Food facility has the same meaning as in Section 113789 of the Health and Safety Code. A food facility includes an operation where food is consumed on or off the premises, regardless of whether there is a charge for the food. A food facility includes a place used in conjunction with the operations described in this section, including, but not limited to, storage facilities for food-related utensils, equipment, and materials. A food facility includes, but is not limited to, school cafeterias, licensed health care facilities, commissaries, mobile food facilities, vending machines, farmers' markets, farm stands, microenterprise home kitchen operations, and catering operations. Food facility does not include any of the following:

(1) A cooperative arrangement wherein no permanent facilities are used for storing or handling food.

(2) A private home when used for private, noncommercial purposes or when used as a cottage food operation.

- (3) A church, private club, or other nonprofit association that gives or sells food to its members and guests, and not to the general public, at an event that occurs not more than three days in any 90-day period.
 - (4) A for-profit entity that gives or sells food at an event that occurs not more than three (3) days in a ninety (90) day period for the benefit of a nonprofit association, if the for-profit entity receives no monetary benefit, other than that resulting from recognition from participating in an event.
 - (5) A premises set aside for wine tasting, or beer manufacturing, regardless of whether there is a charge for the wine or beer tasting.
 - (6) An outlet or location, operated by a producer, selling or offering for sale only whole produce grown by the producer or shell eggs, or both, provided the sales are conducted at an outlet or location controlled by the producer.
 - (7) A commercial food processing establishment.
 - (8) A child day care facility.
 - (9) A community care facility.
 - (10) A residential care facility for the elderly.
 - (11) A residential care facility for the chronically ill.
 - (12) An intermediate care facility for the developmentally disabled.
 - (13) A community food producer.
 - (14) A limited-service charitable feeding operation.
- (KK) "Food recovery" means actions to collect and distribute edible food for human consumption which otherwise would be discarded.
- (LL) "Food recovery organization" means an entity that engages in the collection or receipt of edible food from Commercial edible food generators that distributes the edible food to the public for food recovery either directly or through other entities, 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.

- (4) Notwithstanding the foregoing, this term shall be defined as in 14 CCR section 18982.
- (MM) "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. A food recovery service is not a commercial edible food generator for the purposes of this chapter.
- (NN) "Food scraps" means all food such as, but not limited to, fruits, vegetables, meat, poultry, seafood, shellfish, bones, rice, beans, pasta, bread, cheese, fats, oils, grease, and eggshells.
- (OO) "Food service provider" means an entity primarily engaged in providing food services to institutional, governmental, commercial, or industrial locations or others based on contractual arrangements with these types of organizations.
- (PP) "Food-soiled paper" is compostable paper material that has come in contact with food or liquid, such as, but not limited to, compostable paper plates, paper coffee cups, napkins, pizza boxes, and milk cartons.
- (QQ) "Food waste" means all food such as, but not limited to, fruits, vegetables, meat, poultry, seafood, shellfish, bones, rice, beans, pasta, bread, cheese, and eggshells; food-soiled paper (including paper that has come in contact with food or liquid, such as, but not limited to, paper plates, paper towels, paper coffee cups, napkins, pizza boxes, and milk cartons); tea bags; coffee grounds; and paper coffee filters. Food waste excludes fats, oils, and grease when such materials are source separated from other food waste. No discarded materials shall be considered food waste unless such materials are separated from other organic waste (except that food waste does not need to be separated from and may be combined with other organic materials for collection if franchisee's collection program allows for combining of the organic materials), recyclable materials, and solid waste.
- (RR) "Franchise agreement" means the agreement between the franchisee and the city to provide solid waste handling service in the city.
- (SS) "Franchisee" means the company (or companies) that are permitted waste hauler(s) that provide recurring trash and recycling services pursuant to a formal franchise agreement with the City.
- (TT) "Full-service restaurant" means an establishment with the primary business purpose of serving food, where food may be consumed on the premises, and where all of the following actions are taken by an employee of the establishment: (1) The consumer is escorted or assigned to an assigned eating area. The employee may choose the assigned eating area or may seat the consumer according to the consumer's need for accommodation or other request; (2) The consumer's food and beverage orders are taken after the consumer has been seated at the assigned seating area; (3) The food and beverage orders are delivered directly to the consumer; (4) Any requested items associated with the consumer's food or beverage order are brought to the consumer; (5) The check is delivered directly to the consumer at the

assigned eating area; and (6) The consumer does not deliver the consumer's waste and used dishes etc. to another location or otherwise clean the consumer's own table. Full-service restaurants are exempt from the container placement requirements of AB 827.

(UU) "Gray container" means a Container used to store and collect refuse, mixed waste, gray container waste. A gray container means a container where either: 1) the lid of the container is gray or black in color, or, 2) the body of the container is gray or black in color and the lid is gray or black in color.

(VV) "Gray container waste" means refuse or mixed waste that is collected in a gray container that is part of collection service that prohibits the placement of recyclable materials or organic waste in the gray container.

(WW) "Green container" means a Container used to store and collect Source Separated Green Container Organic Waste. A green container means a container where either: 1) the lid of the container is green in color, or, 2) the body of the container is green in color and the lid is either green, gray, or black in color. (See also definition of 'Source Separated Blue Container Organic Waste.')

(XX) "Green container waste" means green waste, organic waste, food scraps, food-soiled paper, and compostable plastics that is collected in green container that is part of a service that prohibits the placement of refuse, mixed waste, non-organic recyclables in the green container.

(YY) "Green waste" means shrubbery, tree trimmings, yard waste, grass, weeds, straw or leaves, wood chips and other household garden organic materials.

(ZZ) "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.

(AAA) "Hauler" means a person, firm, sole-proprietorship, partnership, corporation that collects and transports solid waste in accordance with all applicable laws.

(BBB) "Hauler route" means the designated itinerary or sequence of stops for each segment of the city's collection service area.

(CCC) "Hazardous waste" means any substance defined as acutely hazardous waste, extremely hazardous waste, or hazardous waste in California Health and Safety Code sections 25110.02, 25115, and 25117; any waste which meets the definitions set forth in 22 CCR section 66261.3, et seq., and is required to be managed; any substance listed as hazardous waste in 42 USC Sec. 6901 et seq.; and, any substance identified or listed now or in the future as hazardous waste by any State or federal agency.

(DDD) "Household hazardous waste" means hazardous waste generated at residential premises.

(EEE) "Inspection" means a site visit where the city reviews records, containers, and an entity's collection, handling, recycling, or landfill disposal of organic waste or edible food handling to determine if the entity is complying with requirements.

(FFF) "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 Article.

(GGG) "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 Article 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 Article 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 Article.

(HHH) "Materials Recovery Facility" or "MRF" means a permitted solid waste facility where solid wastes or recyclable materials are sorted or separated for the purposes of recycling, processing or composting.

(III) "Medical waste" has the same meaning as the term "medical waste" as provided in State Health and Safety Code (H & S Code) sections 117690, 117695, and 117700 and also includes "biohazardous waste" as defined by H & S Code section 117635. Medical waste also includes any waste that federal law or any other state law defines as medical waste. "Treated Medical Waste" means medical waste that has been treated pursuant to the California Medical Waste Management Act, H & S Code sections 118215 et seq. Medical waste that has not been treated pursuant to these requirements shall be referred to as untreated medical waste.

(JJJ) "Multi-family residential premises" or "multi-family" means of, from, or pertaining to residential premises with five (5) or more dwelling units. Multi-family premises do not include hotels, motels, or other transient occupancy facilities, which are considered commercial businesses.

- (KKK) "Non-compostable paper" includes but is not limited to paper that is coated in a plastic material that will not breakdown in the composting process.
- (LLL) "Non-local entity" means entities that are not subject to the city's enforcement authority, including special districts, state prisons, school districts, state universities and colleges, state hospitals, State community colleges, and other state properties and facilities.
- (MMM) "Non-organic recyclables" means non-putrescible and non-hazardous recyclable wastes including but not limited to bottles, cans, metals, plastics and glass.
- (NNN) "Notice of Violation (NOV)" means a notice that a violation of this chapter has occurred that includes a compliance date to avoid an action to seek penalties.
- (OOO) "Organic materials" means green materials, wood waste, and/or food waste, whether individually or in combination, set aside, handled, packaged, or offered for collection in a manner different from solid waste for the purpose of processing. Organic materials are a subset of organic waste.
- (PPP) "Organic waste" means solid wastes containing material originated from living organisms and their metabolic waste products including, but not limited to food, green materials, landscape and pruning waste, organic textiles and carpets, lumber, wood, paper products, printing and writing papers, manure, biosolids, digestate, and sludges. Notwithstanding the foregoing, this term shall be defined as in 14 CCR sections 18982.
- (QQQ) "Organic Waste Generator" means a person or entity that is responsible for the initial creation of Organic Waste.
- (RRR) "Paper Products" includes, but is not limited to, paper janitorial supplies, cartons, wrapping, packaging, file folders, hanging files, corrugated boxes, tissue, and toweling.
- (SSS) "Person" includes firms, corporations, associations, partnerships, societies, church organizations and individuals.
- (TTT) "Premises" means any land, or building in the city where solid waste is generated or accumulated.
- (UUU) "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.
- (VVV) "Prohibited Container Contaminants" means the following: (i) discarded materials placed in the blue container that are not identified as acceptable source separated recyclable materials for the city's blue container; (ii) discarded materials placed in the green container that are not identified as acceptable source separated green container

organic waste for the city's green container; (iii) discarded materials placed in the gray container that are acceptable source separated recyclable materials and/or source separated green container organic wastes to be placed in city's green container and/or blue container; and, (iv) excluded waste placed in any container.

(WWW) "Process, Processed, or Processing" means the controlled separation, recovery, volume reduction, conversion, or recycling of solid waste and/or other discarded materials including, but not limited to, organized, manual, automated, or mechanical sorting, the use of vehicles for spreading of waste for the purpose of recovery, and/or includes the use of conveyor belts, sorting lines, or volume reduction equipment.

(XXX) "Putrescible waste" includes wastes that are capable of being decomposed by micro-organisms with sufficient rapidity as to cause nuisances because of odors, gases, or other offensive conditions, and includes materials such as, but not limited to, food waste, offal, and dead animals. Notwithstanding the foregoing, this term shall be defined as in 14 CCR section 18982.

(YYY) "Recovered organic waste products" means products made from California, landfill-diverted recovered organic waste processed in a permitted or otherwise authorized facility.

(ZZZ) "Recovery" or "recovered" means any activity or process that prevents recyclable materials or organic waste from being landfilled including but not limited to, recycling, composting, anaerobic digestion, biomass conversion, soil amendment, land application, and lawful use of animal feed.

(AAAA) "Recycled-content paper" means paper products and printing and writing paper that consists of at least 30 percent, by fiber weight, postconsumer fiber.

(BBBB) "Refuse" means any mixture of putrescible and non-putrescible solid and semi-solid wastes, including garbage, trash, residential solid waste, commercial solid waste, vegetable, or animal solid and semi-solid wastes, and other solid waste destined for disposal sites.

(CCCC) "Regional agency" means regional agency as defined in Public Resources Code Section 40181.

(DDDD) "Regulated entity" means a single-family, multi-family, or commercial owner, occupant, generator, or operator, self-hauler, contractor, tier one commercial edible food generator, tier two commercial edible food generator, food recovery organization, food recovery service, and other persons or entity that is subject to provisions in this chapter.

(EEEE) "Remote monitoring" means the use of the internet of things (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.

- (FFFF) "Renewable gas" means gas derived from organic waste that has been diverted from a California landfill and processed at an anerobic ingestion facility that is permitted or otherwise authorized by 14 CCR to recycle organic waste.
- (GGGG) "Residential premises" means premises upon which dwelling units exist, including, without limitation, single-family and multi-family premises, apartments, boarding or rooming houses, condominiums, mobile homes, efficiency apartments, and second units. Premises upon which the following uses are occurring shall not be deemed to be residential premises, and rather shall be deemed to be commercial premises: assisted living facilities, convalescent homes, dormitories, extended stay motels, group residential facilities, group care facilities, hostels, hotels, motels, and any other businesses which residency is transient in nature.
- (HHHH) "Residential unit" means a building or portion of a building used for dwelling purposes by an individual family or group of Persons.
- (IIII) "Residential" means of, from, or pertaining to single-family and multi-family premises used for human shelter, irrespective of whether such dwelling units are rental units or are owner-occupied, excluding hotels, motels, or other similar premises.
- (JJJJ) "Restaurant" means an establishment primarily engaged in the retail sale of food and drinks for on-premises or immediate consumption.
- (KKKK) "Roll-off box" means an open-top metal container or closed compactor box serviced by a roll-off truck and with a container capacity of 10 to 50 cubic yards. Roll-off boxes are also known as drop boxes or debris boxes.
- (LLLL) "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.
- (MMMM) "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.
- (NNNN) "SB 1383 Regulations" or "SB 1383 Regulatory" means or refers to, for the purposes of this chapter, 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.
- (OOOO) "Self-hauler" means a person, who hauls solid waste, organic waste or recyclable material he or she has generated to another person. Self-hauler also includes a person who back-hauls waste.

(PPPP) "Single-family" means of, from, or pertaining to any residential premises with fewer than five (5) units.

(QQQQ) Single-family organic waste generator: means a person or entity that is responsible for the initial creation of Organic Waste, or that is generated from any residential premises with fewer than five (5) units.

(RRRR) "Solid waste" means 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.

(SSSS) "Solid waste handling service" means the service to provide integrated solid waste management including collection, transfer, transport, recycling, processing, diversion and disposal.

(TTTT) "Source separated" means materials, including commingled recyclable 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 to return them to the economic mainstream in the form of raw material for new, reused, or reconstituted products.

(UUUU) "Source separated blue container organic waste" means source separated organic wastes that can be placed in a blue container that is limited to the collection of organic wastes and non-organic recyclables.

(VVVV) "Source separated green container organic waste" means source separated organic waste that can be placed in a green container that is specifically intended for the separate collection of organic waste by the generator, excluding source separated blue container organic waste, carpets, non-compostable paper, and textiles.

(WWWW) "Source separated recyclable materials" means source separated non-organic recyclables and source separated blue container organic waste.

(XXXX) "State" means the State of California.

(YYYY) "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.

(ZZZZ) "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.

(AAAAA) "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 school, college, university, or other educational facility with an on-site food facility.

(BBBBB) "Vendor" means any individual, company or entity that receives compensation for providing services, materials, and/or products to the city.

(CCCCC) "Waste Generator" means any person whose act or process produces solid waste as or whose act first causes solid waste to become subject to regulation.

(DDDDD) "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.

8.04.40. Illegal Dumping.

It shall be unlawful to dump, place or bury in any public or private lot, alley, street, land or in any water or waterway within the city, the following: refuse, recyclable material, organic waste, green waste or any other solid waste. Illegally placed material shall constitute a nuisance and may be abated by the city through civil, administrative or criminal actions which may include means of a restraining order, preliminary or permanent injunction or in any other manner provided by law for the abatement of such nuisances.

8.04.50. Unlawful to Place Dangerous Materials in Containers.

No person shall place or deposit in any container used for collection of solid waste the following: any waste classified as hazardous, universal, electronic, biohazardous, radioactive, any narcotics or controlled substances, hypodermic needles, poisons, liquid or dry caustics, acids, flammable or explosive materials, pesticides, or similar dangerous or hazardous substances.

8.04.60. Handling of Hazardous, Radioactive, and Medical Waste.

It shall be unlawful to transport or collect hazardous wastes, radioactive wastes, or medical wastes without complying with all applicable laws or regulations. No person shall deposit, dump, spill, place, or otherwise allow to be disposed of, in or on a solid waste facility not designated as a hazardous waste or radioactive waste disposal facility, any waste classified as hazardous waste or radioactive waste pursuant to State, federal or County law or regulation. No person shall deposit, dump, spill, place, or otherwise allow untreated medical waste to be disposed of in, or on, a solid waste facility.

8.04.70. Transportation of Solid Waste.

- a) It shall be unlawful to convey or transport solid waste and other discarded materials on or along any highway in the city unless the material is contained and covered to prevent it from leaving the vehicle in which it is being conveyed or transported.
- b) All vehicles and equipment used in the collection and transport of any form of discarded materials shall be kept clean. It shall be unlawful to allow liquid to drain from any vehicle that transports any form of discarded materials on any road, highway, or on any other land in a manner as to create an unsanitary condition.

8.04.80. Burning Restrictions

- A. No solid waste, recyclable material, or organic materials shall be burned within the city, except as expressly permitted in Chapter 15.46 of this code and the California Fire Code.
- B. Anyone who ignites or otherwise causes, or who assists, counsels, procures or maintains any burning in violation of subsection (A) of this section thereby violates this chapter.

8.04.90. Scavenging.

Where discarded materials or other salvageable material have been separated for collection or recovery, whether or not in a container, it shall be unlawful for any unauthorized person to take or remove any separated discarded materials or other salvageable material from any curb, street, designated pick-up location, storage area, storage container, solid waste facility, or any other public or private property.

8.04.100. Manure.

(A) Protection of groundwater and surface waters. It shall be the responsibility of the owner, occupant or operator of any premises on which manure accumulates to store and dispose of manure in such a manner to prevent runoff-containing pollutants and the leaching of nutrients into groundwater or surface waters.

(B) Storage of manure. Manure shall be stored in containers that are approved by the city or in a manure storage area that complies with the requirements of subsection (C) below and shall be stored at least 35 feet from the nearest neighboring dwelling unit. Approved containers are those supplied by the franchisee and include carts, two-yard bins, roll-off boxes, or containers otherwise approved by the city. All such containers shall be equipped with working lids to minimize water accumulating within the container.

(C) Manure storage areas. Manure storage areas shall be constructed in such a manner as to minimize potential runoff. No manure storage structure or container shall be placed within 20 feet of a flood control channel or open storm drain. Manure storage areas shall be constructed with a three-walled, fire-proof structure on a concrete base with a roof or tarp.

(D) Weekly removal. Manure shall be removed from stalls, paddocks, arenas, corrals and other livestock keeping areas at least once per week.

(E) No spreading. Spreading manure over arenas, pastures, corrals or other livestock areas as an alternative means of disposal is prohibited and shall be in violation of this chapter. Manure composting is prohibited without the written approval of the administrator.

(F) No runoff. The discharge of manure runoff onto any property other than the property where the manure is stored, including, but not limited to, any adjacent property, city streets or right of way, horse trails, or flood control channels, is prohibited. Any person that allows such discharge to occur, intentionally or negligently, shall be in violation of this chapter.

8.04.110. Container - Tampering with Prohibited.

It shall be unlawful for any person, other than the owner, agent or employee of the owner of a container for holding solid waste, organic waste or recyclable materials, whether or not it

conforms with the provisions of this chapter, to place any substance or material therein or tamper or meddle or move such container or its contents.

8.04.120. Container-Residential Placement.

No waste containers used in residential collections shall be placed out at the curb, alley, or right-of-way before four (4) p.m. on the day prior to scheduled collection, and all containers shall be removed before twelve (12) noon on the day following collection.

8.04.130. Hours of Collection.

There shall be no collection of solid waste before six (6) a.m. or thirty (30) minutes after sundown in any area of the city.

ARTICLE II EXCLUSIVE FRANCHISE AGREEMENT

8.04.140. Exclusive Franchise Agreement to Collect Solid Waste.

Except as provided by this section, no person shall collect any refuse, green waste, organic waste or recyclable materials from any premises within the city, place a refuse bin, container, or other receptacle for refuse, green waste, organic waste or recyclable materials at any premises within the city, or collect, transfer, or remove refuse, green waste, organic waste or recyclables within the city, unless that person has entered into an exclusive franchise agreement with the city. Each day any person violates this section shall constitute a separate offense which may be punished civilly, criminally and/or administratively.

8.04.150. Exceptions to Exclusive Franchise Agreement.

The following services and activities are specifically excluded from the requirement to have an exclusive franchise agreement with the city. These services and activities may be provided by persons other than franchisee.

- (A) The sale or donation of source-separated recyclable material by the waste generator to any person or entity other than franchisee; provided, however, to the extent permitted by law, if the generator is required to pay monetary or non-monetary consideration for the collection, transportation, transfer, or processing of recyclable material, the fact that the generator receives a reduction or discount in price (or in other terms of the consideration the generator is required to pay) shall not be considered a sale or donation;
- (B) Solid waste, including recyclable materials and green waste, which is removed from any premises by the waste generator, and which is transported personally by such generator (or by his or her full-time employees) to a processing or disposal facility in a manner consistent with all applicable laws and regulations;
- (C) Green waste removed from a premises by a gardening, landscaping, or tree trimming franchisee, utilizing its own equipment, as an incidental part of a total service offered by that contractor rather than as a hauling service;

- (D) The collection, transfer, transport, recycling, processing, and disposal of animal remains, fats, oils, or grease from slaughterhouses, butcher shops, or restaurants for rendering into other useful products and materials;
- (E) The collection, transfer, transport, recycling, processing, and disposal of byproducts of sewage treatment, including sludge, sludge ash, grit and screenings;
- (F) The collection, transfer, transport, recycling, processing, and disposal of hazardous substances, hazardous waste, household hazardous waste and radioactive waste regardless of its source;
- (G) Construction and demolition debris which is removed by a duly-licensed construction or demolition company as part of a total service offered by said licensed company and using dump trucks to collect and transport the material;
- (H) The collection, transfer, transport, recycling, processing, and disposal of solid waste by city through city officers or employees in the normal course of their city employment; and,
- (I) Solid waste handling services for governmental agencies other than city, which may have facilities in city, but over which city has no jurisdiction in connection with the regulation of solid waste.

8.04.160. Fees Paid by Franchisee.

(A) Franchise Fee.

The franchisee shall pay to the city a franchise fee in an amount set forth in the franchise agreement, as well as any other fees that may be specified in the franchise agreement or other contract.

(B) Sanitation Fee.

The franchisee shall pay to the city a sanitation fee, in an amount set forth in the franchise agreement, as well as any other fees that may be specified in the franchise agreement or other contract.

- 1) Purpose. The purpose and intent of this section is to provide for a sanitation fee to be assessed upon each and every refuse account within the city ("user"). The funds shall be used principally to defray the operational and capital outlay costs of the services specified in subsection B (2) of this section.
- 2) Cost of services. The costs of services that have a direct nexus to solid waste collection are street sweeping, median and parkway tree trimming, La Habra disposal station #11 landfill gas system maintenance, and recycling programs.

- 3) Users. Every person in possession or control of property, referred to in this section as users, shall pay a sanitation fee as set by resolution by the city council.

8.04.170. Equipment and Vehicle Standards.

(A) All equipment and vehicles used by a franchisee to transport or collect discarded materials in the city shall comply with the requirements of 14 CCR sections 17341 through 17345. All collection vehicles shall be staunch, tight and closely covered with a metal or fabric cover or equivalent cover so as to wholly prevent the spilling, leakage, falling off or blowing off of any contents of the vehicle or escape of offensive odors. Each vehicle used to collect or transport discarded materials shall carry a shovel, broom, and fire extinguisher and shall be maintained in good repair, clean condition, and neatly painted. The name and telephone number of the franchisee shall be painted in letters at least three inches high on each side and across the back of each vehicle.

(B) All equipment and vehicles used to collect and transport discarded materials shall also be equipped with an audible automatic back-up or other acceptable warning devices prescribed by Vehicle Code section 27000.

8.04.180. Container Standards.

All containers shall be kept in clean and sanitary condition by the owner or person using the same, and containers shall be kept tightly covered at all times, except when solid waste, organic materials or recyclable materials are being deposited therein or removed therefrom and shall at all times be secure against access by flies to the contents thereof and free from leaks. If the provisions of this section are not fully complied with, the franchisee shall place a tag on the container so stating; thereafter the container shall be considered as condemned and unfit for service and in violation of the provisions of this chapter

8.04.190. Reporting Requirements.

Franchisee shall submit periodic reports to the enforcement official or his/her designee in accordance with the requirements of the franchise agreement.

8.04.200. Collection-Charges.

There shall be a monthly charge for all curbside residential or commercial solid waste collection services rendered by the franchisee. The amount of the charges shall be as established by resolution of the city council. Any such resolution establishing charges may be amended from time to time. Such charges shall be applicable to and required of owners and/or occupants of all residential dwellings and commercial premises receiving services in the city.

8.04.210. Billing Procedures.

The city shall bill all single family, and multi-family residential customers with their regular utility bills. Franchisee shall bill all customers for bin collection service, rolloff box collection service, and commercial customers receiving cart collection service.

8.04.220. Liquidated Damages.

The franchisee is required to comply with performance standards specified in the franchise agreement. In the event franchisee fails to comply with the standards, the city may, at its option, assess liquidated damages in accordance with the procedures and amounts, if any, described in the franchise agreement.

8.04.230. Indemnification of City.

A franchisee shall indemnify and hold the city, city manager, officers, agents, and employees harmless from and against any and all loss, damages, liability, claims, suits, costs and expenses, fines, charges, or penalties whatsoever, including reasonable attorney's fees, regardless of the merit or outcome of any such claim or suit, arising from or in any manner related to the services provided or business conducted under this chapter.

8.04.240. Right to Refuse Service.

A franchisee may refuse service to a commercial or residential customer who fails to pay a valid bill within 60 days of the invoice date or for a substantial refusal to comply with the requirements of this code related to the collection of discarded materials, after giving the customer a reasonable opportunity to comply.

8.04.250. Additional Terms and Conditions.

In approving the terms of the franchise agreement, the city council may prescribe any additional terms, conditions, rules, regulations, restrictions, and limitations not specifically mentioned in this chapter that the city council determines are in the public interest. Approval of an agreement form by the city council shall be deemed to include a determination that each provision in the form is in the public interest.

ARTICLE III. REMOVAL OF UNAUTHORIZED CONTAINERS

8.04.260. Unauthorized Containers.

A. Violations.

The conducting of a solid waste collection operation without a franchise or contract with the city in violation of Chapter 8.04 of this code shall result in the impounding of any and all solid waste containers used in such unlawful operation as provided in this section.

B. Enforcement Authority, Impounding of Solid Waste Containers—Civil Remedies.

1. Authority. The public works director, or designee, shall have the authority to enforce the provisions of this chapter. This authority shall be in addition to the authority granted to Code Enforcement and police officers pursuant to this code.

2. Impounding of containers. If a solid waste container is not properly identified as belonging to a city contracted or franchised solid waste collector (hereinafter "city-approved franchisee"), or if the terms of the permit, the franchise agreement, contract or terms of this chapter are not

complied with, then the solid waste container shall be subject to removal and impound by order of the public works director pursuant to subsection C of this section.

3. Penalties. Nothing in this chapter shall be deemed to limit the right of a city-approved franchisee or the city to bring a civil action against any person who violates this chapter, nor shall a conviction for such violation exempt any person from a civil action brought by a city-approved franchisee or the city. In addition, the city may initiate civil, criminal and/or administrative actions to enforce this section.

C. Unauthorized Solid Waste Container—Impoundment.

1. The public works director may cause the posting of a notice to remove, in a conspicuous place, on any solid waste container placed on any public or private property within the city in violation of this chapter.
2. Notices to remove posted pursuant to the provisions of this chapter shall specify the nature of the violation and shall state that the solid waste container must be removed within twenty-four hours or it may be impounded at the owner's sole expense, which shall include all impound towing, dump (emptying), storage and administrative processing fees. The notice to remove shall also advise the owner of the owner's right to contest the violation pursuant to subsection D of this section. The posting of a notice to remove shall constitute constructive notice to the owner and user of the container of the requirement to remove the solid waste container.
3. If the solid waste container is not removed within twenty-four hours after the notice to remove is posted, the public works director may authorize impoundment and direct the removal and storage of the solid waste container and the disposal of its contents. The actual removal may be carried out by city staff or city-approved Franchisee with express direction from public works director.
4. All solid waste containers are required to have identification written in a visible location on the side of the container showing the name of the company or owner and a contact phone number. If a container is discovered in the City of La Habra and the container does not have the required identification, and/or the phone number does not work or is disconnected, the public works director may authorize immediate impoundment and direct removal and storage of the solid waste container and the disposal of its contents. The actual removal may be carried out by city staff or city-approved Franchisee with express direction from public works director. The unidentified solid waste container shall be marked with a tag indicating the date and location of its discovery and shall be stored for thirty calendar days at a location selected by the city. Any claims for an unidentified solid waste container shall be presented to the director of public works or the director's designee, and shall be accompanied by proof of ownership of the solid waste container. A person demonstrating proof of ownership of an unidentified solid waste container stored by the city shall pay all required fines and fees along with reimbursing the city for the actual cost of removal, storage and disposal of its contents, which cost shall be paid

by the owner before the solid waste container is returned to the owner prior to the solid waste container being released by the city.

5. If the identity and contact information of the owner of a solid waste container that has been removed by the city is known to the public works director, the public works director shall promptly cause a notice of impoundment to be mailed to the owner to claim the stored property. The notice of impoundment shall advise the owner of the nature of the violation and of its right to contest the violation pursuant to subsection D of this section.
6. If the solid waste container is not claimed within thirty days after removal and notice to the owner, or thirty days after removal if the identity and contact information of the owner is unknown, and whose impoundment has not been contested pursuant to subsection D, the solid waste container and its contents shall be deemed abandoned property and may be disposed of accordingly.
7. After an owner of a solid waste container has once been provided a notice to remove for violating this chapter, the owner thereof shall be deemed to have actual notice of the provisions of this chapter, including the prohibition of placement of any unlawful solid waste containers. In the event of a subsequent placement of a solid waste container determined to be owned and/or maintained by the same owner, irrespective of the name under which the unlawful business is operated, the public works director or the director's designee may immediately, without the posting of a notice to remove, direct the removal and storage of the unlawfully placed solid waste container and shall, in such case, give a notice of impoundment to the owner to claim the solid waste container. The notice of impoundment shall advise the owner of the nature of the violation and of its right to contest the violation pursuant to subsection D. In such event, the owner shall be responsible to reimburse the city for the actual cost of removal, storage and disposal of its contents, which cost shall be paid by the owner before the solid waste container is returned to the owner. If the solid waste container is unclaimed after notice of impoundment is mailed to the owner and the expiration of the period set forth in subsection (C)(4), the solid waste container and its contents shall be deemed abandoned property and may be disposed of accordingly.
8. The owner of the unlawful solid waste container shall be responsible to reimburse the city for the actual cost of the removal, storage and disposal. All amounts due to the city for the cost of the removal, storage and disposal shall be paid before the solid waste container is returned to the owner. The costs incurred by the city for removal, storage and disposal shall constitute a debt owed to the city by the owner, who shall be liable therefor in an action by the city for the recovery of such amounts.
9. The fees related to the impoundment, emptying, storage and administrative processing of impounded solid waste containers shall be set by city council resolution.

D. Administrative Hearing.

1. Request for Hearing. Any responsible party to whom a notice to remove or notice of impoundment has been issued may contest that there was a violation of this section or that he or she is the responsible party by filing a written request with the city manager for a hearing within ten business days from the date of notice. However, this chapter does not limit the city from utilizing any necessary criminal, civil and/or administrative remedies.

2. Administrative Hearing and Judicial Review. The procedure for the conduct of the hearing and the options for judicial review shall be according to the procedures for administrative citations set forth in Chapter 1.20 of this chapter.

ARTICLE IV. REQUIREMENTS FOR RESIDENTIAL AND COMMERCIAL PREMISES

8.04.270. Requirements for Single Family Generators.

Single-family organic waste generators shall comply with the following requirements:

(A) Shall subscribe to the city's collection services for all solid waste generated on their premises as described below in Section 8.04.270(b). The 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; and adjust the Generator's service level for its collection services as requested by the city. Generators may additionally manage their organic waste by preventing or reducing their organic waste, managing organic waste on site, and/or using a community composting site.

(B) Shall participate in the city's organic waste collection service(s) by placing designated materials in designated containers as described below, and shall not place prohibited container contaminants in collection containers.

(C) Shall place source separated green container organic waste, including food waste, in the green container; source separated recyclable materials in the blue container; and gray container waste in the gray container. Generators shall not place materials designated for the gray container into the green container or blue container.

8.04.280. Requirements for Commercial Businesses.

Generators that are commercial businesses, including multi-family residential dwellings, shall:

(a) Subscribe to city's three-container collection services and comply with requirements of those services as described below in Section 8.04.280 (b), except commercial businesses that meet the self-hauler requirements in Section 8.04.290 of this Article. City shall have the right to review the number and size of a generator's 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; and, commercial businesses shall adjust their service level for their collection services as requested by the city.

- (b) Except commercial businesses that meet the self-hauler requirements in Section 8.04.290 of this Article, generators shall participate in the city's organic waste collection service(s) by placing designated materials in designated containers as described below. Generators shall place source separated organic waste, including food waste, in the green container; source separated recyclable materials in the blue container; and source separated refuse or mixed waste in the gray container. Generator shall not place materials designated for the gray container into the green container or blue container.
- (c) Supply and allow access to adequate number, size and location of collection containers with sufficient labels or colors (conforming with Sections 8.04.280(d)(1) and 8.04.280(d)(2) below) for employees, franchisees, tenants, and customers, consistent with city's blue container, green container, and gray container collection service or, if self-hauling, per the commercial businesses' instructions to support its compliance with its self-haul program, in accordance with Section 8.04.290.
- (d) Excluding multi-family residential dwellings, provide containers for the collection of source separated green container organic waste and source separated recyclable materials in all indoor and outdoor areas where disposal containers are provided for customers, for materials generated by that business. 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 business does not have to provide that particular container in all areas where disposal containers are provided for customers. The containers provided by the business shall have either:
 - 1. A body or 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. A 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.
 - 2. Container labels that include language or illustrations, or both, indicating the primary material accepted and the primary materials prohibited in that container, or containers with imprinted text or illustrations 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.
- (e) Excluding multi-family residential dwellings, prohibit employees from placing materials in a container not designated for those materials in 8.04.280 of this Article. To the extent practical, this should be achieved through education, training, Inspections, and/or other measures.

- (f) Excluding multi-family residential dwellings, periodically inspect blue container, green container, and gray containers for contamination and inform employees if containers are contaminated and of the requirements to keep contaminants out of those containers.
- (g) Annually provide information to employees, franchisees, tenants, and customers about organic waste recovery requirements and about proper sorting of source separated green container organic waste and source separated recyclable materials.
- (h) Provide education information before or within fourteen (14) days of occupation of the premises to new tenants that describes requirements to keep source separated green container organic waste and source separated recyclable materials separate from gray container waste (when applicable) and the location of containers and the rules governing their use at each property.
- (i) Provide or arrange access for city or its agent to their properties during all Inspections conducted in accordance with Section 8.04.350 of this ordinance to confirm compliance with the requirements of this ordinance.
- (j) Accommodate and cooperate with city's remote monitoring program (if implemented) for Inspection of the contents of containers for prohibited container contaminants and to evaluate generator's compliance. The remote monitoring program shall involve installation of remote monitoring equipment on or in the blue containers, green containers, and gray containers or on franchisee's vehicles.
- (k) At commercial business' option and subject to any approval required from the city, implement a remote monitoring program for Inspection of the contents of its blue containers, green containers, and gray containers for the purpose of monitoring the contents of containers to determine appropriate levels of service and to identify prohibited container contaminants. Generators may install remote monitoring devices on or in the blue containers, green containers, and gray containers subject to written notification to or approval by the city.
- (l) If a commercial business wants to self-haul any portion of its waste stream, meet the self-hauler requirements in Section 8.04.290 of this chapter.
- (m) Nothing in this section prohibits a generator from preventing or reducing waste generation, managing organic waste on site, or using a community composting site.
- (n) Commercial businesses that are tier one or tier two commercial edible food generators shall comply with food recovery requirements, pursuant to Section 8.04.310.

8.04.290. Self-Hauler Requirement.

- (A) Self-haulers shall source separate all recyclable materials and organic waste (materials that the city otherwise requires generators to separate for collection in the city's organics and recycling collection program) generated on-site from solid waste in a manner consistent with Section 8.04.270 for single-family waste generators, and Section 8.04.280 for commercial businesses and multi-family residential dwellings, or shall haul organic waste to a high diversion organic waste processing facility.

- (B) Self-haulers shall haul their source separated recyclable materials to a facility that recovers those materials; and haul their source separated green container organic waste to a solid waste facility, operation, activity, or property that processes or recovers source separated organic waste. Alternatively, self-haulers may haul organic waste to a high diversion organic waste processing facility.
- (C) Self-haulers that are commercial businesses (including multi-family residential dwellings) shall keep a record of the amount of organic waste delivered to each solid waste facility, operation, activity, or property that processes or recovers organic waste; this record shall be subject to inspection by the city. The records shall include the following information:
 - (1) Delivery receipts and weight tickets from the entity accepting the waste.
 - (2) The amount of material in cubic yards or tons transported by the generator 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 number of loads, and the entities that received the organic waste.
- (D) Self-haulers that are commercial businesses (including multi-family self-haulers) shall provide information collected in Section 8.04.290 (C) to the city if requested.
- (E) A residential organic waste generator that self-hauls organic waste is not required to record or report information in Section 8.04.290 (C).

8.04.300. Waiver for Commercial Generators.

- (A) De Minimis Waivers: The city may waive a commercial business' obligation (including multi-family residential dwellings) to comply with some or all of the organic waste requirements of this Article if the commercial business provides documentation that the business generates below a certain amount of organic waste material as described in section below. Commercial businesses requesting a de minimis waiver shall:
 - (1) Submit an application specifying the services that for which they are requesting a waiver.
 - (2) Provide documentation that either:
 - i. The total solid waste collected from commercial businesses is two (2) cubic yards or more per week and organic waste subject to collection in a green container comprises fewer than twenty (20) gallons per week; or,
 - ii. The commercial business' total solid waste collection service is less than two cubic yards per week and organic waste subject to collection in a blue

container or green container comprises less than ten (10) gallons per week per applicable container of the business' total waste.

- (3) Notify city if circumstances change such that commercial business's organic waste exceeds threshold required for waiver, in which case waiver will be rescinded.
- (4) Provide written verification of eligibility for de minimis waiver every 5 years, if city has approved de minimis waiver.

8.04.290.1-Physical Space Waivers

A. Physical Space Waivers: city may waive a commercial business' or property owner's obligations (including multi-family residential dwellings) to comply with some or all of the recyclable materials and/or organic waste collection service requirements if the city has sufficient evidence from its own staff, a hauler, licensed architect, or licensed engineer demonstrating that the premises lacks adequate space for the collection containers required for compliance with the organic waste collection requirements of this chapter. The determination on whether to grant the physical space waiver shall be made by the public works director or his designee.

A commercial business or property owner may request a physical space waiver through the following process:

- i. Submit an application form specifying the type(s) of collection services for which they are requesting a compliance waiver.
- ii. Provide documentation that the Premises lacks adequate space for blue containers and/or green containers including documentation from its hauler, licensed architect, or licensed engineer.
- iii. Provide written verification to city that it is still eligible for physical space waiver every five years, if city has approved application for a physical space waiver.

ARTICLE V. EDIBLE FOOD RECOVERY

8.04.310. Requirements for Commercial Edible Food Generators.

- (A) Tier one commercial edible food generators must comply with the requirements of this Section 8.04.310 commencing January 1, 2022, and tier two commercial edible food generators must comply commencing January 1, 2024.
- (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) Shall not intentionally spoil edible food that is capable of being recovered by a food recovery organization or a food recovery service
- (4) Allow 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:
 - i. A list of each food recovery service or organization that collects or receives its edible food pursuant to a contract or written agreement.
 - ii. A copy of all contracts or written agreements.
 - iii. A record of the following information for each of those food recovery services or food recovery organizations:
 1. The name, address and contact information of the food recovery service or food recovery organization.
 2. The types of food that will be collected by or self-hauled to the food recovery service or food recovery organization.
 3. The established frequency that food will be collected or self-hauled.
 4. 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) Nothing in this Article 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 sharing tables 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).

8.04.320. 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, shall maintain the following records:

- (1) The name, address, and contact information for each commercial edible food generator that the service collects edible food from.
- (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, shall maintain the following records:

- (1) The name, address, and contact information for each commercial edible food generator that the organization received edible food from.
- (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 received edible food from for food recovery.

C. 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 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.

D. Food recovery capacity planning

Food recovery services and food recovery organizations. To support edible food recovery capacity planning assessments or other studies conducted by the county, or city, 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 sixty (60) days, unless a shorter timeframe is otherwise specified by the city.

8.04.330. Requirements for Hauler and Facility Operators.

(a) Requirements for haulers

(1) Exclusive franchised hauler providing residential, commercial, or industrial organic waste collection services to generators within the city's boundaries shall meet the following requirements and standards as a condition of approval of a contract, agreement, or other authorization with the city to collect organic waste:

(A) Upon the City's request, or if the hauler changes any facility(ies) to which it delivers material, report to the City the facilities to which they will transport organic waste including facilities for source separated recyclable materials and source separated green container organic waste.

(B) Transport source separated recyclable materials and source separated green container organic waste to a facility, operation, activity, or property that recovers organic waste as defined in 14 CCR, Division 7, Chapter 12, Article 2.

(C) Obtain approval from the city to haul organic waste, unless it is transporting source separated organic waste to a community composting site or lawfully transporting C&D in a manner that complies with 14 CCR Section 18989.1, this Article, and city's C&D ordinance.

(b) Requirements for facility operators and community composting operations

1) Owners of facilities, operations, and activities that recover organic waste, including, but not limited to, compost facilities, in-vessel digestion facilities, and publicly-owned treatment works shall, upon city request, provide information regarding available and potential new or expanded capacity at their facilities, operations, and activities, including information about throughput and permitted capacity necessary for planning purposes. Entities contacted by the city shall respond within sixty (60) days.

2) Community composting operators, 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 sixty (60) days.

8.04.340. Procurement Requirements.

A. Landscaping. Any person that provides services directly to the City for landscaping maintenance, renovation, and construction shall:

- (1) Use compost and mulch, as practicable, produced from recovered organic waste, for all landscaping renovations, construction, or maintenance performed for the city, whenever available, and capable of meeting quality standards.
- (2) Keep and provide records of procurement of recovered organic waste products (either through purchase or acquisition) to city, upon completion of projects. Information to be provided shall include:
 - i. General description of how and where the product was used and if applicable, applied;
 - ii. Source of product, including name, physical location, and contact information for each entity, operation, or facility from whom the recovered organic waste products were procured;
 - iii. Type of product;
 - iv. Quantity of each product; and,
 - v. Invoice or other record demonstrating purchase or procurement.

B. Paper products. All vendors providing paper products and printing and writing paper shall:

- (1) If fitness and quality are equal, provide recycled-content paper products and recycled-content printing and writing paper that consists of at least 30 percent, by fiber weight, postconsumer fiber instead of non-recycled products whenever recycled paper products and printing and writing paper are available at the same or lesser total cost than non-recycled items or at a total cost of no more than ten (10) % of the total cost for non-recycled items.
- (2) Certify in writing, the minimum percentage of postconsumer materials in the paper products and printing and writing paper offered or sold to the city. This certification requirement may be waived if the percentage of postconsumer material in the paper products, printing and writing paper or both can be verified by a product label, catalog, invoice, or a manufacturer or vendor internet website. Provide records to the city's recovered organic waste product procurement recordkeeping staff, in accordance with the city's recycled-content paper procurement policy(ies) of all paper products and printing and writing paper purchases within thirty (30) days of the purchase (both recycled-content and non-recycled content, if any is purchased) made by any division or department or employee of the city. Records shall include a copy (electronic or paper) of the invoice or other documentation of purchase, written certifications as required in Sections 8.04.340(b)(3) and 8.04.340(b)(4) of this chapter for recycled-content purchases, purchaser name, quantity purchased, date purchased, and

recycled content (including products that contain none), and if non-recycled content paper products or printing and writing papers are provided, include a description of why recycled-content paper products or printing and writing papers were not provided.

ARTICLE VI. ENFORCEMENT

8.04.350. 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 article by organic waste generators, commercial businesses (including multi-family residential dwellings), property owners, commercial edible food generators, haulers, self-haulers, food recovery services, and food recovery organizations, subject to applicable laws. Without a warrant, this section does not allow city to enter the interior and/or restricted areas (i.e., behind a gate or fence) of a private residential property for inspection.

B. Regulated entities shall provide or arrange for access during all Inspections (with the exception of residential property interiors) and shall cooperate with the city's employee or its designated entity/designee during such Inspections and investigations. Such Inspections and investigations may include confirmation of proper placement of materials in containers, edible food recovery activities, records, or any other requirement of this Article described herein. Failure to provide or arrange for: (i) access to an entity's premises; or (ii) access to records for any Inspection or investigation is a violation of this Article and may result in civil, criminal and/or administrative penalties.

C. Any records obtained by a city during its Inspections 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 or other investigations as reasonably necessary to further the goals of this Article, subject to applicable laws.

E. City shall receive written complaints from persons regarding an entity that may be potentially non-compliant with SB 1383 Regulations, including receipt of anonymous complaints.

8.04.360. Enforcement.

A. Violation of any provision of this article shall constitute grounds for issuance of a notice of violation and assessment of civil, criminal and/or administrative penalties by a city enforcement official or representative. Administrative enforcement actions under this article may include the issuance of an administrative citation and assessment of a fine. The city's penalties are included in Section 1.08.010 and Section 1.20.050 are hereby incorporated in their entirety, as modified from time to time, and shall govern the imposition, collection and enforcement of this Article.

B. Other remedies allowed by law may be used, including civil action or prosecution as misdemeanor or infraction. The city may pursue civil actions in California courts to seek recovery of unpaid administrative citations. The 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. Responsible entity for enforcement

- (1) Enforcement pursuant to this article may be undertaken by the city enforcement official, which may be the city manager or his/her designee, designated entity, legal counsel, or combination thereof.
- (2) Enforcement may also be undertaken by a regional or county agency enforcement Official, designated by the city, in consultation with city enforcement official.
- (3) City enforcement official will interpret ordinance; determine the applicability of waivers, if violation(s) have occurred; implement enforcement actions; and, determine if compliance standards are met.
- (4) City enforcement official(s) may issue notices of violation(s).

D. Process for enforcement

- (1) City enforcement officials or designee will monitor compliance with the ordinance randomly and through compliance reviews, route reviews, investigation of complaints, and an Inspection program. Section 8.04.360 establishes city's right to conduct Inspections and investigations.
- (2) City may issue an official notification to notify regulated entities of its obligations under the ordinance.
- (3) City shall issue a notice of violation requiring compliance within 60 days of issuance of the notice.
- (4) Absent compliance by the respondent within the deadline set forth in the notice of violation, city shall commence an enforcement action pursuant to Section 1.08.010 and Section 1.20.
- (5) Notices shall be sent to "owner" at the official address of the owner maintained by the tax franchisee for the city or if no such address is available, to the owner at the address of the dwelling or commercial property or to the party responsible for paying for the collection services, depending upon available information.

E. Penalty amounts for types of violations

Consistent with Section 1.20.050, the penalty levels are as follows:

- (1) For a first violation, the amount of the base penalty shall be \$100.00 per violation.
- (2) For a second violation, the amount of the base penalty shall be \$200.00 per violation.
- (3) For a third or subsequent violation, the amount of the base penalty shall be \$500.00 per violation.
- (4) In addition to the recommended penalties, the city's enforcement official may commence other civil, criminal and/or administrative actions to address the violations.

F. Compliance deadline extension considerations

The city may extend the compliance deadlines set forth in a notice of violation issued in accordance with Section 8.04.360 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. Administrative Citation Appeals Process

Consistent with Chapter 1.20.060, persons receiving an administrative citation containing a penalty for an uncorrected violation may request a hearing to appeal the citation. 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 will appoint a hearing officer who shall conduct the hearing and issue a final written order.

H. Education period for non-compliance

Beginning January 1, 2022 and through December 31, 2023, city or its designee will conduct Inspections, route reviews or waste evaluations, and compliance reviews, depending upon the type of regulated entity, to determine compliance, and if city determines that organic waste generator, self-hauler, hauler, tier one commercial edible food generator, food recovery organization, food recovery service, or other entity is not in compliance, it shall provide

educational materials to the entity describing its obligations under this Article and a notice that compliance is required by January 1, 2022, and that violations may be subject to administrative civil penalties starting on January 1, 2022.

I. Civil penalties for non-compliance

Beginning January 1, 2022, if the city determines that an organic waste generator, 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 Article, it shall document the noncompliance or violation, issue a notice of violation, and take enforcement action pursuant to Section 8.04.360, as needed.