

ORDINANCE NO. 21-1431

AN ORDINANCE OF THE CITY OF HERMOSA BEACH,
CALIFORNIA, AMENDING VARIOUS SECTIONS OF
CHAPTER 8.12 OF AND ADDING CHAPTER 8.14 TO THE
HERMOSA BEACH MUNICIPAL CODE REGARDING SOLID
WASTE

The City Council of the City of Hermosa Beach does hereby ordain as follows:

Section 1. Section 8.12.010 of the Hermosa Beach Municipal Code is amended to read in full as follows:

8.12.010 Definitions.

A. For the purposes of this chapter, the words, terms and phrases as defined in this section shall be construed as set forth in Section 8.14.030 or as set forth below, unless it is apparent from the context that a different meaning is intended:

"Administrative authority" means the city manager, or his/her designee.

"Bulky goods" or "bulky items" means oversized or overweight household articles placed curbside by a residential householder or owner, which oversized or overweight household articles have weights, volumes or dimensions which cannot be accommodated by solid waste containers for residential premises, such as stoves, refrigerators, water heaters, washing machines, and other small household appliances, furniture, sofas, mattresses, box springs, large rugs, and organic waste. Bulky items do not include car bodies, tires, construction and demolition debris or items requiring more than two (2) persons to remove. Electronic waste may be collected as bulky items if provided for in a collection agreement

"Collection" means the operation of gathering together within the city, and transporting by means of a motor vehicle to the point of disposal or processing, any solid waste or recyclables.

"Collector" means any person: (a) who has been awarded an exclusive contract to provide residential or commercial/industrial solid waste or recyclables collection services in the city, or (b) who has been issued a permit or nonexclusive contract to provide solid waste handling services to state facilities.

"Collector agreement" or "Franchise agreement" is an agreement between a collector and the city to collect or dispose of solid waste in accordance with the provisions of this chapter.

"Commercial/industrial business owner" means any person, firm, corporation or other enterprise or organization holding or occupying, alone or with others

commercial/industrial premises, whether or not it is the holder of the title or the owner of record of the commercial/industrial premises.

"Commercial/industrial collector" means a collector which collects solid waste and recyclables from commercial/industrial premises.

"Commercial/industrial premises" means all occupied real property in the city, except property occupied by federal, state or local governmental agencies which do not consent to their inclusion, and except residential premises as defined in this section, and includes, without limitation, wholesale and retail establishments, restaurants and other food establishments, bars, stores, shops, offices, industrial establishments, manufacturing establishments, service stations, repair, research and development establishments, professional, services, sports or recreational facilities, construction and demolition sites, a multiple dwelling containing five or more dwelling units, and any other commercial or industrial business facilities, structures, sites, or establishments in the city.

"Construction site" or "demolition site" means any real property in the city in, on or from which a building or structure is being fabricated, assembled, erected or demolished, and which produces construction or demolition solid waste which must be removed from the property, and requires the use of commercial refuse containers.

"Construction or demolition waste" means C&D as defined in Section 8.14.030(I).

"Container" means any vessel, tank, receptacle, box or bin permitted to be used for the purpose of holding solid waste or recyclables for collection.

"Disposal" or "dispose" means the ultimate disposition of solid waste collected by contractor at a landfill or otherwise in full regulatory compliance.

"Electronic waste" means electronic equipment, including stereos, televisions, computers and monitors, VCRs, microwaves and other similar items commonly known as "brown goods" and "e-waste".

"Exclusive solid waste handling services" means any action by the city council, whether by franchise, contract, license, permit or otherwise, whereby the city itself, or one or more other local agencies or solid waste enterprises, has the exclusive right to provide solid waste handling services of any class or type within all or any part of the territory of the city.

"Franchisee" or "franchised private collector" means a collector that has been authorized to collect solid waste under this chapter and pursuant to the terms of a collector agreement.

"Hazardous waste" means all substances defined as Hazardous Waste, acutely Hazardous Waste, or extremely Hazardous Waste by the State of California in Health and Safety Code §25110.02, §25115, and §25117 or in the future amendments to or recodifications of such statutes or identified and listed as Hazardous Waste by the US Environmental Protection Agency (EPA), pursuant to the Federal Resource Conservation

and Recovery Act (42 USC §6901 et seq.), all future amendments thereto, and all rules and regulations promulgated there under.

"Holiday" means:

New Year's Day;

Memorial Day;

Independence Day;

Labor Day;

Thanksgiving Day;

Christmas Day.

"Holiday" also means any other day designated as such in a contract between a collector and the labor union serving as the exclusive representative of that collector's employees, provided the holiday is established or recognized by resolution of the city council.

"In the city" or "within the city" means within the limits of the city as such limits exist on the effective date of this chapter or may thereafter exist by virtue of the annexation of territory to or detachment of territory from the limits of the city.

"Person" means any individual, association, firm, partnership, corporation or any other group or combination thereof acting as a unit.

"Processing" means the reduction, separation, recovery and conversion of solid waste.

"Public agency" means any governmental agency or department thereof, whether federal, state or local.

"Recyclables" or "recyclable materials" means non-organic recyclables as defined in Section 8.14.030(II).

"Recycling" means the process of collecting, sorting, cleansing, treating and reconstituting materials that would otherwise become solid waste, and returning them to the economic mainstream in the form of raw material for new, reused or reconstituted products which meet the quality standards necessary to be used in the marketplace. Recycling does not include transformation as defined in Public Resources Code §40201.

"Residential collector" means a collector which collects solid waste and recyclables from residential premises.

"Residential householder" means any person or persons holding or occupying residential premises in the city, whether or not the owner of the residential premises.

"Residential owner" means the owner of any residential premises within the city.

"Residential premises" means any residential dwelling unit within the city, including, without limitation, multiple unit residential complexes, such as rental housing projects, condominiums, apartment houses, mixed condominiums and rental housing, and mobilehome parks, except any multiple or multi-family dwelling containing five or more dwelling units.

"Resource recovery" means any use of solid waste collected pursuant to this chapter, except for landfill disposal or transfer for landfill disposal. "Resource recovery" includes, but is not limited to, transformation, composting and multi-material recycling.

"Solid waste" means all discarded putrescible and non-putrescible solid, semisolid, and liquid wastes, including construction or demolition waste, bulky items, recyclable materials, and organic waste, or any combination thereof which are permitted to be disposed of in a Class III landfill, and which are included in the definition of "Non-hazardous Solid Waste" set forth in the California Code of Regulations. Solid waste may also be referred to as garbage, rubbish and refuse throughout this chapter and the terms may be used interchangeably. Solid waste must be generated by and at the physical location where the waste is collected.

"Solid waste enterprise" means any individual, partnership, joint venture, unincorporated private organization, or private corporation regularly engaged in the business of providing solid waste handling services.

"Solid waste handling services" means the collection, transportation, storage, transfer or processing of solid wastes for residential or commercial/industrial users or customers.

"Standard commercial/industrial solid waste container" means a state-of-the-art bin or solid waste container used in connection with commercial/ industrial premises with a two-, three-, four-, six- or eight-cubic yard capacity, designed for mechanical pick-up by collection vehicles and equipped with a lid, or where appropriate for the commercial/ industrial premises being served, a fifteen (15), twenty-five (25), thirty (30), forty (40) or fifty (50) cubic yard roll-off box or compactor, and shall include other types of containers suitable for the storage and collection of commercial/industrial solid waste if approved in writing by the city manager.

B. Nothing contained in this section shall be deemed to preclude the city and any solid waste enterprise from incorporating into any agreement for exclusive solid waste handling services definitions relating to their respective contractual rights and obligations which may differ from or augment those set forth herein.

Section 2. Subsection U. of Section 8.12.040 of the Hermosa Beach Municipal Code is amended to read in full as follows:

U. Requirements relating to compliance with and implementation of state and federal laws, rules or regulations pertaining to solid waste handling services, and to the implementation by the city of state-mandated programs, including, without limitation,

Chapter 8.14, the city's source reduction and recycling element and the city's household hazardous waste element.

Section 3. Subsection A. of Section 8.12.220 of the Hermosa Beach Municipal Code is amended to read in full as follows:

A. Approved Containers. It shall be the duty of every owner or occupant of a commercial/industrial premises or residential premises to maintain, in sanitary condition, collector-provided containers in compliance with Chapter 8.14. Containers shall be provided at collector's expense. Notwithstanding, a collector agreement may authorize owners or occupants to provide carts under designated circumstances

Section 4. Subsection A. of Section 8.12.270 of the Hermosa Beach Municipal Code is amended to read in full as follows:

A. Every commercial/industrial business served by a collector shall use the standard commercial/industrial containers provided by the collector, which containers are compatible with the collector's collection equipment and otherwise in compliance with Chapter 8.14.

Section 5. Section 8.12.280 of the Hermosa Beach Municipal Code is amended to read in full as follows:

8.12.280 Commercial/industrial--maintenance and placement of containers.

Containers shall be maintained in a clean and sanitary condition by the collector. Every commercial/industrial business owner shall provide a container location on the commercial/industrial premises and shall keep the area in good repair, clean and free of refuse outside of the container. Every collector shall remove any solid waste or litter that is spilled or deposited on the ground as a result of the collector's emptying of the container or other activities of the collector.

Section 6. Section 8.12.380 of the Hermosa Beach Municipal Code is amended to read in full as follows:

8.12.380 Residential householder exclusion.

No provision of this chapter shall prevent residential householders from collecting and disposing of occasional loads of solid waste generated in or on their residential premises, or from composting green waste, or from selling or disposing of recyclables or organic waste generated in or on their residential premises; provided, however, that no residential householder shall employ or engage any solid waste enterprise, other than the residential collector with a collector agreement, to haul or transport such materials to a transfer station or landfill. All residential householders shall also comply with the self-hauler requirements of Chapter 8.14.

Section 7. Chapter 8.14, titled “Mandatory Recycling and Organic Waste Disposal Reduction”, is hereby adopted and added to the Hermosa Beach Municipal Code to read in full as follows:

“MANDATORY RECYCLING AND ORGANIC WASTE DISPOSAL REDUCTION

8.14.010. PURPOSE AND FINDINGS

The City finds and declares:

- (a) State recycling law, Assembly Bill 939 of 1989, the California Integrated Waste Management Act of 1989 (California Public Resources Code Section 40000, et seq., as amended, supplemented, superseded, and replaced from time to time), requires cities and counties to reduce, reuse, and recycle (including composting) Solid Waste generated in their jurisdictions to the maximum extent feasible before any incineration or landfill disposal of waste, to conserve water, energy, and other natural resources, and to protect the environment.
- (b) State recycling law, Assembly Bill 341 of 2011 (approved by the Governor of the State of California on October 5, 2011, which amended Sections 41730, 41731, 41734, 41735, 41736, 41800, 42926, 44004, and 50001 of, and added Sections 40004, 41734.5, and 41780.01 and Chapter 12.8 (commencing with Section 42649) to Part 3 of Division 30 of, and added and repealed Section 41780.02 of, the Public Resources Code, as amended, supplemented, superseded and replaced from time to time), places requirements on businesses and Multi-Family property owners that generate a specified threshold amount of Solid Waste to arrange for recycling services and requires jurisdictions to implement a Mandatory Commercial Recycling program.
- (c) State organics recycling law, Assembly Bill 1826 of 2014 (approved by the Governor of the State of California on September 28, 2014, which added Chapter 12.9 (commencing with Section 42649.8) to Part 3 of Division 30 of the Public Resources Code, relating to Solid Waste, as amended, supplemented, superseded, and replaced from time to time), requires businesses and Multi-Family property owners that generate a specified threshold amount of Solid Waste, Recycling, and Organic Waste per week to arrange for recycling services for that waste, requires jurisdictions to implement a recycling program to divert Organic Waste from businesses subject to the law, and requires jurisdictions to implement a Mandatory Commercial Organics Recycling program.
- (d) SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016, requires CalRecycle to develop regulations to reduce organics in landfills as a source of methane. The regulations place requirements on multiple entities including jurisdictions, residential households, Commercial Businesses and business owners, Commercial Edible Food Generators, haulers, Self-Haulers, Food Recovery Organizations, and Food Recovery Services to support achievement of Statewide Organic Waste disposal reduction targets.

- (e) SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016, requires jurisdictions to adopt and enforce an ordinance or enforceable mechanism to implement relevant provisions of SB 1383 Regulations. This Chapter will also help reduce food insecurity by requiring Commercial Edible Food Generators to arrange to have the maximum amount of their Edible Food, that would otherwise be disposed, be recovered for human consumption.
- (f) Requirements in this Chapter are consistent with other adopted goals and policies of the City to reduce waste and lower emissions of greenhouse gases.
- (g) This Chapter is intended to supplement the City's general regulation of solid waste set forth in other portions of the City's Municipal Code, including, but not limited to, Chapter 8.12.

8.14.020. TITLE OF CHAPTER

This chapter shall be entitled "Mandatory Recycling and Organic Waste Disposal Reduction".

8.14.030. DEFINITIONS

- (a) "Blue Container" has the same meaning as in 14 CCR Section 18982.2(a)(5) and shall be used for the purpose of storage and collection of Source Separated Recyclable Materials or Source Separated Blue Container Organic Waste.
- (b) "CalRecycle" means California's Department of Resources Recycling and Recovery, which is the Department designated with responsibility for developing, implementing, and enforcing SB 1383 Regulations.
- (c) "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).
- (d) "City Enforcement Official" means the city manager or their authorized designee(s) who is/are partially or whole responsible for enforcing this Chapter.
- (e) "Commercial Business" or "Commercial" means a firm, partnership, proprietorship, joint-stock company, corporation, or association, whether for-profit or nonprofit, strip mall, industrial facility, or a multifamily residential dwelling, or as otherwise defined in 14 CCR Section 18982(a)(6). A Multi-Family Residential Dwelling that consists of fewer than five (5) units is not a Commercial Business for purposes of implementing this Chapter.
- (f) "Commercial Edible Food Generator" includes a Tier One or a Tier Two Commercial Edible Food Generator as defined in Sections 8.14.030(bbb) and 8.14.030(ccc) of this Chapter or as otherwise defined in 14 CCR Section 18982(a)(73) and (a)(74). For the purposes of this definition, Food Recovery

Organizations and Food Recovery Services are not Commercial Edible Food Generators pursuant to 14 CCR Section 18982(a)(7).

- (g) “Compliance Review” means a review of records by the City to determine compliance with this Chapter.
- (h) “Community Composting” means any activity that composts green material, agricultural material, food material, and vegetative food material, alone or in combination, and the total amount of feedstock and Compost on-site at any one time does not exceed 100 cubic yards and 750 square feet, as specified in 14 CCR Section 17855(a)(4); or, as otherwise defined by 14 CCR Section 18982(a)(8).
- (i) “Compost” has the same meaning as in 14 CCR Section 17896.2(a)(4), which stated, as of the effective date of this Chapter, that “Compost” means the product resulting from the controlled biological decomposition of organic Solid Wastes that are Source Separated from the municipal Solid Waste stream, or which are separated at a centralized facility.
- (j) “Compostable Plastics” or “Compostable Plastic” means plastic materials that meet the ASTM D6400 standard for compostability, or as otherwise described in 14 CCR Section 18984.1(a)(1)(A) or 18984.2(a)(1)(C).
- (k) “Container Contamination” or “Contaminated Container” means a container, regardless of color, that contains Prohibited Container Contaminants, or as otherwise defined in 14 CCR Section 18982(a)(55).
- (l) “C&D” means construction or demolition debris.
- (m) “Designated Source Separated Organic Waste Facility”, as defined in 14 CCR Section 18982(14.5), means a Solid Waste facility that accepts a Source Separated Organic Waste collection stream as defined in 14 CCR Section 17402(a)(26.6) and complies with one of the following:
 - (1) The facility is a “transfer/processor,” as defined in 14 CCR Section 18815.2(a)(62), that is in compliance with the reporting requirements of 14 CCR Section 18815.5(d), and meets or exceeds an annual average Source Separated organic content Recovery rate of 50 percent between January 1, 2022 and December 31, 2024 and 75 percent on and after January 1, 2025 as calculated pursuant to 14 CCR Section 18815.5(f) for Organic Waste received from the Source Separated Organic Waste collection stream.
 - (A) If a transfer/processor has an annual average Source Separated organic content Recovery rate lower than the rate required in Paragraph 1 of this definition for two (2) consecutive reporting periods, or three (3) reporting periods within three (3) years, the facility shall not qualify as a “Designated Source Separated Organic Waste Facility”.

- (2) The facility is a “composting operation” or “composting facility” as defined in 14 CCR Section 18815.2(a)(13), that pursuant to the reports submitted under 14 CCR Section 18815.7 demonstrates that the percent of the material removed for landfill disposal that is Organic Waste is less than the percent specified in 14 CCR Section 17409.5.8(c)(2) or 17409.5.8(c)(3), whichever is applicable, and, if applicable, complies with the digestate handling requirements specified in 14 CCR Section 17896.5.
- (A) If the percent of the material removed for landfill disposal that is Organic Waste is more than the percent specified in 14 CCR Section 17409.5.8(c)(2) or 17409.5.8(c)(3), for two (2) consecutive reporting periods, or three (3) reporting periods within three (3) years, the facility shall not qualify as a “Designated Source Separated Organic Waste Facility.” For the purposes of this Chapter, the reporting periods shall be consistent with those defined in 14 CCR Section 18815.2(a)(49).
- (n) “Edible Food” means food intended for human consumption, or as otherwise defined in 14 CCR Section 18982(a)(18). For the purposes of this Chapter or as otherwise defined in 14 CCR Section 18982(a)(18), “Edible Food” is not Solid Waste if it is recovered and not discarded. Nothing in this Chapter or in 14 CCR, Division 7, Chapter 12 requires or authorizes the Recovery of Edible Food that does not meet the food safety requirements of the California Retail Food Code.
- (o) “Enforcement Action” means an action of the City to address non-compliance with this Chapter including, but not limited to, issuing administrative citations, fines, penalties, or using other remedies.
- (p) “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 reasonable opinion would present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose City 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.
- (q) “Food Distributor” means a company that distributes food to entities including, but not limited to, Supermarkets and Grocery Stores, or as otherwise defined in 14 CCR Section 18982(a)(22).

- (r) “Food Facility” has the same meaning as in Section 113789 of the Health and Safety Code.
- (s) “Food Recovery” means actions to collect and distribute food for human consumption that otherwise would be disposed, or as otherwise defined in 14 CCR Section 18982(a)(24).
- (t) “Food Recovery Organization” means an entity that engages in the collection or receipt of Edible Food from Commercial Edible Food Generators and distributes that Edible Food to the public for Food Recovery either directly or through other entities or as otherwise defined in 14 CCR Section 18982(a)(25), including, but not limited to:
 - (1) A food bank as defined in Section 113783 of the Health and Safety Code;
 - (2) A nonprofit charitable organization as defined in Section 113841 of the Health and Safety code; and,
 - (3) A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.

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

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

- (u) “Food Recovery Service” means a person or entity that collects and transports Edible Food from a Commercial Edible Food Generator to a Food Recovery Organization or other entities for Food Recovery, or as otherwise defined in 14 CCR Section 18982(a)(26). A Food Recovery Service is not a Commercial Edible Food Generator for the purposes of this Chapter and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7).
- (v) “Food Scraps” means all food such as, but not limited to, fruits, vegetables, meat, poultry, seafood, shellfish, bones, rice, beans, pasta, bread, cheese, and eggshells. Food Scraps excludes fats, oils, and grease when such materials are Source Separated from other Food Scraps.
- (w) “Food Service Provider” means an entity primarily engaged in providing food services to institutional, governmental, Commercial, or industrial locations of others based on contractual arrangements with these types of organizations, or as otherwise defined in 14 CCR Section 18982(a)(27).

- (x) “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.
- (y) “Food Waste” means Food Scraps, Food-Soiled Paper, and Compostable Plastics.
- (z) “Gray Container” has the same meaning as in 14 CCR Section 18982.2(a)(28) and shall be used for the purpose of storage and collection of Gray Container Waste.
- (aa) “Green Container” has the same meaning as in 14 CCR Section 18982.2(a)(29) and shall be used for the purpose of storage and collection of Source Separated Green Container Organic Waste.
- (bb) “Grocery Store” means a store primarily engaged in the retail sale of canned food; dry goods; fresh fruits and vegetables; fresh meats, fish, and poultry; and any area that is not separately owned within the store where the food is prepared and served, including a bakery, deli, and meat and seafood departments, or as otherwise defined in 14 CCR Section 18982(a)(30).
- (cc) “Hauler Route” means the designated itinerary or sequence of stops for each segment of the City’s collection service area, or as otherwise defined in 14 CCR Section 18982(a)(31.5).
- (dd) “High Diversion Organic Waste Processing Facility” means a facility that is in compliance with the reporting requirements of 14 CCR Section 18815.5(d) and meets or exceeds an annual average Mixed Waste organic content Recovery rate of 50 percent between January 1, 2022 and December 31, 2024, and 75 percent after January 1, 2025, as calculated pursuant to 14 CCR Section 18815.5(e) for Organic Waste received from the “Mixed waste organic collection stream” as defined in 14 CCR Section 17402(a)(11.5); or, as otherwise defined in 14 CCR Section 18982(a)(33).
- (ee) “Inspection” means a site visit where a 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 set forth in this Chapter, or as otherwise defined in 14 CCR Section 18982(a)(35).
- (ff) “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 Chapter.
- (gg) “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 Chapter 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 Chapter 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 Chapter.

- (hh) “Local Education Agency” means a school district, charter school, or county office of education that is not subject to the control of city or county regulations related to Solid Waste, or as otherwise defined in 14 CCR Section 18982(a)(40).
- (ii) “Mixed Waste Organic Collection Stream” or “Mixed Waste” means Organic Waste collected in a container that is required by 14 CCR Sections 18984.1, 18984.2 or 18984.3 to be taken to a High Diversion Organic Waste Processing Facility or as otherwise defined in 14 CCR Section 17402(a)(11.5).
- (jj) “Multi-Family Residential Dwelling” 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.
- (kk) “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, or as otherwise defined in 14 CCR Section 18982(a)(41).
- (ll) “Non-Organic Recyclables” means non-putrescible and non-hazardous recyclable wastes including but not limited to bottles, cans, metals, plastics and glass, or as otherwise defined in 14 CCR Section 18982(a)(43).
- (mm) “Notice of Violation (NOV)” means a notice that a violation has occurred that includes a compliance date to avoid an action to seek penalties, or as otherwise defined in 14 CCR Section 18982(a)(45) or further explained in 14 CCR Section 18995.4.
- (nn) “Organic Waste” means Solid Wastes containing material originated from living organisms and their metabolic waste products, including but not limited to food, green material, landscape and pruning waste, organic textiles and carpets, lumber, wood, Paper Products, Printing and Writing Paper, manure, biosolids, digestate, and sludges or as otherwise defined in 14 CCR Section 18982(a)(46). Biosolids and digestate are as defined by 14 CCR Section 18982(a).

- (oo) “Organic Waste Generator” means a person or entity that is responsible for the initial creation of Organic Waste, or as otherwise defined in 14 CCR Section 18982(a)(48).
- (pp) “Paper Products” include, but are not limited to, paper janitorial supplies, cartons, wrapping, packaging, file folders, hanging files, corrugated boxes, tissue, and toweling, or as otherwise defined in 14 CCR Section 18982(a)(51).
- (qq) “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.
- (rr) “Recovery” means any activity or process described in 14 CCR Section 18983.1(b), or as otherwise defined in 14 CCR Section 18982(a)(49).
- (ss) “Restaurant” means an establishment primarily engaged in the retail sale of food and drinks for on-premises or immediate consumption, or as otherwise defined in 14 CCR Section 18982(a)(64).
- (tt) “Route Review” means a visual Inspection of containers along a Hauler Route for the purpose of determining Container Contamination, and may include mechanical Inspection methods such as the use of cameras, or as otherwise defined in 14 CCR Section 18982(a)(65).
- (uu) “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.
- (vv) “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.
- (ww) “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, or as otherwise defined in 14 CCR Section 18982(a)(66). Back-haul means generating and transporting Organic

Waste to a destination owned and operated by the generator using the generator's own employees and equipment, or as otherwise defined in 14 CCR Section 18982(a)(66)(A). Self-Haulers must also meet within one of the exceptions from the requirements of Section 8.12.020 set forth in Chapter 8.12.

- (xx) "Single-Family" means of, from, or pertaining to any residential premises with fewer than five (5) units.
- (yy) "Solid Waste" has the same meaning as defined in State Public Resources Code Section 40191, which defines Solid Waste as all putrescible and nonputrescible 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.
- (zz) "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 those materials for recycling or reuse in order to return them to the economic mainstream in the form of raw material for new, reused, or reconstituted products, which meet the quality standards necessary to be used in the marketplace, or as otherwise defined in 14 CCR Section 17402.5(b)(4). For the purposes of the Chapter, Source Separated shall include separation of materials by the generator, property owner, property owner's employee, property manager, or property manager's employee into different containers for the purpose of collection such that Source Separated materials are separated from Gray Container Waste/Mixed Waste or other Solid Waste for the purposes of collection and processing.

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

(bbb) "Tier One Commercial Edible Food Generator" means a Commercial Edible Food Generator that is one of the following:

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

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

(ccc) "Tier Two Commercial Edible Food Generator" means a Commercial Edible Food Generator that is one of the following:

- (1) Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.
- (2) Hotel with an on-site Food Facility and 200 or more rooms.
- (3) Health facility with an on-site Food Facility and 100 or more beds.
- (4) Large Venue.
- (5) Large Event.
- (6) A State agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet.
- (7) A Local Education Agency facility with an on-site Food Facility.

If the definition in 14 CCR Section 18982(a)(74) of Tier Two Commercial Edible Food Generator differs from this definition, the definition in 14 CCR Section 18982(a)(74) shall apply to this Chapter.

(ddd) "Uncontainerized Green Waste and Yard Waste Collection Service" or "Uncontainerized Service" means a collection service that collects green waste and yard waste that is placed in a pile or bagged for collection on the street in front

of a generator's house or place of business for collection and transport to a facility that recovers Source Separated Organic Waste, or as otherwise defined in 14 CCR Section 189852(a)(75).

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

8.14.040. REQUIREMENTS FOR SINGLE-FAMILY GENERATORS

Single-Family Organic Waste Generators shall comply with the following requirements except Single-Family generators that meet the Self-Hauler requirements in Section 8.14.100 of this Chapter:

- (a) Shall subscribe to City's Organic Waste collection services for all Organic Waste generated as described below in Section 8.14.040(b). 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, Single-Family generators shall adjust its 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 pursuant to 14 CCR Section 18984.9(c).
- (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.
 - (1) A three- and three-plus-container collection service (Blue Container, Green Container, and Gray Container)
 - (A) Generator 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.

SECTION 8.14.050. REQUIREMENTS FOR COMMERCIAL BUSINESSES

Generators that are Commercial Businesses, including Multi-Family Residential Dwellings, shall:

- (a) Subscribe to City's collection services and comply with requirements of those services as described below in this Section, except Commercial Businesses that meet the Self-Hauler requirements in Section 8.14.100 of this Chapter. 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) Subscribed to Non-organic Recyclables service if the customer generates 4 cubic yards or more of solid waste weekly or if otherwise required by law.
- (c) Except Commercial Businesses that meet the Self-Hauler requirements in Section 8.14.100, participate in the City's Organic Waste collection service(s) by placing designated materials in designated containers as described below.
 - (1) A three- and three-plus-container collection service (Blue Container, Green Container, and Gray Container)
 - (A) Generator 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. Generator may place Recyclable Materials in Gray Container if mixed waste material recovery service is utilized and approved by the City. Generator shall not place materials designated for the Gray Container into the Green Container or Blue Container.
- (d) Supply and allow access to adequate number, size and location of collection containers with sufficient labels or colors (conforming with Sections 8.14.050(e)(1) and 8.14.050(e)(2) below) for employees, contractors, tenants, and customers, consistent with City's collection service or, if self-hauling, per the Commercial Businesses' instructions to support its compliance with its self-haul program, in accordance with Section 8.14.100.
- (e) 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. Pursuant to 14 CCR Section 18984.9(b), 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 graphic images, or both, indicating the primary material accepted and the primary materials prohibited in that container, or containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the container. Pursuant 14 CCR Section 18984.8, the container labeling requirements are required on new containers commencing January 1, 2022.
- (f) Multi-Family Residential Dwellings are not required to comply with container placement requirements or labeling requirement in Section 8.14.050(e) pursuant to 14 CCR Section 18984.9(b).
- (g) To the extent practical through education, training, Inspection, and/or other measures, excluding Multi-Family Residential Dwellings, prohibit employees from placing materials in a container not designated for those materials per the 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 8.14.100.
- (h) Excluding Multi-Family Residential Dwellings, periodically inspect all containers for contamination and inform employees if containers are contaminated and of the requirements to keep contaminants out of those containers pursuant to 14 CCR Section 18984.9(b)(3).
- (i) Annually provide information to employees, contractors, tenants, and customers about Organic Waste Recovery requirements and about proper sorting of Source Separated Green Container Organic Waste and Source Separated Recyclable Materials.
- (j) 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.
- (k) Provide or arrange access for City or its agent to their properties during all Inspections conducted in accordance with Section 8.14.110 of this Chapter to confirm compliance with the requirements of this Chapter.
- (l) If a Commercial Business wants to self-haul, meet the Self-Hauler requirements in Section 8.14.100 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 pursuant to 14 CCR Section 18984.9(c).

- (n) Commercial Businesses that are Tier One or Tier Two Commercial Edible Food Generators shall comply with Food Recovery requirements, pursuant to Section 8.14.070.

8.14.060. WAIVERS FOR 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 Chapter if the Commercial Business provides documentation that the business generates below a certain amount of Organic Waste material as described in Section 8.14.060(a)(2) below. Commercial Businesses requesting a de minimis waiver shall:
 - (1) Submit an application specifying the services that they are requesting a waiver from and provide documentation as noted in Section 8.14.060(a)(2) below.
 - (2) Provide documentation that either:
 - (A) The Commercial Business' total Solid Waste collection service is two cubic yards or more per week and Organic Waste subject to collection in a Blue Container or Green Container comprises less than 20 gallons per week per applicable container of the business' total waste; or,
 - (B) 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 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.
- (b) 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 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 Section 8.14.050.

A Commercial Business or property owner may request a physical space waiver through the following process:

- (1) Submit an application form specifying the type(s) of collection services for which they are requesting a compliance waiver.
 - (2) 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.
 - (3) Provide written verification to the City that it is still eligible for physical space waiver every five years, if City has approved application for a physical space waiver.
- (c) The City may provide any additional waivers of the requirements of this Chapter to the extent permitted by applicable law. The City Manager or designee shall be responsible for determining the grounds for the waiver, its scope, and appropriate administration.
- (d) Review and Approval of Waivers by City. Review and approval of waivers will be the responsibility of the City Manager or their designee.

8.14.070. REQUIREMENTS FOR COMMERCIAL EDIBLE FOOD GENERATORS

- (a) Tier One Commercial Edible Food Generators must comply with the requirements of this Section 8.14.070 commencing January 1, 2022, and Tier Two Commercial Edible Food Generators must comply commencing January 1, 2023.
- (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, 2023.
- (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 may be provided to the City upon request that include the following information, or as otherwise specified in 14 CCR Section 18991.4:
 - (A) A list of each Food Recovery Service or organization that collects or receives its Edible Food pursuant to a contract or written agreement established under 14 CCR Section 18991.3(b).
 - (B) A copy of all contracts or written agreements established under 14 CCR Section 18991.3(b).
 - (C) A record of the following information for each of those Food Recovery Services or Food Recovery Organizations:
 - (i) The name, address and contact information of the Food Recovery Service or Food Recovery Organization.
 - (ii) The types of food that will be collected by or self-hauled to the Food Recovery Service or Food Recovery Organization.
 - (iii) The established frequency that food will be collected or self-hauled.
 - (iv) The quantity of food, measured in pounds recovered per month, collected or self-hauled to a Food Recovery Service or Food Recovery Organization for Food Recovery.
- (d) Nothing in this Chapter shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share table and school food donation guidance pursuant to Senate Bill 557 of 2017 (approved by the Governor of the State of California on September 25, 2017, which added Article 13 [commencing with Section 49580] to Chapter 9 of Part 27 of Division 4 of Title 2 of the Education Code, and to amend Section 114079 of the Health and Safety Code, relating to food safety, as amended, supplemented, superseded and replaced from time to time).

8.14.080. REQUIREMENTS FOR FOOD RECOVERY ORGANIZATIONS AND SERVICES

- (a) Food Recovery Services collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(1):
 - (1) The name, address, and contact information for each Commercial Edible Food Generator from which the service collects Edible Food.
 - (2) The quantity in pounds of Edible Food collected from each Commercial Edible Food Generator per month.

- (3) The quantity in pounds of Edible Food transported to each Food Recovery Organization per month.
 - (4) The name, address, and contact information for each Food Recovery Organization that the Food Recovery Service transports Edible Food to for Food Recovery.
- (b) Food Recovery Organizations collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(2):
- (1) The name, address, and contact information for each Commercial Edible Food Generator from which the organization receives Edible Food.
 - (2) The quantity in pounds of Edible Food received from each Commercial Edible Food Generator per month.
 - (3) The name, address, and contact information for each Food Recovery Service that the organization receives Edible Food from for Food Recovery.
- (c) Food Recovery Organizations and Food Recovery Services that have their primary address physically located in the City and contract with or have written agreements with one or more Commercial Edible Food Generators pursuant to 14 CCR Section 18991.3(b) shall report to the City it is located in the total pounds of Edible Food recovered in the previous calendar year from the Tier One and Tier Two Commercial Edible Food Generators they have established a contract or written agreement with pursuant to 14 CCR Section 18991.3(b) no later than February 15th annually.
- (d) Food Recovery Capacity Planning
- (1) Food Recovery Services and Food Recovery Organizations. In order to support Edible Food Recovery capacity planning assessments or other studies conducted by the County, City, special district that provides solid waste collection services, or its designated entity, Food Recovery Services and Food Recovery Organizations operating in the City shall provide information and consultation to the City, upon request, regarding existing, or proposed new or expanded, Food Recovery capacity that could be accessed by the City and its Commercial Edible Food Generators. A Food Recovery Service or Food Recovery Organization contacted by the City shall respond to such request for information within 60 days, unless a shorter timeframe is otherwise specified by the City.

8.14.090. REQUIREMENTS FOR HAULERS AND FACILITY OPERATORS

- (a) Requirements for Haulers

- (1) Permitted haulers 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) Through written notice to the City annually on or before February 15th identify the facilities to which they will transport Organic Waste including facilities for Source Separated Recyclable Materials, Source Separated Green Container Organic Waste, and Mixed Waste.
 - (B) Transport Source Separated Recyclable Materials, Source Separated Green Container Organic Waste, and Mixed 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, Section 8.14.100 of this Chapter.
 - (2) Permitted hauler's authorization to collect Organic Waste shall comply with education, equipment, signage, container labeling, container color, contamination monitoring, reporting, and other requirements contained within its franchise agreement, permit, license, or other agreement entered into with City.
- (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 60 days.
 - (2) Community Composting operators, upon City request, shall provide information to the City to support Organic Waste capacity planning, including, but not limited to, an estimate of the amount of Organic Waste anticipated to be handled at the Community Composting operation. Entities contacted by the City shall respond within 60 days.

8.14.100. SELF-HAULER REQUIREMENTS

- (a) Self-Haulers shall source separate all recyclable materials and Organic Waste generated on-site from Solid Waste in a manner consistent with 14 CCR Sections 18984.1 and 18984.2, or shall haul Organic Waste to a High Diversion Organic Waste Processing Facility as specified in 14 CCR Section 18984.3.
- (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 entities that received the Organic Waste.
- (d) A residential Organic Waste Generator that self hauls Organic Waste is not required to record or report information in Section 8.14.100(c).

8.14.110. INSPECTIONS AND INVESTIGATIONS BY CITY

- (a) City representatives 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 Chapter 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. This Section does not allow City to enter the interior of a private residential property for Inspection.
- (b) Regulated entity shall provide or arrange for access during all Inspections (with the exception of residential property interiors) and shall cooperate with the City or its

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 Chapter 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 Chapter and may result in penalties described.

- (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 are authorized to conduct any Inspections, or other investigations as reasonably necessary to further the goals of this Chapter, 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.

8.14.120. ENFORCEMENT

- (a) Violation of any provision of this Chapter shall constitute grounds for issuance of a Notice of Violation and assessment of a fine by a City Enforcement Official or representative. Enforcement Actions under this Chapter are issuance of an administrative citation and assessment of a fine. Fines will follow the schedule for infractions as defined in H.B.M.C. 1.04.030 subject to any minimum fine amounts set forth in the SB 1383 Regulations. The City's procedures on imposition of administrative fines are hereby incorporated in their entirety, as modified from time to time, and shall govern the imposition, enforcement, collection, and review of administrative citations issued to enforce this Chapter and any rule or regulation adopted pursuant to this Chapter, except as otherwise indicated in this Chapter.
- (b) Other remedies allowed by law may be used, including civil action or prosecution as misdemeanor or infraction. City may pursue civil actions in the California courts to seek recovery of unpaid administrative citations. City may choose to delay court action until such time as a sufficiently large number of violations, or cumulative size of violations exist such that court action is a reasonable use of City staff and resources.
- (c) Responsible Entity for Enforcement
 - (1) Enforcement pursuant to this Chapter may be undertaken by the City Enforcement Official.
- (d) Process for Enforcement
 - (1) City Enforcement Officials will monitor compliance with the Chapter randomly and through Compliance Reviews, Route Reviews, investigation

of complaints, and an Inspection program Section 8.14.110 establishes City's right to conduct Inspections and investigations.

- (2) City may issue an official notification to notify regulated entities of its obligations under this Chapter.
- (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 action to impose penalties, via an administrative citation and fine, pursuant to H.B.M.C. 1.04.030. All applicable appeals and collection procedures shall apply. Moreover, during any appeal, the decision-maker shall consider any applicable factors required by regulation of CalRecycle.

(e) Penalty Amounts for Types of Violations

The penalty levels are as follows:

- (1) For a first violation, the amount of the base penalty shall be \$50 to \$100 per violation.
- (2) For a second violation, the amount of the base penalty shall be \$100 to \$200 per violation.
- (3) For a third or subsequent violation, the amount of the base penalty shall be \$250 to \$500 per violation.

(f) Compliance Deadline Extension Considerations

The City may extend the compliance deadlines set forth in a Notice of Violation issued in accordance with Section 8.14.120 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) Education Period for Non-Compliance

Beginning immediately and through December 31, 2022, City 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 Chapter 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, 2023.

(h) Civil Penalties for Non-Compliance

Beginning January 1, 2023, 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 Chapter, it shall document the noncompliance or violation, issue a Notice of Violation, and take Enforcement Action pursuant to Section 8.14.120, as needed.

(i) Applicability of Chapter

This Chapter shall be interpreted consistent with the City’s regulatory authority and shall only apply to local education agencies and other state or federal entities to the extent permitted by law, including SB 1383.”

Section 8. Environmental Review. The City Council finds this ordinance is exempt from the California Environmental Quality Act (“CEQA”) as provided in Section 15061(b)(3) of the CEQA Guidelines (California Code of Regulations, Title 14, Chapter 3). The ordinance is enacted pursuant to the City’ police powers to mitigate activities that threaten the public health safety and welfare of City residents. Therefore, it can be seen with certainty that adopting this ordinance would not have a significant adverse effect on the environment under CEQA Guideline 15061(b)(3).

Section 9. Effective Date. Pursuant to California Government Code section 36937, this ordinance shall take effect thirty (30) days after its final passage

Section 10. Certification. The City Clerk is directed to certify the passage and adoption of this ordinance; cause it to be entered into the City of Hermosa Beach’s book of original ordinances; make a note of the passage and adoption in the records of this meeting; and cause it to be published or posted in accordance with California law.

PASSED, APPROVED and ADOPTED this _____ day of June 2021.

VOTE: AYES:

 NOES:

ABSTAIN:

ABSENT:

MAYOR of the City of Hermosa Beach, California

ATTEST:

APPROVED AS TO FORM:

City Clerk

City Attorney