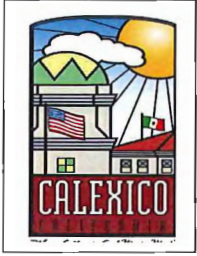


**AGENDA  
ITEM**

**6**



# AGENDA STAFF REPORT

**DATE:** March 2, 2022

**TO:** Mayor and City Council

**APPROVED BY:** Miguel Figueroa, City Manager *MF*

**PREPARED BY:** Lilliana Falomir, Public Works Manager – Administrative *L Falomir*

**SUBJECT:** Second Reading and Adoption of Ordinance No. 1224 - An Ordinance of the City Council of the City of Calexico, California Amending Chapter 8.36 and Repealing Section 8.39 of Title 8 of the Calexico Municipal Code Relating to Solid Waste Disposal and Recyclable Materials and Organic Waste

=====

**Recommendation:**

Conduct second reading and adopt of Ordinance No. 1224 - An Ordinance of the City Council of the City of Calexico, California Amending Chapter 8.36 and Repealing Section 8.39 of Title 8 of the Calexico Municipal Code Relating to Solid Waste Disposal and Recyclable Materials and Organic Waste

**Background:**

AB 341 (Chapter 476, Statutes of 2011) requires the City to implement mandatory recycling for all businesses that generate four cubic yards or more of solid waste per week, and multi-family complexes of five or more units.

AB 1826 (Chapter 727, Statutes of 2014), requires businesses to and multi-family properties that generate two or more cubic yards of solid waste to subscribe to organics collection service. .

“Organic waste” for the purposes of AB 1826, means food waste, green waste, landscape and pruning waste, nonhazardous wood waste, and food-soiled paper waste that is mixed in with food waste.

The goal of AB 341 and AB 1826 ) is to help California achieve aggressive recycling and greenhouse gas emission goals.

SB 1383 (Chapter 395, Statutes of 2016) directed the California Department of Resources Recycling and Recovery (CalRecycle) to adopt regulations



to reduce organic waste by 50 percent from its 2014 baseline level by 2020 and 75 percent by 2025. CalRecycle promulgated those regulations (“SB 1383 Regulations”). The SB 1383 regulations require the City to adopt an ordinance to enforce the SB 1383 Regulations by January 1, 2022.

**Discussion & Analysis:**

On July 21, 2021, the City Council of the City of Calexico adopted Ordinance No. 1216 which updated the Calexico Municipal Code to comply with AB 341 and AB 1826, and to increase the amount of recyclable materials diverted from landfills. On January 1, 2022, SB1383 took into effect and CalRecycle may begin enforcement and potential fines (\$10,000/day). All prior AB1826 exemptions go away and are superseded by SB1383. Compliance with SB 1383 will be determined by how jurisdictions and non-local entities implement programs that include:

- Organics waste collection, processing, and diversion
- Using recycled organics products like compost and biofuel
- Edible food recovery

For this reason, City staff is recommending that the City Council of the City of Calexico introduce and waive first reading by title only of the attached ordinance to amending Chapter 8.36 and repealing Section 8.39 of Title 8 of the Calexico Municipal Code Relating to Solid Waste Disposal and Recyclable Materials and Organic Waste in order to comply with SB1383.

City Council unanimously approved the first reading by title only of the ordinance at their regular meeting on February 16, 2022.

**Fiscal Impact:**

None at this time.

**Coordinated With:**

City Attorney.  
Public Works Department.

**Attachment(s):**

1. Ordinance No. 1224 - An Ordinance of the City Council of City of Calexico, California Amending Chapter 8.36 and Repealing Section 8.39 of Title 8 of the Calexico Municipal Code Relating to Solid Waste Disposal and Recyclable and Organic Waste.

**ORDINANCE NO. 1224**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALEXICO, CALIFORNIA AMENDING CHAPTER 8.36 AND REPEALING SECTION 8.39 OF TITLE 8 OF THE CALEXICO MUNICIPAL CODE RELATING TO SOLID WASTE DISPOSAL AND RECYCLABLE MATERIALS AND ORGANIC WASTE**

**WHEREAS**, SB 1383 (Chapter 395, Statutes of 2016) directed the California Department of Resources Recycling and Recovery (“CalRecycle”) to adopt regulations to reduce organic waste by 50 percent from its 2014 baseline level by 2020 and 75 percent by 2025; and

**WHEREAS**, SB 1383 also requires the regulations to recover, for human consumption, at least 20 percent of edible food that is currently thrown away; and

**WHEREAS**, CalRecycle promulgated regulations as directed in SB 1383 in Chapter 12 (Short-Lived Climate Pollutants) of Division 7 of Title 14 of the California Code of Regulations (“SB 1383 Regulations”); and

**WHEREAS**, the SB 1383 Regulations take effect January 1, 2022, and requires the City of Calexico to adopt an ordinance to enforce the SB 1383 Regulations by said date, and;

**WHEREAS**, the City Council desires to amend (1) its Garbage Disposal Ordinance and consolidate Chapters 8.36 and 8.39 into Chapter 8.36, to comply with the SB 1383 Regulations.

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

Section 1. Chapter 8.36 of Title 8 to the Calexico Municipal Code is hereby amended in its entirety as set forth in Exhibit A, incorporated by this reference.

Section 2. Chapter 8.39 of Title to the Calexico Municipal Code is hereby repealed in its entirety.

Section 3. If any section, subsection, clause, or phrase in this Ordinance or the application thereof to any person or circumstances is for any reason held invalid, the validity of the remainder of this Ordinance or the application of such provisions to other persons or circumstances shall not be affected thereby. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases or the application thereof to any person or circumstance be held invalid.

Section 4. No less than five (5) days prior to the adoption of this Ordinance, the City Clerk published a summary of this Ordinance in accordance with Government Code section 36933. The City Clerk will certify to the passage of this Ordinance by the City Council of the City of Calexico, California, and cause a summary to be published once within fifteen (15) days after its passage in a newspaper of general circulation, printed, published and circulated in the City in accordance with Government Code section 36933.

Section 5. This Ordinance shall take effect and be in full force thirty (30) days after its adoption.

**INTRODUCED** on the 16<sup>th</sup> day of February, 2022, and **PASSED AND ADOPTED** by the City Council of the City of Calexico on this 2<sup>nd</sup> day of March, 2022, by the following vote:

Javier Moreno

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MAYOR

ATTEST:

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Gabriela T. Garcia  
CITY CLERK

STATE OF CALIFORNIA        )  
COUNTY OF IMPERIAL        )  
CITY OF CALEXICO            )

SS

I, GABRIELA T. GARCIA, City Clerk of the City of Calexico, California, hereby certify that Ordinance No. 1224 was introduced at a regular meeting of the City Council of the City of Calexico held on the 16<sup>th</sup> day of February, 2022, and thereafter was adopted by the City Council of the City of Calexico at a regular meeting held on the 2<sup>nd</sup> day of March, 2022, and that the same was adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

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GABRIELA T. GARCIA  
CITY CLERK

## **EXHIBIT A**

### **CHAPTER 8.36 SOLID WASTE DISPOSAL**

- 8.36.010 - Definitions
- 8.36.020 - Contracts for collection and disposal
- 8.36.030 - Franchise
- 8.36.040 - Residential, Commercial, and Industrial Collection
- 8.36.050 - Authority of City to Issue Permits or Franchises for Solid Waste Collection
- 8.36.060 - Reasonable care in the exercise of Collection
- 8.36.070 - Exceptions
- 8.36.080 - Duty to Provide Containers
- 8.36.090 - Containers - Condition
- 8.36.100 - Containers - Inspection
- 8.36.110 - Noncompliant Containers
- 8.36.120 - Scavenging Prohibited
- 8.36.130 - Deposit Restrictions
- 8.36.140 - Hazardous Material Collection
- 8.36.150 - Collection in Emergencies.
- 8.36.160 - Collection - Authority to Adopt Rules and Regulations.
- 8.36.170 - Frequency of Collection.
- 8.36.180 - Placement of Containers for Collection
- 8.36.190 - Collection - Authority to Set Times and Schedules
- 8.36.200 - Hours of Collection
- 8.36.210 - Collection - Authority to Fix Charges
- 8.36.220 - Collection - Imposition of Charge
- 8.36.230 - Collection - Evasion of Payment
- 8.36.240 - Downtown Collection Area Requirements
- 8.36.250 - Refuse Disposal
- 8.36.260 - Special Provisions Regarding Method of Disposal
- 8.36.270 - Burning, Burial or Dumping
- 8.36.280 - Trucks - Equipment Required
- 8.36.290 - Truck Inspection
- 8.36.300 - Collector's Contact Information
- 8.36.310 - Collector's Employees
- 8.36.320 - Requirements for Solid Waste Collector Franchise
- 8.36.330 - Permit Provisions
- 8.36.340 - Solid Waste Collector Reports
- 8.36.350 - Adverse Information
- 8.36.360 - Failure to Report
- 8.36.370 - Additional Requirements of Solid Waste Collectors (authorized haulers)
- 8.36.380 - Requirements for Single-Family Generators
- 8.36.390 - Requirements for Commercial Businesses
- 8.36.400 - Waivers for Generators
- 8.36.410 - Special Events
- 8.36.420 - Requirements for Haulers and Facility Operators
- 8.36.430 - Self-Hauler Requirements

- 8.36.440 - Requirements for Commercial Edible Food Generators
- 8.36.450 - Requirements for Food Recovery Organizations and Services
- 8.36.460 - Inspections and Investigations
- 8.36.470 - Enforcement
- 8.36.480 - Disclaimer of Liability
- 8.36.490 - Discretionary Duties.

### **8.36.010 - Definitions**

As used in this chapter, the following words and phrases are defined and shall be construed as hereinafter set forth, unless it is apparent from the context that a different meaning was intended. If a term or word is not specifically defined herein but is defined in the California Integrated Waste Management Act of 1989 (California Public Resources Code Sections 40000 et seq.) it shall have the meaning prescribed therein.

“Animal Waste” means manure, fertilizer, or any form of solid excrement produced by any and all forms of domestic animals or commercial livestock.

“Bin” means a rigid Container with hinged lids and wheels with a capacity of at least one cubic yard and less than ten cubic yards.

“Black Container” has the same meaning as in 14 CCR § 18982.2(a)(28) and shall be used for the purpose of storage and collection of Black Container Waste.

“Black Container Waste” means Solid Waste that is collected in a Black Container that is part of a three-Container Organic Waste collection service that prohibits the placement of Recyclable Materials and Organic Waste in the Black Container.

“Blue Container” has the same meaning as in 14 CCR § 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 Waste.

“Business” means any person or entity that possesses or is required to possess a business registration certificate, as stated in Title 5.

“CalRecycle” means the California Department of Resources Recycling and Recovery.

“Cart” means a wheeled Container of appropriate material with a hinged lid and wheels serviced by an automated or semi-automated truck with a capacity no less than thirty gallons and no greater than one hundred one gallons.

“CCR” means the California Code of Regulations.

“City” means the City of Calexico, California.

“City Council” means the City Council of the City of Calexico, California.



“City Manager” means the City Manager of the City of Calexico or his or her designee.

“Collect” or “Collection” means the act of collecting Solid Waste, including Recyclable Materials and Organic Waste, at or near the place of generation by a Collector and the physical possession, transport, and removal of such materials.

“Collector” means any person or persons, firm, partnership, joint venture, association, or corporation authorized to engage in the collection or transportation, disposal, recycling, or Organic Materials processing of Solid Waste, Recyclable Materials, or Organic Waste generated within all or part of the jurisdictional boundaries of the City, including franchisees, recycling collectors, and Organic Materials collectors.

“Commercial” or “Commercial Business” means a business, industrial, commercial establishment, and any multiple-family, residential dwelling with five (5) units.

“Commercial premises” means premises upon which business activity is conducted, including but not limited to retail sales, services, wholesale operations, manufacturing and industrial operations, but excluding residential premises upon which business activities are conducted when such activities are permitted under applicable zoning regulations and are not the primary use of the property. Notwithstanding any provision to the contrary in this chapter or this code, premises upon which the following uses (as defined in this code) are occurring shall be deemed to be commercial premises: adult residential facilities, assisted living facilities, convalescent homes, dormitories, extended stay motels, group residential facilities, group care facilities, hotels, and motels.

“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 § 17855(a)(4), or as otherwise defined by 14 CCR § 18982(a)(8).

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

“Construction and demolition debris,” “C&D,” and “construction waste” means Solid Waste directly related to construction or demolition activities.

“Container” means any bin, vessel, can, tank, or Container used for collecting Solid Waste, Recyclable Materials, and Organic Waste, for removal by a Collector.

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

“Designated Source Separated Organic Waste Facility” shall have the same definition as 14 CCR § 18982(14.5).

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

“Disposal” means the ultimate disposition of Solid Waste collected at a landfill or otherwise in full regulatory compliance. “Disposal” does not include recycling or Organic Materials processing.

“Downtown collection area” means that area of the City that is bounded on the north by State Highway 98/Birch Street from Harold Avenue to Paulin Avenue, and by 5th Street from Paulin Avenue to Mary Avenue; on the west by Mary Avenue from 5th Street to the International Border with Mexico; on the south by the International Border with Mexico from Mary Avenue to State Highway 111; and on the east by State Highway 111 and Harold Avenue from the International Border with Mexico to State Highway 98/Birch Street.

“Dwelling” means a residence, including any flat, apartment, or other facility intended to be and permitted to be used for housing one or more persons, except “dwelling” does not include, hospitals, hotels, motels, nursing homes, or convalescent centers.

“Edible Food” means food intended for human consumption, or as otherwise defined in 14 CCR § 18982(a)(18). Edible Food is not Solid Waste if it is recovered and not discarded.

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

“Enforcement Officer” means the City Manager, county administrative official, chief operating officer, executive director, public works director, City health officer, or other executive in charge or their authorized Designee(s) who is/are partially or wholly responsible for enforcing this chapter.

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

“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 § 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.

“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 § 18982(a)(26).

“Food Waste” means food scraps separated from Solid Waste and offered for collection by Collector, that will decompose and/or putrefy including (i) all kitchen and table food waste, and animal or vegetable waste that attends or results from the storage, preparation, cooking, or handling of food stuffs; and (ii) paper waste contaminated with food waste.

“Generator” means a person or entity that is responsible for the initial creation of waste.

“Green Container” has the same meaning as in 14 CCR § 18982.2(a)(29) and shall be used for the purpose of storage and collection of Source Separated Green Container Organic Waste.

“Green Waste.” Leaves, grass clippings, brush, branches, and other forms of Organic Materials generated from landscapes or gardens, which have been Source Separated from other Solid Waste. Green waste is a subset of Organic Waste and excludes Hazardous Materials.

“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 § 18982(a)(30).

“Hauler” means “Collector.”

“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 § 18982(a)(31.5).

“Hazardous Material.” Is defined to include any hazardous or toxic substance, material or waste which is or becomes regulated by any local governmental authority, the State of California, or the United States Government. The term “Hazardous Material” includes, without limitation, any material or substance which is:

1. Petroleum or oil or gas or any direct or derivate product or byproduct thereof;
2. Defined as a “hazardous waste,” “extremely hazardous waste,” or “restricted hazardous waste” under Sections 25115, 25117, or 25122.7, or listed pursuant to Section 25140, of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law);

3. Defined as a “hazardous substance” under Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Hazardous Substance Account);
4. Defined as a “hazardous material,” “hazardous substance,” or “hazardous waste” under Sections 25501 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory);
5. Defined as a “hazardous substance” under Section 25281 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances);
6. “Used oil” as defined under Section 25250.1 of the California Health and Safety Code;
7. Asbestos;
8. Identification and listing of hazardous waste under Chapter 11 of Division 4.5 of Title 22 of the California Code of Regulations, or defined as “hazardous waste” or “extremely hazardous waste” pursuant to Chapter 10 of Division 4.5 of Title 22 of the CCR;
9. Defined as “waste” or a “hazardous substance” pursuant to the Porter-Cologne Act, Section 13050 of the California Water Code;
10. Designated as a “toxic pollutant” pursuant to the Federal Water Pollution Control Act, 33 U.S.C. Section 1317;
11. Defined as “hazardous waste” pursuant to the Federal Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq. (42 U.S.C. § 6903);
12. Defined as a “hazardous substance” pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601);
13. Defined as “hazardous material” pursuant to the Hazardous Materials Transportation Act, 49 U.S.C. Section 5101, et seq.; or
14. Defined as such or regulated by any “superfund” or “superlien” law, or any other federal, state or local law, statute, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning Hazardous Materials and/or oil wells and/or underground storage tanks and/or pipelines, as now, or at any time hereafter, in effect.

“High Diversion Organic Waste Processing Facility” means a facility that is in compliance with the reporting requirements of 14 CCR § 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 § 18815.5(e) for Organic Waste received from the “Mixed waste organic collection stream” as defined in 14 CCR § 17402(a)(11.5); or, as otherwise defined in 14 CCR § 18982(a)(33).

“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 set forth in this chapter, or as otherwise defined in 14 CCR § 18982(a)(35).

“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.

“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. 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. 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.

“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 § 18982(a)(40).

“Mixed Waste Organic Collection Stream” or “Mixed Waste” means Organic Waste collected in a Container that is required by 14 CCR §§ 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 § 17402(a) (11.5).

“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.

“Notice of Violation” or “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 § 18982(a)(45) or further explained in 14 CCR § 18995.4.

“Organic materials processing facility.” A permitted facility where Organic Material is sorted, mulched, or separated for the purposes of recycling, reuse or composting in compliance with applicable law and regulations.

“Organic Materials” or “Organic Waste.” Food wastes, green wastes, wood wastes, and yard wastes, and other Organic Material as defined by CalRecycle, collectively or individually.

“Person” means an individual, group of individuals, and/or any legal entity recognized by the laws of the state.

“Permit” means written authority granted by the City to any Collector as evidenced by contract, franchise, certificate, or other writing issued pursuant to this chapter.

“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 Black Container that are acceptable Source Separated Recyclable Materials and/or Source Separated Organic Waste, to be placed in the City’s Blue Container, and/or Green Container; and, (iv) non-Solid Waste items placed in any Container.

“Recyclable Materials” or “Recyclables” means material such as, but not limited to, paper, cardboard, glass, metal and aluminum cans, and plastics which are separated from other Solid Waste for the purpose of recycling.

“Recycle” or “recycling.” The processing of Recyclable Materials for the purpose of returning them to the economy in the form of raw materials for new, reused, or reconstituted products. The collection, transportation or disposal of Solid Waste not intended for, or capable of, reuse is not recycling.

“Remote Monitoring” means the use of the internet of things and/or wireless electronic devices to visualize the contents of Blue Containers, Green Containers, and Black Containers for purposes of identifying the quantity of materials in Containers (level of fill) and/or presence of Prohibited Container Contaminants.

“Residential” means any residential dwelling.

“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 § 18982(a)(65).

“SB 1383” means Senate Bill 1383 (Chapter 395, Statutes of 2016).

“SB 1383 Regulations” means 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.

“Self-Hauler” means a person, who hauls Solid Waste, Recyclable Materials, or Organic Waste, 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 § 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 § 18982(a)(66)(A).

“Single-Family” means of, from, or pertaining to any Residential premises with fewer than five (5) units.

“Solid Waste” means all putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, construction and demolition wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge that is not hazardous waste, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes. “Solid Waste” does not include radioactive waste, medical waste, or other hazardous waste.

“Solid Waste facility” means any recycling center, materials recovery facility, intermediate processing center, incineration facility, or landfill where Solid Waste may be taken for immediate processing or final disposal. “Solid Waste facility” includes a Solid Waste transfer or processing station and a composting, transformation, or disposal facility.

“Source Separating,” “Source Separated,” or “Source Separation” means the process of removing Recyclable Materials and Organic Waste from Solid Waste at the place of generation, prior to Collection, and placing them into separate Containers that are separately designated for Recyclable Materials and Organic Waste.

“Source Separated Recyclable Materials” means Source Separated Recyclable Materials that can be placed in a Blue Container that is limited to the collection of those Organic Wastes and Non-Organic Recyclables as defined in 14 CCR § 18982(a)(43), or as otherwise defined by 14 CCR § 17402(a)(18.7).

“Source Separated Organic Waste” means Source Separated Organic Waste that can be placed in a Green Container, excluding Source Separated Recyclable Materials, carpets, non-compostable paper, and textiles.

“Special event” means a community, public, commercial, recreational, or social event which may serve food or drink, and which may require a permit from the City. “Special events” may include the temporary or periodic use of a public street, publicly-owned site or facility, privately-owned site or facility, or public park. “Special event” includes the legal entity responsible for hosting the special event, including, but not limited to the owner, manager, or organizer, which may be the City.

“Streets.” The public and private streets, ways and alleys, except interstate highways, as the same now or may hereafter exist within the City.

“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 § 18982(a)(71).

“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.

“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.

Transferor.” Includes any person generating Recyclable Materials who, for compensation or other consideration, donates, sells or otherwise conveys or transfers title thereto and possession thereof to a salvager and does not discard the same as Solid Waste. “Transferor” does not include a resident who conveys or transfers Recyclable Materials, or Organic Materials, whether for consideration or as a donation, to a salvager or any nonprofit entity including, but not limited to, churches, schools, community organizations or groups.

“Truck.” Any truck, trailer, semitrailer, conveyance or vehicle used, or intended to be used, for the purpose of collecting Solid Waste, Recyclable Materials and/or Organic Waste or to haul or transport Solid Waste, Recyclable Materials, and/or Organic Waste.



“Wood wastes.” Lumber and wood products but excludes painted wood, chemically-treated and pressure-treated wood. “Wood waste” is a subset of Organic Materials and excludes Hazardous Materials.

“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 § 189852(a)(76).

### **8.36.020 - Contracts for collection and disposal**

The City Council is authorized to contract through the award of an exclusive franchise agreement with any person for the collection, removal, and disposal of Solid Waste, Recyclable Materials, and Organic Waste within the City, under such terms and conditions as are contained in this chapter, and as may be prescribed by the City Council.

### **8.36.030 - Franchise**

The City and its duly authorized agents, servants, and employees, or any Collector with whom the City may at any time enter into an exclusive franchise agreement therefor, and the agents, servants, and employees of such Collector, while any such agreement shall be in force, shall have the exclusive right to gather, collect, and remove Solid Waste from any premises which may be the subject of such exclusive agreement. No person other than those specified shall:

- A. Gather, collect, or remove any Solid Waste, Recyclable Materials, or Organic Waste;
- B. Convey or transport any Solid Waste, Recyclable Materials, or Organic Waste in, along, or over any public street, alley, or highway;
- C. Take any Solid Waste, Recyclable Materials, or Organic Waste from any Container in which the same may be placed for Collection or removal;
- D. Interfere with or disturb any such Container, or remove any such Container from any location where the Container is set out for Collection.

### **8.36.040 - Residential, Commercial, and Industrial Collection**

Except as otherwise provided in this chapter, all Residential, Commercial, and industrial waste Generators shall be provided Solid Waste, Recyclables, and Organic Waste collection services from one or more haulers with a City franchise or permit.

### **8.36.050 - Authority of City to Issue Permits or Franchises for Solid Waste Collection**

- A. Pursuant to California Public Resources Code Section 40059, as the same may be amended from time to time, or any successor provision or provisions

thereto, and the police power, pursuant to Article XI, Section 7 of the California Constitution, the City shall have, and hereby retains, the authority to issue permits, including exclusive permits or franchises, for Solid Waste, Recycling, and Organic Waste collection services, as provided for in this chapter and may, as a condition for issuing such permits, require a bond from the Solid Waste, Recyclable Materials, or Organic Waste Collector in an amount determined by the City Council to insure the faithful performance of such collection, transportation and disposal in accordance with this chapter and the terms and conditions imposed by the City Council. In the event that any Solid Waste, Recyclable Materials, or Organic Waste Collector shall fail or refuse to conform to the conditions of the permit or this chapter or any regulations promulgated hereunder, the City Council, at its option and after a hearing called after at least ten days' prior written notice to the Solid Waste, Recyclable Materials, or Organic Waste Collector, may revoke such permit. In issuing permits for Solid Waste, Recyclable Materials, or Organic Waste collection services, the City shall not be required to issue the same based upon the offer of lowest rates, but shall be free to issue such permits to the person deemed best suited to comply with the provisions of this chapter, and such other terms and conditions imposed by the City Council.

B. Excepting existing rights that the City reserves to itself, while an exclusive permit is in effect, a Solid Waste, Recyclable Materials, or Organic Waste Collector may be granted the exclusive right to gather, collect and remove Solid Waste, Recyclable Materials, and Organic Waste from premises within the City, subject to such terms and conditions as the City Council may apply to the issuance of such permit and set out in the written franchise agreement.

C. No person shall act as a Solid Waste, Recyclable Materials, or Organic Waste Collector within the City unless such person is a Solid Waste, Recyclable Materials, or Organic Waste Collector, as defined in this chapter, or is exempt in accordance with Section 8.36.030 - . No person shall permit, allow or enter into any agreement whatsoever for the collection or transportation of Solid Waste, Recyclable Materials, or Organic Waste, or Hazardous Material from any residential premises, multi-family dwelling, industrial or commercial premises except as otherwise provided by this chapter.

#### **8.36.060 - Reasonable care in the exercise of Collection**

Collectors shall exercise all reasonable care and diligence in Collection activities so as to prevent spilling, scattering or dropping Solid Waste, Recyclable Materials, and Organic Waste, and shall immediately, at the time of occurrence, clean up any such spillage.

#### **8.36.070 - Exceptions**

- A. Self-Haulers shall be excepted from Section 8.36.030 - of this chapter.
- B. The provisions of Section 8.36.030 - of this chapter shall not prohibit any of the officers or employees of the City, or any employees of any governmental

subdivision of the state, from collecting, removing, and disposing of such Solid Waste in the regular course of their duties as such officers and employees. Further, notwithstanding Section 8.36.030 - of this chapter, the City may contract for the removal of Solid Waste from streets and public places to prevent or reduce the accumulation of such materials that may enter the City's stormwater system.

### **8.36.080 - Duty to Provide Containers**

A. It shall be the duty of every owner, manager, or person in possession, charge or control of any boardinghouse, restaurant, hotel, apartment or eating house, or business of every type wherein Solid Waste is accumulated, and of every person occupying a dwelling or flat within the City, to provide or cause to be provided, and at all times to keep, or cause to be kept, as prescribed in this chapter, Containers for holding Solid Waste, Recyclable Materials, and Organic Waste.

B. Each Container shall be constructed of metal or plastic, be watertight with a handle or handles on the outside thereof, and with a tight-fitting cover. Such cover shall not be removed, except when necessary to place Solid Waste therein or take Solid Waste therefrom, and when so removed shall be immediately replaced.

C. Each Container shall be kept or placed in the manner following:

- (1) Alley Entrance. Where there is an alley, other than a blind alley in the rear of the premises, such Container shall be placed on the premises within five feet of the rear property line.
- (2) Side Entrance. Where there is no alley, other than a blind alley in the rear of the premises, and there is a side entrance to the rear of said premises, each such Container shall be placed on the curb on the side of the premises at an accessible point not less than fifty feet from the front property line.
- (3) Front Entrance. Where there is no alley, other than a blind alley, nor such side entrance as described in subdivision 2 of this subsection, each such Container shall be placed on the curb in front of the premises on the days and during the hours fixed for the collection of Solid Waste therefrom. Each such Container shall be accessible to the Collector when called for.
- (4) Placing and Removing Containers. At those premises where Solid Waste Containers are placed upon the curb at either side or front of the premises for collection, such Containers shall be placed thereon only on the days appointed for Solid Waste collection therefrom, and shall be removed by the owner or user immediately after such collection.

### **8.36.090 - Containers - Condition**

All such Containers for the disposal of Solid Waste shall be kept in a good, clean and sanitary condition by the owner or user thereof at all times.

### **8.36.100 - Containers - Inspection**

The City's Enforcement Officer or Designee are constituted and appointed sanitary inspectors for the purposes of Inspecting Containers used for the deposit of Solid Waste, Recyclable Materials, and Organic Waste.

### **8.36.110 - Noncompliant Containers**

Should the City's Enforcement Officer or Designee find that any Container for the Collection of Solid Waste, Recyclable Materials, or Organic Waste is in a defective and unsanitary condition, or in violation of the requirements of this chapter, the owner or user of such Container shall contact the Collector to replace the Container upon written demand of the City's Enforcement Officer.

### **8.36.120 - Scavenging Prohibited**

A. It is unlawful for any person, other than the owner, his or her agent, the Collector, or an officer or employee of the City, to remove any Solid Waste, Recyclable Materials, Organic Waste, from a Container set out for collection.

B. It is unlawful for any person to disturb, modify, harm, or otherwise tamper with any Container or designated recycling collection or storage location containing designated Recyclable Materials or Organic Waste, or the contents thereof, or to remove any such Container from the location where placed by the Generator thereof, unless authorized by the Generator, duly authorized City personnel or the Collector.

### **8.36.130 - Deposit Restrictions**

A. Deposit of Solid Waste . All Solid Waste, Recyclable Materials, and Organic Waste shall be kept in Containers satisfactory to the City's Enforcement Officers.

B. Deposit upon Public Thoroughfares. It is unlawful for any person, firm, or corporation to deposit, or cause or permit to be deposited, any Solid Waste, Recyclable Materials, or Organic Waste, upon or in any public street, alley or other public space, or upon any premises in the City.

C. Posting of Notice. Any person, firm, or corporation owning, managing or operating a Commercial Business (excluding Multi-Family) shall be required to post in a conspicuous location where Solid Waste, Recyclable Materials, or Organic Waste is handled and/or disposed of a notice to be provided by the City informing employees of the requirements of subsection B. of this section.

### **8.36.140 - Hazardous Material Collection**

A. A Solid Waste, Recyclable Materials, and Organic Waste Collector shall not be required to collect Hazardous Material as part of its regular collection activity. Liquid and dry caustics acids, flammable materials, explosive materials, insecticides, and similar substances shall not be deposited in collection Containers. Any person collecting such substances shall, in addition to any requirements of state or federal law, obtain a permit pursuant to this chapter.

B. Biohazardous and/or medical waste (as defined in California Health and Safety Code Section 25117.5, as amended from time to time, or any successor provision or provisions thereto) shall not be collected by a Solid Waste, Recyclable Materials, and Organic Waste Collector as part of its regular collection activity. Anyone producing such wastes shall store, handle and dispose of such materials only in the manner approved by the county health officer or designated deputy, and in accordance with the California Health and Safety Code. Disposal of biohazardous and/or medical waste shall be conducted pursuant to a permit issued under this chapter in addition to any requirements imposed by state law.

#### **8.36.150 - Collection in Emergencies.**

In emergencies, such as the breakdown of equipment, or other unforeseen or unpreventable circumstances, where in the judgment of the City Manager the particular situation justifies such action, the City Manager may issue limited or temporary permits to private persons or corporations to perform any of the services regulated by this chapter subject to such reasonable fees, charges and conditions as the circumstances may warrant and as the parties involved may agree upon; provided that such fees and charges received from or paid to any private persons or corporations under this section for any period exceeding twenty days' duration shall be approved by the City Council.

#### **8.36.160 - Collection - Authority to Adopt Rules and Regulations.**

A. The City Council is authorized and empowered to adopt, by resolution, rules and regulations pertaining to the Collection and hauling of Solid Waste, Recyclable Materials, and Organic Waste, the collection of the charges provided for in this chapter, and the terms, conditions and methods of payment therefor.

B. Such rules and regulations may be changed, amended, or altered from time to time by the Council by resolution.

#### **8.36.170 - Frequency of Collection.**

Pursuant to the requirements of the California Code of Regulations, Title 14, Section 17331(H), as those may be amended from time to time, all Solid Waste, Recyclable Materials, and Organic Waste created, produced or accumulated in or about residential premises (including multi-family dwellings) or commercial premises in the City shall be removed at least once each week. No person who is the occupant of any of the above-described premises shall fail or neglect to provide for the removal of such material at least as often as prescribed in this section.

### **8.36.180 - Placement of Containers for Collection**

A. For Residential premises, Containers shall be at the edge of the street in the curb-area in front of the Residential premises, provided that the Collector may designate some other location for the placement of Containers when such placement will expedite collection, as approved by the City Manager.

B. For Commercial premises, Multi-Family Residential Dwellings and special event Containers shall be placed in areas designated for such Containers.

### **8.36.190 - Collection - Authority to Set Times and Schedules**

No Container for Solid Waste, Recyclable Materials, and Organic Waste shall be set out for Collection at any time other than the days established for the Collection thereof on the particular route involved, and no earlier than sunset of the day preceding the day designated for Collection. All Containers shall be removed from the place of Collection prior to 10 p.m. on the day the Containers have been emptied.

If the Containers are not emptied and the contents removed on the date and time scheduled by the Collector, such person shall immediately notify the Collector or the City, and it shall be the duty of the Collector to forthwith arrange for the Collection and disposal thereof.

Solid Waste, Recyclable Materials, and Organic Waste which exceeds the capacity limits of the Containers established by the Collector, may, in the discretion of the Collector, be scheduled for special collection upon the application of the owner or occupant of the premises. Special collection charges may be assessed by the Collector for this service.

### **8.36.200 - Hours of Collection**

All Solid Waste, Recyclable Materials, and Organic Waste Collection from residential areas and areas immediately adjacent to residential areas shall be made between the hours of 7 a.m. and 8 p.m., and Collections from commercial and industrial locations may start at 5 a.m.; provided, however, that the peace and quiet of residential neighborhoods is not disrupted.

The City Manager may require a Collector to change hours of operation in commercial and industrial areas if, in the City Manager's sole opinion, disruption of residential neighborhoods occurs.

In the event that more than one Collector is permitted to operate in the City, whether by area or premises, the City Manager may, in his or her discretion, require that all Solid Waste, Recyclable Materials, and Organic Waste Collection activities take place on the same day of the week in the specified area in order to minimize the traffic in any given area.

### **8.36.210 - Collection - Authority to Fix Charges**

A. The power and authority to provide and fix rates of charge for such service of collecting and hauling Solid Waste, Recyclable Materials, and Organic Waste is vested in the City Council, who shall have the power and authority to fix and set all charges for rendering and performing of such services.

B. Such charges shall be fixed and set by resolution duly adopted by the Council at any meeting thereof; and the rates so fixed and prescribed may be changed, altered or amended at any time by the Council, by resolution duly adopted.

C. Except as otherwise provided by the franchise agreement, all proposed revisions to charges levied must be submitted to the City for review and action and must be approved by resolution of the City Council.

#### **8.36.220 - Collection - Imposition of Charge**

A charge is imposed for the collection and hauling by the City of Solid Waste, Recyclable Materials, and Organic Waste, which charge is imposed against, and shall be paid by, all persons, firms, or corporations whose Solid Waste, Recyclable Materials, and Organic Waste is collected or hauled. Customers shall pay an additional fee based on the size of their Recyclable Materials and Organic Waste Containers collected for Solid Waste disposal by the Collector if the contents of their Recyclable Materials and Organic Waste Containers contain unacceptable levels of contamination as defined in this title.

A Collector that is a franchisee shall pay a franchise fee as determined by agreement in lieu of any business license tax imposed generally by the City.

#### **8.36.230 - Collection - Evasion of Payment**

It is unlawful for any person, firm, or corporation to refuse to pay, or attempt to evade payment of, the charges duly prescribed by the City for the collection or hauling of his or their Solid Waste, Recyclable Materials, and Organic Waste.

#### **8.36.240 - Downtown Collection Area Requirements**

A. In addition to any and all requirements for collection services under this chapter, the owners and tenants of properties in the downtown collection area are required to comply with all of the requirements in this section.

B. All Containers designed or intended to be mechanically dumped into a loader packer truck that is approved for Collection services shall be equipped with locks and shall remain locked at all times, except when Solid Waste, Recyclable Materials, or Organic Waste are being deposited or collected in accordance with the provisions of this chapter.

C. All Containers shall have the address written on the front of the Container with either paint or some form of indelible ink.

D. No Container shall be placed or located in such a manner that blocks or impedes passage on any street, alley, or sidewalk in the downtown collection area or blocks passage to a building even if the building is abandoned or out of use.

E. No Container shall be shared between businesses in the downtown collection area; each business must utilize its own Container.

F. No Container shall be permitted to overflow. In the event that a business's Container is overfilled and Solid Waste is encroaching onto any street, alley, or sidewalk, whether in the public right-of-way or on private property, the business owner must immediately contact the Collector and arrange for an increased level of service.

### **8.36.250 - Refuse Disposal**

The Collector shall dispose of Solid Waste, at Collector's sole expense, at a landfill, transfer station (as defined in California Public Resources Code Section 40200) or other appropriate disposal facility as set forth in the franchise agreement or other agreement and in accordance with all federal, state and local laws and regulations.

### **8.36.260 - Special Provisions Regarding Method of Disposal**

The removal of apparel, bedding, or other refuse from Residential premises or other places where highly infectious or contagious diseases have been present shall be performed under the supervision and direction of the county health officer and such waste shall neither be placed in Containers nor left for regular Collection and disposal.

Highly flammable or explosive or radioactive waste shall not be placed in Containers for regular Collection and disposal, but shall be removed as permitted by law at the expense of the owner or possessor of the material.

Solid Waste containing water or other liquids shall be drained before being placed in a Container.

No Hazardous Material, battery acid, poisonous, caustic or toxic material or any other substance capable of damaging clothing or causing injury to Collection personnel or other persons shall be mixed or placed with any Solid Waste, Recyclable Materials, or Organic Waste which is to be collected, removed or disposed of by a Collector. Such items shall be removed at the occupant's expense only after arrangements have been made with the Collector or City for such removal.

With the exception of packaged domestic animal waste and packaged animal waste associated with the raising of livestock for programs such as 4-H clubs, Animal Waste shall not be placed in Containers for regular Collection and disposal, but shall be removed at the occupant's expense.

### **8.36.270 - Burning, Burial or Dumping**



No person shall burn, bury, or dispose of Solid Waste, Recyclable Materials, Organic Waste, or Hazardous Material of any kind within the City except as provided in this chapter.

### **8.36.280 - Trucks - Equipment Required**

Each truck of a Collector shall at all times have in the cab thereof the registration of the truck, a copy of the permit, a certificate of insurance, and an identification card with the name of a person to telephone in case of an accident or emergency. Each truck shall also be equipped with a minimum five-pound fire extinguisher certified by the California state fire marshal and recharged as needed, but not less than once annually. Each truck shall meet the requirements of state and federal law.

All trucks used for Collection within the City shall be required to be completely enclosed with a nonabsorbent cover while transporting Solid Waste, Recyclable Materials, or Organic Waste in or through the City. "Completely enclosed with a nonabsorbent cover" means that Solid Waste, Recyclable Materials, and Organic Waste shall not be visible from the street, nor shall any of the substances be permitted to leak, spill or become deposited along the public streets. All trucks used in the course of Solid Waste, Recyclable Materials, or Organic Waste Collection shall be painted in colors approved by the City Manager and identified by truck numerals, a company logo, and local telephone number and shall be kept clean and in good repair at all times.

### **8.36.290 - Truck Inspection**

A. All trucks shall be maintained in safe mechanical condition.

B. Each of the Collector's trucks shall be made available for inspection at the discretion of the City Manager at any point of operation.

C. A decal may be issued by the City for each truck complying with provisions of this article, which shall be placed on the truck in a conspicuous place.

### **8.36.300 - Collector's Contact Information**

Each Collector must maintain a local telephone number which shall be staffed for personal contact between 8 a.m. and 5 p.m. on normal working days, and at all other times with some type of mechanism for the purpose of taking messages. Each Collector shall maintain and keep updated a website which provides information on Collection and rules. Each Collector must review and respond to messages within one working day, if not sooner.

### **8.36.310 - Collector's Employees**

Each Collector shall provide high quality service to industry standards and supply competent, qualified, identifiable and uniformed personnel who serve the residents and businesses of the City in a courteous, helpful and impartial manner.

A. The City may, at its option, require fingerprinting of the Collector's employees whose services will cause them to enter onto or work in close proximity to private property.

B. The Collector shall be required to hire employees without regard to race, religion, color, national origin, sex, political affiliation, or any other non-merit factor.

C. Any employee driving Collector's trucks shall at all times have in his or her possession a valid and appropriate vehicle operator's license issued by the State of California.

D. Collector's employees shall be required to wear clean, identifiable uniforms when engaged in Collection services within the City.

### **8.36.320 - Requirements for Solid Waste Collector Franchise**

A. Procedure and Required Information for Solid Waste Collector Permit. The applicant shall file a letter with the City Manager, executed under penalty of perjury of the laws of the state of California, containing the following information:

- (1) Name and description of the applicant;
- (2) Permanent business address and address of local office of the applicant;
- (3) Trade and firm name;
- (4) If a joint venture or a partnership or limited partnership, the names of all partners of the firm, and the names of the officers and their percentage or participation interest and their permanent addresses;
- (5) Facts indicating that the applicant has arranged for Solid Waste disposal at a disposal facility permitted to dispose of non-hazardous municipal Solid Waste and in accordance with all federal, state and local laws and regulations;
- (6) Desired collection area to be served and type of service to be provided;
- (7) Facts indicating that applicant is qualified to render efficient Solid Waste collection service;
- (8) Facts indicating that trucks and equipment conform to all applicable provisions of this chapter;
- (9) Satisfactory evidence that applicant is in existence as a going concern and that the principals thereof possess at least two years

actual operating experience in residential and/or commercial Solid Waste collection and disposal;

- (10) Satisfactory evidence that applicant's experience as a going concern in residential and/or commercial Solid Waste collection and disposal derives from operations of comparable size to that contemplated by the applicant; details shall include length of other contracts, name and size of municipality, nature of service provided, and the name of the contact person at the municipality being served;
- (11) Evidence that applicant is in good standing in the state of California and, in the case of a corporation organized under the laws of any other state, evidence that applicant is licensed to do business in the state of California;
- (12) A detailed inventory of the applicant's equipment available for use in the Solid Waste collection area;
- (13) A written statement that applicant has complied, or is capable of complying, with all regulations imposed by the City, the County, and the State for the collection and disposal of Solid Waste;
- (14) Facts indicating that the applicant owns or has under his or her control, in good mechanical condition, sufficient equipment to conduct the business of Solid Waste collection adequately if granted a permit, and that applicant owns or has access to suitable facilities for maintaining his or her equipment in a safe, clean and sanitary condition;
- (15) Satisfactory evidence that the issuance of a permit is in the public interest and convenience in that there is an available market for Solid Waste collection which can be legally served by the applicant;
- (16) Such other pertinent facts or information as the City Manager may require, including evidence of state certification, if applicable;
- (17) Any of the above provisions in conflict with certification requirements imposed by state law shall not be required.

B. Fees and Requirements for Permit.

- (1) Upon consideration of the information supplied by the applicant contained in the above-mentioned letter and following a public hearing conducted by the City Council after at least ten days' prior written notice to the applicant, the City Council may issue a permit.

- (2) Each permit granted shall apply to Solid Waste collection for an area of the City specified therein or, in the case of Hazardous Material or bio-hazardous and/or medical waste operations, specified commercial premises, and may be exclusive.
- (3) A fee for processing permit applications shall be set by resolution of the City Council, with review on a regular basis.

C. Bonding of Solid Waste Collector. Before granting a Solid Waste Collector permit under the provisions of this chapter, the Council shall require the Solid Waste Collector as a condition of the permit, to post with the City Clerk a cash bond or surety bond in an amount determined by the City Council and furnished by a corporate surety authorized to do business in the state of California, payable to the City. The bond shall be conditioned upon the full and faithful performance by the Solid Waste Collector of obligations under the applicable provisions of this chapter, and shall be kept in full force and effect by the Solid Waste Collector throughout the life of the permit and all renewals thereof.

D. Indemnification of City by Solid Waste Collector.

- (1) Indemnification of City. Solid Waste Collector shall agree to protect, defend with counsel approved by the City, indemnify and hold harmless the City, its elected and appointed officials, officers, employees and agents from and against any and all losses, liabilities, fines, penalties, claims, damages, liabilities or judgments, including attorney's fees, arising out of or resulting in any way from Solid Waste Collector's exercise of its responsibilities under this chapter unless such claim is due to the sole negligence or willful act of the City, its officers, employees, agents or contractors, including the City's grant of a permit to Solid Waste Collector or is otherwise not allowed by law. Subject to the scope of this indemnification and upon demand of the City, made by and through the City Attorney, the Solid Waste Collector shall appear in and defend the City and its officers, employees and agents in any claims or actions, whether judicial, administrative or otherwise, arising out of the exercise of this chapter.
- (2) Hazardous Materials Indemnification. Solid Waste Collector shall indemnify, defend with counsel approved by the City, protect and hold harmless the City, its elected and appointed officials, officers, employees, agents, assigns and any successor or successors to the City's interest from and against all claims, actual damages (including, but not limited to special and consequential damages), natural resources damages, punitive damages, injuries, costs, response remediation and removal costs, losses, demands, debts, liens, liabilities, causes of action,

suits, legal or administrative proceedings, interest, fines, charges, penalties and expenses (including but not limited to attorney's and expert witness fees and costs incurred in connection with defending against any of the foregoing or in enforcing this indemnity) of any kind whatsoever paid, incurred or suffered by, or asserted against, the City or its officers, employees, agents or Solid Waste Collector arising from or attributable to any repair, cleanup or detoxification, or preparation and implementation of any removal, remedial, response, closure or other plan (regardless of whether undertaken due to governmental action) concerning any hazardous substance or Hazardous Material at any place where Solid Waste Collector stores or disposes of municipal Solid Waste pursuant to this chapter. The foregoing indemnity is intended to operate as an agreement pursuant to Section 107(e) of the Comprehensive Environmental Response, Compensation and Liability Act, "CERCLA," 42 USC § 9607(e) and California Health and Safety Code Section 25364, to insure, protect, hold harmless and indemnify from liability.

E. Liability Insurance. The Solid Waste Collector shall obtain, and keep in force during the term of the permit, public liability and bodily injury insurance in amounts determined by the City Council, and workers' compensation insurance covering all employees of the Solid Waste Collector. Copies of such policies, or endorsements evidencing such policies, shall be filed with the City clerk prior to the commencement of activities authorized by the permit. The City and its officers, elected officials, employees and agents shall be named as additional insureds on all such policies. All such policies shall contain at a minimum a provision requiring a thirty day notice to be given to the City prior to cancellation, modification or reduction of limits. The amounts of public liability insurance for bodily injury and property damage shall be subject to review and adjustment by the Council.

F. Compliance with Federal, State, and Local Laws and Regulations. The Solid Waste Collector shall agree to perform under the terms of the permit in such a manner so as to comply with all applicable local and state laws and regulations pertaining to the collection, storage and transportation of Solid Waste. The Solid Waste Collector shall also comply with all other ordinances and regulations of the City and applicable laws and regulations of the county of Imperial, State of California, and the United States, and shall obtain and keep in force all required permits and business licenses throughout the life of the permit and all renewals thereof as well as with any and all other requirements specified by the City.

### **8.36.330 - Permit Provisions**

A. Fees. Any franchise issued pursuant to this chapter shall provide for the payment of franchise fees to the City, may contain additional provisions agreed to by and between the City and Solid Waste Collector, and shall constitute the written agreement of those parties.

B. Assignment or Transfer of Franchise. Except as otherwise specified in the franchise agreement, no assignment or transfer of a franchise issued pursuant to this chapter or any right accruing under such permit shall be made in whole or in part by the Collector without the prior express written consent of the City Council. In the event any assignment or transfer is authorized hereunder, the assignee shall assume, without qualification, the liability and all other obligations of the Solid Waste Collector. Each Solid Waste Collector shall file, on or before July 1 of each calendar year, with the City clerk, a statement of ownership and shall verify the same as being true and correct under penalty of perjury under the laws of the state of California.

C. Revocation.

- (1) A permit may be revoked at the option of the City Council in the event there is a change of ownership of any kind or nature of the operating company, unless approval therefor has been obtained hereunder. If it is determined by the City Manager that Solid Waste Collector has not complied with the provisions of this chapter, the permit, and all other applicable statutes, ordinances, rules and regulations, the City Manager shall notify the Solid Waste Collector in writing of noncompliance and shall order compliance within thirty calendar days.
- (2) If noncompliance is not corrected within the above-prescribed thirty-day period, the City Council, following a public hearing after at least ten calendar days' prior written notice to the Solid Waste Collector, may terminate the permit. The City Council's decision shall be final.

### **8.36.340 - Solid Waste Collector Reports**

Upon issuance of a franchise hereunder, the Solid Waste Collector shall submit the following, except as otherwise provided in the franchise agreement:

A. Annual Reports. The Solid Waste Collector shall prepare and submit an annual report, using a tabular and/or graphic format, or other commonly used database management program (e.g. Excel, etc.) as approved by the City, within sixty calendar days after the close of each calendar year. The report shall include, but is not limited to, the following information:

- (1) A summary of the previous year's (or, in the case of the initial report year, the initial year's) activities including, but not limited to, services begun or discontinued during the reporting year, and the number of Solid Waste customers for each class of services;
- (2) A report, in a form satisfactory to the City, on the City's progress in meeting and maintaining its ability to meet its goals under applicable state laws and regulations as applied to the Solid

Waste Collector's service area, along with any recommended changes;

- (3) A revenue statement, setting forth quarterly compliance fees, and the basis for the calculation thereof, certified for accuracy, under penalty of perjury under the laws of the state by an officer of the Solid Waste Collector.

B. Monthly Reports. Solid Waste Collector shall prepare monthly reports, using a tabular and/or graphic format or other commonly used database management program as approved by the City, during the term of the franchise monthly reports shall be submitted to the City on a quarterly basis, within twenty days from the end of the quarter. At a minimum, the reports shall include:

- (1) Summaries of tonnage collected and disposed of by generator type, disposal and/or recycling facilities used, and disposal fees paid;
- (2) Summaries of tonnage of Recyclable Materials and Organic Waste collected, by material, and by route;
- (3) Summaries of tonnages of non-recyclables and contaminants disposed;
- (4) Summaries of tonnages, using an approved sampling methodology, of each material sold or otherwise exchanged for processing, by material type;
- (5) Average market process for each material sold, and processing charges or acceptance fees for Organic Waste to other applicable materials;
- (6) Percentage of commercial businesses and percentage of residences subscribing to Organic Waste collection services;
- (7) Description of progress in meeting the implementation schedule, including the problems encountered and how they were resolved;
- (8) Summaries of the number of service complaints by route, including the date, nature of complaint, and how it was resolved.

C. Ad Hoc Reports. Solid waste Collector shall provide all required reports of varying detail and format, including participation studies, and waste evaluation and sampling studies on a quarterly basis or as required by SB 1383 regulations and as specifically requested by the City, to meet reporting requirements to CalRecycle and meet unforeseeable information queries of the California Integrated Waste Management Board, Imperial County Integrated Waste Management Task Force, or other public agencies or as otherwise reasonably requested by the City.

### **8.36.350 - Adverse Information**

The Collector shall provide the City two copies of all reports, or other material adversely affecting the Collector submitted by Collector to the California Environmental Protection Agency, to CalRecycle or any other federal or state agency. Copies shall be submitted to the City simultaneously with Collector's filing of such matters with said agencies. Collector's routine correspondence to said agencies need not be automatically submitted to the City, but shall be made available to the City upon written request.

A. Collector shall submit to the City copies of all pleadings, applications, notifications, communications and documents of any kind, submitted by the Collector to, as well as copies of all decisions, correspondence and actions by, any federal, state and local courts, regulatory agencies and other governmental bodies relating specifically to Collector's performance of services pursuant to the permit. Any confidential data exempt from public disclosure shall be retained in confidence by the City and its authorized agents and shall not be made available for public inspection.

B. Collector shall submit to the City such other information or reports in such forms and at such times as the City may reasonably request or require.

C. All reports and records required under this or any other section shall be furnished at the sole expense of the Collector.

D. A copy of each Collector's annual and other periodic public financial reports and those of its parent, subsidiary and affiliated corporations and other entities, as the City requests, shall be submitted to the City within 30 days after receipt of a request.

### **8.36.360 - Failure to Report**

The refusal, failure, or neglect of the Collector to file any of the reports required, or to provide adverse information, or the inclusion of any materially false or misleading statement or representation made knowingly by the Collector in such report shall be deemed a material default under the franchise, and shall subject the Collector to all remedies, legal or equitable, which are available to the City under the permit or otherwise.

### **8.36.370 - Additional Requirements of Solid Waste Collectors (authorized haulers)**

A. Solid Waste Collectors other than the exclusive franchisee shall obtain and maintain a business license with the City.

B. Within five days of a written request by the City, Solid Waste Collector(s) shall provide progress reports providing the following information, at a minimum:

- (1) Total number of Solid Waste customers to whom the Solid Waste Collector currently provides Solid Waste, Recyclable Materials, and Organic Materials collection service within the City's boundaries;



- (2) For each Solid Waste customer, the account name, identifying number, primary contact, phone number, billing address, and service address;
- (3) Information on the type of collection service provided, such as Solid Waste, Recyclable Materials, or Organic Materials services;
- (4) The weekly volume and type of collection service provided, including the number, type, and size of Containers serviced and the days of service for each Container;
- (5) Name and location of the Solid Waste facilities where materials are delivered for processing;
- (6) List of accounts not in compliance with this chapter, including whether they are excluded or exempt based on the exemptions in Section 8.36.400 - below.

#### **8.36.380 - Requirements for Single-Family Generators**

A. Single-Family Organic Waste Generators shall comply with the following requirements

- (1) Subscribe to the City's Organic Waste collection services. 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 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 through backyard residential composting, and/or using a community composting site.
- (2) Participate in the City's Organic Waste collection service(s) by placing designated materials in designated Containers.

#### **8.36.390 - Requirements for Commercial Businesses**

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

- (1) Subscribe to the City's three-Container collection services and comply with requirements of those services as described below in Section 8.36.390 - (A)(2). The 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.

- (2) Participate in the City's three-Container collection service(s) by placing Source Separated Green Container Organic Waste, including Food Waste, in the Green Container or Blue Container with Green Lid; Source Separated Recyclable Materials in the Blue Container; and Black Container Waste in the Black Container. Generator shall not place materials designated for the Black Container into the Green Container, Blue Container with Green Lid, or Blue Container, nor place materials designated for the Green Container, Blue Container with Green Lid, or Blue Container into the Black Container.
- (3) Supply and allow access to an adequate number, size and location of collection Containers with sufficient labels or colors (conforming with Section 8.36.390 - (A)(4)(a)-(b) for employees, contractors, tenants, and customers, consistent with the City's Blue Container, Green Container or Blue Container with Green Lid, and Black 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 8.36.430 - .
- (4) 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 § 18984.9(b), the Containers provided by the business shall have either:
  - a. 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.

- b. Container labels that include language or graphic images, or both, indicating the primary material accepted and the primary materials prohibited in that Container, or Containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the Container. Pursuant 14 CCR § 18984.8, the Container labeling requirements are required on new Containers commencing January 1, 2022.
- (5) Multi-Family Residential Dwellings are not required to comply with Container placement requirements or labeling requirements in Section 8.36.390 - (A)(4) pursuant to 14 CCR § 18984.9(b).
  - (6) 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 in accordance with Section 8.36.390 - (A)(2), or if recycling organics onsite or self-hauling under Section 8.36.430 per the Commercial Businesses' instructions to support its compliance with its onsite recycling or self-haul program.
  - (7) Excluding Multi-Family Residential Dwellings, periodically inspect 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 § 18984.9(b)(3).
  - (8) 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, and ensure that instructions or training materials provided to employees, contractors, and volunteers are promptly made available to the city upon request.
  - (9) 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 Black Container Waste (when applicable) and the location of Containers and the rules governing their use at each property.

- (10) Provide or arrange access for the City or its agent to their properties during all Inspections conducted in accordance with Section 8.36.460 - to confirm compliance with the requirements of this chapter.
- (11) Accommodate and cooperate with City's Remote Monitoring program for Inspection of the contents of Containers for Prohibited Container Contaminants, to evaluate Generator's compliance with Section 8.36.390 - (A)(2). The Remote Monitoring program shall involve installation of Remote Monitoring equipment on or in the Blue Containers, Green Containers, Blue Container with Green Lids, and Black Containers.
- (12) If a Commercial Business wants to Self-haul, it must meet the Self-Hauler requirements in Section 8.36.430 -
- (13) Nothing in this section prohibits a Generator from preventing or reducing waste generation, managing Organic Waste on-site, or using a Community Composting site.
- (14) Commercial Businesses that are Tier One or Tier Two Commercial Edible Food Generators shall comply with Food Recovery requirements, pursuant to Section 8.36.440 - .
- (15) Commercial Generators may be assessed an additional fee based on the size of the Container for Recyclable Materials and Organic Materials Containers that are collected for Solid Waste disposal by the Collector if the contents of their Recyclable Materials and Organic Materials Containers contain unacceptable levels of contamination.

#### **8.36.400 - Waivers for Generators**

A. De Minimis Waivers. The City may waive a Commercial Business's obligation (including that of a Multi-Family Residential Dwelling) to comply with some or all of the Organic Waste requirements if the Commercial Business provides documentation that the business generates below a certain amount of Organic Waste material as described in Section 8.36.400 - (A)(2) below. Commercial Businesses requesting a de minimis waiver shall:

- (1) Submit an application specifying the services from which they are requesting a waiver, and provide documentation as noted in Section 8.36.400 - (A)(2) below.
- (2) Provide documentation that either:

- a. The Commercial Business's 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's total waste; or
  - b. The Commercial Business's 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's 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 two years, if the City has approved de minimis waiver.

B. Physical Space Waivers. The City may waive a Commercial Business's or property owner's obligations (including those of 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 otherwise required for compliance with the Organic Waste collection requirements.

A Commercial Business or property owner may request and maintain 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 applicant's hauler, licensed architect, or licensed engineer; and
- (3) Provide written verification to the City that it is still eligible for physical space waiver every two years, if the City has approved application for a physical space waiver.

C. Additional Waivers. The City may provide any additional waivers of the requirements of this chapter to the extent permitted by applicable law. The Public Works Director or his or her 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 Public Works Director or his or her designee.

E. The city by resolution may impose an administrative fee on petitioning entities to cover the costs of processing such petitions. The city may require the solid waste customer, commercial generator, or special event that is granted an exemption from the requirements of this chapter to submit a renewal of its petition for an exemption every two years from the date the exemption was granted by the city.

### **8.36.410 - Special Events**

The entity responsible for a special event shall be responsible for ensuring and demonstrating compliance with the requirements of this chapter. In addition to other requirements in this chapter and this code, each special event shall:

A. Source Separate Recyclable Materials and, for Special events that include food service or use food service establishments, Organic Materials from Solid Waste by placing each type of material in a separate designated Container or Container, and ensure that employees, contractors, volunteers, customers, visitors, and other persons on-site Source Separate all Recyclable Materials and Organic Materials.

B. Ensure the special event has access to an adequate number and type of Containers needed for collecting and storing Recyclable Materials and, when applicable, Organic Materials generated at and by the special event.

C. Provide or ensure the provision of adequate Containers throughout the special event location to make the segregation of Recyclable Materials and Organic Materials convenient for employees, volunteers, contractors, vendors, exhibitors, presenters, visitors, attendees, customers, and other persons on-site.

D. Provide or ensure the provision of an equal or greater number of Containers for Recyclable Materials and, when applicable, Containers for Organic Materials, to Containers for Solid Waste. Individual Containers for Recyclable Materials, Organic Materials, and Solid Waste shall be placed as close together as possible throughout the special event location in order to provide equally convenient access to Containers for Recyclable Materials and Organic Materials as to Containers for Solid Waste.

E. Ensure that all Containers used for segregating and storing Recyclable Materials, Organic Materials, and Solid Waste are affixed with signs or labels that display the appropriate information to enable users to accurately Source Separate solid waste and to clearly differentiate which Containers are used for Recyclable Materials, Organic Materials, and Solid Waste, to minimize the contamination of material placed in Containers.

F. Require food vendors and food service establishments to have at least one separate Container each for Recyclable Materials, Organic Materials, and Solid

Waste for use by employees, contractors, custodians, customers, visitors, and other persons on-site.

G. Distribute chapter requirements and appropriate informational materials to all vendors, exhibitors, and other commercial generators during event planning and setup.

H. Ensure that the contents of the Containers for Recyclable Materials and Organic Materials are not delivered to Solid Waste Containers unless they include unacceptable levels of contamination.

### **8.36.420 - Requirements for Haulers and Facility Operators**

#### **A. Requirements for Haulers**

(1) Haulers shall meet the following requirements and standards as a condition of approval of a permit or other authorization with the City to collect Organic Waste.

a. Through written notice to the City annually on or before June 1, identify 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, 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 construction and demolition debris.

(2) Haulers authorized to collect Organic Waste shall comply with education, equipment, signage, Container labeling, Container color, contamination monitoring, reporting, and other requirements contained within its permit or other agreement entered into with the 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 the City's 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 the City's request, shall provide information to the City to support Organic Waste capacity planning, including, but not limited to, an estimate of the amount of Organic Waste anticipated to be handled at the Community Composting operation. Entities contacted by the City shall respond within 60 days.

### **8.36.430 - 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 §§ 18984.1 and 18984.2, 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 entities that received the Organic Waste.



D. Self-Haulers that are Commercial Businesses (including Multi-Family Self-Haulers) shall provide information collected in Section 8.36.430 - (C) to the City if requested.

E. A residential Organic Waste Generator that self-hauls Organic Waste is not required to record information as otherwise required by Section 8.36.430 - (C) or report information as otherwise required by Section 8.36.430 - (D).

F. Notwithstanding the foregoing, Self-haulers shall not dispose of any Solid Waste in any manner not permitted by this chapter. To do so is a violation of this chapter punishable as set out in Section 8.36.470 - .

G. Exemptions. The following activities and circumstances do not qualify as Self-hauling under this chapter:

- (1) Yard waste and/or Green Waste removed from a premise by a gardening, landscaping, or tree trimming contractor having a City business license and as an incidental part of a total service offered by that contractor rather than as a disposal service, and tree trimmings, clippings, and all similar materials generated at parks and other publicly maintained premises;
- (2) Construction and demolition debris removed from a premise by a licensed contractor as an incidental part of a total service offered by that contractor rather than as a disposal service;
- (3) The collection of Hazardous Material or dangerous waste as part of a Hazardous Material collection activity authorized by the Imperial County Environmental Health Department, including, without limitation, liquid and dry caustics, acids, bio-hazardous, flammable or explosive materials, insecticides and similar substances; and
- (4) Recyclable Materials and Organic Waste generated at any residential premise or place of business and which are transported personally by the owner or occupant of such premises (or by his or her full-time employees) to a Solid Waste or recycling facility in a manner consistent with this chapter and other applicable laws.

#### **8.36.440 - Requirements for Commercial Edible Food Generators**

A. Tier One Commercial Edible Food Generators must comply with the requirements of this section commencing January 1, 2022, and Tier Two Commercial Edible Food Generators must comply commencing January 1, 2024.

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) Shall not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery Organization or a Food Recovery Service.
- (2) Allow the City's designated enforcement entity or designated third party enforcement entity to access the premises and review records pursuant to 14 CCR § 18991.4.
- (3) Keep records that include the following information, or as otherwise specified in 14 CCR § 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 § 18991.3(b).
  - b. A copy of all contracts or written agreements established under 14 CCR § 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, Chapter 285, Statutes of 2017.

### **8.36.450 - 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 § 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR § 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 for which the Food Recovery Service transports Edible Food 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 § 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR §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 from which the organization receives Edible Food 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 § 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 § 18991.3(b) no later than March 1, July 1, and September 1 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, 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.

**8.36.460 - Inspections and Investigations**

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 chapter by Organic Waste Generators, Commercial Businesses (including Multi-Family Residential Dwellings), property owners, Commercial Edible Food Generators, Self-Haulers, Hauler, Food Recovery Service, and Food Recovery Organizations, subject to applicable laws. This Section does not allow the City to enter the interior of a private residential property for Inspection. For the purposes of inspecting Commercial Business Containers for compliance with Section 8.36.390 - , the City may conduct Container Inspections for Prohibited Container Contaminants using Remote Monitoring, and Commercial Businesses shall accommodate and cooperate with the Remote Monitoring pursuant to Section 8.36.390 - .

B. The regulated entity shall provide or arrange for access during all Inspections (with the exception of residential property interiors) and shall cooperate with the City's 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 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 in Section 8.36.470 - .

C. Any records obtained by the City during its Inspections, Remote Monitoring, and other reviews shall be subject to the requirements and applicable disclosure exemptions of the Public Records Act as set forth in Government Code Section 6250 et seq.

D. City representatives, its designated entity, and/or Designee are authorized to conduct any Inspections, Remote Monitoring, or other investigations as reasonably necessary to further the goals of this 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. Collectors shall relay to City in writing all written complaints they receive concerning acts or omissions of themselves or another entity that is potentially non-compliant with SB 1383 Regulations, including anonymous complaints.

### **8.36.470 - Enforcement**

A. It is unlawful for any person, firm or corporation to violate or attempt to evade any of the rules or regulations duly prescribed by the City Council, pursuant to the authority granted to the City Council by this chapter.

B. In addition to any other remedy allowed by law, any person who violates a provision of this chapter is subject to criminal sanctions, civil actions, and administrative penalties. Violations of this chapter constitute a misdemeanor and may be enforced by any applicable law. Violations of this chapter are hereby declared to be public nuisances. Each person is guilty of a separate offense each day a violation is allowed to continue and every violation of this chapter shall constitute a separate offense and shall be subject to all remedies. All remedies prescribed under this chapter shall be cumulative and the election of one or more remedies shall not bar the City from the pursuit of any other remedy for the purpose of enforcing the provisions hereof.

C. The City shall enforce this chapter with the goal of maximizing the amount of Recyclable Materials and Organic Materials properly Source Separated and ensuring that Recyclable Materials and Organic Materials that have been properly Source Separated are correctly collected and delivered to recycling and organics materials processing facilities. In addition to all enforceable mechanisms available to the City under Section 8.36.470 - , the City shall require the Solid Waste Collector to conduct the following activities to enforce this chapter:

- (1) Provide details on the requirements of this chapter to affected solid waste customers, commercial premises, multi-family generators, and special events;
- (2) Develop and disseminate public education and promotional materials relating to the importance of recycling and Organic Materials processing and the availability of recycling and Organic Materials processing opportunities available to solid waste customers, commercial generators, multi-family generators, and special events;
- (3) Provide technical assistance and training to solid waste customers, commercial generators, multi-family generators, and special events to increase recycling;
- (4) Enforce provisions of the franchise agreement for collection of Recyclable Materials, Organic Materials, and Solid Waste with

the Collector to stimulate demand for Recyclable Materials and Organic Materials collection service.

D. Violation of any provision of this chapter shall constitute grounds for issuance of a Notice of Violation and assessment of a fine by an Enforcement Officer. Enforcement Actions under this chapter are issuance of an administrative citation and assessment of a fine. The procedures in Chapter 1.27 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.

E. The City Enforcement Officer and/or its Designee will monitor compliance with the SB 1383 Regulations, including Sections 8.36.380 - through 8.36.400 - , 8.36.420 - through 8.36.450 - , randomly and through Compliance Reviews, Route Reviews, investigation of complaints, and an Inspection program (that may include Remote Monitoring).

F. Beginning January 1, 2022 and through December 31, 2023, the City will conduct Inspections, Remote Monitoring, Route Reviews or waste evaluations, and Compliance Reviews, depending upon the type of regulated entity, to determine compliance with the SB 1383 Regulations, including Sections 8.36.380 - through 8.36.400 - , 8.36.420 - through 8.36.450 - , and if the City determines that Organic Waste Generator, Self-Hauler, Hauler, Tier One Commercial Edible Food Generator, Tier Two 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 as of January 1, 2022, and that violations may be subject to administrative civil penalties starting on January 1, 2024.

G. Beginning January 1, 2024, if the City or its Designee 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 the SB 1383 Regulations, including 8.36.380 - through 8.36.400 - , 8.36.420 - through 8.36.450 - , it shall document the noncompliance or violation, issue a Notice of Violation, and take Enforcement Action pursuant to this section, as needed.

H. Prior to taking any Enforcement Action against a person, business, or entity for violating the SB 1383 Regulations, including Sections 8.36.380 - through 8.36.400 - , 8.36.420 - through 8.36.450 - , the City shall first notify the person, business, or entity and provide an opportunity to correct the violation through the issuance of a Notice of Violation by a City Enforcement Officer. Notices shall be sent to the "owner" at the official address of the owner maintained by the tax collector for the City or if no such address is available, to the owner at the address of the residential dwelling or Commercial property or to the party responsible for paying for the Collection services, depending upon available information. This notice shall contain the information required by Calexico Municipal Code section 1.27.050. The notice shall state the person, business, or entity

has 60 days to correct the violation. The person, business, or entity shall be responsible for ensuring and demonstrating compliance with the requirements of the SB 1383 Regulations, including Sections 8.36.380 - through 8.36.400 - , 8.36.420 - through 8.36.450 - , within the 60-day time frame provided in the notification of violation. Failure to demonstrate compliance shall be cause for enforcement.

(g) For incidences of Prohibited Container Contaminants found in containers, City Enforcement Officer will issue a Notice of Violation to any generator found to have Prohibited Container Contaminants in a Container. Such notice will be provided via a cart tag or other communication immediately upon identification of the Prohibited Container Contaminants or within 30 days after determining that a violation has occurred. Notwithstanding the foregoing, the City may issue administrative citations immediately for container contamination and failure to subscribe to collection service as required by Sections 8.36.380 - and 8.36.390 - . The City may pursue enforcement of the provisions of this chapter through administrative, civil, or criminal proceedings.

I. 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.

J. The penalty levels are as follows:

- (1) For a first violation, the amount of the base penalty shall be \$100 per violation.
- (2) For a second violation, the amount of the base penalty shall be \$200 per violation.
- (3) For a third or subsequent violation, the amount of the base penalty shall be \$500 per violation.
- (4) The penalties shall be consistent with Government Code section 36900.

K. Appeals Process. Persons receiving an administrative citation containing a penalty for an uncorrected violation may request a hearing to appeal the citation pursuant to Section 1.27.070.

### **8.36.480 - Disclaimer of Liability**

The degree of protection required by this chapter is considered to be reasonable for regulatory purposes. The standards set forth in this chapter are minimal standards and do not imply that compliance will ensure safe handling of Recyclable Materials, Organic Materials, or Solid Waste. This chapter shall not create liability on the part of the City, or any of its officers or employees, for any damages that result from reliance on this chapter or any administrative decision lawfully made in accordance with this chapter. All persons handling Solid Waste within the boundaries of the City should be and are advised to conduct their own inquiry as to the handling of such materials. In undertaking the

implementation of this chapter, the City is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it, its officers, and/or its employees are liable in money or any other damages to any person or other entity who claims that such breach proximately caused its injury.

### **8.36.490 - Discretionary Duties**

Subject to the limitations of due process and applicable requirements of state or federal laws, and notwithstanding any other provisions of this chapter, whenever the words "shall" or "must" are used in establishing a responsibility or duty of the City, its elected or appointed officers, employees or agents, it is the legislative intent of the City Council that such words establish only a discretionary responsibility or duty requiring the exercise of judgment and discretion.