



STAFF REPORT

CITY of YORBA LINDA

PUBLIC WORKS DEPARTMENT

DATE: NOVEMBER 16, 2021 *December 7, 2022 - Second Reading occurred and approval by City Council.*

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: JAMIE LAI, P.E., DIRECTOR OF PUBLIC WORKS/ CITY ENGINEER

SUBJECT: INTRODUCE (1ST READING) ORDINANCE NO. 2021-1087 AMENDING CHAPTER 8.20 OF THE YORBA LINDA MUNICIPAL CODE PERTAINING TO THE REGULATION OF SOLID WASTE INCLUDING ORGANIC WASTE

RECOMMENDATION

It is recommended that the City Council:

- 1) Introduce Ordinance No. 2021-1087 Amending Chapter 8.20 of the Yorba Linda Municipal Code to address state organics recycling mandates; and
- 2) Direct Staff to schedule a second reading and adoption of the proposed Ordinance amending Chapter 8.20 for the December 7, 2021, regular City Council meeting.

BACKGROUND

On September 19, 2016, Governor Brown signed into law Senate Bill (SB) 1383 establishing methane emissions reduction targets in a statewide effort to reduce emissions of short-lived climate pollutants (SLCP) in various sectors of the California economy. The goal of SB 1383 is to reduce organic waste disposal by 75% and increase edible food recovery by 20%, by 2025. SB 1383 is the most significant waste reduction mandate to be adopted in the State of California in the last 30 years and requires all jurisdictions to implement a mandatory organic recycling ordinance by January 1, 2022. This legislation requires all businesses, residents, and multi family apartments to have access to recycling programs that capture food scraps, landscaping waste, and other organic waste materials.

Since landfills are the third largest producer of methane, the State's SB 1383 mandate and strategy includes managing organic waste such as food scraps, green waste, paper and cardboard for a significant portion of California's overall waste stream which includes both the commercial and residential sectors.

As a result of SB 1383, the California Department of Resources Recycling and Recovery (CalRecycle), which is the state department tasked with administering California's waste and recycling programs, developed prescriptive regulations to achieve the State's outlined

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organic waste disposal goals by 2025. In November 2020, Cal Recycle released the final regulations for SB 1383.

This item is before the City Council to consider introducing Ordinance No. 2021-1087 (Attachment A) amending Chapter 8.20 of the Yorba Linda Municipal Code to comply with the state mandated organic waste disposal requirements.

DISCUSSION

To meet the SB 1383 regulations, jurisdictions throughout the State are required to adopt an ordinance or other similarly enforceable mechanism by January 1, 2022. The ordinance will mandate that organic waste generators, haulers, and other entities subject to the requirement of SB 1383 must comply with SB 1383 regulatory requirements. In summary, SB 1383 mandates cities to:

- Provide organic waste collection services to all residents and businesses
- Develop and adopt an enforceable mechanism or ordinance by January 1, 2022
- Establish an edible food recovery program
- Update the City's procurement policy to purchase recycled content paper and recycled organic waste products (ex: compost, mulch, renewable natural gas) at a volume of 0.08 tons/resident
- Provide outreach and education for generators, facilities, edible food recovery organizations and municipal departments
- Plan and secure access for recycling and edible food recovery capacity
- Monitor compliance and conduct enforcement
- Maintain accurate compliance records

Other portions of the existing ordinance have also been modified, updated, and aligned with current law and the City's current franchise agreements. The City is currently undergoing negotiations with its hauler, Republic Services to align to the requirements of SB 1383 and other related legislation.

The proposed Ordinance (incorporating SB 1383 Organics Recycling) amends in its entirety Title 8, Chapter 8.20 of the Yorba Linda Municipal Code pertaining to solid waste regulations and is recommended for approval. In addition to updating the Municipal Code to address the requirements of SB 1383, the proposed Ordinance also updates provisions of Chapter 8.20 to make them consistent with the City's franchise agreement with Republic Services and current statutory and case law.

FISCAL IMPACT

There is no direct fiscal impact as a result of this item.

ALTERNATIVES

Do not introduce first reading of the ordinance and provide direction to staff. Doing so, will delay the second reading and thus risking non-compliance with meeting the State mandate deadline of January 1, 2022.

ATTACHMENTS

1. Attachment A – Proposed Ordinance No. 2021-1087 Amending Municipal Code Chapter 8.20
 2. Attachment B – Exhibit A
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ORDINANCE NO. 2021-1087

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YORBA LINDA AMENDING CHAPTER 8.20 OF THE YORBA LINDA MUNICIPAL CODE PERTAINING TO THE REGULATION OF SOLID WASTE INCLUDING ORGANIC WASTE

WHEREAS, SB 1383 and the related regulations contained in 14 California Code of Regulations (CCR), Div. 7, Ch. 12 require all California cities to provide a program for the diversion of organic waste from landfills, and

WHEREAS, SB 1383 and the related regulations contained in 14 CCR, Div. 7, Ch. 12 further require all California cities to adopt an ordinance to enforce violations of its program for the diversion of organic waste from landfills; and

WHEREAS, The City Council desires to amend the City of Yorba Linda Municipal Code so as to be in compliance with the requirements of SB 1383 and 14 CCR, Div. 7, Ch. 12, and

WHEREAS, City staff have analyzed and determined that the amendments to Chapter 8.20 of the Municipal Code is not considered a “project” pursuant to CEQA.

NOW, THEREFORE, the City Council of the City of Yorba Linda Ordains as follows:

SECTION 1. The foregoing Recitals are incorporated herein and made a part hereof.

SECTION 2. The City Council finds that this Ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines Section 15060(c)(2) and 15061(b)(3) in that the proposed changes are not anticipated to result in a direct or reasonably foreseeable indirect physical change in the environment nor will they have the potential of creating a significant effect on the environment.

SECTION 3. Chapter 8.20 of the Yorba Linda Municipal Code is hereby amended to read in its entirety as set forth in the attached Exhibit A.

SECTION 4. City staff is hereby authorized and directed to file a Notice of Exemption with respect to the adoption of this Ordinance.

SECTION 5: If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid by a final judgment of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subdivision, sentence, clause, phrase, or portion of this Ordinance irrespective of the fact that one or more sections, subdivisions, sentences, clauses, phrases, or portions of this Ordinance be declared invalid.

SECTION 6: The City Clerk is authorized and directed to publish this Ordinance or a summary thereof in the manner provided by law and in accordance with procedures normally taken.

SECTION 7: The City Clerk shall certify to the passage of this Ordinance and cause the same to be published as required by law, and the Ordinance shall take effect thirty (30) days after adoption.

SECTION 8: Upon the effective date of this Ordinance, all former ordinances or parts thereof conflicting or inconsistent with the provisions of this Ordinance are hereby repealed and declared to be of no further force and effect.

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council of the City of Yorba Linda on this ___ day of _____, 2021.

PEGGY HUANG, MAYOR
CITY OF YORBA LINDA

ATTEST:

MARCIA BROWN, CITY CLERK
CITY OF YORBA LINDA

APPROVED AS TO FORM:
RUTAN & TUCKER, LLP

CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS.
CITY OF LA PALMA)

I, _____, City Clerk of the City of Yorba Linda, California, DO HEREBY CERTIFY that the foregoing Ordinance was adopted at a regular meeting of the City Council of the City of Yorba Linda held on the ____ day of _____, 2021 and was carried by the following roll call vote:

AYES:
NOES:
ABSENT:

MARCIA BROWN, CITY CLERK
CITY OF YORBA LINDA

Chapter 8.20 of the Yorba Linda Municipal Code – Proposed (Redlines)**8.20.010 Definitions.**

The words and phrases contained in this chapter shall have the meaning commonly associated with them unless special meaning is ascribed to them by the California [Public Resources Code](#) or the California [Code of Regulations](#) (as either may be amended from time to time) in which case such meaning shall apply; except that the following words shall, for the purpose of this chapter, be defined as follows:

A. “AB 341” shall mean Assembly Bill 341 from the 2011-2012 Regular Session of the California Legislature (Chapter 476, stats. 2011).

B. “AB 939” shall mean that state legislation commonly known as the California Integrated Waste Management Act (Chapter 1095, stats. 1989, as amended) as codified in [Public Resources Code](#) Section 49000, et seq.

~~C. “Administrative Authority” shall mean the City Manager of the City or his or her duly authorized representative or designee.~~

~~CD.~~ “Bins” shall mean a Container, commonly referred to as dumpsters, including compactors and any similar such devices, with a capacity of under ten (10) cubic yards.

~~DE.~~ “Cart” shall mean a plastic Container provided by a Franchisee for Collection, with a hinged lid and wheels serviced by an automated process, as opposed to a manual process of lifting and dumping.

~~EF.~~ “City” shall mean the City of Yorba Linda.

~~F. “City Manager” shall mean the City Manager of the City or his or her duly-authorized representative or designee~~

G. “Collect” or “Collection” or “Collecting” shall mean to take physical possession of, transport, and remove Solid Waste from a Premises.

H. “Commercial Premises” shall mean 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 herein, for purposes of this chapter, Premises upon which hotels and motels are operated and upon which Multi-Family Dwellings exist shall be deemed to be Commercial Premises.

I. “Container” shall mean any and all types of Solid Waste receptacles, including Carts, Bins, and Rolloff Boxes.

J. “Dwelling Unit” shall mean one or more rooms designed for occupancy by one family for living and sleeping purposes and containing kitchen facilities or an area designed for the preparation of food for use solely by one family.

K. “Franchisee” shall mean a person, persons, firm or corporation that has been issued a franchise by City to provide Solid Waste handling services related to Solid Waste generated within the City.

L. “Hazardous Contaminant” shall mean any “hazardous material,” as that term is defined under California [Health and Safety Code](#) Section 25501(n); any “hazardous substance,” as that term is defined in this chapter or under California [Health and Safety Code](#) Sections 25281(h), 25501(n), and

under Title 42, Section 9601(14) of the United States Code; any “hazardous waste,” as that term is defined in this chapter and under Title 42, Section 6903(5) of the United States Code and under California [Health and Safety Code](#) Section 25501(n); any chemical which the Governor has identified as a chemical known to the State to cause cancer or reproductive toxicity pursuant to California [Health and Safety Code](#) Section 25249.8; any crude oil or refined or unrefined petroleum product or any fraction or derivative thereof; and any asbestos or asbestos-containing material. The term “Hazardous Contaminant” shall also include any and all amendments to the above-referenced statutory and regulatory provisions.

M. “Hazardous Substance” shall mean any of the following: (a) any substances defined, regulated or listed (directly or by reference) as “Hazardous Substances,” “hazardous materials,” “Hazardous Wastes,” “toxic waste,” or “toxic substances” or similarly identified as hazardous to human health or the environment, in or pursuant to (i) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC § 9601 et seq.(CERCLA); (ii) the Hazardous Materials Transportation Act, 49 USC § 5101, et seq.; (iii) the Resource Conservation and Recovery Act, 42 USC § 6901 et seq.; (iv) California [Health and Safety Code](#) §§ 25115-25117, 25249.8, 25281, and 25316; and (vii) the California [Water Code](#) § 13050; (b) any substances identified in any and all amendments, rules or regulations promulgated thereunder to such enumerated statutes or acts currently existing or hereafter enacted; and (c) any other hazardous or toxic substance, material, chemical, waste or pollutant identified and/or regulated as hazardous or toxic under any other applicable current or future Federal, state or local laws or regulations, including, without limitation, friable asbestos, polychlorinated biphenyls (“PCBs”), petroleum, natural gas and synthetic fuel products, and by-products.

N. “Hazardous Waste” shall mean all substances defined as hazardous waste, acutely hazardous waste, or extremely hazardous waste by the State of California in [Health and Safety Code](#) Sections 25110.02, 25115 and 25117, or in the future amendments to or re-codifications of such statutes, or identified and listed as hazardous waste by the US Environmental Protection Agency (EPA) pursuant to the Federal Resource Conservation and Recovery Act (42 U.S.C. § 6901, et seq.), all future amendments thereto, and all rules and regulations promulgated thereunder. [For purposes of this chapter the term Hazardous Waste shall include Hazardous Substances and Hazardous Contaminants.](#)

O. “Multi-Family Dwelling” shall mean any building or lot containing more than one Dwelling Unit at which a Franchisee determines (and City agrees) the Dwelling Units must receive Solid Waste Collection services through the use of shared Bins, since they are not reasonably able to store Carts or otherwise receive individualized Solid Waste Collection service through the use of Carts. Unless otherwise determined as set forth above, any Premises upon which four (4) or more Dwelling Units exists shall be deemed to be a Multi-Family Dwelling. Any ambiguity as to whether a Premises qualifies as a Single-Family Dwelling or Multi-Family Dwelling for purposes of receiving Solid Waste Collection in Carts or Bins shall be resolved by the City Manager whose decision shall be final.

[P. “Organic waste” shall have the same meaning as set forth in 14 CCR, Div. 7, Ch. 12, Section 18982\(a\)\(46\).](#)

[QP.](#) “Person” shall mean any individual, firm, corporation, association, group or other entity.

[QR.](#) “Premises” shall mean any land, building and/or structure within the City limits where Solid Waste is generated or accumulated.

RS. “Recycle” or “Recycling” shall mean the process of Collecting, sorting, cleaning, treating and reconstituting materials that would otherwise become Solid Waste and returning these materials to the economic mainstream in the form of raw materials for new, reused or reconstituted products which meet the quality standards used in the marketplace.

ST. “Recyclable Material” shall mean that Solid Waste capable of being recycled, including but not limited to glass, newsprint, newspaper, aluminum, cardboard, certain plastics or metal.

TU. “Residential Premises” shall mean all Premises upon which Dwelling Units exist. Notwithstanding any provision to the contrary herein, for purposes of this chapter, Premises upon which hotels and motels are operated or upon which Multi-Family Dwellings exist shall be deemed to be Commercial Premises.

UV. “Rolloff Box” shall mean Containers of ten (10) cubic yards or larger, including compactors.

VW. “Salvage” or “Salvaging” shall mean the obtainment by a Salvager directly from the generator, either by sale or donation, any Recyclable Material prior to the placement of the same in a Container for Collection by the Franchisee.

WX. “Salvager” shall mean any Person engaged in Salvage operations, including the Person generating the Recyclable Material, who has been issued a permit from the City to Salvage pursuant to this chapter. A Salvager shall not receive any form of compensation from the generator for the collection, processing or disposal of said Recyclable Material, other than the Recyclable Material.

XY. “Self-Hauler” shall mean any Person or entity that, pursuant to Section 8.20.090 of this chapter, provides for the Collection, transportation and disposal of Solid Waste generated by his/her/its own Premises.

YZ. “Single Family Dwelling” shall mean a building or lot containing one Dwelling Unit, and includes buildings and lots with more than one Dwelling Unit where such Dwelling Units are determined by the City to be reasonably able to receive individualized Solid Waste Collection service by an automated process utilizing Carts. While for ease of interpretation the definitions of Single Family Dwelling and Multi-Family Dwelling, when read together, have been drafted to include a general default so as to allow for Bins rather than Carts at Premises having four (4) or more Dwelling Units, it is intended that Carts will be used for Solid Waste Collection service, rather than Bins, wherever reasonable to do so. Any ambiguity as to whether a Premises qualifies as a Single Family Dwelling or Multi-Family Dwelling shall be resolved by the City Manager.

ZAA. “Solid Waste” shall mean and include all Solid Waste as defined in [Public Resources Code](#) Section 40191, as it may be amended from time to time. Solid Waste does not include Hazardous [Waste Contaminants](#), low-level radioactive waste, untreated medical waste, or Special Wastes as defined herein.

AABB. “Special Wastes” shall mean wastes other than Solid Waste, including sewage, sludge, industrial sludge, asbestos, auto bodies, tires, used motor oil, Hazardous Waste, animal body parts, explosive substances, radioactive materials, acids, solvents and other materials which may not be disposed of at a Class III landfill or which requires special handling.

BBCC. “Yard Waste” shall mean all leaves, grass cuttings and shrubs that accompany routine household or property maintenance functions.

8.20.020 Authority to grant franchises.



~~A.~~ The City Council may by resolution or ordinance grant one or more franchises for Solid Waste handling services related to Solid Waste generated within the City.

B. Any solid waste enterprise granted a franchise for solid waste handling services shall operate in a manner that complies with all State laws and regulations. This obligation shall expressly, without limitation, require franchisees to provide all programs required by any State law or regulation to its customers, including, as applicable, programs that comply with recycling requirements and requirements related to the diversion of organic waste from landfills; and, further shall require franchisees to operate such programs in a manner consistent with such law or regulation.

8.20.030 Subscription to collection service or self-hauling.

A. Arrangements for Removal of Solid Waste Mandatory. Except as otherwise provided in this chapter, the owner, property manager, tenant and/or Person in charge or control of each Residential Premises and each Commercial Premises in the City shall either (i) subscribe to Solid Waste Collection services with a Franchisee for said Premises; or (ii) register as a Self-Hauler and obtain a self-hauler permit as set forth in this chapter in connection with said Premises.

B. Exception; Vacant Premises. The provisions of Section 8.20.030(a) -above ~~requirement to arrange for Solid Waste Collection services~~ shall not apply in connection with any Residential Premises at which all Dwelling Units are vacant, or Commercial Premises that are vacant, for a period of ninety (90) days or more, provided this exception shall only apply during the period of vacancy. Any Person seeking to avail himself/herself of the exception provided herein shall bear the burden of providing reasonable evidence to City, pursuant to such regulations or guidelines as the City Manager is hereby authorized to develop, demonstrating vacancy of the Premises for the period in question.

8.20.040 ~~Public nuisance~~Reserved.

~~A. It is unlawful, and a public nuisance, for any Person to occupy or inhabit any Premises within the City for which arrangements have not been made and kept in full force and effect for Solid Waste Collection services in a manner consistent with the provisions hereof.~~

~~B. The keeping of Solid Waste in Containers other than those prescribed by this chapter, or the keeping upon Premises of Solid Waste which is offensive, obnoxious or unsanitary, is unlawful, constitutes a public nuisance, and may be abated in the manner provided by law for the abatement of nuisances.~~

8.20.050 Containers.

A. Every owner, occupant or Person in possession, charge or control of any Premises within the City shall deposit or cause to be deposited all Solid Waste generated or accumulated on such Premises, and intended for Collection and disposal, in sealed, watertight Bins, Carts, Rolloff Boxes or other Containers that are either: (i) provided by, or acceptable to, a Franchisee; or (ii) approved by the City Manager for self-hauling purposes pursuant to this chapter. No owner, occupant or Person in possession, charge or control of any Premises shall utilize a Bin, Cart, Rolloff Box or other Container not in conformance with the requirements hereof for the Collection, accumulation or storage of Solid Waste.

B. Containers provided by a franchisee shall comply with all applicable State laws and regulations.

BC. No Bin, Cart, Rolloff Box or other Container shall be placed adjacent to or in a street or public right-of-way for Collection service prior to 4:00 p.m. on the evening preceding the normal Collection time, and all Containers so placed shall be removed from the street or right-of-way by 8:00 p.m. on the day of Collection.

CD. Container lids shall remain closed at all times that the Container is unattended. If the Solid Waste contained within a Bin, Cart, Rolloff Box or other Container exceeds the actual capacity of the Container, then a larger Container or multiple Containers shall be utilized.

DE. It is unlawful for any Person to share, place Solid Waste in, or to otherwise use the Bin, Cart, Rolloff Box or other Container of another Person or business. Notwithstanding anything contained herein to the contrary, the sharing of Containers shall be permitted under the following conditions:

1. The owner, property manager or Person in charge or control of a Premises upon which a Multi-Family Dwelling exists may arrange for Containers for shared use by the occupants, tenants or Persons in possession of the Dwelling Units on such Premises.
2. The occupants of a single commercial building or contiguous and adjacent commercial buildings may share a Container for Solid Waste Collection services at a common location, subject to approval of the City Manager, which approval may be delegated to a Franchisee. Approval by the City Manager shall be based upon: (i) the type of Solid Waste generated by each Commercial Premises; and (ii) the number of Containers and frequency of Solid Waste Collection needed to protect the public health, welfare and safety.

EF. It is unlawful to use any Bin, Cart, Rolloff Box or other Container furnished by a Franchisee for any purpose other than the Collection, accumulation and storage of Solid Waste; or to convert or alter such Containers for other uses; or to intentionally damage such Containers.

F. All containers used for the collection of solid waste at single-family dwellings shall be stored out of public view in a side or rear yard or an enclosed area such as a garage except on the day designated for collection. If the physical design of the dwelling does not allow for obscuring containers from public view because of the type of fencing or lack thereof, or lack of an appropriate enclosed area, containers shall be stored in an area adjacent to the dwelling at the point furthest from the closest street or roadway.
~~All Containers used for the Collection of Solid Waste at Single Family Dwellings shall be stored out of public view in a side or rear yard or an enclosed garage except on Collection day. If the physical design of the Premises does not allow for obscuring Containers from public view, Containers shall be stored in an area at the point furthest from the closest street or roadway.~~

8.20.060 Frequency of collection.

A. Residential Premises. With the exception of vacant Premises meeting the provisions of Section 8.20.030(B) above, not less than once per week, every owner, occupant or Person in possession, charge or control of any Residential Premises within the City shall remove by self-hauling (as provided herein) or cause to be removed by subscription to services provided by a Franchisee all Solid Waste stored, generated, Collected or accumulated on such Premises.

B. The owner, occupant or person in possession, charge or control of any premises within the City shall be responsible to ensure all solid waste generated on such premises is

~~removed as frequently as may be necessary to prevent the accumulation of solid waste on such premises from becoming or causing any public nuisance. Commercial Premises. With the exception of vacant Premises meeting the provisions of Section 8.20.030(B) above, not less than once per week, every owner, occupant or Person in possession, charge or control of any Commercial Premises within the City shall remove by self-hauling (as provided herein), or cause to be removed by subscription to services provided by a Franchisee, all Solid Waste stored, generated, Collected or accumulated on such Premises.~~

C. Modifications to Collection Frequency. The City Manager may provide written notice to the owner of any Premises that the ~~above~~ minimum collection frequency removal requirements set forth in Section 8.2.60(A) are not sufficient to avoid the creation of a public nuisance due to unique circumstances at such Premises; and, further, -The City Manager may direct that Solid Waste shall be removed by the owner of any Premises so notified on a more frequent schedule and/or that additional or larger Containers shall be utilized.

8.20.070 Unlawful and prohibited acts.

A. It is unlawful, and a public nuisance, for any Person to occupy or inhabit any Premises within the City for which arrangements have not been made and kept in full force and effect for Solid Waste Collection services in a manner consistent with the provisions hereof.

B. The keeping of Solid Waste in Containers other than those prescribed by this chapter, or the keeping upon Premises of Solid Waste which creates odors, attracts vectors, or is otherwise a danger to public health is unlawful, constitutes a public nuisance, and may be abated in the manner provided by law for the abatement of nuisances

C. It is unlawful, and a public nuisance, for any person or entity that subscribes for solid waste handling services with a franchisee to fail to participate in the recycling and organic waste programs offered by the franchisee.

D. It is unlawful, and a public nuisance, for any person or entity that subscribes for solid waste handling services with a franchisee to fail to comply with the terms of any recycling and organic waste programs offered by the franchisee, including by placing solid waste in containers of a type or nature not designed for the type of waste in question.

E. It is unlawful, and a public nuisance, for any person who obtains a permit to operate as a self-hauler with City to fail to comply with all requirements of such permit, including those related to the handling of organic waste.

F. It is unlawful, and a public nuisance, for any person or entity to fail to comply with his or its obligations related to the collection and handling of organic waste as set forth in 14 CCR, Div. 7, Ch. 12; provided, however, the City Manager or his designee is authorized to provide waivers to the requirement to participate in some or all of such obligations where authorized by law.

G. It is unlawful, and a public nuisance, for any Commercial Edible Food Generator, or any Food Recovery Organization or Service, to fail to meet its obligations as set forth in 14 CCR, Div. 7, Ch. 12.

H. It is be unlawful for any Person other than a Franchisee (or its agents and employees) to Collect any discarded Solid Waste including Recyclable Material, within the City. This prohibition shall not, however, apply to:

1. A Person that obtains a self-hauler permit in accordance with this chapter;
2. The owner, tenant or occupant of Residential or Commercial Premises who has subscribed for and is receiving Solid Waste Collections services from a Franchisee, when such owner, tenant or occupant is Collecting materials generated at his/her own Premises for delivery to a lawful disposal or Recycling facility. This exemption does not permit the hiring of any Person or entity, other than a Franchisee, to Collect Solid Waste from one's own Premises;
3. The Collection, transportation and disposal of construction and demolition debris by a contractor, handyman, repairman or other similar service provider as an incidental part of the services provided to its customers rather than as a hauling service, provided that such Solid Waste is not Collected by a third party hired for the primary purpose of Collecting said materials, and further provided that such services comply with any ordinances, policies and regulations of City relating to the Collection of such materials;
4. The Collection of Yard Waste, green waste and related Solid Waste by a gardener or landscaper as an incidental part of the gardening or landscaping services provided to its customers, rather than as a hauling service, provided that such Solid Waste is not Collected by a third party hired for the primary purpose of Collecting said materials;
5. Any Person or entity Collecting Recyclable Material sold or donated to it by the Person or entity that generated such Recyclable Material (the "generator"); provided, however, to the extent permitted by law, if the generator is required to pay monetary or non-monetary consideration for the Collection, transportation, transfer or processing of Recyclable Material, the fact that the generator receives a reduction or discount in price therefor (or in other terms of the consideration the generator is required to pay) shall not be considered a sale or donation; and
6. The Collection, transportation or disposal of Solid Waste by City employees in the course and scope of their employment with the City.

BI. It is unlawful for any Person, other than the owner, occupant or Person in possession, charge or control of any Residential or Commercial Premises, or a Person authorized by law (such as a Franchisee), to remove any Bin, Cart, Rolloff Box or other Container from any such Premises or from any location where it was lawfully placed for Collection, without the prior written approval of the owner, occupant or Person in possession, charge or control of such Premises.

JE. No Person shall place Solid Waste adjacent to a street or public right-of-way for Collection by a Franchisee without having first subscribed for Solid Waste Collection services with such Franchisee.

KD. No Person shall burn any Solid Waste within the City, except in an approved incinerator or other device for which a permit has been issued by the building official and fire marshal, and which complies with all applicable local, state and/or Federal permit requirements, laws, rules and regulations.

LE. It is unlawful for any Person, other than a Franchisee, to take, remove or appropriate for his/her own use any Solid Waste, including Recyclable Materials, which has been placed in any street or alley for Collection or removal by a Franchisee, regardless of whether the Solid Waste is placed in a Bin, Cart, Rolloff Box or other Container.

MF. It is unlawful for any Person to throw, place, scatter, or deposit Solid Waste on the property of another Person or upon any public property, street, driveway, highway or alley in the City, except as otherwise permitted in this chapter.

NG. It is unlawful for any Person to throw, place, scatter, or deposit Solid Waste on any premises in the City in such a manner that the same is, or may become a nuisance or endanger the public health.

OH. It is unlawful for any Person utilizing a vehicle primarily for Collection services pursuant to this chapter to park the vehicle on any City street or alley between the hours of 8:00 p.m. and 5:00 p.m. In addition, said vehicle shall not be parked on any City street or alley for more than one (1) hour between the hours of 5:00 a.m. and 8:00 p.m., except upon notification to the City Manager that the one (1) hour time period has been exceeded due to an emergency or vehicle mechanical issue.

8.20.080 Use of containers for solid waste generated during construction and demolition.

Any Person who generates Solid Waste in connection with the construction of a new building, a building addition, remodel, or the demolition of any structure for which a building permit is required, shall either make arrangements for Solid Waste Collection service with the use of Containers from a Franchisee, be registered to Self-Haul such Solid Waste in the manner set forth herein, or make arrangements pursuant to Section 8.20.070(HA)(3). In addition to constituting a violation of this chapter, the failure to produce evidence of compliance with this section upon the request of a City building inspector, code enforcement officer or other City officer shall result in the red-tagging of the project by the City and a requirement that all work cease until compliance with this section.

8.20.090 Self-haulers.

A. Self-Haulers. Self-Haulers holding a self-hauler permit and operating in accordance with this chapter are only permitted to Collect, transport and dispose of Solid Waste generated by and upon the Self Hauler's own Premises. Under no circumstances may a Self-Hauler Collect, transport or dispose of Solid Waste generated upon Premises that are not owned, operated or controlled by the Self Hauler. Notwithstanding any other provision of this chapter, Self-Haulers shall not be permitted to share, place Solid Waste in, or to otherwise use the Bin, Cart, Rolloff Box, or other Container of another Person or business.

B. Permit. All Self Haulers shall subscribe to the following requirements:

1. Each Self Hauler shall obtain a permit from the City Manager. Self-Haulers must renew their permit at the commencement of each fiscal year. ~~Initial applications for a permit following the adoption of these regulations, for the 2014-2015 fiscal year, must be submitted to the City Manager on or before July 1, 2015.~~

2. The application for a self-hauler permit, whether upon initial application or renewal, shall include the following: (i) a list of all Bins, Carts, Rolloff Boxes and other Containers to be used by the Self-Hauler; (ii) a list of all transportation and disposal equipment to be used by the Self-Hauler; (iii) a written explanation of where all Solid Waste will be delivered for disposal, processing -and/or diversion; (iv) a written plan explaining to the reasonable satisfaction of the City Manager how not less than fifty percent (50%) of Solid Waste Collected will be diverted from disposal in compliance with AB 939 or other higher diversion requirements as may be imposed by applicable laws; (v) a written plan explaining to the reasonable satisfaction of the City Manager how compliance with the requirement to divert organic waste in accordance with applicable laws, including 14 CCR, Div. 7, Chapter 12,

[Section 18988.3 will be achieved](#), and (vi) any other information deemed necessary by the City Manager to ensure protection of public health, safety and sanitary needs.

3. Applications to renew a self-hauler permit shall additionally include: (i) receipts from self-hauling activities undertaken in the prior year demonstrating that the applicant has effectively diverted at least fifty percent (50%) of all Solid Waste Collected from its Premises from landfills in a manner that complies with the requirements of AB 939 and any other higher requirements as may be imposed by applicable laws; [\(ii\) records reasonably satisfactory to the City manager demonstrating the manner in which organic waste was diverted from landfills in accordance with applicable laws, including 14 CCR, Div. 7, Chapter 12, Section 18988.3](#), and [\(iii\) receipts from self-hauling activities undertaken in the prior year demonstrating that the applicant has delivered Solid Waste Collected from its Premises to appropriate disposal, processing or Recycling facilities at least as frequently as Collection is required for such Self Hauler by the City Manager.](#)

4. The City Manager shall approve the application for a self-hauler permit if: (1) it meets the requirements of this section, (2) if the equipment, Containers, diversion plan and disposal plan are to his or her reasonable satisfaction, and (3) if evidence of past diversion and disposal requirements demonstrate the applicant has complied with the fifty-percent (50%) diversion requirement, or such other diversion requirements as may be imposed by applicable laws, and otherwise complied with all laws related to collection, transportation, and disposal of Solid Waste, [including the diversion of Organic Waste.](#)

C. [Self-Hauler Containers](#). Each Self-Hauler shall provide its own Bins, Carts, Rolloff Boxes or other Containers. Bins, Carts, Rolloff Boxes or other Containers utilized by a Self-Hauler must conform to industry standards for Solid Waste disposal and must be approved by the City Manager in writing prior to issuance of a self-hauler permit. In addition, any Containers utilized by a Self-Hauler shall comply with the following requirements:

1. All Containers shall be maintained in good repair, and any question as to the meaning of this standard shall be resolved by the City Manager.
2. All Containers shall be maintained in a sealed, watertight condition;
3. Self-Haulers shall remove any graffiti that appears on Containers within twenty-four (24) hours after becoming aware of it.

D. [Collection and Transport Equipment](#). Collection and transport equipment, including but not limited to transport trucks and vehicles, utilized by a Self-Hauler must be approved by the City Manager in writing prior to issuance of a self-hauler permit, and must be appropriate for their intended purpose.

E. [Non-Commercial Venture](#). It is the intent of this chapter to prevent and proscribe self-hauling activities undertaken as a commercial enterprise. Self-Haulers must obtain all equipment, including Containers and Collection and transportation equipment, at a fair market value that does not include any hauling services, “free” or otherwise. Stated otherwise, a Self-Hauler may not pay a solid waste enterprise an amount that exceeds fair market value for equipment, and then claim to receive collection, transportation and disposal services at no cost from such solid waste enterprise. A Self-Hauler may utilize its own employees to undertake self-hauling activities, but under no circumstance may a Self-Hauler utilize an independent contractor or any other Person or entity for Solid Waste Collection services other than a Franchisee.

F. Other Recycling Obligations. Self-Haulers shall Recycle all Recyclable Materials not otherwise addressed by this section to a degree and in a manner consistent with standards generally applicable to the Solid Waste industry and as required by state law.

G. Collection Frequency. Unless otherwise specifically provided in this chapter, Self-Haulers shall remove Solid Waste from their Premises at least once per week. However, upon application to the City for a self-hauler permit, the City Manager may determine a different frequency for Solid Waste Collection, transport and disposal from the Self-Hauler's Premises, [provided such modification complies with all applicable laws and regulations](#). This determination shall be based upon the nature of the Premises, the type of Solid Waste generated by the Premises, and the Collection capacity of the Self-Hauler as demonstrated by information in the application.

H. Hazardous and Special Wastes. No Self-Hauler shall engage in the Collection, transport or disposal of Hazardous Waste or Special Wastes, unless in a manner consistent with all [State](#), Federal and local laws.

I. Revocation. The City Manager may revoke a self-hauler permit if the permittee: (i) fails to divert at least fifty percent (50%), or other higher diversion requirements as may be imposed by applicable laws, of all Solid Waste Collected from its Premises from landfills in a manner that complies with the requirements of AB 939, AB 341, and other applicable laws; [\(ii\) fails to divert organic waste from disposal in accordance with applicable laws including 14 CCR, Div. 7, Chapter 12, Section 18988.3](#); (iii) fails to deliver Solid Waste Collected from its Premises to appropriate disposal or Recycling facilities at least as frequently as Collection is required for such Self-Hauler by the City Manager, or ~~(iv)~~ fails to comply with [the terms of its permit or](#) any section in this Code or other applicable law regarding the Collection, hauling, transportation, or disposal of Solid Waste. [The City Manager shall notify any permittee in writing of the decision to revoke its permit, and the basis therefore, and the permittee may appeal any such decision within 15 days of the date of such notice being issued in the same manner applicable to administrative citations set forth in Section 1.13.090 of this Code.](#)

8.20.110 Salvagers.

A. Grant of Permit. The City may issue permits to Salvagers for the Salvage of Recyclable Material. A Salvager shall not engage in Salvage operations or activities from any Residential or Commercial Premises without first obtaining a Salvager permit from the City. In addition to the Salvager permit granted by the City, Salvagers are also responsible for complying with any other applicable provisions of this chapter and any other regulation, ordinance, or law relating to Salvaging.

B. Permit Fees and Business License. In addition to any other fees and charges which may be imposed by the City, the City may charge Salvagers a fee for the issuance of the Salvager permit as established by resolution of the City Council. Salvagers shall also be subject to business license taxes in accordance with title 5 of this code, which may be amended from time to time.

8.20.120 [Removal of Unauthorized Containers; Violations.](#)

~~A.~~ Unauthorized Containers. In addition to any other penalties and/or remedies as set forth in this chapter or provided for by law, any Container placed within the City for the Collection of Solid

Waste in violation of Section 8.20.070(H) (hereinafter “Unauthorized Container(s)”) may be impounded as set forth herein.

~~A.1.~~ The City Manager may cause a notice to be placed in a conspicuous place on any Unauthorized Container directing that it be removed. The notice shall specify the nature of the violation and shall state that the bin, drop-off box, trailer or waste receptacle must be removed within twenty-four hours or it may be removed and stored by the City, and the contents disposed of, at the expense of the owner thereof. The notice shall indicate the time that it was posted and shall include the name and phone number of a person designated by the City to hear any appeal or challenge to the requirement that the Container be removed; and, further, shall indicate that any appeal of the order for removal must occur within twenty-four hours of the posting of the notice. The posting of a notice to remove shall constitute constructive notice to the owner and user of the requirement to remove the Unauthorized Container, and a copy of the notice shall be provided to owner of the Unauthorized Container once said owners identity is ascertained by the City, and if not provided sooner, a copy of the notice shall be provided at such time as the owner of the Unauthorized Container seeks to retrieve any such Container removed hereunder.

~~2.B.~~ If within twenty-four hours after a notice to remove is posted on an Unauthorized Container a request for an appeal has not been received and the bin, drop-off box, trailer or waste receptacle is not removed, the City Manager may direct the removal and storage of the Unauthorized Container. In addition, if the contents of the Container is either comprised of a substantial amount of putrescible Solid Waste, or determined by the City Manager to create a threat to health and safety if not disposed of immediately, the City Manager may direct that the contents of the Container be disposed of. The owner of the Unauthorized Container shall be responsible to reimburse the City for the actual cost of removal, storage and disposal. All amounts due to the City for the cost of removal, storage and disposal must be paid before the Unauthorized Container may be returned to the owner. Such amounts shall constitute a debt owed by the owner to the City, and the owner shall be liable to the City in an action brought by the City for the recovery of such amounts.

~~3.C~~ Between the date following the date upon which any Unauthorized Container is removed by the City, and the date which is five (5) business days following its retrieval from City, the owner of the Unauthorized Container may request a hearing to appeal the City’s determination that the Container is an Unauthorized Container subject to removal by City as set forth herein. The City Manager shall establish a procedure for such a hearing and the method for requesting such a hearing shall be included on the notice to remove. If the appeal is granted, any payments due to City shall be forgiven and any amounts paid reimbursed.

~~4.D~~ If the identity of the owner of an Unauthorized Container that has been removed by the City is known to the City Manager, the City Manager shall promptly cause a copy of the notice to remove to be mailed to the owner along with a request that the owner to claim the stored property. If the Unauthorized Container is not claimed within ninety-five days after mailing of the notice to the owner, or ninety days after removal if the identity of the owner is unknown to the City Manager, the Unauthorized Container and its contents shall be deemed abandoned property and may be disposed

of accordingly. The notice to be posted on Unauthorized Containers shall specify that the forgoing procedure related to abandonment will apply.

8.20.121. Violations; Penalty.

Any Person who violates any provision of this chapter shall be guilty of a separate offense for each and every day, or any portion thereof, of which any violation of any provision of this chapter is committed, continued, or permitted by such Person, and shall be punishable as misdemeanor or an infraction, at the discretion of the City Manager and/or City Attorney.

~~1A~~ 1A Penalty for Misdemeanor Violation. Any Person convicted of a misdemeanor under any provision of this chapter shall be punishable by a fine of not more than One Thousand Dollars (\$1,000.00), or by imprisonment in the City or County Jail for a period not exceeding six (6) months, or by both such fine and imprisonment.

~~2B~~ 2B Penalty for Infraction Violation. Any Person convicted of an infraction under any provision of this chapter shall be punished by:

~~a.1~~ a.1 A fine not exceeding One Hundred Dollars (\$100.00) for a first violation;

~~b.2~~ b.2 A fine not exceeding Two Hundred Dollars (\$200.00) for a second violation of the same provision within one (1) year; and

~~c.3~~ c.3 A fine not exceeding Five Hundred Dollars (\$500.00) for a third and for any additional violation of the same provision within one (1) year.

C. In addition to any other available remedy, any violation of 14 CCR, Div. 7, Ch. 12, or any of the provisions hereof which address such obligations, shall be subject to the provisions of Chapter 1.13 of this Code related to administrative citations, modified as follows:

1. Upon determining a violation has occurred, The City Manager or his designee shall issue a notice of violation pursuant to 14 CCR, Div. 7, Ch. 12, Section 18995.4, requiring compliance within 60 days of such notice.

2. Absent compliance, the following administrative fines shall apply:

(A) for a first violation - \$50

(B) for a second violation - \$100

(C) for a third or subsequent violation - \$250

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D. Violations Deemed to be a Public Nuisance. In addition to any penalties otherwise imposed, any violation of the provisions of this chapter is deemed to be a public nuisance which may be abated in the manner provided by law for the abatement of nuisances.

ED. Attorneys' Fees. In addition to any civil and criminal penalties as provided by the provisions of this chapter or otherwise, the City may recover reasonable attorneys' fees and court costs other such

expenses of litigation and/or prosecution as it may occur by appropriate suit at law against the Person found to have violated any provisions of this chapter.