

ORDINANCE NO 2021 – XXXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, CALIFORNIA, AMENDING SAN MARCOS MUNICIPAL CODE CHAPTER 8.68 (GARBAGE AND REFUSE COLLECTION) TO IMPLEMENT SB 1383 AND ITS ORGANIC WASTE DISPOSAL REDUCTION

WHEREAS, state recycling law, Assembly Bill 939 of 1989, the California Integrated Waste Management Act of 1989 (California Public Resources Code Section 40000, et seq., as amended, supplemented, superseded, and replaced from time to time), requires cities and counties to reduce, reuse, and recycle (including composting) Solid Waste generated in their Jurisdictions to the maximum extent feasible before any incineration or landfill disposal of waste, to conserve water, energy, and other natural resources, and to protect the environment; and

WHEREAS, state recycling law, Assembly Bill 341 of 2011 (approved by the Governor of the State of California on October 5, 2011, which amended Sections 41730, 41731, 41734, 41735, 41736, 41800, 42926, 44004, and 50001 of, and added Sections 40004, 41734.5, and 41780.01 and Chapter 12.8 (commencing with Section 42649) to Part 3 of Division 30 of, and added and repealed Section 41780.02 of, the Public Resources Code, as amended, supplemented, superseded and replaced from time to time), places requirements on businesses and Multi-Family property owners that generate a specified threshold amount of Solid Waste to arrange for recycling services and requires Jurisdictions to implement a Mandatory Commercial Recycling program; and

WHEREAS, state organics recycling law, Assembly Bill 1826 of 2014 (approved by the Governor of the State of California on September 28, 2014, which added Chapter 12.9 (commencing with Section 42649.8) to Part 3 of Division 30 of the Public Resources Code, relating to Solid Waste, as amended, supplemented, superseded, and replaced from time to time), requires businesses and Multi-Family property owners that generate a specified threshold amount of Solid Waste, Recycling, and Organic Waste per week to arrange for recycling services for that waste, requires Jurisdictions to implement a recycling program to divert Organic Waste from businesses subject to the law, and requires Jurisdictions to implement a Mandatory Commercial Organics Recycling program; and

WHEREAS, SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016 (SB 1383), requires CalRecycle to develop regulations to reduce organics in landfills as a source of methane. The regulations place requirements on multiple entities including jurisdictions, residential households, commercial businesses and business owners, commercial edible food generators, haulers, self-haulers, food recovery organizations, and food recovery services to support achievement of statewide organic waste disposal reduction targets; and

WHEREAS, SB 1383 requires jurisdictions to adopt and enforce an ordinance or enforceable mechanism to implement relevant provisions of the regulations, to help reduce food insecurity by requiring commercial edible food generators to have the maximum amount of their edible food that would otherwise be disposed be recovered for human consumption; and

WHEREAS, the City is required to adopt and enforce an ordinance or other enforceable mechanism to implement relevant provisions of the SB 1383 regulations.

NOW THEREFORE, the City Council of the City of San Marcos, in accordance with the freedom accorded to charter cities generally, and by the Charter of the City of San Marcos specifically, does ordain as follows:

Section 1. Chapter 8.68 of the San Marcos Municipal Code is hereby modified as reflected below.

CHAPTER 8.68 - GARBAGE AND REFUSE COLLECTION

ARTICLE I. - IN GENERAL

8.68.010 - Purpose.

The City Council hereby finds that the storage, accumulation, collection and disposal of garbage, trash, rubbish, debris and other discarded material is a matter of public concern, in that improper control of such matters creates a public nuisance, can lead to air pollution, fire hazards, illegal dumping, insect breeding, rat infestation and other problems affecting the health, welfare and safety of the residents of this and surrounding cities. The City Council further finds that the periodic collection of garbage, rubbish and other refuse from all residences and places of business in the City benefits all occupants of residences and businesses within the City. Accordingly, the collection of garbage and refuse in the City shall be a mandatory service and all occupants as hereinafter defined are made liable for the payment of such fees as may be approved from time to time by the City Council. The City Council further declares that the regulations provided in this chapter are designed to eliminate or alleviate the aforementioned problems.

8.68.020 - Definitions.

For the purpose of this chapter, the following words and phrases are defined as follows, unless it shall be apparent from the context that they have a different meaning:

Agent means any employee or agent of the City designated by the City Manager or City Council as being responsible for directing, collecting and providing for the collection, disposal and transportation of garbage, rubbish and other refuse.

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

Blue Container has the same meaning as in 14 CCR Section 18982.2(a)(5) and shall be used for the purpose of storage and collection of Source Separated Recyclable Materials or Source Separated Blue Container Organic Waste.

CalRecycle means California's Department of Resources Recycling and Recovery, which is the Department designated with responsibility for developing, implementing, and enforcing SB 1383 Regulations.

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

City means the City of San Marcos.

City Council means the Mayor and City Council of the City of San Marcos.

City Manager means the City Manager of the City of San Marcos.

Collection when used singly in this chapter, means the collection, transportation and disposal of any and all forms of refuse, as defined hereafter.

Combustible Rubbish includes paper, rags, discarded household bedding, packing materials, cartons, boxes, containers, grass, plants, shrubs, trees, vines and the prunings thereof, shavings, sawdust, chips, lumber scraps or other chapters from lumberyards, mills or factories and other chapters which will burn upon contact with flames of ordinary temperature. Combustible rubbish shall not include those materials listed under "Construction and Demolition Debris", below.

Commercial Business or **Commercial** means a firm, partnership, proprietorship, joint-stock company, corporation, or association, whether for-profit or nonprofit, strip mall, industrial facility, or a multifamily residential dwelling, or as otherwise defined in 14 CCR Section 18982(a)(6). A Multi-Family Residential Dwelling that consists of fewer than five (5) units is not a Commercial Business for purposes of implementing this ordinance.

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

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

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

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

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

Construction and Demolition Debris includes dirt, sweepings, bricks, mortar, plaster and other building and construction materials, whether combustible or noncombustible, resulting from the repair, remodeling, demolition or construction of buildings, or other structures.

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

Contractor means the person or persons with whom the City Council has entered into written agreement for the collection, transportation and disposal of refuse within the City.

County means the County of San Diego.

C&D means construction and demolition debris.

Designated Source Separated Organic Waste Facility, as defined in 14 CCR Section 18982(14.5), means a Solid Waste facility that accepts a Source Separated Organic Waste

collection stream as defined in 14 CCR Section 17402(a)(26.6) and complies with one of the following:

- (a) The facility is a “transfer/processor,” as defined in 14 CCR Section 18815.2(a)(62), that is in compliance with the reporting requirements of 14 CCR Section 18815.5(d), and meets or exceeds an annual average Source Separated organic content Recovery rate of 50 percent between January 1, 2022 and December 31, 2024 and 75 percent on and after January 1, 2025 as calculated pursuant to 14 CCR Section 18815.5(f) for Organic Waste received from the Source Separated Organic Waste collection stream.
 - (1) If a transfer/processor has an annual average Source Separated organic content Recovery rate lower than the rate required in Paragraph 1 of this definition for two (2) consecutive reporting periods, or three (3) reporting periods within three (3) years, the facility shall not qualify as a “Designated Source Separated Organic Waste Facility”.
- (b) The facility is a “composting operation” or “composting facility” as defined in 14 CCR Section 18815.2(a)(13), that pursuant to the reports submitted under 14 CCR Section 18815.7 demonstrates that the percent of the material removed for landfill disposal that is Organic Waste is less than the percent specified in 14 CCR Section 17409.5.8(c)(2) or 17409.5.8(c)(3), whichever is applicable, and, if applicable, complies with the digestate handling requirements specified in 14 CCR Section 17896.5.
 - (1) If the percent of the material removed for landfill disposal that is Organic Waste is more than the percent specified in 14 CCR Section 17409.5.8(c)(2) or 17409.5.8(c)(3), for two (2) consecutive reporting periods, or three (3) reporting periods within three (3) years, the facility shall not qualify as a “Designated Source Separated Organic Waste Facility.”

Designee means an entity that City contracts with or otherwise arranges to carry out any of the City’s responsibilities of this ordinance as authorized in 14 CCR 18981.2.

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

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

Excluded Waste means hazardous substance, hazardous waste, infectious waste, designated waste, volatile, corrosive, medical waste, infectious, regulated radioactive waste, and toxic substances or material that facility operator(s), which receive materials from the City and its generators, reasonably believe(s) would, as a result of or upon acceptance, transfer, processing, or disposal, be a violation of local, State, or Federal law, regulation, or ordinance, including: land use restrictions or conditions, waste that cannot be disposed of in Class III landfills or accepted at the facility by permit conditions, waste that in City’s or its Designee’s reasonable opinion would present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose City, or its Designee, to potential liability; but not

including de minimis volumes or concentrations of waste of a type and amount normally found in Single-Family or Multi-Family Solid Waste after implementation of programs for the safe collection, processing, recycling, treatment, and disposal of batteries and paint in compliance with Sections 41500 and 41802 of the California Public Resources Code.

Fire Protection District means the San Marcos Fire Protection District.

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

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

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

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

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

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

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

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

Food Scraps means all food such as, but not limited to, fruits, vegetables, meat, poultry, seafood, shellfish, bones, rice, beans, pasta, bread, cheese, and eggshells. Food Scraps excludes fats, oils, and grease when such materials are Source Separated from other Food Scraps.

Food Service Provider means an entity primarily engaged in providing food services to institutional, governmental, Commercial, or industrial locations of others based on contractual arrangements with these types of organizations, or as otherwise defined in 14 CCR Section 18982(a)(27).

Food-Soiled Paper is compostable paper material that has come in contact with food or liquid, such as, but not limited to, compostable paper plates, paper coffee cups, napkins, pizza boxes, and milk cartons.

Food Waste means Food Scraps and Food-Soiled Paper.

Garbage includes, but is not limited to, every accumulation of animal, vegetable, fruit or other biodegradable materials:

- (a) Resulting from the preparation, selling, serving or consumption of edible foodstuffs, including the cans, containers or wrappers wasted along with such materials; or
- (b) Resulting from the dealing in, handling, processing, storage or decay of meats, fish, fowl, fruits, vegetables or grains; or
- (c) The excrement, carcasses or residue of animals, fish or fowl; or
- (d) Other industrial, commercial or domestic organic solid wastes.

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

Gray Container Waste means Solid Waste that is collected in a Gray Container that is part of a three-container Organic Waste collection service that prohibits the placement of Organic Waste in the Gray Container as specified in 14 CCR Sections 18984.1(a) and (b), or as otherwise defined in 14 CCR Section 17402(a)(6.5).

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

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

Hazardous Wastes includes any waste material or mixture of wastes which is toxic, corrosive, flammable, an irritant or a strong sensitizer which generates pressure through decomposition, heat or other means, and similarly hazardous waste materials if such a waste or mixture of wastes may cause substantial personal injury, serious illness, or harm to humans, domestic animals or wild life during, or as an approximate result of, any disposal of such wastes as defined in Article 2, Chapter 2.5, Section 25117 of the California Health and Safety Code. The terms "toxic", "corrosive", "flammable", "irritant" and "strong sensitizer" shall be given the same meaning as in the California Hazardous Substance Act (Chapter 13 commencing with Section 28740 of Division 21 of the Health and Safety Code).

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

Health Officer means an officer of the San Diego County Department of Health and Sanitation.

High Diversion Organic Waste Processing Facility means a facility that is in compliance with the reporting requirements of 14 CCR Section 18815.5(d) and meets or exceeds an annual average Mixed Waste organic content Recovery rate of 50 percent between January 1, 2022 and December 31, 2024, and 75 percent after January 1, 2025, as calculated pursuant to 14 CCR Section 18815.5(e) for Organic Waste received from the "Mixed waste organic collection stream" as defined in 14 CCR Section 17402(a)(11.5); or, as otherwise defined in 14 CCR Section 18982(a)(33).

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

Jurisdiction Enforcement Official means the city manager, county administrative official, chief operating officer, executive director, or other executive in charge or their authorized Designee(s) who is/are partially or whole responsible for enforcing the ordinance.

Large Event means an event, including, but not limited to, a sporting event or a flea market, that charges an admission price, or is operated by a local agency, and serves an average of more than 2,000 individuals per day of operation of the event, at a location that includes, but is not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for an event. If the definition in 14 CCR Section 18982(a)(38) differs from this definition, the definition in 14 CCR Section 18982(a)(38) shall apply to this ordinance.

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

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

Miscellaneous and Bulky Debris means all garbage, rubbish and other discarded materials not otherwise provided for in the foregoing or following definitions including appliances, furniture, large auto parts, trees, branches, stumps, or amounts of garbage or rubbish collected at each collection in excess of the maximum amounts permitted by this chapter, and other wastes the size, weight, or volume of which precludes or complicates their handling by normal collection methods.

Mixed Waste Organic Collection Stream or Mixed Waste means Organic Waste collected in a container that is required by 14 CCR Sections 18984.1, 18984.2 or 18984.3 to be taken to a High Diversion Organic Waste Processing Facility or as otherwise defined in 14 CCR Section 17402(a)(11.5).

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.

Non-Compostable Paper includes but is not limited to paper that is coated in a plastic material that will not break down in the composting process, or as otherwise defined in 14 CCR Section 18982(a)(41).

Noncombustible Rubbish includes, among other things ashes, bottles, broken glass, crockery, earthenware, metal cans, metalware, wire products, other chapters or discarded metal or stone of less than 20 pounds in weight each, automobile tires, inner tubes, batteries and metal kegs, barrels or casks. *Noncombustible rubbish* shall not include those materials listed under "Construction and Demolition Debris", above.

Non-Local Entity means the following entities that are not subject to the City's enforcement authority, (i) special districts; (ii) federal facilities including military installations; (iii) prisons; (iv) facilities operated by the state park system; (v) public universities (including community colleges); (vi) county fairgrounds; and (vii) state agencies. Non-local entity has the same meaning as in 14 CCR Section 18982(a)(42).

Non-Organic Recyclables means non-putrescible and non-hazardous recyclable wastes including but not limited to bottles, cans, metals, plastics and glass, or as otherwise defined in 14 CCR Section 18982(a)(43).

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

Occupants means and includes every owner of, and every tenant or person who is in possession of, is the inhabitant of, or has the care and control of, an inhabited residence or place of business.

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

Organic Waste Generator means a person or entity that is responsible for the initial creation of Organic Waste, or as otherwise defined in 14 CCR Section 18982(a)(48).

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

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

Place of Business means any hotel, motel, lodging house, trailer court, restaurant, cafeteria, market, hospital, or any other educational, industrial establishment where there is an accumulation of refuse.

Printing and Writing Papers include, but are not limited to, copy, xerographic, watermark, cotton fiber, offset, forms, computer printout paper, white wove envelopes, manila envelopes, book paper, note pads, writing tablets, newsprint, and other uncoated writing papers, posters, index cards, calendars, brochures, reports, magazines, and publications, or as otherwise defined in 14 CCR Section 18982(a)(54).

Prohibited Container Contaminants means the following: (i) discarded materials placed in the Blue Container that are not identified as acceptable Source Separated Recyclable Materials for the City's Blue Container; (ii) discarded materials placed in the Green Container that are not identified as acceptable Source Separated Green Container Organic Waste for the City's Green Container; (iii) discarded materials placed in the Gray Container that are acceptable Source Separated Recyclable Materials and/or Source Separated Green Container Organic Wastes to be placed in City's Green Container and/or Blue Container; and, (iv) Excluded Waste placed in any container.

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

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

Recyclables means material having an economic value in the secondary materials market, including, but not limited to: aluminum cans and articles, bi-metal cans, glass containers, P.E.T. and H.D.P.E. plastic beverage containers, corrugated paper, magazines, computer printout paper, computer tab cards, office paper, steel cans, newspaper, and other paper products not chemically coated. (Ord. 89-819, 6-13-89)

Recycled-Content Paper means Paper Products and Printing and Writing Paper that consists of at least 30 percent, by fiber weight, postconsumer fiber, or as otherwise defined in 14 CCR Section 18982(a)(61).

Refuse when used singly in this chapter, means any and all types of rubbish, garbage or waste material defined in this section.

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

Residential Unit means each place used for residential purposes for a single family; if more than one family is in one house, then such house shall constitute as many units as there are families. No place used primarily for business purposes shall be considered a residential unit.

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

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

Rubbish when used singly in this chapter, means any and all types of nonbiodegradable waste or debris.

Rubbish Disposal includes the collecting, transporting and disposal of garbage and/or rubbish in the City.

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

SB 1383 Eligible Mulch means mulch eligible to meet the Annual Recovered Organic Waste Product Procurement Target, pursuant to 14 CCR Chapter 12 of Division 7. This SB 1383 Eligible Mulch shall meet the following conditions for the duration of the applicable procurement compliance year, as specified by 14 CCR Section 18993.1(f)(4):

(a) .Produced at one of the following facilities:

1. A compostable material handling operation or facility as defined in 14 CCR Section 17852(a)(12), that is permitted or authorized under 14 CCR Division 7, other than a chipping and grinding operation or facility as defined in 14 CCR Section 17852(a)(10);

2. A transfer/processing facility or transfer/processing operation as defined in 14 CCR Sections 17402(a)(30) and (31), respectively, that is permitted or authorized under 14 CCR Division 7; or,

3. A solid waste landfill as defined in Public Resources Code Section 40195.1 that is permitted under 27 CCR Division 2.

(b) Meet or exceed the physical contamination, maximum metal concentration, and pathogen density standards for land application specified in 14 CCR Sections 17852(a)(24.5)(A)1 through 3, as enforced by Section 6-3-708(a).

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

Self-Hauler means a person, who hauls Solid Waste, Organic Waste or recyclable material he or she has generated to another person. Self-hauler also includes a person who back-hauls waste, or as otherwise defined in 14 CCR Section 18982(a)(66). Back-haul means generating and transporting Organic Waste to a destination owned and operated by the generator using the generator's own employees and equipment, or as otherwise defined in 14 CCR Section 18982(a)(66)(A). **Single-Family** means of, from, or pertaining to any residential premises with fewer than five (5) units.

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

(a) Hazardous waste, as defined in the State Public Resources Code Section 40141.

(b) Radioactive waste regulated pursuant to the State Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the State Health and Safety Code).

(c) Medical waste regulated pursuant to the State Medical Waste Management Act (Part 14 (commencing with Section 117600) of Division 104 of the State Health and Safety Code). Untreated medical waste shall not be disposed of in a Solid Waste landfill, as defined in State Public Resources Code Section 40195.1. Medical waste that has been treated and deemed to be Solid Waste shall be regulated pursuant to Division 30 of the State Public Resources Code.

Source Separated means materials, including commingled recyclable materials, that have been separated or kept separate from the Solid Waste stream, at the point of generation, for the purpose of additional sorting or processing those materials for recycling or reuse in order to return them to the economic mainstream in the form of raw material for new, reused, or reconstituted products, which meet the quality standards necessary to be used in the marketplace, or as otherwise defined in 14 CCR Section 17402.5(b)(4). For the purposes of the ordinance, Source Separated shall include separation of materials by the generator, property owner, property owner's employee, property manager, or property manager's employee into

different containers for the purpose of collection such that Source Separated materials are separated from Gray Container/Mixed Waste or other Solid Waste for the purposes of collection and processing.

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

Source Separated Green Container Organic Waste means Source Separated Organic Waste that can be placed in a Green Container that is specifically intended for the separate collection of Organic Waste by the generator, excluding Source Separated Blue Container Organic Waste, carpets, Non-Compostable Paper, and textiles.

Source Separated Recyclable Materials means Source Separated Non-Organic Recyclables and Source Separated Blue Container Organic Waste.

State means the State of California.

Streets means the public streets, ways, alleys and places, except State freeways, 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 Section 18982(a)(71). “Tier One Commercial Edible Food Generator” means a Commercial Edible Food Generator that is one of the following:

- (a) Supermarket.
- (b) Grocery Store with a total facility size equal to or greater than 10,000 square feet.
- (c) Food Service Provider.
- (d) Food Distributor.
- (e) Wholesale Food Vendor.

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

Tier Two Commercial Edible Food Generator means a Commercial Edible Food Generator that is one of the following:

- (a) Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.
- (b) Hotel with an on-site Food Facility and 200 or more rooms.
- (c) Health facility with an on-site Food Facility and 100 or more beds.

(d) Large Venue.

(e) Large Event.

(f) 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.

(g) A Local Education Agency facility with an on-site Food Facility.

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

Truck means any truck, trailer, semitrailer, conveyance or vehicle used or intended to be used for the purpose of collecting refuse or to haul or transport refuse.

Uncontainerized Green Waste and **Yard Waste Collection Service** or **Uncontainerized Service** means a collection service that collects green waste and yard waste that is placed in a pile or bagged for collection on the street in front of a generator's house or place of business for collection and transport to a facility that recovers Source Separated Organic Waste, or as otherwise defined in 14 CCR Section 189852(a)(75).

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

8.68.030 - Burying Prohibited Generally.

Except as provided in Section 8.68.040, no person shall bury any garbage, refuse, combustible or noncombustible rubbish on any premises within the City.

8.68.040 - Burying Permitted; Procedure; Effect of Health Officer's Order Prohibiting.

Garbage or garden refuse may be buried in the ground if the same is at once securely covered with earth to a depth of at least 12 inches in such a manner as to prevent the escape of odors; provided, such burial shall occur no closer than 60 feet to any dwelling; and provided further, that no person shall deposit any garbage or garden refuse in such a manner that the same is or may become a nuisance or endanger the public health. Any order from the County Health Officer prohibiting such burying or deposit shall be final.

8.68.050 - Burning Prohibited Generally.

The burning of any and all types of refuse within the City shall be prohibited, with the exception that agricultural crop wastes may be burned pursuant to permits issued by the Fire Protection District in accord with Section 41855 of the Health and Safety Code.

ARTICLE II. - COLLECTION AND TRANSPORTATION

8.68.060 - Refuse Collection Mandatory.

It shall be the duty of every person owning, occupying, or having charge or control of any residential unit or place of business where refuse is accumulated to provide for refuse collection services by the Contractor with whom the City holds an agreement for such services.

8.68.070 - Frequency and Scheduling of Collection.

All refuse created, produced or accumulated in or about a residential unit or place of business shall be collected at least once each week. The City Manager may, at his discretion, or upon recommendation of the County Health Officer, require more frequent pick ups should the nature of a particular business so require. The Contractor shall arrange collection routes so that pick ups will be made on the same day of each succeeding week, with the following exception: no collection will occur on Thanksgiving, Christmas and New Year's Days, contingent upon advance notice to all those affected, in a manner satisfactory to the City Manager.

8.68.080 - Special Collection.

- (a) Availability and Payment for Services. Any occupant desiring to have refuse collections more frequently than provided by this chapter or who has accumulated refuse of any type exceeding the maximum amount permitted per collection, or who has accumulated miscellaneous and bulky debris or construction or demolition debris shall enter into an agreement with the Contractor for special collection service. Such service shall be rendered on terms mutually agreeable to both parties and payment for service shall be made directly to the Contractor.
- (b) Payment Under Protest. Any occupant billed for special collection services and who desires to contest the extent or reasonableness of the charge billed, may make payment of such charges under protest and, at the same time, shall file a written statement of protest with the City Manager. Within 30 days after date of filing, the City Manager shall notify the protesting party of the decision and adjustment in the matter. The decision of the City Manager may be appealed to the City Council by any party and the determination of the City Council, in regular meeting, shall be final. One-half the appeal fee shall be refunded to the protesting party in those cases where the City Council finds in favor of the protest.

8.68.090 - Exemption From Mandatory Collection.

Any occupant may request exemption from the requirement of Section 8.68.060 herein, on condition that proof of regular use of a County authorized solid waste facility for the disposal of refuse accumulated on occupants property is shown. Such proof shall consist of the following:

- (a) Residential occupancies: A minimum of 52 disposal receipts from a County authorized solid waste facility; provided, however, that receipts shall not be required during periods of substantiated vacations in which a residence is not occupied. Receipts shall have been issued during that calendar year for which exemption is requested and at intervals no greater than seven days.
- (b) Business occupancies: Generally, the same requirements as specified for residential occupancies, above, with the following exception: The City Manager may, at his or her discretion or upon recommendation of the County Health Officer, require a greater number of disposal receipts, issued at lesser intervals than specified above, should the nature of the business in question demand more frequent disposal.
- (c) Applications for exemption shall be filed in writing with the City no later than January 1st of each year for approval or disapproval by the City Manager or his or her designee. Subsequent applications by the same occupant shall be accompanied by proof of disposal during the preceding year, as required above.

- (d) Notwithstanding the foregoing, beginning January 1, 2022, Generators may comply with Section 8.68.580 for self hauling of recyclable materials and Organic Waste. Self-hauling of Gray Container Waste shall remain in accordance with this section.

8.68.100 - Economic Hardship—Exemption From Payment.

- (a) Any occupant of a residential unit in the City may request exemption from payment for mandatory collection services on grounds of economic hardship. For purposes of this section, "economic hardship" shall mean inability to pay, based on a combined family income falling at or below poverty level in the calendar year preceding that in which exemption is requested. Eligibility for exemption shall be determined based on most recent figures for Income at Poverty Level by Family Size published by the U.S. Bureau of Census. All requests for exemption shall be accompanied by such certification of income deemed appropriate by the City Manager and shall be decided by the City Manager or his or her designee. No person contracting for special collection services pursuant to Section 8.68.080 herein, shall be exempt from payment for such services.

8.68.110 - Unlawful Collection.

It shall be unlawful for any person to collect refuse within the City unless such person is under written contract with the City to perform collection services or is exempted as outlined in subsections (1), (2), (3), (4), (5), (6) and (7) of this section. It is further unlawful for any person to permit, allow or enter into any agreement whatsoever for the collection of refuse with any person not a Contractor as defined herein, except as permitted in subsections (1), (2), (3), (4), (5), (6), and (7) of this section.

- (1) Subcontractors to the Contractor may perform such collection services as are approved in writing by the City Manager or this designee.

(Ord. No. 2004-1227, 6-22-04)

(2) The occupant of any premises may remove garbage and combustible or noncombustible rubbish accumulated on premises owned, occupied or controlled by the person and may dispose of the same in a lawful manner in accordance with Section 8.68.090 and, beginning on January 1, 2022, with Municipal Code Sections 8.68.580. Except as provided in Section 8.68.090 herein, exercise of this right shall not exempt such person from payment of the mandatory refuse collection fee due the contractor as provided for under terms of this chapter.

(Ord. No. 2004-1227, 6-22-04)

- (3) The collection and removal of lawn clippings, shrub and tree trimmings and other vegetative matter by individual residents and by persons doing business as professional landscapers, when such activity is directly related to their work, shall be exempt from provisions of this Section.

(Ord. No. 2004-1227, 6-22-04)

- (4) The Contractor shall not be required to collect hazardous wastes as part of regular collection activity. Liquid and dry caustics, acids, biohazards, flammable or explosive materials, insecticides and similar hazardous wastes shall be handled and disposed of

under separate agreement between customer and contractor or a designated subcontractor approved by the City, under arrangements made with the City and in accord with provisions of the California Health and Safety Code and all other applicable laws and regulations. Such agreements shall be exempt from the provisions of this section.

(Ord. No. 2004-1227, 6-22-04)

- (5) The Contractor shall not be required to collect infectious medical waste, as defined in Section 25117.5 of the California Health and Safety Code. Institutions producing and storing such wastes and any person handling or disposing of such material shall do so only in the manner approved by the County Health Officer or their designee and in accord with provisions of the California Health and Safety Code. Such activity shall be exempt from the provision of this section.

(Ord. No. 2004-1227, 6-22-04)

- (6) Individual residents and City recognized nonprofit organizations may collect recyclable materials such as, but not limited to, glass, newspaper, aluminum, and cardboard or transport to a City approved or City recognized recycling center, subject to the following restrictions:

(Ord. No. 2004-1227, 6-22-04)

- (a) Collection of recyclables by residents shall be limited to premises owned, occupied or controlled by such persons.

(Ord. No. 2004-1227, 6-22-04)

- (b) This provision shall not apply to recyclable building materials generated by the repair, demolition or construction of buildings, the rights to collection of which shall remain with the Contractor or designated subcontractor.

- (7) Residential and Commercial generators in compliance with 8.68.090 and/or 8.68.580.

(Ord. No. 2004-1227, 6-22-04)

8.68.115 - Abatement of Unauthorized Refuse Containers.

When there is in force a franchise granted by the City pursuant to this chapter, any refuse container placed within the boundaries of the City in violation of Section 8.68.110 shall be deemed a nuisance. The City Manager or his or her designee shall have the authority to cause the abatement thereof in accordance with the procedure prescribed in this section. When the City Council has granted a franchise pursuant to this chapter, such franchisee shall be the City Manager's designee for purposes of causing the abatement of such nuisance and shall be authorized to enter upon private property or public property, in a manner consistent with the United States and California Constitutions, to cause the abatement of such nuisance. Upon notification to the City Manager of a violation of this section, franchisee may, at franchisee's option, remove any refuse container placed within the boundaries of the City in violation of this Section, dispose of the contents thereof, and store the refuse container at franchisee's place of

business. Franchisee shall promptly mail written notice of its actions to the owner of the refuse container and advise how the owner may recover the refuse container. Franchisee may bill the owner of the refuse container for transportation and disposal costs, and daily impound fees, as prescribed in the rate schedule established from time to time by resolution of the City Council. All amounts due to the franchisee for transportation, disposal, and storage shall be paid in full before the owner may recover the refuse container. If the owner does not recover the refuse container within 60 days of the date of the notice of abatement, the refuse container shall be determined to be abandoned, at which time it shall become property of the franchisee. The action abating the nuisance may be appealed by the filing of a written notice of appeal in the office of the City Manager within ten days of the date of written notice thereof. The City Manager shall set the time and place for the hearing of the appeal that shall be within 20 days of the notice of appeal. The decision of the City Manager or his or her designee shall be final. The remedies provided in this Section 8.68.115 for breach of the prohibition against unauthorized refuse containers are cumulative and non-exclusive in nature, and may be exercised in addition to those set forth in Section 8.68.480, below. The indemnification provisions of Section 8.68.260 shall extend to the abatement process.

(Ord. No. 2004-1227, 6-22-04)

8.68.120 Refuse Containers – Type and Construction

(a) Residential Occupancies.

1. Residential Solid Waste. Contractor shall provide at least one (1) gray container for the storage of solid waste, excluding recyclable materials, green waste, and beginning January 1, 2022, organic waste. Contractor may provide up to three (3) additional containers and will charge a service fee each additional cart.

2. Residential Recyclables. Contractor shall provide one (1) blue container per dwelling unit for the storage and disposal of recyclable materials. Contractor may provide up to three (3) carts for no additional charges.

3. Residential Green Waste. Contractor shall provide one (1) green waste container per dwelling unit for the storage of green waste or organic material waste.

(b) Commercial and Multi-Family Dwelling Occupancies. Contractor shall provide carts, bins, or containers adequate to accommodate the waste generated at each location and comply with all relevant state and federal rules and regulations for solid and organic waste, recyclables, and green waste.

8.68.130 - Volume/Weight Limitations on Refuse and Refuse Containers Placed for Collection.

The following volume/weight restrictions shall apply to refuse and refuse containers placed for collection by the Contractor:

(a) Residential occupancies:

- (1) Volume and weight of refuse generated from within a residential unit: no limit;
- (2) Volume of refuse generated outside a residential unit: one 96 gallon gray refuse cart, one to three 64 gallon recycling carts, and one to three 96 gallon organic waste carts.
- (b) Business Occupancies and Residential Occupancies Involving Use of Common Receptacles: Refuse set out, and containers used by all such occupancies shall conform to the maximum volume/weight limitations established by the Contractor.

8.68.140 - Special Provisions Regarding Method of Collection and Disposal.

- (a) The removal of wearing apparel, bedding or other refuse from homes, hospitals or other places where highly infectious or contagious diseases have prevailed, shall be performed at the occupants expense under the supervision and direction of the County Health Officer and such refuse shall neither be placed in refuse containers nor left for regular collection and disposal.
- (b) Highly flammable or explosive or radioactive refuse shall not be placed in containers or receptacles for regular collection and disposal, but shall be removed under the supervision of the Fire Protection District at the expense of the owner or possessor of the material.
- (c) Hazardous wastes as defined herein, shall neither be placed in refuse containers nor left for regular collection and disposal. Such items shall be removed at the occupant's expense only after arrangements have been made with the City or its agent for such removal.
- (d) Garbage or other refuse containing water or other liquids shall be drained before being place in a container or receptacle. Matter which is subject to decomposition shall be wrapped in paper or other material before being placed in a container or receptacle.
- (e) Animal wastes, as herein defined, shall not be placed in containers, or receptacles for regular collection and disposal, but shall be removed at the occupant's expense.
- (f) Brush, tree trimmings, cardboard boxes and similar combustible materials placed for collection shall be tied securely in bundles weighing not more than 50 pounds each and not over four feet in length and 18 inches in diameter. Uncontainerized yard trimmings will not be collected.

8.68.150 - Placement of Containers for Collection.

It shall be the duty of all occupants to set out gray, blue, and green containers as follows:

- (a) Location.
Residential occupancies: All refuse containers shall be placed at the curb on the nearest public street fronting the premises occupied by the person depositing the same, there to be collected by the Contractor; provided that the Contractor may designate some other location for the placement of containers when such placement will expedite collection; provided that placement of containers at such alternative location shall not result in a hindrance to vehicle movement nor constitute a visual nuisance.
- (b) Restrictions on Time of Placement. It shall be unlawful to place or permit to remain any refuse containers on the curbs, parkways or sidewalks of any public street before 6:00 p.m. on the day prior to collection, or after 6:00 p.m. on the day of collection, after materials have been removed or collected.

- (c) Generally. All occupants shall maintain supervision and surveillance over refuse containers on their premises and shall maintain the same in a sanitary manner. Should containers be placed for collection as required above and not be emptied on the date scheduled by the Contractor, the occupant should immediately notify the contractor, whose duty it shall be to arrange for the collection and disposal of such refuse forthwith.

8.68.150 - Storage of Blue, Green, and Gray Containers.

(Ord. No. 2002-1153, 9-24-02)

- (a) Residential Occupancies: When not placed at the curb or another Contractor-designated location for collection, all waste containers shall be stored, with lids securely closed, in one or more of the following locations:
 - (1) Within a covered carport or enclosed garage; or
 - (2) Within a required side or rear yard setback screened from surrounding view by a solid, view-obscuring fence meeting all applicable requirements of the Zoning Ordinance.
- (b) Business Occupancies: When not being serviced by the Contractor, all waste containers shall be stored, with lids securely closed, as follows:
 - (1) Bins and Dumpsters: Within a gated, masonry enclosure conforming to all applicable requirements of the Zoning Ordinance.
 - (2) Commercial Cans: Behind a solid, view-obscuring fence or another Contractor-approved location screened from surrounding view and meeting fire code requirements.
- (c) Alternative Storage Arrangements: In the case of a space constraint or physical obstruction which precludes storage of waste receptacles in the manner prescribed by subsections (a) or (b), above, the City Manager or his or her designee may, in consultation with the Contractor and building occupant, approve an alternative arrangement which achieves, to the maximum extent feasible, the goal of this section that waste receptacles be screened from view when not being serviced. Such alternatives may include, but are not limited to, the use of a smaller waste receptacle provided by Contractor, landscape screens and other measures.

8.68.160 - Transporting Vehicles to Have Metal-Lined, Watertight Body.

- (a) No person shall collect, remove, transport, or carry refuse over the public streets of the City except in vehicles having a metallic-lined, watertight body.
- (b) Generators self-hauling organic waste in accordance with Section 8.68.580 shall not be in violation of this Section.

8.68.170 - Body of Vehicle to be Covered When Not in Use.

- (a) When not actually collecting refuse, the body of the vehicle used to collect such material shall be covered with a tight-fitting tarpaulin or other suitable covering to eliminate offensive odors, flies, leakage or loss of refuse.

(b) Generators self-hauling organic waste in accordance with Section 8.68.580 shall not be in violation of this Section.

8.68.180 - Unlawful Transportation Through Public Streets.

(a) It shall be unlawful for anyone other than the Contractor pursuant to this article or those persons as specifically permitted herein to carry or transport refuse in any manner or amount within the City or on or through any public street in the City.

(b) Generators self-hauling organic waste in accordance with Section 8.68.580 shall not be in violation of this Section.

8.68.190 - Unlawful to Place Infectious or Hazardous Waste in Refuse Containers.

It shall be unlawful for any person to place in any refuse container for collection, operable hypodermic needles, drugs, poisons or any infectious waste material, liquid or dry caustics or acids, biohazardous, radioactive, flammable, or explosive materials, insecticides or any other hazardous wastes as defined herein. Such materials may be collected only by the Contractor, their subcontractor or as provided in Section 8.68.110 herein, and in the manner specified in Section 8.68.140 herein.

8.68.200 - Unsafe or Offensive Accumulation of Refuse Prohibited.

It shall be unlawful for any person to permit the accumulation or refuse to become or remain offensive, unsightly, unsafe to the public health or hazardous from fire.

8.68.210 - Interference With Refuse Containers Prohibited.

No person shall interfere with or disturb any refuse container, or remove the same from where it has been placed for collection by its owner without having a written contract with the City to collect and dispose of refuse.

8.68.211 - Scavenging of Recyclable Materials Prohibited.

It shall be unlawful for any person, other than the owner thereof, the owner's agent, the City, the Contractor or such other person or firm as the City may authorize, by permit or contract, to remove or tamper with containers, or the contents of containers, set out for the collection of recyclable materials. (Ord. 89-819, 6-13-89)

8.68.220 - Spilling of Refuse Prohibited.

No person, including the Contractor, shall place, sweep, spill or permit refuse to fall upon any private grounds or public streets within the City.

8.68.230 - No Parking of Loaded Trucks Overnight.

No person shall leave trucks or other transport loaded with refuse parked for over a 24-hour period on City streets.

8.68.240 - Franchise Agreement Between Contractor and City.

(a) Contracts or franchise agreements executed to provide for garbage and refuse disposal shall conform with the terms of this chapter.

- (b) Provisions of this chapter shall not preempt or negate terms of the franchise agreement for refuse collection and disposal services currently existing between the City and the contractor, unless such provisions of this chapter specifically conflict with terms of said agreement. All terms of the franchise agreement not in specific conflict with this chapter are saved from repeal and are continued in full force and effect.

8.68.250 - Authority to Let; Bond Required; Amount of Bond.

The City Council shall have the power to let contracts for the removal, transportation and disposal of refuse as provided herein, and may, as a condition of granting said contracts, require a bond from any contractor, the amount of which shall be determined by the City Attorney and set forth in the franchise agreement.

8.68.260 - Indemnification to City.

Any Contractor shall indemnify the City, its officers and its employees against all claims, demands, actions, suits and proceedings resulting from the actions or operations of the Contractor under terms of the franchise agreement. The Contractor shall file with the City Clerk, certificates of liability insurance, property damage insurance, workers compensation insurance, or other instrument(s) acceptable to the City Attorney and required by the franchise agreement.

8.68.270 - Basis for Letting.

In letting contracts authorized by this article, the City Council shall not be required to let contracts to the lowest bidder, but shall be free to let such contracts to the person deemed best fitted to comply with the terms of this chapter and the contract.

8.68.280 - Authority to Terminate Contract, Let New Contract.

Should a Contractor fail or refuse to comply with the conditions of this chapter and of his contract to remove, transport and dispose of refuse after the Contractor has been given written notice of such non-compliance but the City Manager and the Contractor has further been given 30 days to correct such deficiencies, the City Council may, at its option and after a hearing, of which said Contractor shall have ten days' written notice, terminate the contract and let the contract to another person.

8.68.290 - Assignment or Transfer of Rights.

No assignment or transfer of any right conferred by contract shall be made in whole or in part by the contractor without the express written consent of the City. Should any assignment or transfer be authorized by the City Council, the assignee shall assume the liability and such other obligations of the contractor as may be related to the service performed.

8.68.300 - Refuse Collection—Spillage and Cleanup.

The Contractor shall exercise all reasonable care and diligence in collecting refuse to prevent spilling, scattering or dropping or refuse, and shall at the time of occurrence, clean up any spillage.

8.68.310 - Refuse Disposal.

The Contractor shall dispose of collected refuse, at Contractor's expense, at a County authorized solid waste facility in a manner satisfactory to the City and in accord with all State and local laws and regulations.

8.68.320 - Collection From Public Parks and Government Buildings.

The contractor shall without charge, collect refuse from City controlled public parks, playgrounds and City government buildings from the receptacles in which the same is confined, on a service frequency and day(s) of collection to be determined by the City Manager.

8.68.330 - Contractor Participation in Special Clean-Up Activities.

The contractor shall participate with the City in any annual clean-up activity upon request of the City Manager as may be necessary to supplement the City's available manpower and equipment resources, and shall otherwise cooperate with the City Manager in resolving special disposal-related problems.

8.68.340 - Compliance with Motor Vehicle Code.

The contractor's trucks shall comply with the regulations as set forth in the California Motor Vehicle Code, all other applicable California codes, and this chapter.

8.68.350 - Compliance with Local and California Laws and Regulations.

The Contractor shall operate in such a manner as to comply with all applicable local and State laws and regulations pertaining to the collection, storage, and transportation of refuse. The Contractor shall also comply with all other ordinances and regulations of the City and applicable laws and regulations of the County of San Diego and State of California, and shall obtain and keep in force all required permits and business licenses.

8.68.360 - Service Required in Event of Nonpayment.

In the event of nonpayment for collection service rendered to any person, the contractor shall continue to provide such service, subject to reimbursement as provided in Section 8.68.410(e) herein. This section shall not apply to special collection services.

8.68.370 - Council to Approve Charges Set by Franchisee.

For the refuse collection services described in this chapter, and for the making available of such services, there shall be charged to each residential unit and place of business, the sums necessary to cover the costs of such services, as such sums may be established by Franchisee and approved by City Council from time to time by written resolution. Resolutions approving charges shall be placed on file with the City Clerk's Office.

8.68.380 - Basis for Charges.

All charges provided for in this article shall be fair, reasonable and consistent with the scope of services rendered by the Contractor, as described and required by this chapter.

8.68.390 - Liability for Payment.

The obligation to pay the charges provided in this article shall be upon the legal owner or owners of the residential unit or business so served. Nothing in this section however, shall prevent an arrangement or the continuance of an arrangement under which payments for refuse collection services are made by a tenant or tenants, or any agent, on behalf of the owner; provided, any such arrangement shall not affect the legal owner's obligation for payment of said charges for services rendered.

8.68.400 - Direct Payment to Contractor.

All charges billed for refuse collection services, shall be paid directly to the Contractor.

8.68.410 - Failure to Pay Contractor for Refuse Collection.

- (a) An account shall be deemed delinquent if payment for collection services has not been received within 15 days after the last day of the normal billing period for which service was rendered. Upon determination of delinquency, the Contractor shall give written notice to the delinquent account holder that the bill is now overdue and payable in full and shall attempt to collect payment through all available means, within 30 days of the date of such notice.
- (b) Provided adequate arrangements for payment have not been made between the contractor and delinquent account holder within 60 days of the end of the earliest unpaid billing period the Contractor may assign the total unpaid bill amount to the City Manager for collection. The assignment shall provide all pertinent data including the name and address of the legal owner billed, address and parcel number of the property billed, dates of the period of service unpaid, amount due, and certification that the billing procedures pursuant to subsection (a) above, have been fulfilled.
- (c) The delinquent bill presented by the contractor to the owner pursuant to subsection (a) above, shall include a written notice warning that nonpayment within 60 days of the end of the earliest unpaid period may result in assignment of the debt to the City for collection, may include collection charges and may result in the recordation of a lien against the property to which service was rendered.
- (d) Upon receipt of assignment of the debt, the City Manager shall advise the debtor in writing of the assignment that a minimum fee of ten percent of the bill amount is imposed in all collection cases filed with the City, that an additional \$25.00 lien fee will be charged in all cases where the filing of a lien with the County Auditor is necessitated, and that 30 days notice is given to permit payment of the debt to the City to avoid payment of the lien fee and to avoid a special assessment against said property in the amount of all aforesaid fees and charges.
- (e) Originally billed amounts which are collected by the City shall be paid to the Contractor on a quarterly basis. All fees and lien charges collected shall be retained by the City.

8.68.420 - Special Assessment Collection.

- (a) The City Manager may initiate proceedings to make delinquent refuse collection service fees and collection charges a special assessment against properties for which such debts were assigned to the City for collection.
- (b) Once a year, a report of delinquent charges, i.e., charges which remain unpaid 60 or more days after the date upon which they were billed, shall be transmitted to the City Council, which shall fix a time, date and place for hearing the report and any protests or objections thereto.
- (c) The City Council shall cause notice of hearing to be mailed to the owner of real property to which service was rendered not less than ten days prior to the date of hearing. At the time fixed for said hearing, the City Council shall hear any objections of the owner liable to be assessed for delinquent accounts. The City Council may make such revisions to the report as it may deem just and if satisfied with the correctness of the report as submitted or revised shall confirm or reject it by resolution. The decision of the City Council on the report and on all protests or objections thereto shall be final and conclusive.

- (d) Upon confirmation of the report by the City Council the delinquent charges contained therein shall constitute a special assessment against the property and are a lien on the property for the amount of such delinquent charges. A certified copy of the report as confirmed by resolution of the City Council shall be filed with the County Auditor for the amounts of the respective assessments against the respective parcels of land as they appear on the current assessment roll. The lien created attaches upon recordation, in the Office of the County Recorder, of a certified copy of the City Council Resolution confirming the reports. The assessment shall be collected at the same time and in the same manner as ordinary real property taxes are collected and shall be subject to the same penalties and procedure of sale as provided for delinquent, ordinary real property taxes.
- (e) There is hereby created in the general fund an account entitled "Property Owners Delinquencies for Refuse Collection Service." This account shall be funded from refuse services franchise fees and shall be credited with such delinquencies as are collected by the County Tax Collector or otherwise collected for release of lien remitted to the City. The City will in turn, debit the account for payment to the contractor of delinquencies collected exclusive of fees and charges imposed by the City. Collection fees and charges imposed by the City shall be cleared to the general revenue account.

8.68.430 - Duties of City Manager Regarding Collection and Removal.

- (a) The City Manager shall have authority to administer the contract which provides for the collection and removal of refuse and shall approve routes and days for such activities, as proposed by the Contractor in accord with provisions of this chapter.
- (b) The City Manager shall have the authority to act on behalf of the City to effect changes in routes and days of collection in cooperation with the Contractor, contingent upon notice to all affected thereby, in a manner deemed most appropriate by the Manager.

8.68.440 - City Manager to Settle Controversies.

The City Manager is hereby authorized and empowered to negotiate and settle any charge required or made under this chapter or out of contract between the City and any contractor or any other person.

8.68.450 - City Manager to Regulate and Approve Vehicles and Methods of Hauling.

The type and construction of vehicles transporting or carrying refuse over public streets and the method of hauling refuse in vehicles shall be subject to the regulation and approval of the City Manager.

8.68.460 - Making of Rules and Regulations.

The City Manager or his or her designee shall have the authority to make other reasonable rules and regulations concerning individual collection, transportation and disposal of refuse over City streets by the refuse contractor and private persons, as shall be found necessary, subject in each instance, to the right of appeal from any order of the City Manager to the City Council whose determination and judgment shall be final.

8.68.470 - Notice of Violation.

The City Manager or his other designee is hereby authorized and empowered to notify the owner, their authorized representative or the lawful occupant of any premises described herein, of violations of this chapter, and of the corrective steps necessary to conform to this chapter.

Notice shall be given in writing and may be made to any person held responsible under this section by certified mail or hand delivery.

ARTICLE III. - PENALTY

8.68.480 - Violations of Certain Sections Declared an Infraction.

Except as provided in Section 8.68.490, violations of this chapter shall be unlawful and classified as infractions. Violations of this chapter shall be punishable in accordance with Section 1.12.010 unless otherwise specified

8.68.490 - Violations of Section 8.68.190 Declared a Misdemeanor.

Disposal of infectious or Hazardous wastes, in violation of Section 8.68.190 herein, shall be unlawful and classified as a misdemeanor, punishable as provided in Section 1.12.020 of this Code.

8.68.500 - Adoption of Bail Schedule.

A bail schedule for violations of this chapter shall be adopted by the City Council and placed on file with the City Clerk and Clerk of the Court.

ARTICLE IV. - MANDATORY IMPLEMENTATION

8.68.510 - Mandatory Implementation.

(a) The refuse removal contractor shall implement mandatory refuse collection for all residences and business establishments in the City of San Marcos as defined in this chapter within 90 days from the effective date of this ordinance.

(b) Generators self-hauling organic waste in accordance with Section 8.68.580 shall not apply to this Section.

ARTICLE V. - ORGANIC WASTE COLLECTION

8.68.520 - Requirements for Single Family Generators

Single-Family Organic Waste Generators shall comply with the following requirements except Single-Family generators that meet the self-hauler requirements in Section 8.68.580:

- (a) Shall subscribe to City's Organic Waste collection services for all Organic Waste generated as described below in Section 8.68.520(b). City and its designees 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 or its designees. Generators may additionally manage their Organic Waste by preventing or reducing their Organic Waste, managing Organic Waste on site, and/or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).

- (b) Shall participate in the City's Organic Waste collection service(s) by placing designated materials in designated containers as described below, and shall not place Prohibited Container Contaminants in collection containers.
 - (1) Generator shall place Source Separated Green Container Organic Waste, including Food Waste and Yard Trimmings, in the Green Container. Yard Trimmings must be reduced in size to fit the green container; no uncontainerized Yard trimmings will be collected. Plastic bags and compostable plastics, including compostable plastic bags, will not be allowed for organic waste or yard trimmings in the green container. Carpets, non-compostable paper, and hazardous wood are not allowed in the green container.
 - (2) Generator shall place Source Separated Recyclable Materials in the Blue Container, including non-organic recyclables aluminum, glass bottles, rigid plastics marked #1-7, and tin and bi-metal cans; and some organic recyclables, including paper products, printing and writing paper, wood, dry lumber, and textiles. Hazardous wood waste is not allowed in the blue container.
 - (3) Gray Container Waste in the Gray Container. Generators shall not place materials designated for the Gray Container into the Green Container or Blue Container. Carpets are not allowed in the Gray Container.

8.68.530 - Requirements for Commercial Businesses

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

- (a) Subscribe to City's three container collection services and comply with requirements of those services as described below in Section 8.68.530(b), except Commercial Businesses that meet the Self-Hauler requirements in Section 8.68.580. City and its designees 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 or its designees.
- (b) Except Commercial Businesses that meet the Self-Hauler requirements in Section 8.68.580(c), participate in the City's Organic Waste collection service(s) by placing designated materials in designated containers as described below, and shall not place Prohibited Container Contaminants in collection containers.
 - (1) Generator shall place Source Separated Green Container Organic Waste, including Food Waste and Yard Trimmings, in the Green Container. Yard Trimmings must be reduced in size to fit the green container; no uncontainerized Yard trimmings will be collected. Plastic bags and compostable plastics, including compostable plastic bags, will not be allowed for organic waste or yard trimmings in the green container. Carpets, non-compostable paper, and hazardous wood are not allowed in the green container.

- (2) Generator shall place Source Separated Recyclable Materials in the Blue Container, including non-organic recyclables aluminum, glass bottles, rigid plastics marked #1-7, and tin and bi-metal cans; and some organic recyclables, including paper products, printing and writing paper, wood, dry lumber, and textiles. Hazardous wood waste is not allowed in the blue container.
 - (3) Gray Container Waste in the Gray Container. Generators shall not place materials designated for the Gray Container into the Green Container or Blue Container. Carpets are not allowed in the Gray Container.
- (c) Supply and allow access to adequate number, size and location of collection containers with sufficient labels or colors (conforming with Sections 8.68.530(d)(1) and 8.68.530(d)(2) below) for employees, contractors, tenants, and customers, consistent with City's Blue Container, Green Container, and Gray Container collection service or, if self-hauling, per the Commercial Businesses' instructions to support its compliance with its self-haul program, in accordance with Section 8.68.580.
- (d) Excluding Multi-Family Residential Dwellings, provide containers for the collection of Source Separated Green Container Organic Waste and Source Separated Recyclable Materials in all indoor and outdoor areas where disposal containers are provided for customers, for materials generated by that business. Such containers do not need to be provided in restrooms. If a Commercial Business does not generate any of the materials that would be collected in one type of container, then the business does not have to provide that particular container in all areas where disposal containers are provided for customers. Pursuant to 14 CCR Section 18984.9(b), the containers provided by the business shall have either:
 - (1) A body or lid that conforms with the container colors provided through the collection service provided by City, with either lids conforming to the color requirements or bodies conforming to the color requirements or both lids and bodies conforming to color requirements. A Commercial Business is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the requirements of the subsection prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first.
 - (2) Container labels that include language or graphic images, or both, indicating the primary material accepted and the primary materials prohibited in that container, or containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the container. Pursuant 14 CCR Section 18984.8, the container labeling requirements are required on new containers commencing January 1, 2022.
- (e) Multi-Family Residential Dwellings are not required to comply with container placement requirements or labeling requirement in Section 8.68.530(d) pursuant to 14 CCR Section 18984.9(b).

- (f) To the extent practical through education, training, Inspection, and/or other measures, excluding Multi-Family Residential Dwellings, prohibit employees from placing materials in a container not designated for those materials per the City's Blue Container, Green Container, and Gray Container collection service or, if self-hauling, per the Commercial Businesses' instructions to support its compliance with its self-haul program, in accordance with Section 8.68.580.
- (g) Excluding Multi-Family Residential Dwellings, periodically inspect Blue Containers, Green Containers, and Gray Containers for contamination and inform employees if containers are contaminated and of the requirements to keep contaminants out of those containers pursuant to 14 CCR Section 18984.9(b)(3).
- (h) 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.
- (i) Provide education information before or within fourteen (14) days of occupation of the premises to new tenants that describes requirements to keep Source Separated Green Container Organic Waste and Source Separated Recyclable Materials separate from Gray Container Waste (when applicable) and the location of containers and the rules governing their use at each property.
- (j) Provide or arrange access for City or its agent to their properties during all Inspections conducted in accordance with Section 8.68.600 of this ordinance to confirm compliance with the requirements of this ordinance.
- (k) If a Commercial Business wants to self haul, meet the Self-Hauler requirements in Section 8.68.580(c).
- (l) Nothing in this Section prohibits a generator from preventing or reducing waste generation, managing Organic Waste on site, or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).
- (m) Commercial Businesses that are Tier One or Tier Two Commercial Edible Food Generators shall comply with Food Recovery requirements, pursuant to Section 8.68.550.

8.68.540 - Waivers for Generators

- (a) De Minimis Waivers. The City may waive a Commercial Business' obligation (including Multi-Family Residential Dwellings) to comply with some or all of the Organic Waste requirements of this ordinance if the Commercial Business provides documentation that the business generates below a certain amount of Organic Waste material as described in Section 8.68.540(a)(2) below. Commercial Businesses requesting a de minimis waiver shall:
 - (1) Submit an application specifying the services that they are requesting a waiver from and provide documentation as noted in Section 8.68.540(a)(2) below.

- (2) Provide documentation that either:
 - (A) The Commercial Business' total Solid Waste collection service is two cubic yards or more per week and Organic Waste subject to collection in a Blue Container or Green Container comprises less than 20 gallons per week per applicable container of the business' total waste; or,
 - (B) The Commercial Business' total Solid Waste collection service is less than two cubic yards per week and Organic Waste subject to collection in a Blue Container or Green Container comprises less than 10 gallons per week per applicable container of the business' total waste.
- (3) Notify the City if circumstances change such that Commercial Business's Organic Waste exceeds threshold required for waiver, in which case waiver will be rescinded.
- (4) Provide written verification of eligibility for de minimis waiver every 5 years, if City has approved de minimis waiver.

(b) Physical Space Waivers. The City may waive a Commercial Business' or property owner's obligations (including Multi-Family Residential Dwellings) to comply with some or all of the recyclable materials and/or Organic Waste collection service requirements if the City has evidence from its own staff, a hauler, licensed architect, or licensed engineer demonstrating that the premises lacks adequate space for the collection containers required for compliance with the Organic Waste collection requirements of Section 8.68.530.

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

- (1) Submit an application form specifying the type(s) of collection services for which they are requesting a compliance waiver.
- (2) Provide documentation that the premises lacks adequate space for Blue Containers and/or Green Containers including documentation from its hauler, licensed architect, or licensed engineer.
- (3) Provide written verification to City that it is still eligible for physical space waiver every five years, if City has approved application for a physical space waiver.

8.68.550 - Requirements for Commercial Edible Food Generators

- (a) Tier One Commercial Edible Food Generators must comply with the requirements of this Section 8.68.550 commencing January 1, 2022, and Tier Two Commercial Edible Food Generators must comply commencing January 1, 2024, pursuant to 14 CCR Section 18991.3.
- (b) Large Venue or Large Event operators not providing food services, but allowing for food to be provided by others, shall require Food Facilities operating at the Large Venue or Large Event to comply with the requirements of this Section, commencing January 1, 2024.

- (c) Commercial Edible Food Generators shall comply with the following requirements:
- (1) Arrange to recover the maximum amount of Edible Food that would otherwise be disposed.
 - (2) Contract with, or enter into a written agreement with Food Recovery Organizations or Food Recovery Services for: (i) the collection of Edible Food for Food Recovery; or, (ii) acceptance of the Edible Food that the Commercial Edible Food Generator self-hauls to the Food Recovery Organization for Food Recovery.
 - (3) Shall not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery Organization or a Food Recovery Service.
 - (4) Allow City's designated enforcement entity or designated third party enforcement entity to access the premises and review records pursuant to 14 CCR Section 18991.4.
 - (5) Keep records that include the following information, or as otherwise specified in 14 CCR Section 18991.4:
 - (A) A list of each Food Recovery Service or organization that collects or receives its Edible Food pursuant to a contract or written agreement established under 14 CCR Section 18991.3(b).
 - (B) A copy of all contracts or written agreements established under 14 CCR Section 18991.3(b).
 - (C) A record of the following information for each of those Food Recovery Services or Food Recovery Organizations:
 - (i) The name, address and contact information of the Food Recovery Service or Food Recovery Organization.
 - (ii) The types of food that will be collected by or self-hauled to the Food Recovery Service or Food Recovery Organization.
 - (iii) The established frequency that food will be collected or self-hauled.
 - (iv) The quantity of food, measured in pounds recovered per month, collected or self-hauled to a Food Recovery Service or Food Recovery Organization for Food Recovery.
 - (6) No later than March 31st of each year, commencing no later than February 1, 2023 for Tier One Commercial Edible Food Generators and February 1, 2025 for Tier Two Commercial Edible Food Generators, provide an annual Food Recovery report to the City that includes the following information:

- (A) A copy of all contracts or written agreements established under 14 CCR Section 18991.3(b).
 - (B) The quantity of food, measured in annual pounds recovered, collected or self-hauled to a Food Recovery Service or Food Recovery Organization for Food Recovery.
 - (C) The types of food that is collected by or self-hauled to the Food Recovery Service or Food Recovery Organization.
 - (D) The established frequency that food is collected or self-hauled to the Food Recovery Service or Food Recovery Organization.
 - (E) The name, address and contact information of the Food Recovery Service or Food Recovery Organization.
- (d) Nothing in this ordinance shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share table and school food donation guidance pursuant to Senate Bill 557 of 2017 (approved by the Governor of the State of California on September 25, 2017, which added Article 13 [commencing with Section 49580] to Chapter 9 of Part 27 of Division 4 of Title 2 of the Education Code, and to amend Section 114079 of the Health and Safety Code, relating to food safety, as amended, supplemented, superseded and replaced from time to time).

8.68.560 - Requirements for Food Recovery Organizations and Services

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

- (1) The name, address, and contact information for each Commercial Edible Food Generator from which the organization receives Edible Food.
 - (2) The quantity in pounds of Edible Food received from each Commercial Edible Food Generator per month.
 - (3) The name, address, and contact information for each Food Recovery Service that the organization receives Edible Food from for Food Recovery.
- (c) No later than March 31st of each year, commencing March 31, 2023 Food Recovery Organizations and Food Recovery Services that have their primary address physically located in the City and contract with or have written agreements with one or more Commercial Edible Food Generators pursuant to 14 CCR Section 18991 .3(b) shall report to the City the total pounds of Edible Food recovered in the previous calendar year from the Tier One and Tier Two Commercial Edible Food Generators they have established a contract or written agreement with pursuant to 14 CCR Section 18991.3(b).
- (d) Food Recovery Capacity Planning
- (1) Food Recovery Services and Food Recovery Organizations. In order to support Edible Food Recovery capacity planning assessments or other studies conducted by the County, City, special district that provides solid waste collection services, or its designated entity, Food Recovery Services and Food Recovery Organizations operating in the City shall provide information and consultation to the City, upon request, regarding existing, or proposed new or expanded, Food Recovery capacity that could be accessed by the City and its Commercial Edible Food Generators. A Food Recovery Service or Food Recovery Organization contacted by the City shall respond to such request for information within 60 days, unless a shorter timeframe is otherwise specified by the City.

8.68.570 - Requirements for Haulers and Facility Operators.

- (a) Requirements for Haulers
- (1) Exclusive franchised hauler providing residential, Commercial, or industrial Organic Waste collection services to generators within the City's boundaries shall meet the following requirements and standards as a condition of approval of a contract, agreement, or other authorization with the City to collect Organic Waste:
 - (A) Through written notice to the City annually on or before January 1, identify the facilities to which they will transport Organic Waste including facilities for Source Separated Recyclable Materials, Source Separated Green Container Organic Waste.
 - (B) Transport Source Separated Recyclable Materials, Source Separated Green Container Organic Waste to a facility, operation, activity, or property that recovers Organic Waste as defined in 14 CCR, Division 7, Chapter 12, Article 2.

- (C) Obtain approval from the City to haul Organic Waste, unless it is transporting Source Separated Organic Waste to a Community Composting site or lawfully transporting C&D in a manner that complies with 14 CCR Section 18989.1.
- (2) Exclusive franchised hauler authorization to collect Organic Waste shall comply with education, equipment, signage, container labeling, container color, contamination monitoring, reporting, and other requirements contained within its franchise agreement, permit, license, or other agreement entered into with City.
- (b) Requirements for Facility Operators and Community Composting Operations
 - (1) Owners of facilities, operations, and activities that recover Organic Waste, including, but not limited to, Compost facilities, in-vessel digestion facilities, and publicly-owned treatment works shall, upon City'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 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.

8.68.580 - Self-Hauler Requirements

- (a) Self-Haulers shall source separate all recyclable materials and Organic Waste (materials that City otherwise requires generators to separate for collection in the City's organics and recycling collection program) generated on-site from Solid Waste in a manner consistent with 14 CCR Sections 18984.1 and 18984.2, or shall haul Organic Waste to a High Diversion Organic Waste Processing Facility as specified in 14 CCR Section 18984.3.
- (b) Self-Haulers shall haul their Source Separated Recyclable Materials to a facility that recovers those materials; and haul their Source Separated Green Container Organic Waste to a Solid Waste facility, operation, activity, or property that processes or recovers Source Separated Organic Waste. Alternatively, Self-Haulers may haul Organic Waste to a High Diversion Organic Waste Processing Facility.
- (c) Self-Haulers that are Commercial Businesses (including Multi-Family Residential Dwellings) shall keep a record of the amount of Organic Waste delivered to each Solid Waste facility, operation, activity, or property that processes or recovers Organic Waste; this record shall be subject to Inspection by the City. The records shall include the following information:
 - (1) Delivery receipts and weight tickets from the entity accepting the waste.

- (2) The amount of material in cubic yards or tons transported by the generator to each entity.
- (3) If the material is transported to an entity that does not have scales on-site, or employs scales incapable of weighing the Self-Hauler's vehicle in a manner that allows it to determine the weight of materials received, the Self-Hauler is not required to record the weight of material but shall keep a record of the entities that received the Organic Waste.
- (d) Self-Haulers that are Commercial Businesses (including Multi-Family Self-Haulers) shall provide information collected in this Section 8.68.580(c) to City if requested.
- (e) A residential Generator that self-hauls Organic Waste is not required to record or report information in this Section 8.68.580(c) and (d). A residential generator that self-hauls Gray Container Waste must comply with Section 8.68.090.

8.68.590 - Procurement Requirements for City Departments, Direct Service Providers, and Vendors

- (a) Pursuant to SB 1383 Regulations, beginning January 1, 2022, City departments, and suppliers and service providers to the City, as applicable, must comply with the City's Recovered Organic Waste Product Procurement Policy and Recycled-Content Paper Procurement Policy.
- (b) Direct Service Providers of landscaping maintenance, renovation, and construction shall:
 - (1) Use Compost and SB 1383 Eligible Mulch, as practicable, produced from recovered Organic Waste, for all landscaping renovations, construction, or maintenance performed for the City, whenever available, and capable of meeting quality standards and criteria specified. SB 1383 Eligible Mulch used for land application shall comply with 14 CCR, Division 7, Chapter 12, Article 12 and must meet or exceed the physical contamination, maximum metal concentration and pathogen density standards specified in 14 CCR Section 17852(a)(24.5)(A)(1) through (3).

8.68.600 - Inspections and Investigations by City

- (a) City representatives and/or its designated entity, including Designees are authorized to conduct Inspections and investigations, at random or otherwise, of any collection container, collection vehicle loads, or transfer, processing, or disposal facility for materials collected from generators, or Source Separated materials to confirm compliance with this ordinance by Organic Waste Generators, Commercial Businesses (including Multi-Family Residential Dwellings), property owners, Commercial Edible Food Generators, haulers, Self-Haulers, Food Recovery Services, and Food Recovery Organizations, subject to applicable laws. This Section does not allow City to enter the interior of a private residential property for Inspection.
- (b) Regulated entity shall provide or arrange for access during all Inspections (with the exception of residential property interiors) and shall cooperate with the City's employee or its designated entity/Designee during such Inspections and investigations. Such Inspections and investigations may include confirmation of proper placement of

materials in containers, Edible Food Recovery activities, records, or any other requirement of this ordinance described herein. Failure to provide or arrange for: (i) access to an entity's premises; (ii) access to records for any Inspection or investigation is a violation of this ordinance and may result in penalties described.

- (c) Any records obtained by City during its Inspections, and other reviews shall be subject to the requirements and applicable disclosure exemptions of the Public Records Act as set forth in Government Code Section 6250 et seq.
- (d) City representatives, its designated entity, and/or Designee are authorized to conduct any Inspections or other investigations as reasonably necessary to further the goals of this ordinance, subject to applicable laws.
- (e) City shall receive written complaints from persons regarding an entity that may be potentially non-compliant with SB 1383 Regulations, including receipt of anonymous complaints.

8.68.610 - Enforcement

- (a) Beginning January 1, 2022 and through December 31, 2023, if City determines that a Responsible Party is not in compliance with Article V of this chapter, it shall provide educational materials to the entity describing its obligations, and a notice that compliance is required by January 1, 2022, and that violations are subject to administrative citations and fines beginning January 1, 2024.
- (b) Beginning on January 1, 2024, City shall enforce violations of Article V of this chapter by issuing a notice of violation requiring compliance within 60 calendar days of issuance of the notice. City may extend the compliance deadlines set forth in a notice of violation if it finds that extenuating circumstances beyond the control of the respondent make compliance within the deadlines impracticable. For purposes of this section, extenuating circumstances are:
 - 1. Acts of God such as, earthquakes, wildfires, flooding, and other emergencies or natural disasters;
 - 2. Delays in obtaining discretionary permits or other government agency approvals; and
 - 3. Deficiencies in organic waste recycling capacity infrastructure or Edible Food Recovery capacity, and the entity with jurisdiction is under a Corrective Action Plan pursuant to Section 18996.2 due to those deficiencies.
- (c) Notice of violations shall be issued by an Enforcement Officer to the Responsible Party by personal service, by mail, or posting of property in accordance with Section 1.14.010. The notice of violation shall include the following information:
 - 1. The name(s), or account name(s) if different, of each person or entity to whom it is directed;

2. A factual description of the violations of this chapter, including the section(s) being violated;
 3. A compliance date by which the operator is to take specified action(s); and
 4. The potential for an administrative citation and fine for not complying within the specified compliance date.
- (d) Absent compliance by the respondent within the deadline set forth in a notice of violation, a Responsible Party is subject to an administrative citation and fine, as follows:
1. Pursuant to 14 CCR Section 18998.2, City shall issue administrative citations and fines to Commercial Edible Food Generators, Food Recovery Services and Food Recovery Organizations that remain non-compliant with this chapter despite issuance of a notice of violation.
 2. City has discretion to issue administrative citations and fines against any other entities that remain non-compliant with this chapter despite issuance of a notice of violation.
 3. Administrative citations shall be issued by an Enforcement Officer in accordance with Section 1.14.010.
- (e) The following administrative fine amounts apply to administrative citations issued for violations of this chapter: 1. For a first violation, the fine shall be \$50 to \$100 per violation. 2. For a second violation, the fine shall be \$100 to \$200 per violation. 3. For a third or subsequent violation, the fine shall be \$250 to \$500 per violation.

8.68.620 - Effective Date

This chapter shall be effective beginning on January 1, 2022.

Section 2. Severability. If any section, sentence, clause, or phrase of this Ordinance is determined to be invalid, illegal, or unconstitutional by a decision or order of any court or agency of competent jurisdiction, then such decision or order will not affect the validity and enforceability of the remaining portions of this Ordinance. The City Council declares that it would have passed and adopted the Ordinance, and each section, sentence, clause, or phrase thereof, regardless of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

Section 3. Effective Date. This Ordinance shall take effect and be in force thirty (30) days after its passage.

Section 4. Publication. Within fifteen (15) days following its adoption, the City Clerk shall certify to the passage of this Ordinance and cause the same to be published, or the title thereof as a summary, in accordance with the provisions of State law in a newspaper of general circulation designated for legal notices publication in the City of San Marcos.

INTRODUCED at a regular meeting of the City Council of the City of San Marcos, California, held on the 12th day of October, 2021; and

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council of the City of San Marcos, California, held on the _____ day of _____, 2021, by the following roll call vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED:

Rebecca D. Jones, Mayor

ATTEST:

APPROVED AS TO FORM:

Phillip Scollick, City Clerk
City of San Marcos

Helen Holmes Peak, City Attorney
City of San Marcos