

## ORDINANCE NO. NS-XXX

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA ANA REPEALING AND REENACTING IN ITS ENTIRETY ARTICLE II OF CHAPTER 16 OF THE SANTA ANA MUNICIPAL CODE RELATING TO SOLID WASTE COLLECTION REGULATIONS

WHEREAS, 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Waste Management Act of 1989 (California Public Resources Code Section 40000 et seq., as amended, supplemented, superseded, and replaced from time to time), requires cities and counties to reduce, reuse, and recycle (including composting) solid waste generated in their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41734.5, and 41780.01 and Chapter 12.8 (commencing with Section 42649) to Part 3 of Division 30 of, and added and repealed Section 41780.02 of, the Public Resources Code, as amended, supplemented, superseded and replaced from time to time), places requirements on businesses and multi-family property owners that generate a specified threshold amount of solid waste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42649.8) to Part 3 of Division 30 of the Public Resources Code, relating to solid waste, as amended, supplemented, superseded, and replaced from time to time), requires businesses and multi-family property owners that generate a specified threshold amount of solid waste, recycling,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, Senate Bill 1383 (SB 1383), the Short-lived Climate Pollutant Reduction Act of 2016, requires the California Department of Resources Recycling and Recovery (CalRecycle) to develop regulations to reduce organics in landfills as a source of methane. As adopted by CalRecycle, these SB 1383 regulations (SB 1383 Regulations) place requirements on multiple entities, including 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 SB 1383 Regulations. Such an ordinance will also help reduce food insecurity by requiring commercial edible food generators to arrange to have the maximum amount of their edible food, that would otherwise be disposed, be recovered for human consumption; and

WHEREAS, this Ordinance implements the requirements of the SB 1383 Regulations by updating Article II (Solid Waste Collection Regulations) of Chapter 16 of the Santa Ana Municipal Code (Garbage, Trash and Weeds); and

WHEREAS, to effectively update Article II of Chapter 16, it is necessary that Article II of Chapter 16 be repealed and reenacted in its entirety.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SANTA ANA, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:**

**Section 1.** The recitals above are each incorporated by reference and adopted as findings by the City Council.

**Section 2.** Article II (Solid Waste Collection Regulations) of Chapter 16 of the Santa Ana Municipal Code (Garbage, Trash and Weeds) is hereby repealed in its entirety.

**Section 3.** Article II (Solid Waste Collection Regulations) of Chapter 16 of the Santa Ana Municipal Code (Garbage, Trash and Weeds) is hereby reenacted in its entirety to read as follows:

## **ARTICLE II. – SOLID WASTE COLLECTION REGULATIONS**

### **Sec. 16-28. - Short title.**

This article shall be known and may be cited as the “Municipal Solid Waste Collection Regulations” of the city.

### **Sec. 16-28.5. - Purpose of this article.**

It is in the public interest, health and safety that the collection, transportation and recycling, diversion by means of composting, mulching, and/or transforming, and disposal of all discarded materials in the city be regulated by the city. In order for the city to both manage the discarded materials generated within the city and to comply with California’s regulatory requirements and any amendments made thereto, the city deems it necessary to provide rules and regulations relating to solid waste.

### **Sec. 16-29. - Definitions.**

*Applicant* shall mean any individual, firm, limited liability company, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever who applies to the city for the

applicable permits to undertake any construction, demolition, or renovation project within the city.

*Bin service* shall mean all solid waste collection services provided by means of front-loaded collection bins of various sizes.

*Blue container* has the same meaning as in 14 CCR Section 18982(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.

*Brown container* has the same meaning as in 14 CCR Section 18982(a)(5.5) and shall be used for the purpose of storage and collection of source separated food waste.

*Bulky items* shall mean solid waste that cannot and/or would not typically be accommodated within a container, including specifically: furniture (including chairs, sofas, mattresses, and rugs); appliances (including refrigerators, ranges, washers, dryers, water heaters, dishwashers, plumbing, small household appliances and other similar items, commonly known as “white goods”); up to twenty (20), thirty (30) gallon bags of green waste (including wood waste, tree branches, scrap wood); and electronic equipment (including stereos, televisions, computers and monitors, VCRs, microwaves and other similar items commonly known as “brown goods” and “e-waste”). Bulky items do not include car bodies, tires, construction and demolition solid waste or items requiring more than two persons to remove. Other items not specifically included or excluded above will be collected provided that they are not more than eight feet in length, four feet in width, or more than 150 pounds.

*C&D or construction and demolition debris* shall mean construction and demolition solid waste.

*California Code of Regulations or CCR* shall mean the State of California Code of Regulations. CCR references in this article are preceded with a number that refers to the relevant Title of the CCR (e.g., “14 CCR” refers to Title 14 of CCR).

*California Integrated Waste Management Act* shall mean that act codified by California Public Resources Code Sections 40000 et seq., and any subsequent amendments thereto.

*CalGreen* means the California Green Building Standards Code.

*CalRecycle* shall mean California’s Department of Resources Recycling and Recovery, which is the department designated with responsibility for developing, implementing, and enforcing SB 1383 regulations on jurisdictions and other regulated entities.

*Cart* shall mean a plastic container with a hinged lid and wheels serviced by automated or semi-automated collection vehicles and with a container capacity of no less than 30 gallons and no greater than 101 gallons and furnished or supplied to each curbside service unit in the city by the city or its solid waste collection contractor for the

placement of gray container, blue container, brown cart and/or green container discarded materials.

*City* shall mean the city of Santa Ana

*City enforcement official* shall mean the city manager, executive director, or their authorized designee(s) who is/are partially or wholly responsible for enforcing this article.

*Collect* or *collection* shall mean the act of taking physical possession of discarded materials at single-family, multifamily, or commercial premises within the city and from city facilities and transporting the discarded materials to an approved/designated facility for processing, transfer, or disposal.

*Commercial business* or *commercial* shall mean 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).

*Commercial/industrial bin service* shall mean bin service which is provided by the city's solid waste collection contractor to commercial and/or industrial units and/or a multifamily residential dwelling with 3 or more units.

*Commercial edible food generator* includes a tier one commercial edible food generator or a tier two commercial edible food generator, 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, or as otherwise specified by 14 CCR Section 18982(a)(7).

*Commercial premises* has the same meaning as commercial business or commercial.

*Community composting* shall mean 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 in 14 CCR Section 18982(a)(8).

*Compliance review* shall mean a review of records by a city to determine compliance with this article.

*Compostable plastics* or *compostable plastic* shall mean 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).

*Compost* has the same meaning as in 14 CCR Section 17896.2(a)(4), which stated, as of the effective date of this article, 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.

*Composting* shall mean a method of waste treatment which produces a product meeting the definition of compost herein.

*Composting facility* means a state permitted solid waste facility at which composting is conducted and which produces a product meeting the definition of compost.

*Construction and demolition solid waste or construction and demolition debris* shall mean the nonhazardous waste building material, inerts, soil, organic waste, yard trimmings, packaging, and rubble resulting from construction, remodeling, repair and demolition operations on streets, pavements, houses, commercial buildings, and other structures.

*Containers* shall mean any and all types of solid waste receptacles, including carts, bins, and roll-off boxes provided by the solid waste collection contractor.

*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).

*County agency enforcement official* shall mean a county agency enforcement official, designated by the city with responsibility for enforcement in conjunction or consultation with the city enforcement official.

*Covered project* means all demolition and building permits subject to the requirements of the California Green Building Standards Code. Covered projects are required to meet the minimum diversion requirements of the California Green Building Standards Code for all C&D debris generated by the project.

*Curbside service unit* shall mean each single-family residence and duplex unit which receives curbside collection services provided by the city's solid waste collection contractor. This shall include commercial curbside users and any multifamily, business or professional user which does not require bin service as determined by the executive director of public works.

*Discarded materials* are included in the definition of solid waste. For purposes of this article, material is deemed to have been discarded, whether it is destined for recycling or disposal, and whether or not it has been separated from other solid wastes, in all cases where a fee or other compensation, in any form or amount, is directly or indirectly solicited from, or is levied, charged, or otherwise imposed on, or paid by, the generator or customer in exchange for handling services. As used herein, handling services include, without limitation, the collection, removal, transportation, delivery, and processing and/or disposal of the material. Handling services specifically exclude the generator's use of a third party to assist the generator with on-site separation of materials into and among contractor-provided containers to facilitate recovery and minimize contamination. For the purposes of this article, discarded materials include source separated recyclable materials, source separated blue container organic waste, source separated green container organic waste, source separated brown container organic waste, food waste, non-recyclable gray container waste, and C&D, once the materials have been placed in containers for

collection. Discarded materials do not include edible food that is recovered for human consumption and is not discarded.

*Diversion requirement* means the CALGreen-applied percentage of C&D debris generated by a covered project that must be diverted from landfills.

*Divert or to divert or diversion* means any combination of recycling, sorting, composting, and/or other processing activities conducted in order to prepare, use and/or market the materials for reuse, remanufacture, reconstitution, or to otherwise return the material to the economic marketplace and to prevent the materials from being disposed in a landfill.

*Edible food* shall mean food intended for human consumption, or as otherwise defined in 14 CCR Section 18982(a)(18). For the purposes of this article 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 article or in Title 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* shall mean an action of the city to address non-compliance with this article, including, but not limited to, a warning, a notice of violation, issuing administrative citations, fines, infractions, penalties, or using other remedies.

*Excluded waste* shall mean 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 multifamily solid waste after implementation of programs for the safe collection, processing, recycling, treatment, and disposal of batteries and paint in compliance with Sections 41500 and 41802 of the California Public Resources Code. Excluded waste does not include used motor oil and filters, household batteries, universal wastes, and/or sharps when such materials are defined as allowable materials for collection through the city's collection programs and the generator or customer has properly placed the materials for collection pursuant to instructions provided by city or its designee for collection services.

*Executive director* shall mean the Executive Director of Public Works of the city of Santa Ana, or his or her designee.

*Food distributor* shall mean 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* shall mean an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption at the retail level, pursuant to Section 113789 of the Health and Safety Code.

*Food recovery* shall mean actions to collect and distribute food for human consumption which otherwise would be disposed, or as otherwise defined in 14 CCR Section 18982(a)(24).

*Food recovery organization* shall mean an entity that primarily 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, including, but not limited to: a food bank as defined in Section 113783 of the Health and Safety Code; a nonprofit charitable organization as defined in Section 113841 of the Health and Safety code; and 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 article and implementation of Title 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 article.

*Food recovery service* shall mean 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 article and implementation of Title 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7).

*Food scraps* shall mean 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* shall mean 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* shall mean 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* shall mean food scraps and food-soiled paper. Food waste may include compostable plastics, as directed by the City.

*Generator* shall mean a person or entity that is responsible for the initial creation of one or more types of discarded materials.

*Green container* has the same meaning as in 14 CCR Section 18982(a)(29) and shall be used for the purpose of storage and collection of source separated green container organic waste.

*Green container waste* shall mean source separated green container organic waste.

*Grocery store* shall mean 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).

*Hauler route* shall mean 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).

*Hazardous wastes* shall mean those wastes which, because of their physical or chemical characteristics, cannot be disposed of in a Class III landfill under the applicable laws and regulations of the State of California.

*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* shall mean a site visit where a city enforcement official reviews records, containers, and an entity's collection, handling, recycling, or landfill disposal of organic waste, construction and demolition solid waste, recyclable materials, and/or edible food handling to determine if the entity is complying with requirements set forth in this article, or as otherwise defined in 14 CCR Section 18982(a)(35).

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



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

*Local education agency* shall mean 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).

*Multifamily residential premises or multifamily residential building* means of, from, or pertaining to residential premises with three (3) or more dwelling units. Multifamily 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 breakdown in the composting process, or as otherwise defined in 14 CCR Section 18982(a)(41).

*Non-local entity* shall mean the following entities that are not subject to the city's enforcement authority, or as otherwise defined in 14 CCR Section 18982(a)(42), including: special district(s) located within the boundaries of the city; federal facilities, including military installations, located within the boundaries of the city; prison(s) located within the boundaries of the city; facilities operated by the state park system located within the boundaries of the city; public universities (including community colleges) located within the boundaries of the city; county fairgrounds located within the boundaries of the city; and state agencies located within the boundaries of the city.

*Non-organic recyclables* shall mean 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). Non-organic recyclables are a subset of source separated recyclable materials.

*Non-recyclable gray container* has the same meaning as in 14 CCR Section 18982(a)(28) and shall be used for the purpose of storage and collection of non-recyclable gray container waste.

*Non-recyclable gray container waste* shall mean 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 recyclable materials and 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).

*Notice of violation* shall mean 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.

*Organic waste* shall mean 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). Manure or feces generated by primates or other animals that may present a public health risk shall not be included in the definition of organic waste.

*Organic waste generator* shall mean 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).

*Permitted solid waste facility* shall mean a solid waste facility for which there exists a solid waste facilities permit issued by the local enforcement agency and concurred by CalRecycle.

*Person* shall include, without limitation, individuals, schools, colleges and all governmental agencies and entities, associations, clubs, societies, firms, partnerships, sole proprietorships, corporations, including the officers of such associations, corporations, etc.

*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).

*Processing* shall mean the reduction, separation, recovery, conversion or recycling of solid waste.

*Prohibited container contaminants* shall mean 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 brown container that are not identified as acceptable source separated brown container organic waste for the city's brown container; (iv) discarded materials placed in the non-recyclable gray container that are acceptable source separated recyclable materials and/or source

separated green container organic wastes and/or source separated brown container organic waste to be placed in the city's green container, brown container, and/or blue container; and, (v) excluded waste placed in any container.

*Recovered organic waste products* shall mean 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).

*Recycled-content paper* shall mean 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).

*Recycling* means collecting, sorting, cleansing, treating, processing and reconstituting recyclable solid wastes for the purpose of reuse. Recycling includes processes deemed to constitute a reduction of landfill disposal pursuant to Title 14 CCR, Division 7, Chapter 12, Article 2. Recycling does not include gasification or transformation as defined in Public Resources Code Section 40201.

*Remote monitoring* shall mean the use of the internet of things (IoT) and/or wireless electronic devices to visualize the contents of blue containers, green containers, brown containers, and/or gray containers for purposes of identifying the quantity of materials in containers (level of fill) and/or presence of prohibited container contaminants.

*Residential bin service* shall mean bin service which is provided by the city's solid waste collection contractor to any and all residential users which request or require such services.

*Responsible party* shall mean the owner, property manager, tenant, lessee, occupant, or other designee that subscribes to and pays for discarded materials collection services from the city's solid waste collection contractor for a premises in the city, or, if there is no such subscriber, the owner or property manager of a single-family premises, multifamily premises, or commercial premises. In instances of dispute or uncertainty regarding who is the responsible party for a premises, responsible party shall mean the owner of a single-family premises, multifamily premises, or commercial premises.

*Restaurant* shall mean 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).

*Roll-off service* shall mean solid waste collection from transportable containers of ten (10) cubic yards or larger which are dropped off at residence, commercial or industrial establishments and later removed for collection of contents of said container. Roll-off service includes compactors which may be used with roll-off containers.

*Route review* shall mean 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).

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

*Self-hauler* shall mean 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 or single-family premises* means any residential premises with less than three (3) units.

*Solid Waste* has the same meaning as defined in 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 semisolid wastes, and other discarded solid and semisolid wastes, with the exception that solid waste does not include any of the following wastes:

- (1) Hazardous waste, as defined in the Public Resources Code Section 40141.
- (2) Radioactive waste regulated pursuant to the State Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the Health and Safety Code).
- (3) Medical waste regulated pursuant to the State Medical Waste Management Act (Part 14 (commencing with Section 117600) of Division 104 of the Health and Safety Code). Untreated medical waste shall not be disposed of in a solid waste landfill, as defined in 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 Public Resources Code.

Solid waste includes, but is not limited to, yard waste, recyclable materials, organic waste, whether now recyclable or not, generated and/or accumulated by all residential, commercial and industrial sources, and at all construction and demolition sites within the city.

*Solid waste collection contractor* shall mean the party (other than the city) that executed an exclusive franchise agreement with the city, and its affiliates, DBAs, and subcontractors that perform services on contractor's behalf.

*Source reduction and recycling element* means the city's plan for meeting the requirements of California Integrated Waste Management Act.

*Source separated* shall mean 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 this article, 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 non-recyclable gray container waste or other solid waste for the purposes of collection and processing.

*Source separated blue container organic waste* shall mean source separated organic waste 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)(26.7).

*Source separated blue container recyclable materials* shall mean source separated non-organic recyclables and source separated blue container organic waste.

*Source separated brown container organic waste* shall mean source separated organic waste that can be placed in a brown container that is specifically intended for the separate collection of organic waste by the generator, including food waste.

*Source separated green container organic waste* shall mean 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, including food scraps, food soiled paper, compostable plastics (if directed by the city) and yard waste, and excluding source separated blue container organic waste, carpets, non-compostable paper, and textiles.

*Source separated recyclable materials* shall mean source separated non-organic recyclables and source separated blue container organic waste.

*Supermarket* shall mean 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).

*Three-container system* shall mean a collection system in which generators are required to source separate discarded materials into three streams: solid waste, source

separated recyclable materials, and source separated organic waste, for placement in containers specifically designated for those materials.

*Tier one commercial edible food generator* shall mean a commercial edible food generator that is one of the following, each as defined in 14 CCR Section 18982(a)(73): supermarket; grocery store with a total facility size equal to or greater than 10,000 square feet; food service provider; food distributor; or 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 article.

*Tier two commercial edible food generator* shall mean a commercial edible food generator that is one of the following, each as defined in 14 CCR Section 18982(a)(74): restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet; hotel with an on-site food facility and 200 or more rooms; health facility with an on-site food facility and 100 or more beds; large venue; large event; 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; or a local education agency 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 article.

*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 transported to a facility that recovers source separated organic waste, or as otherwise defined in 14 CCR Section 18982(a)(75).

*Waste reduction and recycling plan or WRRP* shall mean a completed waste management plan form, approved by the city for the purpose of compliance with this article, submitted by the applicant for any CALGreen covered or noncovered project. The first portion of the form is submitted when applying for a permit, and the second portion when the project is completed.

*Wholesale food vendor* shall mean a business or establishment engaged in the merchant wholesale distribution of food, where food (including fruits and vegetables) is received, shipped, stored, or prepared for distribution to a retailer, warehouse, distributor, or other destination, or as otherwise defined in 14 CCR Section 18982(a)(76).

*Yard waste* shall mean any wastes generated from the maintenance or alteration of public, commercial, or residential landscapes, including but not limited to, leaves, yard clippings, tree trimming, brush, weeds, and prunings, which have been source separated from other solid waste. Yard waste is a subset of organic materials and excludes hazardous materials.

#### **Sec. 16-29.5. - Administration.**

(a) The executive director may make rules and determinations pertaining to the storage, collection, recycling, diversion, conveyance, and disposal of solid waste

consistent with this article and with any resolution or contract of the city council pertaining to the same, including, but not limited to, the following:

(1) The collection day schedules for curbside service and, when necessary to improve sanitation or reduce noise, for residential and/or commercial/industrial bin service.

(2) Determinations as to whether waste material falls within the definition of solid waste.

(3) Determinations as to whether the conditions for receipt of curbside service have been satisfied.

(4) Determinations as to whether processing of solid waste is occurring in compliance with the California Integrated Waste Management Act and the city's source reduction and recycling element.

(5) Determinations as to whether agreements between customers and the city's solid waste collection contractor for special or additional collection services or for bin or roll-off service are reasonable and consistent.

(6) Regulations pertaining to periods of labor strike or other circumstances affecting collection services throughout the city.

(7) Determinations as to whether residential, multifamily, commercial generators, tier one and tier two edible food generators, food recovery organizations, self-haulers, and organic waste generators are in compliance with the organics waste diversion requirements as described in this article.

(b) Any person aggrieved by a rule or determination of the executive director of public works shall have the right of appeal to the city manager, who shall have the authority to confirm, modify, or revoke the same.

#### **Sec. 16-30. - Exclusivity and exclusions thereto.**

(a) The city and its solid waste collection contractor have the exclusive duty, right, and privilege to collect, transport, process, recycle, divert by means of composting, mulching, and/or transforming, retain, and dispose of all solid waste accumulated, produced or generated in the city, and all solid waste placed for collection either by the city or its solid waste collection contractor shall be deemed to be the property thereof, except as otherwise provided herein. Effective July 1, 2022, this exclusivity includes construction and demolition solid waste which has accumulated and/or been generated at a temporary construction site and which is being disposed of in a roll-off container(s) and/or in bin(s).

(b) A person who generates solid waste, or who owns the premises upon which solid waste has generated or accumulated, may personally collect, transport and dispose of its own solid waste so long as it:

- (1) Does so in accordance with all governing laws and regulations, and
- (2) Does so in accordance with the self-hauler requirements in section 16-38.5.
- (3) Disposes of such solid waste at a site permitted by the California Department of Resources Recycling and Recovery (CalRecycle), as described in section 16-38.5.

(c) A person who generates solid waste, or who owns the premises upon which solid waste is generated or accumulated, may: (1) sell or, (2) donate its source separated recyclable materials and/or organic waste; provided, however, that in both instances: (A) the person must, on its premises, segregate from other solid waste the source separated recyclable materials and/or organic waste to be sold or donated, and (B) the person may not pay the buyer or donee, or any third party, any tangible consideration, including service, consulting or other fees or discount/reduction of fees, for collecting, processing, or transporting such source separated recyclable materials and/or organic waste. A person who simply receives a discount of, or reduction in, the collection, processing or disposal service rates for solid waste shall not be deemed to be selling or donating source separated recyclable materials and/or organic waste for purposes of this exception. At the request of the city, a person who sells or donates its source separated recyclable materials and/or organic waste shall provide documentation, including receipts from the person buying or receiving the donated source separated recyclable materials and/or organic waste evidencing the sale or donation, and invoices or agreements for hauling or recycling services.

(d) A gardener, tree trimmer, or person engaged in landscape maintenance who has a business license to operate in the city may collect yard waste which it generates as an incidental portion of providing its licensed services. Any yard waste collected pursuant hereto must be transported by the gardener, tree trimmer or person to a facility permitted by CalRecycle in accordance with all laws and regulations.

(e) Any person may collect, transport, and dispose of solid waste during a period in which collection services by the city or its solid waste collection contractor are interrupted or delayed due to a labor strike or other circumstances affecting collection services throughout the city, provided such persons comply with any and all directives of the executive director.

(f) Effective July 1, 2022, any solid waste collection contractor, other than the city's exclusive solid waste collection contractor as of that date, who may be entitled to continue services beyond that date pursuant to Public Resources Code section 49520



shall not expand their account base or solicit new accounts during such period of continued services.

(g) The executive director may, by written permit, authorize provision of bin service if the city's solid waste collection contractor fails to provide such service within five (5) calendar days after a customer order and such service is not thereafter provided within twenty-four (24) hours after notice to the city's solid waste collection contractor of such failure by the executive director.

(h) Any person other than the city or its solid waste collection contractor who collects, transports, recycles, composts, or disposes of solid waste, or who pays another to do so, other than as permitted by this section is guilty of a misdemeanor.

#### **Sec. 16-30.5. - Transporting solid waste on city streets.**

(a) Collectors of solid waste originating outside the city may haul such solid waste over city streets.

(b) No person shall transport solid waste pursuant to subsection (a) above or sections 16-30(b), (c), or (d), or any other waste material, along the streets of the city unless it is enclosed or otherwise secured so as to prevent it from being blown, dropped, spilled, or leaked. Violation of this section shall constitute a misdemeanor.

#### **Sec. 16-31. - Curbside service regulations.**

Unless otherwise provided by special agreement for extra services between a curbside service unit and the city's solid waste collection contractor, subject to reasonable fees for extra services, persons receiving curbside service collection shall comply with the following regulations as a condition to regular curbside service collection:

(a) All discarded materials shall be placed in the appropriate carts pursuant to section 16-31.5.

(b) Any discarded materials placed for collection which is not contained in carts shall not be collected by the city's solid waste collection contractor.

(c) Large, bulky items, such as furniture and household equipment, shall be considered bulky items which shall be disposed of as such.

(d) The aforementioned requirements to place discarded materials in the appropriate carts shall not apply to Christmas trees, uncontainerized service, or bulky items properly placed for collection.

(e) Carts shall be placed in the street with wheels adjacent to the curb, or along an alley having street access at both ends; provided, the city or its solid waste collection contractor may condition collection from private streets upon reasonable access and upon

the agreement of owners and occupants for the use of the private streets, including a reasonable fee for special services.

(f) Single-family premises with less than three (3) dwelling units shall subscribe to cart service. Multifamily residential premises with three (3) or more dwelling units on a single parcel shall subscribe to bin service. These requirements may be waived for residential buildings by the executive director.

#### **Sec. 16-31.5. - Single-family SB 1383 requirements.**

Single-family organic waste generators with less than 5 dwelling units shall comply with the following requirements:

(a) Subscribe to and pay for the solid waste collection contractor's three-container system collection services for weekly collection of non-recyclable gray container waste, source separated blue container recyclable materials, and source-separated green container organic materials generated by the single-family premises and comply with requirements of those services as described in this section.

(b) Participate in the solid waste collection contractor's three-container system (gray container, blue container, and green container) service(s) in the manner described below.

(1) Place source separated green container organic waste in the green container; source separated recyclable materials in the blue container; and solid waste in the gray container.

(2) Not place prohibited container contaminants in collection containers and not place materials designated for the green container or blue containers in the gray container.

(c) The executive director shall have the right to review the number and size of a generator's carts 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 their service level for collection services as requested by the executive director.

(d) Nothing in this section prohibits a responsible party or generator of a single-family premises from preventing or reducing discarded materials generation, managing organic waste on site, and/or using a community composting site pursuant to 14 CCR Section 18984.9(c).

#### **Sec. 16-32. - Unlawful accumulations.**

(a) No person shall allow discarded materials to accumulate upon the premises under his or her control in an amount which is detrimental to the public health or safety or

which results in unsightly or insanitary conditions. Violation of this section shall constitute a misdemeanor.

(b) Any accumulation of discarded materials upon any premises which is detrimental to the public health or safety, or which results in unsightly or insanitary conditions constitutes a public nuisance abatable pursuant to Chapter 17 of this Code or other applicable law.

#### **Sec. 16-32.5. - Disposal of dangerous materials.**

Any person violating any of the following provisions shall be deemed guilty of a misdemeanor:

(a) No person shall dispose of any wearing apparel, bedding, or other material from any place where highly infectious or contagious diseases have prevailed except under the supervision and direction of the health officer or his representative.

(b) No person shall dispose of any flammable or explosive materials except under the supervision and direction of the fire chief or his representative.

(c) No person shall dispose of any hazardous waste and/or excluded waste except at an authorized hazardous waste and/or excluded waste collection site or as directed by the health officer, fire chief, or solid waste collection contractor.

#### **Sec. 16-33. - Service requirements for multifamily premises.**

(a) It shall be mandatory that residential buildings with three (3) or more dwelling units on a single parcel be served by bin service. This requirement may be waived for residential buildings by the executive director. Any applicant who has been denied a waiver by the executive director may appeal such action to the city council by filing within thirty (30) days after such denial, a written statement of his or her reasons why the city council should reverse the action from which the appeal is taken.

(b) Multifamily residential premises receiving bin service pursuant to subsection (a) shall be required to obtain such service in the amount of not less than one-half ( $\frac{1}{2}$ ) of one (1) yard per dwelling unit per week.

(c) In the event that discarded materials being deposited in a container exceeds the container's capacity for such building, and the multifamily premises has produced more discarded materials than its current level of service during at least one other documented instance during a six-month period, the responsible party for the multifamily premises may be charged extra collection costs by the solid waste collection contractor. After three documented incidents of a multifamily premises producing more discarded materials than its current level of service in a six-month period, the responsible party for the multifamily premises may have its service level increase resulting in additional

collection fees and shall have its container size and/or service frequency increased to accommodate the volume of discarded materials generated.

**Sec. 16-33.5. - Multifamily SB 1383 requirements.**

Responsible parties of multifamily premises that have 5 or more units shall comply with the following requirements except responsible parties of multifamily premises that meet the self-hauler requirements in section 16-38.5:

(a) Subscribe to and pay for the solid waste collection contractor's three-container system collection services for weekly collection of non-recyclable gray container waste, source separated blue container recyclable materials, and source separated green container organic waste or source separated brown container organic waste generated by the multifamily premises and comply with requirements of those services as described in this section.

(b) Except multifamily premises that meet the self-hauler requirements in section 16-38.5 of this article, participate in the solid waste collection contractor discarded materials collection service(s) by placing discarded materials in designated containers described below.

(c) Participate in the solid waste collection contractor's three-container system service(s) (gray container, blue container, and green or brown container) in the manner described below.

(1) Place source separated green container organic waste, including food waste and yard trimmings, in the green container; source separated recyclable materials in the blue container; and non-recyclable gray container waste in the gray container. If the multifamily premises contracts with a landscaper to provide landscaping services, and the landscaping contractor hauls yard waste generated on the premises to a permitted recycling facility as described in section 16-39, the multifamily premises shall place, and/or direct its generators to place, source separated brown container organic waste (food waste) in the brown container, and source separated recyclable materials in the blue container; and non-recyclable gray container waste in the gray container.

(2) Not place prohibited container contaminants in collection containers and not place materials designated for the blue container, green container or brown container in the gray container.

(d) The executive director 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 multifamily generators shall adjust its service level for its collection services as requested by the executive director.

(e) Supply and allow access to adequate number, size and location of collection containers for employees, contractors, tenants, and customers, consistent with city's approved container collection service.

(f) Annually provide information to employees, contractors, tenants, and customers about organic material recovery requirements and about proper sorting of source separated recyclable material, and source separated green container organic waste or source separated brown container organic waste into blue, and green or brown containers.

(g) It is the responsibility of a multifamily premises to provide education information before or within fourteen (14) days of the premises to new tenants that describes requirements to keep source-separated recyclable materials and source separated green container organic waste or source-separated brown container organic waste separate from solid waste (when applicable) and the location of containers and the rules governing their use at each property.

(h) Provide or arrange access for city or its agent to their properties during all inspections conducted in accordance with section 16-39.5 to confirm compliance with the requirements of this article.

(i) Accommodate and cooperate with city's remote monitoring program for inspection of the contents of containers for prohibited container contaminants to evaluate generator's compliance with this section. The remote monitoring program shall involve installation of remote monitoring equipment on, or in, the blue containers, green containers, brown containers, and/or gray containers.

(j) Multifamily premises that arrange for gardening or landscaping services shall require that the contract or work agreement between the owner, occupant, or operator of a multifamily premises and a gardening or landscaping service specifies that the designated yard waste generated by those services be managed in compliance with this article and that the contract and/or work agreement contain the provisions set forth in Section 16-39.

(k) If the responsible party of a multifamily premises intends to self-haul discarded materials generated by the premises, they must meet the self-hauler requirements of section 16-38.5.

(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).

#### **Sec. 16-34. - Service requirements for commercial/industrial premises.**

(a) It shall be mandatory that all commercial units and/or buildings and all industrial units and/or buildings be served by bin or roll-off service. This requirement may be waived by the executive director. Any applicant who has been denied a waiver by the executive director may appeal such action to the city council by filing within thirty (30) days after such denial, a written statement of his or her reasons why the city council should reverse the action from which the appeal is taken. Any person in the city who desires or is required to receive bin and/or roll-off service is required to obtain such services from the solid waste collection contractor with which the city has an agreement. Such persons shall be required to enter into an agreement with the solid waste collection contractor for the requested bin and/or roll-off container services. This provision shall not apply to roll-off containers or bins which are obtained for the collection of construction and demolition solid waste which has accumulated or been generated at a temporary construction site. Violation of this provision shall constitute a misdemeanor.

(b) In the event that discarded materials being deposited in a container exceeds the container's capacity for such building, and the commercial/industrial building has produced more discarded materials than its current level of service during at least one other documented instance during a six-month period, the responsible party for the commercial/industrial building may be charged extra collection costs by the solid waste collection contractor. After three documented incidents of a commercial/industrial premises producing more discarded materials than its current level of service in a six-month period, the responsible party for the commercial/industrial premises may have its service level increase resulting in additional collection fees and may have its container size and/or service frequency modified to accommodate the volume of discarded materials generated.

#### **Sec 16-34.5. - Commercial SB 1383 requirements.**

Responsible parties of commercial premises shall comply with the following requirements (except responsible parties of commercial premises that meet the self-hauler requirements in section 16-38.5):

(a) Subscribe to and pay for the solid waste collection contractor's three-container system collection services for weekly collection of non-recyclable gray container waste, source separated blue container recyclable materials, and source separated green container organic waste or source separated brown container organic waste generated by the commercial premises and comply with requirements of those services as described below in this section.

(b) Participate in the solid waste collection contractor's three-container system service(s) (gray container, blue container, green and/or brown container) in the manner described below.

(1) Place source separated green container organic waste, including food waste and yard trimmings, in the green container; source separated recyclable materials in the blue container; and non-recyclable gray container waste in the gray

container. If the commercial premises contracts with a landscaper to provide landscaping services, and the landscaping contractor hauls incidental yard waste generated on the premises to a permitted recycling facility as described in section 16-39, the commercial premises shall place source separated brown container organic waste, including food waste, in the brown container, source separated recyclable materials in the blue container, and non-recyclable gray container waste in the gray container.

(2) Not place prohibited container contaminants in collection containers and not place materials designated for the blue containers, green or brown container 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 this section) for employees, contractors, tenants, and customers, consistent with the solid waste collection contractors discarded materials collection service.

(d) Provide containers for the collection of source separated recyclable materials, and source separated green container organic waste or source separated brown containers organic waste in all indoor and outdoor areas where 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 the solid waste collection contractor, 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 this 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 to 14 CCR Section 18984.8, the container labeling requirements are required on new containers commencing January 1, 2022.

(e) Prohibit employees from placing materials in a discarded materials container not designated for those materials to the extent practical through education, training, inspection, and/or other measures.

(f) Periodically, but no less than once per year, inspect containers for contamination and inform employees if containers are contaminated and of the requirements to keep contaminants out of those containers pursuant to 14 CCR Section 18984.9(b)(3).

(g) Annually provide information to employees, contractors, tenants, and customers about organic waste recovery requirements and about proper sorting of source separated recyclable materials, and source separated green container organic waste or source separated brown container organic waste.

(h) Provide education information before or within fourteen (14) days of occupation of the premises to new tenants that describes requirements to keep source separated recyclable materials, and source separated green container organic waste or source separated brown container organic waste separate from solid waste and the location of containers and the rules governing their use at each property.

(i) Provide or arrange access for city or its agent to their properties during all inspections conducted in accordance with section 16-39.5 to confirm compliance with the requirements of this article.

(j) Accommodate and cooperate with city's remote monitoring program for inspection of the contents of containers for prohibited container contaminants to evaluate generator's compliance with this section. The remote monitoring program shall involve installation of remote monitoring equipment on or in the blue containers, green containers, brown containers, and/or gray containers.

(k) If the responsible party of a commercial premises intends to self-haul solid waste generated by the premises, they must meet the self-hauler requirements of section 16-38.5.

(l) Commercial premises that arrange for gardening or landscaping services shall require that the contract or work agreement between the owner, occupant, or operator of a commercial premises and a gardening or landscaping service specifies that the designated yard waste generated by those services be managed and recycled in compliance with this article and that the contract and/or work agreement contain the provisions set forth in Section 16-39.

(m) Nothing in this section prohibits a generator from preventing or reducing waste generation, managing organic material on site, or using a community composting site pursuant to 14 CCR Section 18984.9(c).

(n) Commercial businesses that are tier one or tier two commercial edible food generators shall comply with food recovery requirements, pursuant to section 16-37.5.

#### **Sec. 16-35. - Service charges.**

(a) Owners and/or occupants of any improved parcel of real property in the city, as shown on the latest county assessment roll, except any parcel receiving bin or roll-off service exclusively, shall pay to the city a solid waste collection service charge (refuse service charge) in such amounts, at such times, and in such manner as shall be established by resolution of the city council. Such refuse service charge is imposed to provide for the continuing availability of curbside service and shall be due and payable in accordance with the terms of said resolution regardless of actual use thereof or of any interruptions or delays in such service, except to the extent reductions or refunds may be specifically authorized or directed by the executive director of public works or his or her



designee or by the executive director of finance and management services or his or her designee.

(b) For purposes of administrative convenience, the city council may establish billing units for payment of the said service charge consisting of one (1) or more occupancies within one (1) or more parcels. The said total refuse service charge reflecting the number of billable units shall be billed as provided in section 39-20 as part of the city's regular consolidated municipal utility services account/billing statement but shall be listed as a separate line item on the municipal utility services account/billing statement.

(c) A penalty of ten (10) percent shall be assessed on all unpaid refuse service charge bills thirty (30) days after the billing date. No penalty, however, will accrue until thirty (30) days after the date that the bill has been presented in accordance with section 39-20.

(d) The said refuse service charge and any penalties accrued for failure to make timely payment therefore shall be a civil debt owing to the city.

(e) In the event the occupant(s) of any property or premises, having registered a municipal utility services account and transferred municipal utility services into their own name as tenant(s), thereafter quit or otherwise vacate the premises, then responsibility for future municipal utility services charges, including refuse charges, shall revert to the municipal utility services account of the property owner in accordance with section 39-16.

(f) In addition to all other civil remedies for collection of such indebtedness, in the event that the owner and occupant of the premises or property receiving refuse service are the same, then said civil debt against such customer or person shall be subject to special assessment and lien against said property in the manner provided by law. Establishment of a lien against the property shall remove said refuse charge(s) from the city's regular consolidated municipal utility services account/billing statement and toll the accrual of additional penalties therefore under this section and section 39-20.

(g) Charges for bin service, roll-off container service or for collection services more frequent or more extensive than that provided in this article for curbside service shall be paid directly to the city's solid waste collection contractor in accordance with such regulations as shall be established by contract or resolution of the city council.

#### **Sec. 16-35.5. - Bin and roll-off services.**

Any person in the city who desires or is required to receive bin and/or roll-off service is required to obtain such services from the solid waste collection contractor with which the city has an agreement. Such persons shall be required to enter into an agreement with the solid waste collection contractor for the requested bin and/or roll-off container services.

**Sec 16-36. - Compliance with CALGreen recycling requirements.**

(a) Waste disposal and diversion reporting requirement

(1) Covered projects. All construction and renovation projects subject to the requirements of the California Green Building Standards Code (CALGreen) shall be required to meet the minimum diversion requirements for all project-related C&D debris. All project contractors shall, upon project completion, provide to the executive director all project-related C&D debris collection, disposal and diversion information in the form prescribed by the executive director pursuant to section 4.408.1 and 5.408.1 of the California Green Building Standards Code, 24 CCR, Part 11 as amended.

(2) Exemptions. All exemptions as provided in the California Green Building Standards Code shall be granted.

(b) Compliance as a condition of approval. Compliance with the provisions of this section shall be listed as a condition of approval on all discretionary resolutions of approval for development projects and building or demolition permits.

(c) Application fee. As part of any application for, and prior to the issuance of, any building or demolition permit that involves the creation of C&D debris, each applicant for covered projects shall pay to the city an application fee in the amount set forth in a resolution by the city council sufficient to cover the city's costs of reviewing an application and monitoring compliance with this section and/or the Waste Reduction and Recycling Plan (WRRP), or reviewing an application for exemption.

(d) Security deposit. In addition to the application fee, each applicant shall deposit with the city a security deposit as security for performance. The security deposit is remitted at the same time the permit application is filed. The security deposit may be in the form of credit card, cashier's check, personal check, or money order. In addition, the executive director may accept a certificate of deposit or letter of credit in the form approved by the city attorney.

(1) Single-Family Residential. All single-family residential projects covered by CALGreen shall submit a security deposit set forth in a resolution by the city council.

(2) Multifamily/Commercial. All multifamily and commercial projects covered by CALGreen shall submit a security deposit set forth in a resolution by the city council.

(e) WRRP forms. All applicants for any CALGreen covered project shall complete and submit a WRRP on a form prescribed by the executive director for this purpose, as part of the application packet for the construction, renovation, or demolition permit.

(f) Compliance with the WRRP form

(1) Documentation. Within thirty (30) days after the completion of any covered project, the applicant shall submit to the executive director documentation that it has met the diversion requirement for the project. Applicant shall provide a summary of efforts used to meet the diversion requirement and provide the following documentation:

(A) A recycling final report, on a form prescribed by the executive director.

(B) Receipts from the vendor(s) and facility(ies) which collected and/or received material(s) showing the actual total weight(s) or volume(s) of each material diverted and landfilled.

(C) Calculation of the total C&D tonnage hauled from the project.

(2) Weighing of diverted materials and solid waste. Applicants shall make reasonable efforts to ensure that all C&D debris, diverted or landfilled, is measured and recorded using the most accurate method of measurement available. To the extent practical, all C&D debris shall be weighed. Regarding C&D debris for which weighing is not practical due to small size or other considerations, a volumetric measurement shall be used. For conversion of volumetric measurements to weight, the applicant shall use the standardized conversion rates approved by the city for this purpose.

(g) Determination of compliance and release of security deposit. The executive director shall review the information pertaining to diversion of C&D debris submitted pursuant to this section and shall determine whether the applicant has complied with the diversion requirement, as follows:

(1) Full compliance. If the executive director determines that the applicant has fully complied with the diversion requirement applicable to the project, the executive director shall cause the entire security deposit to be refunded to the applicant without interest.

(2) Good faith effort to comply. If the executive director determines that the diversion requirement has not been achieved, he or she shall determine on a case-by-case basis whether the applicant has made a good faith effort to comply with the diversion requirement. In making this determination, the executive director shall consider the availability of markets for the C&D debris landfilled, the size of the project, and the documented efforts of the applicant to divert C&D debris. The executive director may authorize a partial refund of a security deposit without interest when less than the minimum diversion requirement is met. The partial refund shall not exceed that portion of the security deposit that is in the same ratio as the demonstrated amount of diverted waste.

(3) Noncompliance. If the executive director determines that the applicant has not made a good faith effort to comply with the diversion requirement, then the executive director shall notify the applicant in writing and all or a portion of the security deposit shall be forfeited to the city and shall not be refunded. Forfeited funds shall be used towards the city's recycling efforts pursuant to this section.

(4) Other provisions for the refund of a security deposit

(A) The executive director may authorize the refund without interest of any security deposit which was erroneously paid or collected.

(B) The executive director may authorize the refund without interest of any security deposit when the permit application is withdrawn or cancelled before any work has begun.

(C) The executive director shall not authorize the refund of any security deposit, or any portion thereof, unless the applicant has filled out a WRRP, filed a recycling reporting form and has met all the provisions of CALGreen and this chapter.

(h) Forfeiture and city use of security deposit

(1) If the executive director determines that the applicant has not made a good faith effort to comply with this part, or if the applicant fails to submit the documentation required by this section prior to the expiration of the building or demolition permit, then the deposit is forfeited to the city.

(2) Forfeited security deposits may be used by the city for solid waste and recycling related purposes, including but not limited to:

(A) Plan, implement, or promote solid waste diversion programs.

(B) Develop or improve the infrastructure needed to divert waste from landfilling.

(C) Educate generators and handlers of solid waste in the city regarding solid waste recycling and disposal alternatives.

(D) Review accuracy of the solid waste collection contractor's reports, Waste Reduction and Recycling Plans and other solid waste records.

(i) Appeal. Upon payment of an appeal fee set forth in a resolution of the city council, the applicant may appeal to the city manager, a decision of the executive director to deny an exemption or withhold any portion of a security deposit. Notice of appeal of the decision of the executive director must be filed with the executive director within ten (10) calendar days of the date of the decision being appealed. The notice of appeal shall set forth in concise language the particular decision, or decisions, and the reason for the complaint. Failure to file a notice of appeal within the time prescribed herein shall constitute a waiver of any objection to the decision(s) of the executive director and such decision shall be final; otherwise, the decision of the city manager shall be final.

(j) Administrative enforcement. In addition to the penalties provided for in this chapter and this code, if violations of the provisions of this part exist as to a covered project requiring completion of a Waste Reduction and Recycling Plan, the city may use various administrative measures to ensure compliance. Measures available include, but are not limited to:

(1) Issuance of a building permit or a certificate of occupancy for that project may be withheld until all such violations have been corrected;

(2) Issuance of a stop work notice, until all such violations have been corrected; and

(3) Other measures recommended by the city attorney.

(k) Civil Action. Violation of any provision of this section may be enforced by civil action including an action for injunctive relief. The city council hereby finds that violation of this section is a public nuisance. In any civil enforcement action, the city shall be entitled to recover its attorneys' fees and costs from a person who is determined by a court of competent jurisdiction to have violated this section.

## **Sec. 16-36.5. - Waivers for generators.**

Commercial businesses and multifamily residential buildings with five (5) or more units may apply for waivers from the organic waste diversion requirements of this article where practical difficulties make it impossible or extremely difficult to carry out the strict letter of those requirements with respect to any particular premises. Under these circumstances, the executive director may issue waivers authorizing variations from the provisions of this article, subject to such terms and conditions as may be deemed necessary to protect the public health and safety of the city. Special written permits include de minimis waivers and physical space waivers, as described below.

(a) De minimis waivers. The city may waive the obligation by a commercial business or a multifamily residential building with 5 units or more to comply with some or all of the organic waste diversion requirements of this article if the commercial business or multifamily residential building provides documentation, or if the city has evidence demonstrating, that the business or multifamily residential building generates below a certain amount of organic waste material as described in this section. Commercial businesses or multifamily residential buildings 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 below.

(2) Provide documentation that either:

(A) The commercial business' or multifamily residential building's total solid waste collection service is two cubic yards or more per week and organic waste subject to collection in a blue container or green container comprises less than 20 gallons per week per applicable container of the business' total waste; or

(B) The commercial business' or multifamily residential building's total solid waste collection service is less than two cubic yards per week and organic waste subject to collection in a blue container or green container comprises less than 10 gallons per week per applicable container of the business' total waste.

(3) Notify city if circumstances change such that commercial business's or multifamily residential building's organic waste exceeds the threshold required for waiver, in which case waiver will be rescinded.

(4) Apply and provide written verification of eligibility for de minimis waiver every five (5) years, if city has approved application for a de minimis waiver.

(b) Physical space waivers. The city may waive the obligation by a commercial business or a multifamily residential building with 5 units or more, 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, the hauler, or evidence provided by a licensed architect or licensed engineer and verified by the city or hauler, demonstrating that the

premises lacks adequate space for the collection containers required for compliance with the organic waste collection requirements of this article. A commercial business or multifamily residential building's 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) Apply and provide written verification to city that it is still eligible for physical space waiver every five (5) years, if city has approved application for a physical space waiver.

#### **Sec. 16-37. - Requirements for commercial edible food generators.**

(a) Tier one commercial edible food generators must comply with the requirements of this section commencing January 1, 2022, and tier two commercial edible food generators must comply with the requirements of this section 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: (A) the collection of edible food for food recovery or (B) 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 the city enforcement official or county agency enforcement official 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) Within 60 days of receipt of a written request from the city, commencing January 1, 2022, for tier one commercial edible food generators and commencing January 1, 2024 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 name, address and contact information of the food recovery service or food recovery organization.

(d) Nothing in this article shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or 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).

**Sec. 16-37.5. - Requirements for food recovery organizations and services.**

(a) Food recovery services collecting or receiving edible food directly from commercial edible food generators, by 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, by contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(2):

(1) The name, address, and contact information for each commercial edible food generator from which the organization receives edible food.

(2) The quantity in pounds of edible food received from each commercial edible food generator per month.

(3) The name, address, and contact information for each food recovery service that the organization receives edible food from for food recovery.

(c) Food recovery organizations and food recovery services that have their primary address physically located in the city and contract with or have written agreements with one or more commercial edible food generators pursuant to 14 CCR Section 18991.3(b) shall report to the city the total pounds of edible food recovered in the previous calendar year from the tier one and tier two commercial edible food generators they have established a contract or written agreement with pursuant to 14 CCR Section 18991.3(b) no later than March 31st of each year.



(d) 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.

**Sec. 16-38. - Requirements for solid waste collection contractor and facility operators.**

(a) City's exclusive franchised hauler providing residential, commercial, or industrial organic waste collection services to generators within 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:

(1) Through written notice to the city annually, identify the facilities to which they will transport organic waste, including facilities for source separated recyclable materials, source separated green container organic waste, and mixed waste.

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

(3) 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 and section 16-36.

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

(c) Community composting operators, upon city request, shall provide information to the city to support organic waste capacity planning, including, but not limited to, an estimate of the amount of organic waste anticipated to be handled at the community composting operation. Entities contacted by the city shall respond within 60 days.

### **Sec. 16-38.5. - Requirements for self-haulers.**

(a) Self-haulers shall source-separate all recyclable materials and source-separate green container organic waste or source-separate brown container organic waste (materials that the city otherwise requires generators to separate for collection in the city's three-container 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-separate green container organic waste or source-separate brown container organic waste to a solid waste facility, operation, activity, or property that processes or recovers source separated green container organic waste. Alternatively, self-haulers may haul organic waste to a high diversion organic waste processing facility.

(c) Self-haulers that are commercial businesses and multifamily residential premises with five (5) or more dwelling units, 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 and multifamily residential premises with five (5) or more dwelling units shall provide information collected in section 16-38.5(c) to city, if requested.

(e) A residential organic waste generator with less than 5 dwelling units that self-hauls organic waste is not required to record or report the information in sections 16-38.5(c) and (d).

**Sec. 16-39. - Yard waste diversion required in landscaping contracts.**

(a) A commercial business and/or multifamily residential premise with 5 units or more contracting for gardening or landscaping services shall require written contracts which contain the following provisions:

(1) All yard waste generated at the premises by the landscaping or gardening service shall be diverted from disposal by one or more of the methods in section 16-38.5.

(2) A requirement that the landscaper, gardener or any third party(ies) certify that the requirements set forth in subsection (a) of this section are being met.

(3) A requirement that the landscaper, gardener or any third party(ies), upon request by the city, certify that it is compliant with this section by completing and submitting a city-provided reporting form.

(4) A requirement that the landscaper, gardener or any third party(ies) provide copies of weight tickets from the permitted processing facility(ies) where the yard waste from premises within city were delivered by the landscaper or gardener.

(b) Within 60 days of a written request from the city, commercial businesses that contract with a landscaping or gardening service shall complete and submit a compliance reporting form as provided by the city with the following items attached:

(1) Copies of the commercial businesses contract(s) with the landscaping or gardening service(s) that comply with this section.

(2) Copies of landscaper, gardener, or any other third party(ies) certification(s) that certify that the requirements set forth in subsection (a) were met during the preceding twelve (12) months.

**Sec. 16-39.5. - Inspections and investigations.**

(a) The city enforcement official is 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, to confirm compliance with this article by organic waste generators, commercial businesses, property owners, commercial edible food generators, solid waste collection contractors, 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) Commercial, multifamily, residential generators, including active building sites generating construction and demolition solid waste and landscape projects, that are subject to the requirements of this article shall provide or arrange for access during all inspections and shall cooperate with the city enforcement official during such inspections

and investigations. Such inspections and investigations may include confirmation of proper placement of materials in containers, edible food recovery activities, records, or any other requirement of this article described herein. Failure to provide or arrange for: (1) access to an entity's premises; or (2) access to records for any inspection or investigation is a violation of this article 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 enforcement official is authorized to conduct any inspections, remote monitoring, and/or other investigations as reasonably necessary to further the goals of this article, subject to applicable laws.

(e) City enforcement official shall receive written complaints from persons regarding an entity that may be potentially non-compliant with SB 1383 regulations, including receipt of anonymous complaints.

#### **Sec. 16-40. - Enforcement.**

(a) Violations of SB 1383 requirements

(1) Violation of the SB 1383 requirements of this article shall constitute grounds for issuance of a notice of violation and assessment of a fine by city enforcement official or representative. Except as otherwise provided, enforcement actions under this article are issuance of an administrative citation, designated as an infraction, and assessment of a fine. The city's procedures on imposition of administrative fines are hereby incorporated in their entirety, as modified from time to time, and shall govern the imposition, enforcement, collection, and review of administrative citations issued under this section.

(2) Other remedies allowed by law may be used, including civil action or prosecution as misdemeanor or infraction. City may pursue civil actions in the California courts to seek recovery of unpaid administrative citations.

(3) Process for enforcement

(A) City enforcement official will monitor compliance with this article, including the organics waste diversion requirements thereof, randomly and through compliance reviews, route reviews, investigation of complaints, and an inspection program that may include remote monitoring.

(B) City may issue an official notification to notify regulated entities of its obligations under this article.

(C) For incidences of prohibited container contaminants found in containers, city will issue a notice of violation to any generator found to have prohibited container contaminants in a container. Such notice will be provided by cart tag or other communication immediately upon identification of the prohibited container contaminants or within one (1) day after determining that a violation has occurred. If the city observes prohibited container contaminants in a generator's containers on more than three (3) consecutive occasion(s), the city may assess contamination processing fees or contamination penalties on the generator.

(D) With the exception of violations of generator contamination of container contents addressed in this section, city shall issue a notice of violation requiring compliance within 60 days of issuance of the notice.

(E) Absent compliance by the respondent within the deadline set forth in the notice of violation, city shall commence an action to impose penalties, by administrative citation and fine, pursuant to the Santa Ana Municipal Code.

(4) In accordance with City's administrative fine schedule, the penalty levels are as follows:

(A) For a first violation, the amount of the penalty shall be \$100.

(B) For a second violation of the same provision within one year from the date of the first violation, the amount of the penalty shall be \$200.

(C) For each additional violation of the same provision within one year of the first violation, the amount of the penalty shall be \$500.

(5) The city may extend the compliance deadlines set forth in a notice of violation issued in accordance with this section if it finds that there are extenuating circumstances beyond the control of the respondent that make compliance within the deadlines impracticable, including the following:

(A) Acts of God such as earthquakes, wildfires, flooding, and other emergencies or natural disasters;

(B) Delays in obtaining discretionary permits or other government agency approvals; or,

(C) Deficiencies in organic waste recycling infrastructure or edible food recovery capacity, and the city is under a corrective action plan with CalRecycle pursuant to 14 CCR Section 18996.2 due to those deficiencies.

(b) Other violations

(1) The following violations shall be subject to issuance of an administrative citation, designated as an infraction, and assessment of a fine in the amounts and schedule fixed in subsection (a). The city's procedures on imposition of administrative fines are hereby incorporated in their entirety, as modified from time to time, and shall govern the imposition, enforcement, collection, and review of administrative citations issued under this section.

(A) No person shall allow containers to remain along, at, or near any public street, sidewalk, parkway (excluding alleys), or in any area visible from a public street or in public view, except:

(i) Between the hours of 4:00 p.m. of the day preceding the person's weekly collection day and midnight of such collection day; or

(ii) During any period in which regular collection service is interrupted or delayed.

(B) All containers obtained from the city's solid waste collection contractor, and all enclosures and surrounding areas, shall be maintained in a reasonably

sanitary condition, free from obnoxious odors and from attachments of solid waste likely to create breeding grounds for insects or vermin, beyond that incidental to solid waste deposited since the previous collection; provided that persons receiving bin service may order bin cleaning services, subject to a fee, from the city's solid waste collection contractor in lieu of cleaning such bins themselves.

(C) No person receiving curbside service shall use any container for solid waste collection purposes other than the containers which are provided either by the city or the city's solid waste collection contractor.

(D) No person shall use the containers of another person for disposal of discarded materials without the consent of such other person.

(E) No person shall remove discarded materials from containers or from the place where they have been put for collection by the city's solid waste collection contractor, except (1) those persons entitled to the use of such container or place for the disposal of their solid waste, and (2) the city's solid waste collection contractor.

(F) No person shall damage or alter the appearance of containers.

(G) No person shall remove and/or relocate any container from the curbside service unit to which it was furnished or supplied by the city's solid waste collection contractor.

**Sec. 16-40.5. - Change in contractor or control; general application and definitions.**

(a) Sections 16-40.5 through 16-41.5 shall apply to any corporation, company, partnership, trust, estate, association, joint venture or other legal or commercial entity operating within the city that employs workers to perform waste disposal services.

(b) "Change in contract" shall mean any change by the city of any waste services provider with whom the city contracts to provide waste disposal services.

(c) "Change in control" shall mean any sale, assignment, transfer, contribution or other disposition of all or substantially all of the assets or a controlling interest (including by consolidation, merger, or reorganization) of the incumbent operator, or any person who controls such incumbent operator, in a waste services provider, to a new operator.

(d) "City" shall mean the city of Santa Ana.

(e) "Incumbent operator" shall mean the person who owns, controls, and/or operates a waste services provider prior to a change in control or change in contract.

(f) "New operator" shall mean the person who owns, controls and/or operates a waste services provider following a change in control or change in contract.

(g) "Person" shall mean an individual, corporation, partnership, limited partnership, trust, estate, association, joint venture, agency, instrumentality, or any other legal or commercial entity, whether domestic or foreign.

(h) "Qualified displaced worker" shall mean any person employed by an incumbent operator or any subcontractor of the incumbent operator of a waste services provider who:

(1) Is not an "exempt" employee under the Fair Labor Standards Act (FLSA), and

(2) Has been employed at the establishment by the incumbent operator or any subcontractor of the incumbent operator for at least thirty (30) calendar days prior to the execution of the transfer document.

(i) "Transfer document" shall mean the document effecting a change in control or change in contract.

(j) "Waste disposal services" shall mean the collection, transfer, transport, recycling, processing and/or disposal of residential, and commercial, industrial solid waste and solid waste generated at temporary construction and demolition sites under contract to the city through a franchise or other exclusive or non-exclusive agreement.

(k) "Waste services provider" shall mean any entity identified in section 16.41.5 of this article and any subcontractor of such an entity providing waste disposal services.

#### **Sec. 16-41. - Employee retention/preferential hiring/wage maintenance.**

(a) Within ten (10) days of the execution of a transfer document, an incumbent operator shall provide to the new operator and the executive director of public works a list of all of the employees of the incumbent operator of a waste services provider, including each employee's name, last known address, date of hire and job classification at the time of the transfer. The new operator shall offer employment at an establishment to all qualified displaced workers.

(b) All new operator work hours performed by a waste services provider must be performed, to the extent feasible, by qualified displaced workers. Nothing herein shall be construed as requiring the new operator to create additional positions that the new operator does not need. However, prior to reducing the amount of work hours or positions utilized to perform waste disposal services at an establishment, a new operator must obtain written approval from the executive director of public works.

(c) A new operator shall not discharge any qualified displaced worker, except for cause, for at least one hundred eighty (180) days from the effective date of a transfer document, or the date on which the new operator actually begins operating the waste services provider, whichever is later.

(d) At the end of such 180-day period, the new operator (or subcontractor, where applicable) shall perform a written performance evaluation for each employee retained pursuant to the ordinance from which this section derives. If the employee's performance during such 180-day period is satisfactory, the new operator (or subcontractor) shall offer the employee continued employment.

(e) In the event that, during the 180-day transition period described in above, the new operator determines that fewer positions are needed to deliver and maintain the contracted service, the new operator shall retain qualified displaced workers by seniority. Seniority shall be determined by reference to the collective bargaining agreement covering the qualified displaced workers, if one exists, or, if no such agreement exists, then by reference to the initial hire date with the incumbent operator of each qualified displaced worker. Any qualified displaced workers not retained by the new operator shall be placed on a preferential hiring list and considered by the new operator for any job openings that may arise.

(f) Each new operator must provide all employees of a waste services provider with wages in an amount and benefits at a value of not less than the greater of those (a) in effect at the point of execution of the transfer document or (b) in any collective bargaining agreement, whether effective or expired, between an incumbent operator and such employees. For purposes of this article, "wages and benefits" includes all wages or compensation referenced in the existing collective bargaining agreement including provisions addressing how overtime shall be calculated, employer and employee contributions for medical insurance and retirement benefits, any tool, shoe or uniform allowance, sick leave, vacation time and personal or family leave.

**Sec. 16-41.5. - Retaliation and discrimination barred; no waiver of rights; enforcement.**

(a) No incumbent operator or new operator shall discharge or otherwise discriminate against anyone for making a complaint, participating in any city proceeding, or using any civil remedy to enforce his or her rights, or for otherwise asserting his or her rights under the ordinance from which this section derives.

(b) Any waiver by a qualified displaced worker of any or all of the provisions of the ordinance from which this section derives shall be deemed contrary to public policy and shall be void and unenforceable, except where such waiver occurs in a bona fide collective bargaining agreement. Any attempt by an incumbent operator or new operator to have a waste or recycling worker waive rights given by the ordinance from which this section derives shall constitute a willful violation of the ordinance.

(c) In addition to any rights and remedies which an employee might have, under any federal or state statute or regulation or municipal ordinance or regulation or at common law, any employee claiming a violation of the ordinance from which this section derives may bring an action against an incumbent operator or new operator in the



Superior Court of the State of California, to enforce the provisions of this ordinance, and may seek liquidated damages, back pay, any other actual damages, reinstatement, injunctive relief, punitive damages, and any other legal or equitable relief, as permitted by law. Violations of the ordinance from which this section derives are declared to irreparably harm the public and covered employees generally.

(d) The terms of the ordinance from which this section derives shall be included, by reference, in all future waste disposal services contracts entered into by the city, and all future waste services providers shall include the terms of the ordinance, by reference, in all contracts or subcontracts which the waste services provider may enter into involving waste disposal services.

**Secs. 16-42—16-45. - Reserved.**

**Section 4.** The City Council finds and determines that this Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15061(b)(3) and 15308 of the State CEQA Guidelines because it can be seen with certainty that the enhanced solid waste regulations, as provided for in this Ordinance, will not have a significant effect on the environment and that the new requirements, which strengthen requirements for the handling of solid waste, represent actions by a regulatory agency for the protection of the environment.

**Section 5.** If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of Santa Ana hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

**Section 6.** This Ordinance shall become effective thirty (30) days after its adoption.

**Section 7.** The Clerk of the Council shall certify the adoption of this ordinance and shall cause the same to be published as required by law.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

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Vicente Sarmiento  
Mayor

APPROVED AS TO FORM:  
Sonia R. Carvalho, City Attorney

By: John M. Funk  
John M. Funk  
Sr. Assistant City Attorney

AYES: Councilmembers \_\_\_\_\_

NOES: Councilmembers \_\_\_\_\_

ABSTAIN: Councilmembers \_\_\_\_\_

NOT PRESENT: Councilmembers \_\_\_\_\_

#### **CERTIFICATE OF ATTESTATION AND ORIGINALITY**

I, Daisy Gomez, Clerk of the Council, do hereby attest to and certify the attached Ordinance No. NS-\_\_\_\_\_ to be the original ordinance adopted by the City Council of the City of Santa Ana on \_\_\_\_\_, and that said ordinance was published in accordance with the Charter of the City of Santa Ana.

Date: \_\_\_\_\_

\_\_\_\_\_  
Clerk of the Council  
City of Santa Ana