

ORDINANCE NO. _____**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF SAN ANSELMO
AMENDING MUNICIPAL CODE TITLE 5, CHAPTER 3 TO UPDATE THE TOWN'S
SOLID WASTE REGULATIONS IN ACCORDANCE WITH SB 1383**

WHEREAS, Senate Bill 1383 is a statewide effort to reduce emissions of short-lived climate pollutants; and

WHEREAS, the Bill directed California Department of Resources Recycling and Recovery ("CalRecycle") to adopt regulations to reduce disposal of organic waste by 50 percent from its 2014 baseline level by 2020 and 75 percent by 2025; and

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

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

WHEREAS, the SB 1383 Regulations require cities, counties, and special districts providing solid waste collection services to adopt and enforce an ordinance or other enforceable mechanism to implement relevant provisions of the SB 1383 Regulations including regulation of waste haulers and generators of organic waste and edible food, and enforcement mechanisms and penalties for violations; and

WHEREAS, the Town Council desires to amend the San Anselmo Municipal Code to comply with the SB 1383 Regulations.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF SAN ANSELMO DOES ORDAIN AS FOLLOWS:

SECTION 1. ENVIRONMENTAL REVIEW.

The Town Council finds that adoption of this ordinance is not a "project" under the California Environmental Quality Act (CEQA), because it does not involve an activity which has the potential to cause a direct or reasonably foreseeable indirect physical change in the environment. (Cal. Pub. Res. Code § 21065). Moreover, the Town Council finds that even if it were considered a project, adoption of the ordinance is exempt from the CEQA under 14 California Code of Regulations section 15061(b)(3), because it can be seen with certainty that there is no possibility that approval of the amended Agreement may have a significant effect on the environment.

SECTION 2. MUNICIPAL CODE AMENDMENT.

San Anselmo Municipal Code Title 5, Chapter 3 (Garbage) is hereby amended in its entirety as set forth in Exhibit A, attached hereto and incorporated herein by reference.

SECTION 3. SEVERABILITY.

The Town Council hereby declares every section, paragraph, sentence, clause and phrase is severable. If any section, paragraph, sentence, clause or phrase of this ordinance is for any reason found to be invalid or unconstitutional, such invalidity, or unconstitutionality shall not affect the validity or constitutionality of the remaining sections, paragraphs, sentences, clauses or phrases.

SECTION 4. INCORPORATION INTO MUNICIPAL CODE.

Inclusion in the San Anselmo Municipal Code. It is the intention of the San Anselmo Town Council that the text in Exhibit A be made a part of the San Anselmo Municipal Code and that the text may be renumbered or relettered and the word "Ordinance" may be changed to "Section", "Chapter", or such other appropriate word or phrase to accomplish this intention.

SECTION 11. EFFECTIVE DATE.

This Ordinance shall go into effect thirty (30) days from its adoption and shall be posted or published as required by State law.

THE FOREGOING ORDINANCE was introduced at a regular meeting of the San Anselmo Town Council on January 11, 2022, and was adopted at a regular meeting of the San Anselmo Town Council on _____, 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Alexis Fineman, Mayor

ATTEST:

Carla Kacmar, Town Clerk

EXHIBIT A
Amendment to Title 5, Chapter 3 of the San Anselmo Municipal Code

Chapter 3 - SOLID WASTE

Sections:

5-3.01 Definitions.

For the purposes of this chapter, certain words and phrases used in this chapter are defined as follows:

“Act” means the California Integrated Waste Management Act of 1989 (commencing with Section 40000 of the Public Resources Code), as amended, including but not limited to, the Jobs and Recycling Act of 2011 (AB 341), SB 1016 (Chapter 343, Statutes of 2008 [Wiggins, SB 1016]), the Mandatory Commercial Organics Recycling Act of 2014 (AB 1826), and the Short-Lived Climate Pollutants Bill of 2016 (SB 1383), and as implemented by the regulations of CalRecycle.

“Authorized Collector” means such persons, firms or corporations collecting and delivering for disposal, recycling or processing solid waste (other than solid waste generated by a permitted building project) originating in the Town and doing so under a Franchise Agreement with the Town.

“CCR” means the California Code of Regulations. CCR references in this Chapter are preceded with a number that refers to the relevant Title of the CCR (e.g., “14 CCR” refers to Title 14 of CCR).

“Collection” means to take physical possession of Solid Waste at, and remove from, the place of generation for transport to a solid waste facility or other recovery activity.

“Commercial business” or “Commercial” means a firm, partnership, proprietorship, joint-stock company, corporation, or association, whether for-profit or nonprofit, strip mall, industrial facility, or a multi-family dwelling, or as otherwise defined in 14 CCR Section 18982(a)(6). A multi-family dwelling that consists of fewer than (5) or more dwelling units is not “Commercial”, for the purposes of this Chapter.

“Commercial Edible Food Generator” means a tier one or a tier two commercial edible food generator as defined in 14 CCR Section 18982(a)(73) and (a)(74). Food recovery organizations and food recovery services are not commercial edible food generators.

“Commercial generator” means any commercial business, non-residential establishment, large event, large venue, or other entity that is responsible for the initial creation of solid waste and is not a single-family dwelling nor a multi-family dwelling consisting of fewer than five dwelling units. For the purposes of this chapter, a multi-family dwelling that consists of five or more dwelling units is considered a commercial generator.

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

“Composting” means the process of controlled biological decomposition of organic waste.

“Construction and demolition debris” or “C&D” means used or discarded materials resulting from construction, renovation, remodeling, repair, demolition, excavation, or construction clean-up operations on any pavement or structure.

“Container” or “collection container” means, for the purpose of this Chapter, any bin, box, or cart used for the purpose of holding solid waste for collection.

“Debris box” means any ten (10) to forty (40) cubic yard container, or any compactor provided by a solid waste generator, placed in the public right-of-way, on town property, private property, or elsewhere in the service area, which is procured by a solid waste generator for their use in the collection of their solid waste. Debris boxes are serviced by means of lifting the entire container, including all contents, onto a designated collection vehicle.

"Designated collection location" means the place where a collector has contracted with either the local governing body or a private entity to pick up source-separated, recyclable materials. This location will customarily be the curbside of a residential neighborhood or the service alley of a commercial (or multi-family) enterprise.

"Disposal" means the final disposition of Solid Waste at a Solid Waste Facility permitted for disposal.

"Diversion" means activities reducing or eliminating the amount of solid waste from solid waste disposal, and which return these materials to use in the form of raw materials for new, reused, or reconstituted products, which meet the quality standards necessary for commercial use, or for other purposes of reuse.

"Dwelling unit" means one (1) or more rooms with internal access between all rooms, which provide complete independent living facilities for at least one (1) family, including provisions for living, sleeping, eating, cooking, bathing, and sanitary facilities. Cooking facilities for purposes of this chapter shall be defined as any combination of the following: sink, refrigerator, cupboard and/or storage, stove, oven (including microwave and convection).

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

"Enforcement Agency" means an entity with the authority to enforce part or all of this chapter as specified herein. Employees and agents of an Enforcement Agency may carry out inspections and enforcement activities pursuant to this chapter. Nothing in this chapter authorizing an entity to enforce its terms shall require that entity to undertake such enforcement except as agreed to by that entity and the Town. The Town is an Enforcement Agency for all sections of this chapter. The Town may choose to additionally delegate enforcement responsibility to other public entities, including the Marin Hazardous and Solid Waste Joint Powers Authority (Zero Waste Marin) and the County of Marin.

"Food recovery organization" means an entity that engages in the collection or receipt of edible food from commercial edible food generators and distributes that edible food to the public for food recovery either directly or through other entities or as otherwise defined in 14 CCR Section 18982(a)(25), including, but not limited to:

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

"Food recovery service" means a person or entity that collects and transports edible food from a commercial edible food generator to a food recovery organization or other entities for food recovery, or as otherwise defined in 14 CCR Section 18982(a)(26). A food recovery service is not a commercial edible food generator for the purposes of this chapter and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7).

"Food waste" means food scraps and trimmings and other putrescible waste that result from food production, preparation, cooking, storage, consumption or handling. Food waste includes but is not limited to meat, fish and dairy waste, fruit and vegetable waste and grain waste. Food waste does not include exempt waste.

"Franchise Agreement" means an exclusive agreement between the Authorized Collector and the Town for the collection solid waste on specified terms and conditions and at the rates for such collection fixed and established by the provisions of the Franchise Agreement and this Chapter.

"Garbage" means all non-recyclable packaging and other waste attributed to normal activities of a service unit. Garbage must be generated by and at the service unit wherein the garbage is collected. Garbage does not include recyclable materials, organic materials, debris from construction and demolition, large items, e-waste, universal waste, hazardous waste, household hazardous waste or exempt waste.

"Generators" for the purpose of this Chapter, means a person or entity, including commercial generators and residential generators, that is responsible for the initial creation of organic materials, or as otherwise defined as "organic waste generator" in 14 CCR Section 18982(a)(48).

"Hauler" means a person who collects material from a generator and delivers it to a reporting entity, end user, or a destination outside of the state or as otherwise defined by 14 CCR 18815.2(a)(32). "Hauler" includes public contract haulers, authorized collectors, food waste Self-haulers, and Self-haulers. A person who transports material from reporting entity to another person is a transporter, not a hauler.

"Inspection" means a site visit where a Jurisdiction or its designee or designated entity reviews records, containers, and an entity's collection, handling, recycling, or disposal of solid waste or edible food handling, to determine if the entity is complying with requirements set forth in this ordinance, or as otherwise defined in 14 CCR Section 18982(a)(35).

"Multi-Family dwelling" or "Multi-family" means of, from, or pertaining to residential premises with five (5) or more dwelling units, for the purposes of this Chapter. Multi-family premises do not include hotels, motels, or other transient occupancy facilities, which are considered commercial businesses.

"Organic material" or "organic waste" means solid wastes containing material originated from living organisms and their metabolic waste products, including but not limited to food waste, 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).

"Person" means any person or persons, firm, association, corporation, or other entity acting as principal, agent or officer, servant, or employee, for themselves or for any other person, firm, or corporation.

"Premises" includes a tract or parcel of land with or without habitable buildings or appurtenant structures. (14 CCR § 17225.50). For purposes of this chapter the word premises includes residential and commercial uses of the land, whether owned, leased, rented or subrented, including every dwelling house, dwelling unit, apartment house or multiple-dwelling building, trailer or mobile home park, store, restaurant, rooming house, hotel, motel, office building, department store, manufacturing, processing or assembling shop or plant, warehouse and every other place or premises where any person resides, or any business is carried on or conducted within the town.

"Prohibited container contaminants" means (1) discarded materials placed in the designated Recyclables container that are not identified as acceptable source separated recyclables for the town's designated recyclables collection container; (2) discarded materials placed in the designated organic materials collection container that are not identified as acceptable source separated organic materials for the town's designated organic materials collection container; and (3) discarded materials placed in the garbage container that are acceptable source separated recyclables and/or source separated organic materials to be placed in town's designated organic materials collection container and/or designated recyclables collection container and, and (4) excluded waste placed in any container.

"Recyclable (source separated) materials" means any material designated to be separated from the waste stream for purposes of recycling (See, Pub. Res. Code § 41951). This designation shall be made by the Town and the Authorized Collector based on good public practice, ability to receive an acceptable economic return, and feasibility of separating the material from the waste stream at the point of collection. Recyclable materials are currently limited to paper, glass, cardboard, plastics, ferrous metal, and aluminum.

"Recycling" means the process of collecting, sorting, cleansing, treating, and reconstituting materials that would otherwise become garbage and returning them for use or reuse in the form of raw materials for new, used, or reconstituted products which meet the quality standard necessary to be used in the marketplace.

Recycling does not include transformation as defined in Public Resources Code Section 40201. (14 CCR §17225.54).

“Residential” means, for the purposes of this chapter, any premise consisting of between one (1) and four (4) dwelling units, and onsite domestic uses accessory to these dwelling units. A multi-family dwelling that consists of fewer than (5) dwelling units is “Residential”, for the purposes of this Chapter.

“Self-hauler” means a person who hauls solid waste, organic waste or recovered material they have generated to another person. A self-hauler also includes a person who back-hauls waste as defined in 14 CCR section 18982(a)(66). “Back-haul” means generating and transporting organic materials to a destination owned and operated by the generator using the generator’s own employees, vehicles and equipment, or as otherwise defined in 14 CCR Section 18982(a)(66)(A).

“Solid waste” has the same meaning as defined in Public Resources Code Section 40191, which defines solid waste as all putrescible and nonputrescible solid and semisolid wastes, including garbage, recyclable materials, organic materials, demolition and construction wastes, bulky waste, discarded home and industrial appliances, manure, vegetable or animal solid or 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) and (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. Recyclable materials and organic materials are a part of solid waste.

“Solid waste collection service” means collection of solid waste originating in the Town, by persons, firms or corporations, and doing so under a contract or franchise agreement with the Town.

“Solid waste facility” means a solid waste transfer or processing station including Material Recovery Facilities, a composting facility, a gasification facility, a transformation facility, an Engineered Municipal Solid Waste conversion facility, and a disposal facility. Solid waste facility additionally includes a solid waste operation that may be carried out pursuant to an enforcement agency notification, as provided in regulations adopted by CalRecycle, or otherwise set forth in the Act.

“Source separate” means the process of removing recyclable materials and organic materials from Solid Waste at the place of generation, prior to Collection, and placing such materials into separate containers designated for recyclable materials and organic materials, or as otherwise defined in 14 CCR Section 17402.5(b)(4).

“Tier One commercial edible food generator” means a Commercial Edible Food Generator that is one of the following as defined in 14 CCR Section 18982(a):

- (a) Supermarkets with gross annual sales of \$2,000,000 or more
- (b) Grocery store with a total facility size equal to or greater than 10,000 square feet.
- (c) Food service provider, which means an entity primarily engaged in providing food services to institutional, governmental, commercial, or industrial locations of others based on contractual arrangements with these types of organizations.
- (d) Wholesale food vendor, which means a business or establishment engaged in the merchant wholesale distribution of food, where food (including fruits and vegetables) is received, shipped, stored, prepared for distribution to a retailer, warehouse, distributor, or other destination.
- (e) Food Distributor, which means a company that distributes food to entities including, but not limited to, supermarkets and grocery stores.

“Tier Two commercial edible food generator” means a Commercial Edible Food Generator that is one of the following as defined in 14 CCR Section 18982(a):

- (a) Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.
- (b) Hotel with an on-site food facility and 200 or more rooms.
- (c) Health facility with an on-site food facility and 100 or more beds.
- (d) Large Venue, which means a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility. For purposes of this ordinance and implementation of 14 CCR, Division 7, Chapter 12, a venue facility includes, but is not limited to, a public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts center, fairground, museum, theater, or other public attraction facility. For purposes of this ordinance and implementation of 14 CCR, Division 7, Chapter 12, a site under common ownership or control that includes more than one Large Venue that is contiguous with other Large Venues in the site, is a single Large Venue.
- (e) Large Event, which means an event, including, but not limited to, a sporting event or a flea market, that charges an admission price, or is operated by a local agency, and serves an average of more than 2,000 individuals per day of operation of the event, at a location that includes, but is not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for an event..
- (f) A state agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet.
- (g) A local education agency facility with an on-site food facility. "Local Education Agency" means a school district, charter school, or county office of education that is not subject to the control of town, city or county regulations related to Solid Waste, or as otherwise defined in 14 CCR Section 18982(a)(40).

"Town Administrator" means the Town Manager of the Town of San Anselmo, or their designee.

5-3.02 Solid waste disposal regulated.

- (a) It shall be unlawful for any person to keep, deposit, bury, or dispose of any solid waste, except as provided in this chapter, in or upon any private property, public street, alley, sidewalk, gutter, park, or other public place whatsoever or to throw the same in the bed or upon the banks of any stream or creek in the Town or in or upon any of the waters thereof. Every person in the Town having the obligation to dispose of solid waste shall dispose of the same only in the manner provided in this Chapter through the Authorized Collector of the Town; provided, that any person may Self-haul solid waste to a solid waste facility in addition to their solid waste collection service in conformance with this Chapter. Every generator shall have solid waste collection service by the Authorized Collector each week, or more often if ordered by the Enforcement Authority and shall pay the Authorized Collector the monthly rates provided for in the Franchise Agreement, unless otherwise specified in this Chapter. Failure of receipt of a bill does not obviate responsibility for payment. In each instance, the property owner shall be primarily responsible for the payment of the charges provided for herein.
- (b) For the purposes of this Chapter, any dwelling unit in which there are cooking facilities, and which is occupied more than four (4) days in any one month, shall be considered to generate solid waste and require solid waste collection service. The Authorized Collector shall give written notice to the Town of the address of any occupied premise within the Town which is not subscribing to the solid waste collection service.
- (c) The Town may require the Authorized Collector to operate and maintain a recycling program for any and all recyclable materials and organic materials collected within the Town.
- (d) A mandatory obligation is imposed on each person occupying any premise to source separate and recycle all recyclable material and organic materials from the garbage generated on the premise as described in Section 5-3.15 and Section 5-3.16.

- (e) Generators shall place source separated organic materials, including food waste, in the organic materials collection container; place source separated recyclable materials in the recyclable material collection container; and place garbage in the approved garbage collection container. Generators shall not place prohibited container contaminants into the garbage collection container, organic materials collection container or recyclable material collection container.
- (f) If any person should fail to subscribe for the collection and disposal of solid waste or violate any other provision of this Chapter, said violation shall be subject to enforcement actions described in Section 5-3.22.
- (g) Generators shall provide or arrange for access during all inspections and investigations (with the exception of a private residential dwelling unit) and cooperate with the Town or Authorized Collector during such inspections and investigations as described in Section 5-3.21.
- (h) Nothing in this Chapter shall prohibit generators from regularly disposing of garbage, recyclable material, or organic materials at a solid waste facility, by Self-hauling or through the uncompensated services of another in a manner collector conforming to Section 5-3.18.
- (i) Nothing in this section prohibits generators from preventing or reducing waste generation, or otherwise diverting recyclable material and organic material as described in Section 5.3.14.

5-3.03 Collection containers.

- (a) Generators shall store solid waste on their property or premises or shall require it to be stored or handled in such manner so as not to promote the propagation, harborage or attraction of vectors or the creation of nuisance (14 CCR § 17312).
- (b) It shall be the duty of every property owner, occupant and tenant of any premises within the Town to store all solid waste in collection containers provided by the Authorized Collector. These containers shall be constructed of metal or an approved plastic material which shall be watertight, nonabsorbent, vector resistant, durable, easily cleanable, equipped with handles, and having tight-fitting covers such that said containers hold said solid waste without spillage and leakage, escape of odors or access of flies to the contents thereof and without being filled to within four (4") inches of the top. Each filled container shall not exceed a total of seventy-five (75) pounds in weight, including the weight of the container. It is unlawful to place, or permit to remain, any solid waste subject to decay except in a suitable covered container, as set forth herein. The specific nature of said containers shall be established as from time to time approved by the Town and Authorized Collector.
- (c) Each person who has a collection container shall keep the area where the collection container is located in a clean, safe and sanitary condition. Each collection container and its cover shall be kept clean, and the cover shall not be removed except to place solid waste therein or to empty the same. The Authorized Collector will maintain or replace collection containers as needed.
- (d) No collection container shall be placed or kept on or in any public street, alley, sidewalk, footpath, or public place whatsoever but shall be maintained on the premises, out of public view, except as may be provided for removing and emptying by the Authorized Collector on the day(s) and in the designated collection location. Collection containers are permitted to be placed in public view and on a public street, sidewalk or footpath only during the forty-eight-hour period commencing at 12:01 a.m. on the day preceding the day of scheduled pick-up and terminating at 12:01 a.m. on the day following such pick-up. For curbside collection service, the designated collection location shall be the street curb line adjacent to such premises and collection containers shall be placed in the location by the occupant of such premises for collection by the Authorized Collector.

5-3.04 - Removal of solid waste.

- (a) All solid waste shall be removed by the Authorized Collector from collection containers at least once each week, unless otherwise specified by this chapter, state law, or by the Franchise Agreement. Removal shall occur as

often in each week as may be necessary to fully comply with the provisions of this Chapter and shall be so removed only by the Authorized Collector and upon the terms and conditions specified in this Chapter or shall be otherwise disposed of only as in this Chapter or the Franchise Agreement provide. Generators shall arrange for a size, quantity and collection frequency of collection containers to adequately store all solid waste generated in connection with the premise between the times designated for collection service. The Town shall have the right to review the number and size of such collection containers to evaluate the adequacy of capacity provided for each type of collection service and to review the separation and containment of materials. The Town shall be the exclusive judge of the sufficiency of the collection containers, and of the least number of times each week solid waste shall be removed from any premises, and of the sufficiency of disposition in compliance with this chapter otherwise than by collection by the Authorized Collector. Generators shall adjust service levels for their collection services as requested by the Town in order to meet the standards set forth in this Chapter.

- (b) It shall be unlawful for any person to place or cause to be placed in any public receptacle owned by the Town and located upon any public street or public place any solid waste originating within or upon any private property; provided, however, pedestrians or other persons using such street or public place shall be permitted to deposit in such receptacles miscellaneous small articles of solid waste carried by them.

5-3.05 Rates for collection and collection services.

(a) Establishment of Rate Schedule. A comprehensive rate schedule for the collection of solid waste shall be established by the Council from time to time after a public hearing.

(b) Charge for Services. A charge shall be collected by the Authorized Collector not to exceed maximum rates established between the Town and the Authorized Collector, said maximum rates to be subject to change upon approval of an agreement between the Town and said authorized collector. The property owner is responsible for all charges for solid waste removal, including recyclable and organic materials. Said rates shall provide to the Authorized Collector a fair and reasonable compensation and return.

5-3.06 Payment of garbage rates: Delinquencies.

- (a) Payment of Rates. It shall be unlawful for any person to refuse to pay the rates fixed for the collection of solid waste. Nonpayment may result in cessation of service, a violation punishable by law. Except as otherwise permitted by this Chapter, it shall be unlawful for any person to dispose of solid waste, from premises owned, occupied, or leased by said person other than by and through the Authorized Collector.
- (b) If all payments are not made when due and after reasonable efforts to collect them have failed, the Authorized Collector shall so notify the Town in writing, showing the total delinquency and a list of the efforts made to collect. The Town shall thereupon notify the owner of the property by certified mail with return receipt requested. The notice shall demand that all delinquent payments be paid forthwith.
- (c) It shall be the responsibility of the owner of any residential dwelling unit, or commercial property which is rented to provide for solid waste collection service to each family or business entity located on the property. Such owner shall be responsible for the payment of the fees provided for in this Chapter.
- (d) It shall be unlawful for any person having the responsibility for solid waste collection service to fail, neglect, or refuse to do so after the Chief of Police or the Town Administrator or their designee notifies such responsible person to remove the solid waste in accordance with the provisions of this Chapter.
- (e) It shall be the responsibility of the Authorized Collector to collect all fees provided for in this Chapter and to keep proper books of account and all billings on a timely basis and to account to the Town as often as the Town shall require.

5-3.07 - Conveyance of garbage through streets and alleys.

It shall be unlawful for any person to remove or carry on, along, or through the streets and alleys of the Town any solid waste; provided, however, the provisions of this section shall not apply to any person conveying solid waste collected outside the Town, nor to any person employed by the Town who shall be assigned to the work of solid waste removal while acting within the scope of their employment or to an authorized collector or to any

employee of such authorized collector during such time as such franchise agreement shall be in force. Nor shall this section be deemed to prohibit an individual from exercising their rights as described in sections 5-3.02, 5-3.14, 5-3.18, and which authorizes occasional disposals at authorized disposal sites.

All solid waste removed or carried on, along, or through such streets or alleys shall be removed or carried in watertight cans or in vehicles which do not leak and which have proper covers and are so loaded that none of the solid waste shall fall, drip, or spill to the ground or upon the streets or alleys. All such vehicles shall be kept clean on the outside and be numbered on the outside so that the number can be plainly seen.

5-3.08 - Municipal solid waste.

The Authorized Collector, without any charge whatsoever to the Town, shall pick up and remove all properly contained solid waste from all Town buildings and property on a weekly basis and shall daily empty and remove the contents of all public receptacles and litter cans provided by the Town.

5-3.09 - Contract for removal solid waste authorized.

The Council, after inviting bids therefor and after a duly noticed public hearing, may enter into a Franchise Agreement with any responsible person for the collection, removal, and disposal of solid waste collected and accumulated within the Town, and such contract shall operate for a term not to exceed ten (10) years, unless otherwise provided for in the Franchise Agreement. The responsible party contracting with the Town shall be the Authorized Collector.

- (a) Independent Contractor. The Authorized Collector, in accordance with this Chapter, shall be considered as and shall be an independent contractor and shall be responsible to the Town for the result of the work to be done, but shall act under his own directions as to the manner of performing the work.
- (b) Liability. The Authorized Collector and the Town shall be exempt from responsibility and liability for tampering or misuse of any items left at curbside for collection and/or recycling should spillage or other mishap occur prior to possession by Authorized Collector. Once the Authorized Collector takes possession of the solid waste, the Authorized Collector then assumes responsibility and liability.
- (c) Minimum Provisions. The provisions of this Chapter shall be the minimum requirements for the protection of the public health, safety, convenience and general welfare.
- (d) As required by state law, the Town's Authorized Collector providing organic materials collection services to generators within the Town's boundaries must meet the following requirements and standards as a condition of approval of a contract, agreement, or other authorization with the Town to collect organic materials:
 - (1) Through the Franchise Agreement provides written notice to the Town annually on or before January 1, 2022, to identify the facilities to which they will transport organic materials including facilities for source separated recyclable materials and source separated organic materials.
 - (2) Transports source separated recyclable materials and source separated organic materials to a facility, operation, activity, or property that recovers organic materials as defined in 14 CCR, Division 7, Chapter 12, Article 2.
 - (3) Obtain approval from the Town to haul organic materials, unless it is transporting source separated organic materials to a community composting site or lawfully transporting construction and demolition debris in a manner that complies with 14 CCR Section 18989.1.

5-3.10 - Award of franchise agreement for removal of solid waste.

The Town shall advertise for bids for the agreement authorized by Section 5-3.09 of this chapter. Such proposals shall offer to the Town a stated percentage amount based on monthly gross receipts for the exclusive right to collect and dispose of solid waste collected in the Town for the period of the agreement. The Council shall have the power to refuse any and all bids and shall award the agreement to the person in its opinion best qualified and equipped for performing the contemplated agreement. Should the Council determine that such bids are too low or are not fair or just, it may, at its option after rejecting all of them,

proceed without notice or publication to let an agreement to, or enter into an agreement with, such person upon such terms as shall appear to the Council to be for the best interests of the Town. The successful bidder or contractor shall, during the term of the agreement, be known as the "Authorized Collector" and shall collect solid waste on the terms and conditions and at the rates for such collection fixed and established by the provisions of this Chapter and the Franchise Agreement and shall dispose of all solid waste at a solid waste facility or facilities mutually designated by the Town and the Authorized Collector.

5-3.11 - Renewal of agreement.

When a Franchise Agreement has been entered into between the Town and Authorized Collector for the collection, removal and disposal of solid waste and the Authorized Collector shall have satisfactorily performed such contract, the Council, without inviting bids or proposals therefor, and without giving notice of its intention to do so, may, either prior to or after the expiration of such agreement, extend or renew the same for terms not exceeding ten (10) years each upon the same conditions or such other conditions as the Council shall provide, unless otherwise specified in the Franchise Agreement.

5-3.12 - Exporting and importing solid waste prohibited.

The following acts and conduct are hereby declared to be unlawful and a public nuisance:

- (a) For any person having solid waste collection service of any type other than provided by the Authorized Collector to remove any solid waste or waste from their premises to the premises of any other person; and
- (b) For any person having solid waste collection service of any type to permit or suffer their premises to be used for the deposit of any solid waste or waste from the premises of any other person.

5-3.13 Audit by Authorized Collector.

The Authorized Collector shall annually furnish the Town, at their own expense, an audit of their solid waste collection business and operations, which audit shall include a statement of financial condition and profit and loss statement to be made and prepared by a certified public accountant approved by the Town Manager or his designee.

5-3.14 Right to divert recyclable material and organic materials.

- (a) Nothing in this chapter limits the right of any person to donate, sell, or otherwise remove their recyclable materials so long as the removal otherwise complies with this Chapter.
- (b) Organic materials may be fed to animals on the premises where such organic materials is produced, provided that the premises are always kept in a sanitary condition to the satisfaction of the Town Administrator; and provided further that the keeping and feeding of such animals shall at all times conform to the applicable regulations of those entities governing the same now in force or which thereafter may be enacted or promulgated.
- (c) Organic materials may be used in on-site composting or community composting pursuant to 14 CCR Section 18984.9(c), provided that such operation conforms to the applicable regulations of those entities governing the same now in force or which thereafter may be enacted or promulgated.

5-3.15 - Residential generator requirements.

Each residential generator shall subscribe to a level of solid waste collection service with the Authorized Collector that is sufficient to handle the volume of garbage, recyclable material, and organic materials generated or accumulated on the premises and comply with requirements of those collection services. Multi-family dwellings consisting of five dwelling units or more shall comply with the commercial generator requirements.

5-3.16 Commercial generator requirements.

- (a) Commercial generators shall comply with the following requirements.

- (1) Each commercial generator, including all multi-family dwellings that consist of five dwelling units or more, large events and large venues shall be responsible for compliance with the requirements of this Section.
 - (2) Each commercial generator shall subscribe to a level of service with an authorized collector that is sufficient to handle the volume of garbage, recyclable materials and organic materials generated or accumulated on the premises. Additionally, each commercial generator shall ensure the proper separation of solid waste, as established by the authorized collector, by placing each type of material in designated collection containers, and ensure that employees, contractors, volunteers, customers, visitors, and other persons on-site conduct proper source separation of solid waste.
 - (3) Each commercial generator shall supply and allow access to adequate number, size, and location of collection containers with sufficient labels or colors, conforming with requirements of this section, for employees, contractors, tenants, and customers, consistent with the solid waste collection service.
 - (4) Each commercial generator shall annually provide information to employees, contractors, tenants, and customers about organic materials recovery requirements and about proper sorting of solid waste.
 - (5) Each commercial generator shall provide educational information before, or within, fourteen (14) days of occupation of the premises to new tenants that describes requirements to keep source separated organic materials and source separated recyclable materials separate from garbage (when applicable) and the location of collection containers and the rules governing their use at each property.
 - (6) Each commercial generator shall accommodate and cooperate with the authorized collector's monitoring program for inspection of the contents of containers for prohibited container contaminants, to evaluate generator's compliance.
 - (7) If a commercial generator Self-hauls, the commercial generator shall meet the Self-haul requirements of this chapter.
- (b) Commercial generators, excluding multi-family dwellings consisting of five (5) or more dwelling units, shall comply with the following requirements.
- (1) Provide containers for the collection of source separated organic materials and source separated recyclable materials in all indoor and outdoor areas where garbage disposal containers are provided for customers, for materials generated onsite. Such containers do not need to be provided in restrooms. If a commercial generator does not generate any of the materials that would be collected in one type of collection container, then it is not required to provide that type of collection container in all areas where disposal collection containers are provided for customers. Pursuant to 14 CCR Section 18984.9(b), the collection containers shall have either:
 - i. A body or lid that is gray or black for collection of garbage, blue/tan for collection of recycling, and green for collection of organic materials. A commercial generator is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the requirements of the subsection prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first.
 - ii. Container labels that include language or graphic images, or both, indicating the primary material accepted and the primary materials prohibited in that container, or containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the container. Pursuant 14 CCR Section 18984.8, the container labeling requirements are required on new containers commencing January 1, 2022.

- (2) To the extent practical through education, training, inspection, and/or other measures, prohibit employees from placing materials in a container not designated for those materials per the solid waste collection service.
- (3) Periodically inspect organic materials, recycling, and garbage 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).
- (4) Commercial generators that are commercial edible food generators, as defined in Section 5-3.01, shall comply with food recovery requirements, pursuant to Section 5-3.21.

5-3.17 Waivers.

- (a) Pursuant to 14 CCR Section 18984.11, the Town may grant waivers to commercial businesses based on physical space limitations and/or de minimis volume generated at such commercial businesses. Commercial businesses seeking a waiver shall submit their request in a form specified by the Town Administrator or their designee. After reviewing the waiver request, and after an on-site review, if applicable, the Town Administrator or their designee may either approve or deny the waiver requests in accordance with the following criteria. Anyone granted a waiver shall provide written verification of eligibility for a waiver at least every five years, and shall notify the Town if circumstances change such that they are no longer eligible for such waiver, in which case waiver will be rescinded.
 - (1) De Minimis Waivers: The Town may waive a commercial business' obligation to comply with some or all the organic waste collection service requirements if the commercial business meets the following requirements:
 - (i) Submit an application, with any application fee established by resolution of the Town Council, specifying the type of waiver requested and provide documentation as described below.
 - (ii) Provide documentation that either:
 - (a) The commercial business receives two or more cubic yards of weekly solid waste collection service (including garbage, recyclable material and organic materials) and organic materials subject to collection comprises less than 20 gallons per week of the business' total weekly solid waste volume; or
 - (b) The commercial business receives less than two cubic yards of weekly solid waste collection service (including garbage, recyclable material and organic materials) and organic materials subject to collection comprises less than 10 gallons per week of the business' total weekly solid waste volume.
 - (c) For the purposes of subsections (a) and (b) above, weekly solid waste collection shall be the sum of weekly garbage collection container volume, recyclable material collection container volume and organic materials collection container volume, measured in cubic yards.
 - (2) Physical Space Waivers: The Town may waive a commercial business' obligations (including multi-family dwellings consisting of five (5) or more dwelling units) to comply with some or all of the recyclable materials and/or organic materials collection service requirements if the Town has evidence from its own staff, a hauler, licensed architect, or licensed engineer demonstrating that the premises lacks adequate space for the collection containers required for compliance with the collection service requirements. A commercial business or property owner may request a physical space waiver through the following process:
 - (i) Submit an application form specifying the type(s) of collection services for which they are requesting a waiver from mandatory collection service.

- (ii) Provide documentation that the premises lacks adequate space for the approved recyclable materials collection containers and approved organic materials collection containers including documentation from its authorized collector, licensed architect, or licensed engineer.

5-3.18 Self-haul requirements.

- (a) Self-haulers shall source separate all recyclable materials and organic materials generated on-site from solid waste in a manner consistent with 14 CCR Sections 18984.1 and 18984.2, or shall haul organic materials to a high diversion organic waste processing facility as specified in 14 CCR Section 18984.3.
- (b) Self-haulers shall haul their source separated recyclable materials to a facility that recovers those materials; and haul their source separated organic materials to a solid waste facility that processes or recovers source separated organic materials; and haul any other solid waste to an authorized disposal site.
- (c) Self-haulers that are commercial businesses shall keep a record of the amount of organic materials delivered to each solid waste facility, operation, activity, or property that processes or recovers organic materials; this record shall be subject to inspection by the Town. The records shall include the following information:
 - 1. Delivery receipts and weight tickets from the entity accepting the waste. 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 shall keep a record of the facilities that received the organic materials.
 - 2. The amount of material in cubic yards or tons transported by the generator to each entity.

5-3.19 Commercial Edible Food Generator requirements.

- (a) Tier one commercial edible food generators must comply with the requirements of this section commencing January 1, 2022, and Tier two commercial edible food generators must comply commencing January 1, 2024, pursuant to 14 CCR Section 18991.3.
- (b) Operators of a large venue or large event (as defined in 14 CCR 18982(a)(38)) that are 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 Town's designated enforcement entity or designated third party enforcement entity to access the premises and review records pursuant to 14 CCR Section 18991.4.
 - (5) Keep records that include the following information, or as otherwise specified in 14 CCR Section 18991.4:
 - (i) 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).

- (ii) A copy of all contracts or written agreements established under 14 CCR section 1891.3(b).
- (iii) A record of the following information for each of those food recovery services or food recovery organizations:
 - (a) The name, address and contact information of the food recovery service or food recovery organization.
 - (b) The types of food that will be collected by or Self-hauled to the food recovery service or food recovery organization.
 - (c) The established frequency that food will be collected or Self-hauled.
 - (d) The quantity of food, measured in pounds recovered per month, collected or Self-hauled to a food recovery service or food recovery organization for food recovery.
- (d) Nothing in this Chapter shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share table and school food donation guidance pursuant to Senate Bill 557, as amended from time to time.

5-3.20 - Food Recovery Organization and Food Recovery Services requirements.

- (a) Food recovery services collecting or receiving edible food directly from commercial edible food generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(1):
 - (1) The name, address, and contact information for each commercial edible food generator from which the service collects edible food.
 - (2) The quantity in pounds of edible food collected from each commercial edible food generator per month.
 - (3) The quantity in pounds of edible food transported to each food recovery organization per month.
 - (4) The name, address, and contact information for each food recovery organization that the food Recovery Service transports edible food to for food recovery.
- (b) Food recovery organizations collecting or receiving edible food directly from commercial edible food generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(2):
 - (1) The name, address, and contact information for each commercial edible food generators 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 Town and contract with or have written agreements with one or more commercial edible food generators pursuant to 14 CCR Section 18991.3(b) shall annually report to the Town it is located in the total pounds of edible food recovered in the previous calendar year from the tier one and tier two commercial edible food generators they have established a contract or written agreement with pursuant to 14 CCR Section 18991.3(b) no later than April 1.
- (d) Food recovery services and food recovery organizations shall provide information and consultation to the Town, upon request, regarding existing, or proposed new or expanded, food recovery capacity that could be accessed by the Town its commercial edible food generators. A food recovery service or food recovery

organization contacted by the Town shall respond to such request for information within 60 days unless a shorter timeframe is otherwise specified by the Town.

5-3.21 Inspections and investigations.

The Town Administrator, Authorized Collector, or designee is authorized to conduct any inspections, remote monitoring, or other investigations as reasonably necessary to further the goals of this chapter, subject to applicable laws. This may include inspections and investigations, at random or otherwise, of any collection container, collection vehicle load, or transfer, processing, or disposal facility to confirm compliance with this chapter, subject to applicable laws. This section does not allow entry in a private residential dwelling unit for inspection. For the purposes of inspecting collection containers for compliance, the Town Administrator or Authorized Collector may conduct container inspections for prohibited container contaminants using remote monitoring, and generators shall accommodate and cooperate with the remote monitoring.

5-3.22 Violations and penalties.

A violation of any provision of this chapter shall be subject to any of the enforcement tools available under the law, including those outlined in Title 1, Chapters 2 and 6 of the Municipal Code, except that fines, charges, and/or costs shall not be recoverable by recording a lien or special assessment against a property. Any section of this chapter may be enforced by the Town, or if agreed to, by its designated Enforcement Agency.