

ORDINANCE NO. 22-01

AN ORDINANCE OF THE CITY OF EL CENTRO REPEALING AND READOPTING CITY CODE CHAPTER 12 IN ITS ENTIRETY TO PROVIDE FOR MANDATORY RECYCLING AND ORGANIC WASTE DISPOSAL REDUCTION

The City Council of the City of El Centro does ordain as follows:

Section 1: Purpose

The City finds and declares:

- a) State recycling law, Assembly Bill 939 of 1989, the California Integrated Waste Management Act of 1989 (California Public Resources Code Section 40000, et seq., as amended, supplemented, superseded, and replaced from time to time), requires cities and counties to reduce, reuse, and recycle (including composting) Solid Waste generated in their cities to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.
- b) 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41734.5, and 41780.01 and Chapter 12.8 (commencing with Section 42649) to Part 3 of Division 30 of, and added and repealed Section 41780.02 of, the Public Resources Code, as amended, supplemented, superseded and replaced from time to time), places requirements on businesses and Multi-Family property owners that generate a specified threshold amount of Solid Waste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 City to implement a Mandatory Commercial Recycling program.
- c) 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42649.8) to Part 3 of Division 30 of the Public Resources Code, relating to Solid Waste, as amended, supplemented, superseded, and replaced from time to time), requires businesses and Multi-Family property owners that generate a specified threshold amount of Solid Waste, Recycling,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 City to implement a recycling program to divert Organic Waste from businesses subject to the law, and requires City to implement a Mandatory Commercial Organics Recycling program.
- d) SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016, requires Cal Recycle to develop regulations to reduce organics in landfills as a source of methane. The regulations place requirements on multiple entities including Cities, 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.

- e) SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016, requires City to adopt and enforce an ordinance or enforceable mechanism to implement relevant provisions of SB 1383 Regulations. This 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.
- f) The City Council of the City of El Centro has determined that adoption of this Ordinance will serve the health, safety and public welfare of the community.

Section 2. Chapter 12 is repealed in its entirety and readopted to read as follows:

ARTICLE I. COLLECTION AND DISPOSAL

Sec. 12-1. Definitions.

For the purpose of this chapter, the following words and phrases are defined and shall be construed as hereinafter set forth, regardless of whether or not such terms are capitalized, unless it is apparent from the context that a different meaning was intended. If a term or word is not specifically defined herein but is defined in the California Integrated Waste Management Act of 1989 (California Public Resources Code Sections 40000 et seq.) it shall have the meaning prescribed therein. All terms shall be construed in accordance with the requirements of state law as set out in Section 1 above.

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

Bin means a rigid container with hinged lids and wheels with a capacity of at least one (1) cubic yard and less than ten (10) cubic yards.

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

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

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

Business means any person or entity that possesses or is required to possess a business registration certificate, as stated in section 16-19.

CalRecycle means the State of California's Department of Resources Recycling and Recovery, and, as this department was structured prior to January 1, 2010, the California Integrated Waste Management Board or CIWMB.

Cart means a wheeled container of appropriate material with a hinged lid and wheels serviced by an automated or semi-automated truck with a capacity of no less than 30- and no greater than 101-gallons.

City means the City of El Centro.

City Clerk means the City Clerk of the City of El Centro, and authorized deputies.

City Enforcement Official means the City Manager or its authorized Designee(s) who is/are partially or whole responsible for enforcing the ordinance.

City Manager means the City Manager of the City of El Centro or designee.

Collect or collection means physical possession, transport, and removal of solid waste from City.

Collection charge means a charge for the collection of solid waste, recyclable, and organic materials that shall be imposed on the owner or occupant of each residential premise or commercial premises to which service is made available. The amount of such charge shall be fixed and changed from time to time and shall be collected at such time and in such manner as prescribed by the City Council. The charge so fixed shall be a civil debt due and owing to the City or solid waste collector from the owner or occupant of the residential premise or commercial premises to which the service is made available. The City Council hereby specifically finds and determines that the periodic collection of solid waste recyclable and organic materials from all residential premises and commercial premises benefits all occupants and residents of the City, provides for the health, safety and welfare of all persons in the City and, therefore, all such occupants or owners are liable for the payment of collection service provided for hereunder, whether or not any such owner or occupant utilizes of such collection service.

Commercial business or premises means premises upon which business activity is conducted, including but not limited to retail sales, services, wholesale operations, manufacturing and industrial operations, but excluding residential premises upon which business activities are conducted when such activities are permitted under applicable zoning regulations and are not the primary use of the property. Notwithstanding any provision to the contrary in this ordinance or City Code, premises upon which the following uses (as defined in the City Code) are occurring shall be deemed to be commercial premises: adult residential facilities, assisted living facilities, convalescent homes, dormitories, extended stay motels, group residential facilities, group care facilities, hotels, and motels. [A Multi-Family Residential Dwelling that consists of fewer than five \(5\) units is not a Commercial business for purposes of implementing this ordinance.](#)

Commercial Generator means any legal entity, except a special event, that generates solid waste at a commercial or industrial facility, that may include businesses; charitable or nonprofit organizations, including hospitals, educational institutions, and civic or religious organizations;

governmental organizations, agencies, or entities; and nonresidential tenants or entities that lease or occupy space. "Commercial Generator" also includes the City and its facilities and nonresidential properties. The entity that is the commercial generator is the commercial account holder.

Commercial Edible Food Generator includes a Tier One or a Tier Two Commercial Edible Food Generator as defined in this Section 12-1 of this ordinance or as otherwise defined in 14 CCR Section 18982(a)(73) and (a)(74). For the purposes of this definition, Food Recovery Organizations and Food Recovery Services are not Commercial Edible Food Generators pursuant to 14 CCR Section 18982(a)(7).

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).

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

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

Composting means the controlled biological decomposition of organic wastes that are source separated from the solid waste stream.

Composting center, station or facility a facility the principal function of which is to receive and to process organic waste through composting.

Construction and demolition debris and C&D and construction waste means solid waste generated at a premises that is directly related to construction or demolition activities occurring thereon.

Container means any and all types of receptacles, including carts, bins and roll-off boxes.

Contamination means (A) all materials other than those defined as recyclable and/or organic materials that were placed in a container designated for recyclable materials or were collected by a solid waste collector with recyclable materials; (B) all materials other than those defined as organic materials that were placed in a container designated for organic materials or were collected by a solid waste collector with organic materials; or (C) recyclable materials, and organic materials in the case of a food service establishment, that were placed in a container designated for refuse or were collected by a solid waste collector with refuse.

Council means the City Council of the City of El Centro.

C&D means construction and demolition debris.

Days means calendar days unless otherwise provided.

Designee means a City staff member or an entity that the City contracts with or otherwise arranges to carry out any of the City's responsibilities of this ordinance as authorized in 14 CCR Section 18981.2. A Designee may be a staff member, government entity, joint powers authority, a hauler, a private entity, or a combination of those entities.

Disposal means the ultimate disposition of solid waste collected at a landfill or otherwise in full regulatory compliance. "Disposal" does not include recycling or organic materials processing.

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 food waste or Solid Waste if it is recovered and not discarded. Nothing in this ordinance or in 14 CCR, Division 7, Chapter 12 requires or authorizes the Recovery of Edible Food that does not meet the food safety requirements of the California Retail Food Code.

Enforcement Action means an action of the City to address non-compliance with this ordinance including, but not limited to, issuing administrative citations, fines, penalties, or using any other remedies available by law. This ordinance may be enforced by the City Manager or Designee.

Excluded Waste means hazardous substance, hazardous waste, infectious waste, designated waste, volatile, corrosive, medical waste, infectious, regulated radioactive waste, and toxic substances or material that facility operator(s), which receive materials from the City and its generators, reasonably believe(s) would, as a result of or upon acceptance, transfer, processing, or disposal, be a violation of local, State, or Federal law, regulation, or ordinance, including: land use restrictions or conditions, waste that cannot be disposed of in Class III landfills or accepted at the facility by permit conditions, waste that in City, or its Designee's reasonable opinion would present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose City, or its Designee, to potential liability; but not including de minimis volumes or concentrations of waste of a type and amount normally found in Single-Family or Multi-Family Solid Waste after implementation of programs for the safe collection, processing, recycling, treatment, and disposal of batteries and paint in compliance with Sections 41500 and 41802 of the California Public Resources Code. Excluded Waste does not include used motor oil and filters, household batteries, universal wastes, and/or latex paint 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.

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

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

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

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

- 1) A food bank as defined in Section 113783 of the Health and Safety Code;
- 2) A nonprofit charitable organization as defined in Section 113841 of the Health and Safety code; and,
- 3) A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.

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

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

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

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

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

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

Food wastes means Food Scraps, Food-Soiled Paper and Compostable Plastics.

Franchisee means any solid waste collector authorized by the City Council pursuant to the procedures established in this chapter.

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

Green waste means leaves, grass clippings, brush, branches, and other forms of organic materials generated from landscapes or gardens, which have been source separated from other solid waste. Green waste is a subset of organic materials and excludes hazardous materials.

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

Hazardous material includes any hazardous or toxic substance, material or waste which is or becomes regulated by any local governmental authority, the State of California, or the United States Government. The term "hazardous material" includes, without limitation, any material or substance which is: (i) petroleum or oil or gas or any direct or derivate product or byproduct thereof; (ii) defined as a "hazardous waste," "extremely hazardous waste" or "restricted hazardous waste" under Sections 25115, 25117 or 25122.7, or listed pursuant to Section 25140, of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law); (iii) defined as a "hazardous substance" under Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter-Presley-Tanner Hazardous Substance Account Act); (iv) defined as a "hazardous material," "hazardous substance," or "hazardous waste" under Sections 25501(j) and (k) and 25501.1 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory); (v) defined as a "hazardous substance" under Section 25281 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances); (vi) "used oil" as defined under Section 25250.1 of the California Health and Safety Code; (vii) asbestos; (viii) listed under Chapter 11 of Division 4.5 of Title 22 of the California Code of Regulations, or defined as hazardous or extremely hazardous pursuant to Chapter 10 of Division 4.5 of Title 22 of the California Code of Regulations; (ix) defined as waste or a hazardous substance pursuant to the Porter-Cologne Act, Section 13050 of the California Water Code; (x) designated as a "toxic pollutant" pursuant to the Federal Water Pollution Control Act, 33 U.S.C. Section 1317; (xi) defined as "hazardous waste" pursuant to the Federal Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq. (42 U.S.C. § 6903); (xii) defined as a "hazardous substance" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 6901; (xiii) defined as "Hazardous Material" pursuant to the Hazardous Materials Transportation Act 29 U.S.C. Section 5101, et seq.; or (xiv) defined as such or regulated by any "Superfund" or "Superlien" law, or any other federal, state or local law, statute, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning Hazardous Materials and/or oil wells and/or underground storage tanks and/or pipelines, as now, or at any time hereafter, in effect.

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

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

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

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

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

Mixed Waste Organic Collection Stream or Mixed Waste means Organic Waste collected in a container that is required by 14 CCR Sections 18984.1, 18984.2 or 18984.3 to be taken to a High Diversion Organic Waste Processing Facility or as otherwise defined in 14 CCR Section 17402(a)(11.5) Green Container” has the same meaning as in 14 CCR Section 18982.2(a)(29) and shall be used for the purpose of storage and collection of Source Separated Green Container Organic Waste.

Mixed waste processing means the separation and sorting of recyclables and other recoverable materials from refuse at a material recovery facility where commingled loads of solid waste are processed.

Multi-Family Residential Dwelling or “Multi-Family” means of, from, or pertaining to residential premises with five (5) or more dwelling units. Multi-Family premises do not include hotels, motels, or other transient occupancy facilities, which are considered Commercial Businesses. *Multi-family dwelling includes* apartment buildings, mobile home parks, trailer parks, and condominium buildings. A Multi-Family Residential Dwelling that consists of fewer than five 5) units is not a Commercial business for purposes of implementing this ordinance.

Multi-family generator means tenants, residents, other occupants, and custodians or janitors of multi-family dwellings. Except as otherwise determined, for condominium units the owner of the multi-family generator is the customer and account holder.

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).

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

Occupant includes every owner, tenant or person in possession of, who has the care and control of or the inhabitant of, an inhabited residence.

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

Organic materials collector means any person or persons, firm, partnership, joint venture, association or corporation engaged in the collection or transportation of organic materials generated in the City.

Organic materials processing facility means a permitted facility where organic material is sorted, mulched, or separated for the purposes of recycling, reuse or composting in compliance with applicable law and regulations.

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

Owner means the person holding legal title to the real property constituting the premises to which solid waste, targeted recyclable materials, and/or organic materials collection service is provided.

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).

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

Person means any individual, firm, association, organization, partnership, corporation, business trust, joint venture, the United States, the State of California, the County of Imperial, cities, and special purpose districts.

Premises means any land or building where any type of materials subject to this chapter are generated or accumulated.

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

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

Receptacle means a container used for the temporary collection and storage of solid waste, whose contents are periodically transferred to a larger container from which a solid waste collector directly collects the solid waste.

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

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

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

Recyclable material or recyclables means solid waste that is source separated, segregated, or recovered through mixed waste processing, some potential economic value, and is set aside, handled, packaged, or offered for collection in a manner different from refuse in order to allow it to be processed for recycling.

Recycle or recycling means the processing of recyclable materials for the purpose of returning them to the economy in the form of raw materials for new, reused, or reconstituted products. The collection, transportation or disposal of solid waste not intended for, or capable of, reuse is not recycling.

Recycling center, station or facility means a permitted or licensed facility whose principal function is to receive, store, convert, separate, or transfer recyclable materials for processing in compliance with applicable law and regulations.

Recycling collector means any person or persons, firm, partnership, joint venture, association or corporation engaged in the collection and transportation of recyclable materials generated in the city.

Recycling operator means a person or persons, firm, partnership, joint venture, association or corporation engaged in the collection and recycling of recyclable materials.

Refuse means solid waste or debris, except sewage, construction and demolition debris, recyclables, and/or organic materials placed in source-separated containers for collection.

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

Residence or Residential premises means premises upon which dwelling units exist, including, without limitation, single-family and multi-family dwellings, apartments, boarding or rooming houses, condominiums, mobile homes and accessory dwelling units. Notwithstanding any provision to the contrary in this ordinance or the City Code, premises upon which the following uses are occurring shall not be deemed to be residential premises, and rather shall be deemed to be commercial premises: adult residential facilities, assisted living facilities, convalescent homes, dormitories, extended stay motels, group residential facilities, hotels, motels, and any other businesses not specifically listed that may be classified as commercial premises (as opposed to residential) as determined by City on a case by case basis.

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

Roll-off box means solid waste collection containers of 10-yards or larger.

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

Rubbish includes, but is not restricted to, all non-biodegradable waste or debris such as paper, cardboard, grass, tree or shrub trimmings, rugs, straw, clothing, wood or wood products, crockery, glass, rubber, metal, plastic, construction waste and debris and other similar materials.

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

SB 1383 Regulations or *SB 1383 Regulatory* means or refers to, for the purposes of this ordinance, the Short-Lived Climate Pollutants: Organic Waste Reduction regulations developed

by CalRecycle and adopted in 2020 that created 14 CCR, Division 7, Chapter 12 and amended portions of regulations of 14 CCR and 27 CCR.

Salvage means to obtain, either for compensation or other consideration, directly from the transferor thereof, any recyclable material prior to the placement of the same in the solid waste stream or the disposal or discarding thereof whether by collecting, or causing to be collected, the same from the transferor thereof or by the transferor thereof transporting the same to the salvager.

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

Salvager includes any person engaged in salvaging recyclable material prior to the disposal or discarding of the same in the solid waste stream and includes the person generating the recyclable material if done by such person's own employees or any subsidiary thereof. Salvager does not include a nonprofit entity including, but not limited to, churches, schools, community organizations or groups obtaining recyclable materials for purposes such as, but not limited to, fundraising activities, rehabilitation and training programs.

Scavenging means the uncontrolled and/or unauthorized removal of solid waste, designated recyclable material or recoverable materials, and/or organic materials. Such activity is unlawful and is a misdemeanor punishable by up to six (6) months in jail and one thousand dollars (\$1,000.00) in civil penalties under City Ordinance 12-34.95 and Chapter 9, Section 41950 of the California Integrated Waste Management Act of 1989.

Segregate means source separation of any of the following: the placement of recyclable materials, organic materials, and refuse each in separate and designated containers; the binding of recyclable materials separately from other waste material; the physical separation from each other of recyclable materials, organic materials, and refuse.

Self-Hauler means a person, who hauls Solid Waste, Organic Waste or recyclable material he or she has generated to another person. Self-hauler also includes a person who back-hauls waste, or as otherwise defined in 14 CCR Section 18982(a)(66). Back-haul means generating and transporting Organic Waste to a destination owned and operated by the generator using the generator's own employees and equipment, or as otherwise defined in 14 CCR Section 18982(a)(66)(A).

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

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

- 1) Hazardous waste, as defined in the State 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 State 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 State Health and Safety Code). Untreated medical waste shall not be disposed of in a Solid Waste landfill, as defined in State Public Resources Code Section 40195.1. Medical waste that has been treated and deemed to be Solid Waste shall be regulated pursuant to Division 30 of the State Public Resources Code.

Solid Waste Collector shall mean one or more separate entities with which the City contracts for the pick-up, removal, and legal disposition of Solid Waste.

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

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

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

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

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

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

Supermarket means a full-line, self-service retail store with gross annual sales of two million dollars (\$2,000,000), or more, and which sells a line of dry grocery, canned goods, or nonfood items and some perishable items, or as otherwise defined in 14 CCR Section 18982(a)(71).

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

- 1) Supermarket.
- 2) Grocery Store with a total facility size equal to or greater than 10,000 square feet.
- 3) Food Service Provider.
- 4) Food Distributor.
- 5) Wholesale Food Vendor.

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

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

- 1) Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.
- 2) Hotel with an on-site Food Facility and 200 or more rooms.
- 3) Health facility with an on-site Food Facility and 100 or more beds.
- 4) Large Venue.
- 5) Large Event.
- 6) A State agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet.
- 7) A Local Education Agency facility with an on-site Food Facility.

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

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

Transferor includes any person generating recyclable material who, for compensation or other consideration, donates, sells or otherwise conveys or transfers title thereto and possession thereof to a salvager and does not discard the same as solid waste. Transferor does not include a resident who conveys or transfers residential recyclable, or organic material, whether for consideration or as a donation, to a salvager or any nonprofit entity including, but not limited to, churches, schools, community organizations or groups.

Truck means any truck, trailer, semi-trailer, conveyance or vehicle used, or intended to be used, for the purpose of collecting solid waste and/or recyclable or organic material or to haul or transport solid waste and/or recyclable or organic material.

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

Wood wastes means lumber and wood products but excludes painted wood, wood treated with chemicals and pressure-treated wood. Wood waste is a subset of organic materials and excludes hazardous materials.

Yard wastes means leaves, grass clippings, brush, branches, and other forms of organic materials generated from landscapes or gardens, which have been source separated from other solid waste. Yard waste is a subset of organic materials and excludes hazardous materials.

Sec. 12-2. Mandatory residential, commercial and industrial collection.

Except as otherwise provided in this chapter, all solid waste generators shall provide for solid waste collection from one (1) or more haulers with a City franchise or permit.

Sec. 12-3. Authority of City Council to issue permits or franchises for solid waste collection.

- a) Pursuant to California Public Resources Code Section 40059, as the same may be amended from time to time, or any successor provision or provisions thereto, and the police power, pursuant to Article II, § 7 of the California Constitution, the City shall have, and hereby retains, the authority to issue permits, including exclusive permits or franchises, for solid waste collector services, as provided for in this chapter and may, as a condition for issuing such permits, require a bond from the solid waste collector in an amount determined by the City Council to insure the faithful performance of such collection, transportation and disposal in accordance with this chapter and the terms and conditions imposed by the City Council. In the event that any solid waste collector shall fail or refuse to conform to the conditions of the permit or this chapter or any regulations promulgated hereunder, the Council, at its option and after a hearing called upon at least ten (10) days' prior written

notice to the solid waste collector, may revoke such permit. In issuing permits for solid waste collector services, the City shall not be required to issue the same based upon the offer of lowest rates, but shall be free to issue such permits to the person deemed best suited to comply with the provisions of this chapter, and City Code Sections 12-3 through 12-7, and such other terms and conditions imposed by the City Council.

- b) Excepting existing rights that the City reserves to itself, while an exclusive permit is in effect, may be granted the exclusive right to gather, collect and remove solid waste, recyclables, and organic materials from premises within the City, subject to such terms and conditions as the Council may apply to the issuance of such permit and set out in the written franchise agreement.
- c) No person shall act as a solid waste collector within the City unless such person is a solid waste collector, as defined in this chapter, or is exempt in accordance with subsection 12-6 below. No person shall permit, allow or enter into any agreement whatsoever for the collection or transportation of solid waste, recyclable material, organic material, or hazardous material from any residential premises, multi-family dwelling, industrial or commercial premises except as otherwise provided by this chapter.

Sec. 12-4. Fees and charges.

Fees and charges for such Solid Waste Collector services shall be those the City Council may from time to time hereafter approve by resolution. The Solid Waste Collector shall pay a franchise fee as determined by agreement in lieu of any business license tax imposed generally by City.

Customers shall pay an additional fee based on the size of the container for recyclable materials and organic materials containers that are collected for refuse disposal by the franchisee if the contents of their recyclable materials and organic materials containers contain unacceptable levels of contamination as defined in this chapter.

Sec. 12-5. Scavenging and salvaging not allowed.

- a) It shall be unlawful for any person other than authorized City personnel or the Solid Waste Collector to remove any designated recyclable or organic materials, or salvageable commodity after placement in any designated recycling collection or storage location, or solid waste container.
- b) Notwithstanding, the generator of the designated recyclable or organic materials, for any reason, may otherwise dispose of the recyclable or organic materials or may remove the designated recyclable or organic materials after placement in the generator's container or designated recycling or organics collection or storage location.
- c) It shall be unlawful for any person to disturb, modify, harm, or otherwise tamper with any container or designated recycling collection or storage location containing designated recyclable or organic materials, or the contents thereof, or to remove any such container from the location where placed by the generator thereof, or to remove the contents of any

such container, unless authorized by the generator of such designated recyclable or organic materials or duly authorized City personnel or solid waste collector.

Sec. 12-6. Exemptions.

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

Sec. 12-7. Hazardous material collection.

- a) A Solid Waste Collector shall not be required to collect hazardous material as part of its regular collection activity. Liquid and dry caustics acids, flammable materials, explosive materials, insecticides, and similar substances shall not be deposited in collection receptacles. Any person collecting such substances shall, in addition to any requirements of state or federal law, obtain a permit therefore pursuant to the provisions of this chapter.
- b) Biohazardous and/or medical waste (as defined in California Health and Safety Code Section 25117.5, as amended from time to time, or any successor provision or provisions thereto) shall not be collected by a solid waste collector as part of its regular collection activity. Anyone producing such wastes shall store, handle and dispose of such materials only in the manner approved by the county health officer or designated deputy, and in accordance with the California Health and Safety Code. Disposal of biohazardous and/or medical waste shall be conducted pursuant to a permit issued under this chapter in addition to any requirements imposed by state law.

Sec. 12-8. Collection in emergencies.

In emergencies, such as the breakdown of equipment, or other unforeseen or unpreventable circumstances, where in the judgment of the City Manager the particular situation justifies such action, the City Manager may issue limited or temporary permits to private persons or corporations to perform any of the services regulated by this chapter subject to such reasonable fees, charges and conditions as the circumstances may warrant and as the parties involved may agree upon;

provided that such fees and charges received from or paid to any private persons or corporations under this section for any period exceeding forty-five (45) days' duration shall be approved by the City Council.

Sec. 12-9. Hours of collection.

All solid waste collection from residential areas and areas immediately adjacent to residential areas shall be made between the hours of 7:00 a.m. and 8:00 p.m., and collections from commercial and industrial locations may start at 5:00 a.m.; provided, however, that the peace and quiet of residential neighborhoods is not disrupted.

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

In the event that more than one (1) solid waste collector is permitted to operate in the City, whether by area or premises, the City Manager may, in their discretion, require that all refuse collection activities take place on the same day of the week in the specified area in order to minimize the traffic in any given area.

Sec. 12-10. Solid waste, recyclable and organic materials collection—Exception.

Solid Waste Collectors shall exercise all reasonable care and diligence in collection activities so as to prevent spilling, scattering or dropping solid waste, organic and recyclable materials, and shall immediately, at the time of occurrence, clean up any such spillage.

Sec. 12-11. Solid waste, organic and/or recyclable material containers.

It shall be the duty of every solid waste customer or designee to utilize the containers provided by the solid waste collector and, on the date and during the times designated for collection, place such containers in the area designated for collection. Except when placed for collection, such receptacles shall be kept and maintained only in storage locations prescribed by provisions of the City Code or otherwise in an inconspicuous location on the premises, as the same presently exists or as may be amended from time to time, or as specified by use permit or other entitlement for use.

The solid waste collector shall provide each solid waste customer with sufficient numbers of containers, specifically designed for the containment of various types of solid waste, organic and/or recyclable materials, each of which shall have suitable bales or handles and a tightfitting cover which shall prevent leakage or escape of odors, and which, when filled within four (4) inches of the top shall contain all solid waste, organic and/or recyclable materials which would ordinarily accumulate on such premises between collections. The exterior of such receptacles, including covers, shall be kept clean from accumulated grease or decomposing materials. The container colors must meet the applicable container color requirements and the City will have the final approval on container color specifications.

Sec. 12-12. Placement of receptacles for collection.

- a) *Residential premises.* It shall be the duty of every person having charge and control of any residential premises to set out or place receptacles for the collection of refuse, rubbish, miscellaneous debris and combined rubbish and/or other solid waste, organic and/or recyclable materials, as follows:

Receptacles shall be at the edge of the street in the curb-area in front of the dwelling, provided that the solid waste collector may designate some other location for the placement of receptacles when such placement will expedite collection, as approved by the City Manager.

- b) Commercial premises, multi-family dwelling and special event receptacles shall be placed in areas designed for such containers.

Sec. 12-13. Time and date of placement of receptacles.

No person shall place, or cause to be placed, any solid waste container in any public highway or in any place or in any manner other than that set out in this article; provided, or at any time other than the days established by the City for the collection thereof on the particular route involved, no earlier than sunset of the day preceding the day designated for collection, and all receptacles shall be removed from the place of collection prior to 10:00 p.m. of the day the receptacles have been emptied.

If the containers or receptacles are not emptied and the contents removed on the date and time scheduled by the solid waste collector, such person shall immediately notify the solid waste collector or the City, and it shall be the duty of the solid waste collector to forthwith arrange for the collection and disposal thereof.

Refuse, rubbish, organic and recyclable materials, and other solid waste which exceeds the limitations set forth may, in the discretion of the solid waste collector, be scheduled for special collection upon the application of the owner or occupant of the premises. Special collection charges may be assessed by the solid waste collector for this service.

No person, other than the owner thereof, the owner's agents or employees or an officer or employee of the City or a solid waste collector's agents or employees authorized for such purposes, shall tamper or meddle with any solid waste, organic recyclable materials receptacle or the contents thereof, or remove the contents thereof, or remove any receptacle.

Sec. 12-14. Solid waste removal.

Pursuant to the requirements of the California Administrative Code Section 17331(H) of Article 5 of Chapter 3 of Division 7 of Title 14, as those may be amended from time to time, all solid waste, organic and recyclable materials created, produced or accumulated in or about a residential premises (including multi-family) or commercial premises in the City shall be removed at least once each week. No person who is the occupant of any of the above-described premises shall fail or neglect to provide for the removal of such material at least as often as prescribed in this section.

Sec. 12-15. Refuse disposal.

The solid waste collector shall dispose of collected wastes, at solid waste collector's sole expense, as required by this chapter, including but not limited to at a City approved landfill, transfer station (as defined in California Public Resources Code Section 40200) or other appropriate facility in a manner satisfactory to the City and in accordance with the provisions of this chapter and all federal, state and local laws and regulations.

Sec. 12-16. Special provisions regarding method of disposal.

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

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

Food wastes and food soiled paper shall be disposed of as provided in this chapter.

Refuse or other solid waste containing water or other liquids shall be drained before being placed in a black or blue container or receptacle. Matter that is subject to decomposition and not allowed in the green container shall be wrapped in paper or other material before being placed in a black container or receptacle.

No hazardous material, battery acid, poisonous, caustic or toxic material or any other substance capable of damaging clothing or causing injury to the person shall be mixed or placed with any rubbish, solid waste or other refuse which is to be collected, removed or disposed of by a solid waste collector. Such items shall be removed at the occupant's expense only after arrangements have been made with the solid waste collectors or City for such removal.

With the exception of packaged domestic animal waste and packaged animal waste associated with permitted on premises temporary raising of livestock for programs such as 4-H Clubs, animal waste, as defined in section 12-2, shall not be placed in receptacles for regular collection and disposal, but shall be removed at the occupant's expense.

Sec. 12-17. Burning, burial or dumping.

No person shall burn, bury or dispose of solid waste or hazardous material of any kind within the City except as provided in this chapter.

Sec. 12-18. Disposition of recyclable material—Green waste.

Solid waste collectors shall sell, give, donate or otherwise transfer recyclable material as provided in this chapter.

Sec. 12-19. Use of solid waste collection vehicles.

Any person who desires to operate privately owned vehicles for transportation of solid waste, hazardous waste, green waste and/or recyclable material under provisions of this chapter shall utilize vehicles which are reasonably watertight and are provided with a tight cover to the reasonable satisfaction of the City Manager. The City Manager shall require the permittee to remove from service or repair any vehicle that allows or permits offensive odors to escape and/or material to be blown, dropped or spilled therefrom. The City Council shall specify additional provisions for vehicles utilized pursuant to a solid waste franchise.

Sec. 12-20. No parking of trucks on any City street.

- a) No person, between the hours of 8:00 p.m. and 5:00 a.m., shall leave a solid waste collection vehicle utilized pursuant to section 12-19 hereof parked on any City street.
- b) No person, between the hours of 5:00 a.m. and 8:00 p.m., shall leave a solid waste collection vehicle utilized pursuant to section 12-19 hereof parked on any City street for more than one hour unless the City Manager is notified that a breakdown or emergency exists.

Sec. 12-21. Vehicles —Equipment required.

Each vehicle of a solid waste collector shall at all times have in the cab thereof the registration of the truck, a copy of the permit, a certificate of insurance, and an identification card with the name of a person to telephone in case of an accident or emergency. Each truck shall also be equipped with a minimum five-pound fire extinguisher certified by the California State Fire Marshal and recharged as needed, but not less than once annually. Each vehicle shall meet the requirements of state and federal law, specifically including but not limited to those regarding air quality.

All vehicles used for solid waste collection within the City shall be required to be completely enclosed with a nonabsorbent cover while transporting solid waste, organic or recyclable materials in or through the City. "Completely enclosed with a nonabsorbent cover" means that no solid waste, refuse, or rubbish shall be visible from the street, nor shall any of the substances be permitted to leak, spill or become deposited along the public streets.

All vehicles used in the course of solid waste, organic and/or recyclable materials collection shall be painted in colors approved by the City Manager and identified by truck numerals, a company logo, and local telephone number and shall be kept clean and in good repair at all times.

Sec. 12-22. Reserved**Sec. 12-23. Vehicle inspection.**

- a) All vehicles shall be maintained in safe mechanical condition.
- b) Each of the solid waste collector's vehicles shall be made available for inspection at the discretion of the City Manager at any point of operation.

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

Sec. 12-24. Solid waste collector's contact information.

Each solid waste collector must maintain a local telephone number which shall be staffed for personal contact between 8:00 a.m. and 5:00 p.m. on normal working days, and at all other times with some type of mechanism for the purpose of taking messages. Each solid waste collector shall maintain and keep updated a website which provides information on solid waste collection and rules. Each solid waste collector must review and respond to messages within one working day, if not sooner.

Sec. 12-25. Solid waste collector's employees.

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

- 1) The City may, at its option, require fingerprinting of the solid waste collector's employees whose services will cause them to enter onto or work in close proximity to private property.
- 2) The solid waste collector shall be required to hire employees without regard to protected class or any association with a protected class, or any other non-merit factor.
- 3) Any employee driving solid waste collector's trucks shall at all times have their possession a valid and appropriate vehicle operator's license issued by the State of California.
- 4) Solid waste collector's employees shall be required to wear clean, identifiable uniforms when engaged in solid waste collection services within the City.

Sec. 12-26. Requirements for solid waste collector franchise.

- a) *Procedure and required information for solid waste collector permit.* The applicant shall file a letter with the City Manager, executed under penalty of perjury of the laws of the State of California, containing the following information:
 - 1) Name and description of the applicant;
 - 2) Permanent business address and address of local office of the applicant;
 - 3) Trade and firm name;
 - 4) If a corporation, joint venture or a partnership or limited partnership, the names of all officers, members partners of the firm, and the names of the officers and their percentage or participation interest and their permanent addresses;

- 5) Facts indicating that the applicant has arranged for solid waste disposal in an area where the same may be legally accepted and disposed of as required by state law, this chapter and/or approved by the City;
- 6) Desired collection area to be served and type of service to be provided;
- 7) Facts indicating that applicant is qualified to render efficient refuse collection service;
- 8) Facts indicating that trucks and equipment conform to all applicable provisions of this chapter;
- 9) Satisfactory evidence that applicant is in existence as a going concern and that the principals thereof possess not less than two (2) years actual operating experience in residential and/or commercial refuse collection and disposal;
- 10) Satisfactory evidence that applicant's experience as a going concern in residential and/or commercial refuse collection and disposal derives from operations of comparable size to that contemplated by the applicant; details shall include length of other contracts, name and size of municipality, nature of service provided, and the name of the contact person at the municipality being served;
- 11) Evidence that applicant is in good standing in the State of California and, in the case of a corporation organized under the laws of any other state, evidence that applicant is licensed to do business in the State of California;
- 12) A detailed inventory of the applicant's equipment available for use in refuse collection area;
- 13) A written statement that applicant has complied, or is capable of complying, with all regulations imposed by the City, the county and the state for the collection and disposal of solid waste;
- 14) Facts indicating that the applicant owns or has under his or her control, in good mechanical condition, sufficient equipment to conduct the business of refuse collection adequately if granted a permit, and that applicant owns or has access to suitable facilities for maintaining his or her equipment in a safe, clean and sanitary condition;
- 15) Satisfactory evidence that the issuance of a permit is in the public interest and convenience in that there is an available market for solid waste collection which can be legally served by the applicant;
- 16) Such other pertinent facts or information as the City Manager may require, including evidence of state certification, if applicable;
- 17) Any of the above provisions in conflict with certification requirements imposed by state law shall not be required.

b) *Fees and requirements for permit.*

- 1) Upon consideration of the information supplied by the applicant contained in the above-mentioned letter and following a public hearing conducted by the City Council upon at least ten (10) days prior written notice to the applicant, the City Council may issue a permit.
- 2) Each permit granted shall apply to solid waste collection for an area of the City specified therein or, in the case of hazardous material or bio-hazardous and/or medical waste operations, specified commercial premises, and may be exclusive.
- 3) A fee for processing permit applications shall be set by resolution of the City Council, with review on a regular basis.

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

d) *Indemnification by solid waste collector.*

- 1) *Indemnification of City.* Solid waste collector shall agree to protect, defend with counsel approved by the City, indemnify and hold harmless the City, its elected and appointed officials, officers, employees and agents from and against any and all losses, liabilities, fines, penalties, claims, damages, liabilities or judgments, including attorney's fees, arising out of or resulting in any way from the grant of a permit to the solid waste collector or the solid waste collector's exercise of its responsibilities under this chapter unless such claim is due to the sole negligence or willful act of the City, its officers, agents or employees, agents or contractors. Subject to the scope of this indemnification and upon demand of the City, made by and through the City attorney, the solid waste collector shall appear in and defend the City and its officers, employees and agents in any claims or actions, whether judicial, administrative or otherwise, arising out of the exercise of this chapter. In the event that the solid waste collector provides services under this chapter through a subcontractor, this indemnification shall cover the acts or omissions of the subcontractor to the same extent as to the solid waste collector.
- 2) *Hazardous materials indemnification.* Solid waste collector shall indemnify, defend with counsel approved by the City, protect and hold harmless the City, its elected and appointed officials, officers, employees, agents, assigns and any successor or successors to the City's interest from and against all claims, actual damages (including, but not limited to special and consequential damages), natural resources damages, punitive damages, injuries, costs, response remediation and

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

- e) *Liability insurance.* The solid waste collector shall obtain, and keep in force during the term of the permit, public liability and bodily injury insurance in amounts determined by the City Council, workers' compensation insurance covering all employees of the solid waste collector and any other insurance required by the City on the terms and conditions specified by the City. The amounts of such insurance may be adjusted by City from time to time in its sole discretion. Certificates of insurance endorsed to evidencing such coverage shall be filed with the City Clerk prior to the commencement of activities authorized by the permit and maintained at required levels throughout the term of the permit. The City and its officers, elected officials, employees and agents shall be named as additional insureds on all such policies. All such policies shall contain at a minimum a provision requiring a thirty (30) day notice to be given to the City prior to cancellation, modification or reduction of limits.
- f) *Compliance with federal, state and local laws and regulations.* The solid waste collector shall perform under the terms of the permit in such a manner so as to comply with all applicable local and state laws and regulations pertaining to the collection, storage and transportation of solid waste. The solid waste collector shall also comply with all other ordinances and regulations of the City and applicable laws and regulations of the County of Imperial, State of California and the United States, and shall obtain and keep in force all required permits and business licenses throughout the life of the permit and all renewals thereof as well as with any and all other requirements specified by the City.

Sec. 12-27. Permit provisions.

- a) *Fees.* Any franchise issued pursuant to this chapter shall provide for the payment of franchise fees to the City, shall contain additional provisions agreed to by and between the City and solid waste collector, and shall constitute the written agreement of those parties.
- b) *Assignment or transfer of franchise.* Except as otherwise specified in the franchise agreement, no assignment or transfer of a franchise issued pursuant to this chapter or any right accruing under such permit shall be made in whole or in part by the solid waste

collector without compliance with the assignment and transfer provisions of the franchise and the prior express written consent of the City Council. In the event any assignment or transfer is authorized hereunder, the assignee shall assume, without qualification, the liability and all other obligations of the solid waste collector.

- c) Each solid waste collector shall file with the City Clerk, on or before July 1 of each calendar year, a statement of ownership and shall verify the same as being true and correct under penalty of perjury under the laws of the State of California.
- d) *Revocation.*
 - 1) A permit may be revoked at the option of the City Council in the event there is a change of ownership of any kind or nature of the operating company, unless approval therefor has been obtained hereunder. If it is determined by the City Manager that the solid waste collector has not complied with the provisions of this chapter, the permit, or any other applicable statutes, ordinances, rules and regulations, the City Manager shall notify the solid waste collector in writing of noncompliance and shall order compliance within thirty (30) days.
 - 2) If noncompliance is not corrected within the above-prescribed thirty-day period, the City Council, following a public hearing upon at least ten (10) days' prior written notice to the solid waste collector, may terminate the permit. The City Council's decision shall be final.

Sec. 12-28. Charges for solid waste collector service.

- (a) *Rate adjustments.* Except as otherwise provided by the franchise agreement, all revisions in charges levied must be submitted to the City Council for review and action and must be approved by resolution of the City Council following a noticed public hearing as required by Proposition 218 or otherwise by law.

Sec. 12-29. Requirements for Solid waste collectors and Facility Operators.

- 1) Solid waste collectors shall:
 - a) Provide an original and any replacement organic materials and/or recyclable materials receptacle(s) to each solid waste customer. The color of receptacle(s) may be approved by the City Council and shall not cause health or safety hazards to solid waste customers or solid waste collector personnel. The receptacle(s) shall be provided without charge and remain the solid waste collector's property.
 - b) Collect recyclable and/or organic materials at least once a week, on the same day, and during the hours specified for regular solid waste collection. No alternate collection schedule is permitted unless pre-approved in writing by the City Manager. Solid waste collectors may collect containers in the same manner as regular solid waste collection.

- c) Provide recyclable and/or organic materials collection services to each location within the area(s) that the solid waste collector serves for regular solid waste collection. Such service shall be provided at rates approved under Proposition 218, as required, and by the City Council.
- 2) Additional requirements for Solid waste collectors providing Organic Waste collection services
 - a) Solid waste collectors providing residential, Commercial, or industrial Organic Waste collection services to generators within the City's boundaries shall meet the following requirements and standards as a condition of approval of a permit, contract, agreement, or other authorization with the City to collect Organic Waste:
 - 1) Through written notice to the City annually on or before March 1, identify the facilities to which they will transport Organic Waste, including facilities for Source Separated Recyclable Materials, and Source Separated Green Container Organic Waste.
 - 2) Transport Source Separated Recyclable Materials and Source Separated Green Container Organic Waste to a facility, operation, activity, or property that recovers Organic Waste as defined in 14 CCR, Division 7, Chapter 12, Article 2.
 - 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 City's C&D ordinance.
 - b) Solid waste collector authorization to collect Organic Waste shall comply with education, equipment, signage, container labeling, container color, contamination monitoring, reporting, and other requirements contained within its franchise agreement entered into with City.
 - c) Requirements for Facility Operators and Community Composting Operations
 - 1) Owners of facilities, operations, and activities that recover Organic Waste, including, but not limited to, Compost facilities, in-vessel digestion facilities, and publicly-owned treatment works shall, upon City's request, provide information regarding available and potential new or expanded capacity at their facilities, operations, and activities, including information about throughput and permitted capacity necessary for planning purposes. Entities contacted by the City shall respond within 60 days.
 - 2) Community Composting operators, upon City's request, shall provide information to the City to support Organic Waste capacity planning, including, but not limited to, an estimate of the amount of Organic Waste anticipated to be handled at the Community Composting operation. Entities contacted by the City shall respond within 60 days.

Sec. 12-30. Solid waste collector reports.

Upon issuance of a franchise hereunder, the solid waste collector shall submit the following, except as otherwise provided in the franchise agreement:

- 1) *Annual reports.* The solid waste collector shall prepare and submit an annual report, using a tabular and/or graphic format, or other commonly used data base management program (e.g., Excel, etc.) as approved by the City, within sixty (60) days after the close of each calendar year. The report shall include, but is not limited to, the following information:
 - a. A summary of the previous year's (or, in the case of the initial report year, the initial year's) activities including, but not limited to, services begun or discontinued during the reporting year, and the number of solid waste customers for each class of services;
 - b. A report, in a form satisfactory to the City, on the City's progress in meeting and maintaining its ability to meet its goals under the Acts as applied to the solid waste collector's service area, along with any recommended changes;
 - c. A revenue statement, setting forth quarterly compliance fees, and the basis for the calculation thereof, certified for accuracy, under penalty of perjury under the laws of the state by an officer of the solid waste collector.
- 2) *Monthly reports.* Solid waste collector shall prepare monthly reports, using a tabular and/or graphic format or other commonly used data base management program as approved by the City, during the term of the franchise monthly reports shall be submitted to the City on a quarterly basis, within twenty (20) days from the end of each quarter. At a minimum, the reports shall include:
 - a. Summaries of tonnage collected and disposed of by generator type, disposal and/or recycling facilities used, and disposal fees paid;
 - b. Summaries of tonnage of recyclable material and organic material collected, by material, and by route;
 - c. Summaries of tonnages of non-recyclables and contaminants disposed;
 - d. Summaries of tonnages, using an approved sampling methodology, of each material sold or otherwise exchanged for processing, by material type;
 - e. Average market process for each material sold, and processing charges or acceptance fees for organic waste to other applicable materials;
 - f. Participation rates for each route in terms of set out counts and average pounds collected per solid waste customer;

- g. Description of progress in meeting the implementation schedule, including the problems encountered and how they were resolved;
 - h. Summaries of the number of service complaints by route, including the date, nature of complaint, and how it was resolved.
- 3) *Ad hoc reports.* Solid waste collector shall provide all required reports of varying detail and format, as specifically requested by the City, to meet unforeseeable information queries of the California Integrated Waste Management Board, Imperial County Integrated Waste Management Task Force, or other public agencies or as otherwise requested by the City.
 - 4) Any other reports required by law or this chapter.

Sec. 12-31. Adverse information.

Solid waste collector shall provide the City two (2) copies of all reports, or other material adversely affecting the solid waste collector submitted by solid waste collector to the EPA, to CalRecycle or any other federal or state agency. Copies shall be submitted to the City simultaneously with solid waste collector's filing of such matters with said agencies. Solid waste collector's routine correspondence to such agencies need not be automatically submitted to the City, but shall be made available to the City upon written request.

- 1) Solid waste collector shall submit to the City copies of all pleadings, applications, notifications, communications and documents of any kind, submitted by the solid waste collector to, as well as copies of all decisions, correspondence and actions by, any federal, state and local courts, regulatory agencies and other governmental bodies relating specifically to solid waste collector's performance of services pursuant to the permit. Any confidential data exempt from public disclosure shall be retained in confidence by the City and its authorized agents and shall not be made available for public inspection.
- 2) Solid waste collector shall submit to the City such other information or reports in such forms and at such times as the City may reasonably request or require.
- 3) All reports and records required under this or any other section shall be furnished at the sole expense of the solid waste collector.
- 4) A copy of each solid waste collector's annual and other periodic public financial reports and those of its parent, subsidiary and affiliated corporations and other entities, as the City requests, shall be submitted to the City within thirty (30) days after receipt of a request.
- 5) All such reports and copies shall be submitted electronically to the Public Works Director or Designee with confirmation of receipt evidenced by a received receipt from City.

Sec. 12-32. Failure to report.

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

Sec. 12-33. Additional requirements of solid waste collectors

- a) Solid waste collectors other than the exclusive franchisee shall obtain and maintain a business license with the City.
- b) Solid waste collectors shall keep separate in separate containers those refuse, recyclable materials, and organic materials that have been source-separated by commercial generators multi-family generators, residential premises, or special events.
- c) Solid waste collectors shall ensure that segregated recyclable materials are delivered to a recycling facility and that segregated organic materials are delivered to an organic materials processing facility, except that a container that contains unacceptable levels of contamination may be delivered for refuse disposal if the solid waste collector notifies the City of the occurrence; the date of the occurrence; and the account name, primary contact, phone number, billing address, and service address for the solid waste customer at which the container is located.
- d) Within five days of a written request by the City by letter or email, solid waste collector(s) shall provide progress reports providing the following information, at a minimum:
 - 1) Total number of solid waste customers to whom the solid waste collector currently provides refuse, recyclable materials, and organic materials collection service within the City's boundaries;
 - 2) For each solid waste customer, the account name, identifying number, primary contact, phone number, billing address, and service address;
 - 3) Information on the type of collection service provided, such as refuse, recyclable materials, or organic materials services;
 - 4) The weekly volume and type of collection service provided, including the number, type, and size of containers serviced and the days of service for each container;
 - 5) Name and location of the solid waste facilities where materials are delivered for processing;
 - 6) List of accounts not in compliance with this chapter, including whether they are waived based on the exemptions in sections 12-47 below.

ARTICLE II. MANDATORY RECYCLING AND ORGANIC WASTE DISPOSAL REDUCTION

Sec. 12-34. Purpose of this article.

Sec. 12-35. Commercial and Multi-Family Residential generators.

Each commercial customer, multi-family dwelling or entity responsible for a special event, shall be responsible for ensuring and demonstrating its compliance with the requirements of this chapter and specifically this article II. Each solid waste customer shall:

- a) Subscribe to an adequate level of service for recyclable materials and, when applicable, organic materials generated at the commercial premises, multi-family dwelling, or special event if the customer does not self-haul those recyclable materials or organic materials to a recycling or organics materials processing facility pursuant to the provisions of section 12-39 of this article.
- b) Provide, directly or through the solid waste collector, appropriate and sufficient containers, placed in appropriate and accessible locations with adequate signage, to ensure maximum segregation of recyclable materials by all commercial generators, multi-family generators, and special events and to ensure maximum segregation of organic materials by food service providers.
- c) Provide, post and maintain signs containing information and instructions on the proper segregation and storage of recyclable materials and organic materials in areas where containers are located. The signs shall meet the requirements of CalRecycle when available and the hauler shall provide sample signs.
- d) Ensure that all containers used for collecting and storing recyclable materials and organic materials (1) are labeled with or have adjacent to the container signs that display the appropriate information to enable users to clearly differentiate which containers are used for recyclable materials, organic materials, and refuse; (2) display the name of the solid waste collector that provides collection service of the container; and (3) ensure that users of the containers make efforts to minimize the contamination of material placed in the containers.
- e) Distribute this chapter 12 and appropriate educational materials to all commercial generators, multi-family generators, and legal entities responsible for special events at the commercial premises or multi-family dwelling at least once each year by mail or personal delivery. All new commercial generators, multi-family generators, and special events shall receive this information upon occupancy or contracting for service.
- f) Educational materials shall include (1) the requirement and procedures to ensure the accurate segregation of recyclable materials and organic materials from refuse; (2) the commercial generator's, multi-family generators, or special event's responsibilities regarding compliance with this chapter; and (3) the types and location of recyclable materials, organic materials, and refuse containers.

- g) Ensure that instructions or training materials provided to commercial generators, multi-family generators, and special events are promptly made available to the City upon request.
- h) Ensure that the contents of the recyclable materials and organic materials containers are not collected for refuse disposal unless the contents of these containers include unacceptable levels of contamination.
- i) Customers shall pay an additional fee based on the size of the container for recyclable materials and organic materials containers that are collected for refuse disposal by the franchisee if the contents of their recyclable materials and organic materials containers contain unacceptable levels of contamination as defined pursuant to section 12-1.

Sec. 12-36. Commercial generators.

In addition to the requirements of section 12-35, each commercial generator shall be responsible for ensuring and demonstrating its compliance with the requirements of this chapter. Each commercial generator shall:

- a) Ensure the segregation of recyclable materials and organic materials from refuse by placing each type of material in a separate designated receptacle or container, and ensure that employees, contractors, volunteers, customers, visitors, and other persons on site segregate recyclable materials and organic materials.
- b) Provide an adequate number and type of labeled receptacles needed for segregating and storing recyclable materials and organic materials and provide adequate access to those receptacles.
- c) Post and maintain signs containing information and instructions on the proper segregation and storage of recyclable materials and organic materials in areas where receptacles are located.
- d) Ensure that all receptacles used for collecting and storing recyclable materials, organic materials, and refuse are labeled with signs or labels that display the appropriate information to enable users to clearly differentiate which receptacles are used for recyclable materials, organic materials, and refuse, to minimize the contamination of material placed in receptacles.
- e) Provide adequate instructions to employees, contractors, and volunteers of the requirements of this chapter, including (1) the requirement and procedures to ensure the segregation of recyclable materials and organic materials from refuse; (2) the employee's, contractor's, and volunteer's responsibilities regarding compliance with this chapter; and (3) the types and location of receptacles and containers for recyclable materials, organic materials, and refuse.
- f) Ensure that instructions or training materials provided to employees, contractors, and volunteers are promptly made available to the City upon request.

- g) Ensure that the contents of receptacles are deposited in the proper container and ensure that the contents of the receptacles for recyclable materials and organic materials are not delivered to refuse containers.
- h) Commercial generators may be assessed an additional fee based on the size of the container for recyclable materials and organic materials containers that are collected for refuse disposal by the franchisee if the contents of their recyclable materials and organic materials containers contain unacceptable levels of contamination.
- i) Commercial generators that are Tier One or Tier Two Commercial Edible Food Generators also shall comply with Food Recovery requirements, pursuant to Section 12-47

Sec. 12-37. Special events.

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

- a) Segregate recyclable materials and, for special events that include food service or use food service establishments, organic materials from refuse by placing each type of material in a separate designated receptacle or container, and ensure that employees, contractors, volunteers, customers, visitors, and other persons on site segregate recyclable materials and organic materials.
- b) Ensure the special event has access to an adequate number and type of containers needed for collecting and storing recyclable materials and, when applicable, organic materials generated at and by the special event.
- c) Provide or ensure the provision of adequate receptacles throughout the special event location to make the segregation of recyclable materials and organic materials convenient for employees, volunteers, contractors, vendors, exhibitors, presenters, visitors, attendees, customers, and other persons on site.
- d) Provide or ensure the provision of an equal or greater number of receptacles for recyclable materials and, when applicable, organic materials to receptacles for refuse. Individual receptacles for recyclable materials, organic materials, and refuse shall be placed as close together as possible throughout the special event location in order to provide equally convenient access to receptacles for recyclable materials and organic materials as to receptacles for refuse.
- e) Ensure that all receptacles used for segregating and storing recyclable materials, organic materials, and refuse are affixed with signs or labels that display the appropriate information to enable users to accurately segregate solid waste and to clearly differentiate which receptacles are used for recyclable materials, organic materials, and refuse, to minimize the contamination of material placed in receptacles.

- f) Require food vendors and food service establishments to have at least one separate receptacle each for recyclable materials, organic materials, and refuse for use by employees, contractors, custodians, customers, visitors, and other persons on site.
- g) Distribute chapter requirements and appropriate informational materials to all vendors, exhibitors, and other commercial generators during event planning and setup.
- h) Ensure that the contents of the receptacles for recyclable materials and organic materials are not delivered to refuse containers unless they include unacceptable levels of contamination.

Sec. 12-38. Single-Family generators.

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

- a) Shall subscribe to City's Organic Waste collection services for all Organic Waste generated as described below in 12-39(b). City shall have the right to review the number and size of a generator's containers to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials. Single-Family generators shall adjust its service level for its collection services as requested by the City. Generators may additionally manage their Organic Waste by preventing or reducing their Organic Waste, managing Organic Waste on site, and/or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).
- b) Shall participate in the City's Organic Waste collection service(s) by placing designated materials in designated containers as described below, and shall not place Prohibited Container Contaminants in collection containers.
 - 1) Generator shall place Source Separated Green Container Organic Waste, including food waste in the Green Container; Source Separated Recyclable Materials in the Blue Container; and Black Container Waste in the Black Container. Generators shall not place materials designated for the Black Container into the Green Container or Blue Container.

Sec. 12-39. Self-haulers.

- a) Nothing in this chapter shall preclude any person, solid waste customer, commercial generator, multi-family generator, or special event from self-hauling recyclable materials or organic materials generated by that entity to a recycling or organics materials processing facility before placement in the solid waste stream.
- b) Self-haulers shall:
 - 1) Comply with the requirements in this chapter by delivering for recycling those items that can be recycled by local recycling facilities and establishments and shall

comply by delivering for organic materials processing those items that are accepted by local organic materials processing facilities.

- 2) Provide proof of compliance with this chapter, upon request by the City; proof includes but is not limited to a receipt from a recycling or organic materials processing facility that clearly identifies the type and quantity of material delivered and an application for exemption from the necessity for refuse collection.
 - 3) Source separate all recyclable materials and Organic Waste (materials that City otherwise requires generators to separate for collection in the City's organics and recycling collection program) generated on-site from Solid Waste in a manner consistent with 14 CCR Sections 18984.1 and 18984.2, or shall haul Organic Waste to a High Diversion Organic Waste Processing Facility as specified in 14 CCR Section 18984.3.
 - 4) Haul their Source Separated Recyclable Materials to a facility that recovers those materials; and haul their Source Separated Green Container Organic Waste to a Solid Waste facility, operation, activity, or property that processes or recovers Source Separated Organic Waste. Alternatively, Self-Haulers may haul Organic Waste to a High Diversion Organic Waste Processing Facility.
 - 5) Self-Haulers that are Commercial Businesses (including Multi-Family Residential Dwellings) shall keep a record of the amount of Organic Waste delivered to each Solid Waste facility, operation, activity, or property that processes or recovers Organic Waste; this record shall be subject to Inspection by the City. The records shall include the following information:
 - A. Delivery receipts and weight tickets from the entity accepting the waste.
 - B. The amount of material in cubic yards or tons transported by the generator to each entity.
 - C. 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.
- c) Notwithstanding, self-haulers shall not dispose of any solid waste in any manner not permitted by this chapter. To do so is a violation of this chapter punishable as set out in section 12-43.

Sec. 12-40. City authority.

The City Enforcement Official is authorized to administer and enforce the provisions of this chapter. To the extent permitted by law, the City Enforcement Official may inspect any collection container and any solid waste collector's load for refuse, recyclable materials, or organic materials. To the extent permitted by law, the City Enforcement Official also may inspect the

premises of any residential premise, commercial premises, multi-family dwelling, or special event or self-hauler's load to determine compliance with the provisions of this chapter.

Sec. 12-41 Information and Enforcement.

- a) The City Enforcement Official shall enforce this chapter with the goal of maximizing the amount of recyclable materials and organic materials properly segregated and ensuring that recyclable materials and organic materials that have been properly segregated by the solid waste customer, commercial premise, multi-family generator, or special event are correctly collected and delivered to recycling and organics materials processing facilities.
- b) The City shall require the solid waste collector to conduct the following activities to enforce this chapter:
 - 1) Provide details on the requirements of this chapter to affected solid waste customers, commercial premises, multi-family generators, and special events;
 - 2) Develop and disseminate public education and promotional materials relating to the importance of recycling and organic materials processing and the availability of recycling and organic materials processing opportunities available to solid waste customers, commercial generators, multi-family generator, and special events;
 - 3) Provide technical assistance and training to solid waste customers, commercial generator, multi-family generators, and special events to increase recycling;
 - 4) Enforce provisions of the franchise agreement for collection of recyclable materials, organic materials, and refuse with the franchisee to stimulate demand for recyclable materials and organic materials collection service.
- c) Education Period for Non-Compliance

Beginning January 1, 2022 and through December 31, 2023, City will conduct Inspections, Route Reviews or waste evaluations, and Compliance Reviews, depending upon the type of regulated entity, to determine compliance, and if City determines that Organic Waste Generator, Self-Hauler, hauler, Tier One Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance, it shall provide educational materials to the entity describing its obligations under this ordinance and a notice that compliance is required by January 1, 2022, and that violations may be subject to administrative civil penalties starting on January 1, 2024.
- d) The City Enforcement Official will monitor compliance with the ordinance randomly and through Compliance Reviews, Route Reviews, investigation of complaints, and an Inspection program. Section 12-42 establishes City's right to conduct Inspections and investigations.
 - 1) City may issue an official notification to notify regulated entities of its obligations under the ordinance but is not required to do so before enforcement.

Sec. 12-42. Inspections and investigations by City

- 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, or Source Separated materials to confirm compliance with this ordinance by Organic Waste Generators, Commercial Businesses (including Multi-Family Residential Dwellings), property owners, Commercial Edible Food Generators, haulers, Self-Haulers, Food Recovery Services, and Food Recovery Organizations, subject to applicable laws. This Section does not allow City to enter the interior of a private residential property for Inspection without an inspection warrant or consent of the occupant or property owner.
- b) All generators shall provide or arrange for access during all Inspections (with the exception of residential property interiors) 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 ordinance described herein. Failure to provide or arrange for: (i) access to a generator's premises; or (ii) access to records for any Inspection or investigation is a violation of this ordinance and may result in penalties described.
- c) Any records obtained by City during its Inspections and other reviews shall be subject to the requirements and applicable disclosure exemptions of the Public Records Act as set forth in Government Code Section 6250 et seq. which require disclosure of closed investigation records.
- d) The City Enforcement Official is authorized to conduct any Inspections, or other investigations as reasonably necessary to further the goals of this ordinance, subject to applicable laws.
- e) City shall receive written complaints from persons regarding an entity that may be potentially non-compliant with SB 1383 Regulations, including receipt of anonymous complaints.

Sec. 12-43. Penalties.

- a) Except as otherwise provided, violation of any provision of this chapter shall be an infraction to be enforced by administrative citation. The administrative citation amounts under the City Code are consistent with the highest amounts required by SB 1383. Notwithstanding, at the discretion of the City Attorney, a violation may be determined to be a misdemeanor and enforced criminal.
- b) Any violation of this chapter also shall constitute a public nuisance subject to the code enforcement provisions of this City Code.
- c) Notwithstanding, the City Attorney with the direction of the City Council may pursue any other remedy legally available to the City.

d) Enforcement of Container Contaminant provisions:

- 1) For incidences of Prohibited Container Contaminants found in containers, City through the solid waste collector shall issue a written warning, entitled “Notice of Violation” to any generator found to have Prohibited Container Contaminants in a container. Such notice will be provided via a cart tag provided by the solid waste collector or by mail other communication upon identification of the Prohibited Container Contaminants. The Notice of Violation shall require compliance with the container contamination requirements immediately upon receipt of the Notice.
- 2) If Prohibited Container Contaminants in a generator’s containers are reported on more than three (3) consecutive occasion(s) after receipt of Notice of Violation, the City may issue an administrative citation which shall be served in the manner required by this City Code. .

e) Civil Penalties for Non-Compliance

- 1) Beginning January 1, 2024, if the City determines that an Organic Waste Generator, Self-Hauler, hauler, Tier One or Tier Two Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance with this ordinance, it shall document the noncompliance or violation, issue a Notice of Violation, and take Enforcement Action pursuant to Section 12-41, as needed.
- 2) Beginning January 1, 2024, if the City determines that an Organic Waste Generator, Self-Hauler, hauler, Tier One or Tier Two Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance with this chapter, it shall document the noncompliance, provide a written warning, and thereafter issue an administrative citation(s) or take other action to achieve compliance.

Sec. 12-44. No effect on other powers.

a) This chapter does not do any of the following:

- 1) Otherwise affect the authority of the City or its designee to take any other action authorized by any other provisions of law or regulations.
- 2) Restrict the power of a City attorney, district attorney, or the attorney general to bring in the name of the people of California any criminal proceeding otherwise authorized by law.
- 3) Prevent the City from cooperating with, or participating in, any proceeding.
- 4) Affect in any way existing contractual arrangements including franchises, permits, or licenses previously granted or entered into between the solid waste collectors and City.

- b) *Cumulative remedies.* Any remedy provided under this chapter is cumulative to any other remedy provided in equity or at law. Nothing in this chapter shall be deemed to limit the right of the City to bring a civil action; nor shall a conviction for such violation exempt any person from a civil action brought by the City. Except for criminal proceedings, the fees and penalties imposed under this chapter shall constitute a civil debt and liability owing to the City from the persons, firms, or corporations using or chargeable for such services and shall be collectible in the manner provided by law.
- c) *Liability.* Nothing in this chapter shall be deemed to impose any liability upon the City or upon any of its officers, agents, contractors or employees including without limitation under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA).

Sec. 12-45. Disclaimer of liability.

The degree of protection required by this chapter is considered to be reasonable for regulatory purposes. The standards set forth in this chapter are minimal standards and do not imply that compliance will ensure safe handling of recyclable materials, organic materials, or refuse. This chapter shall not create liability on the part of the City, or any of its officers or employees, for any damages that result from reliance on this chapter or any administrative decision lawfully made in accordance with this chapter. All persons handling solid waste within the boundaries of the City should be and are advised to conduct their own inquiry as to the handling of such materials. In undertaking the implementation of this chapter, the City is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

Sec. 12-46. Duties discretionary.

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

Sec. 12-47. Waivers for Generators

- a) **De Minimis Waivers.** The City may waive a Commercial Generators' obligation (including Multi-Family Residential Generators) to comply with some or all of the Organic Waste requirements of this ordinance only if the Commercial Business provides documentation that the business generates below a certain amount of Organic Waste material as described in Section 12-47(a)(2) below. Commercial Businesses requesting a de minimis waiver shall:
 - 1) Submit an application specifying the services that which the waiver is requested and provide documentation as noted in Section 12-47(a)(2) below.
 - 2) Provide documentation that either:

- A. The Commercial Generators' 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 Generators' 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 in writing within fifteen days if circumstances change such that Commercial Business's Organic Waste exceeds threshold required for waiver, in which case waiver will be rescinded.
- 4) Provide written verification of eligibility for de minimis waiver every 5 years upon the date of initially approval, if City has approved de minimis waiver and there has been no change of circumstances.
- b) Physical Space Waivers. City may waive a Commercial Generators' or property owner's obligations (including Multi-Family Residential Generators) to comply with some or all of the recyclable materials and/or Organic Waste collection service requirements if the City has written evidence from its own staff, a hauler, licensed architect, or licensed engineer demonstrating that the premises lacks adequate space for the collection containers required for compliance with the Organic Waste collection requirements of Section 12-35 through Section 12-38.

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

- 1) Submit an application form specifying the type(s) of collection services for which they are requesting a compliance waiver.
- 2) Provide documentation that the premises lacks adequate space for Blue Containers and/or Green Containers and cannot be modified to provide such space, including documentation from its hauler, licensed architect, or licensed engineer.
- 3) Provide written verification to City that it is still eligible for physical space waiver every five years on the anniversary date of the waiver, if City has approved application for a physical space waiver.
- 4) Notify the City in writing within fifteen days if there is a change in the premises which would allow adequate space for such Containers, at which time the waiver will be revoked.

Sec. 12-48. Requirements for Commercial Edible Food Generators

- a) Tier One Commercial Edible Food Generators must comply with the requirements of this Section commencing January 1, 2022, and Tier Two Commercial Edible Food Generators must comply commencing January 1, 2024, pursuant to 14 CCR Section 18991.3.
- b) Large Venue or Large Special Event operators not providing food services, but allowing for food to be provided by others, shall require Food Facilities operating at the Large Venue or Large Event to comply with the requirements of this Section, commencing January 1, 2024.
- c) Commercial Edible Food Generators shall comply with the following requirements:
 - 1) Arrange to recover the maximum amount of Edible Food that would otherwise be disposed.
 - 2) Contract with, or enter into a written agreement with Food Recovery Organizations or Food Recovery Services for: (i) the collection of Edible Food for Food Recovery; or, (ii) acceptance of the Edible Food that the Commercial Edible Food Generator self-hauls to the Food Recovery Organization for Food Recovery.
 - 3) Shall not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery Organization or a Food Recovery Service.
 - 4) Allow City's Enforcement Official or Designee to access and inspect 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.
- d) Nothing in this ordinance shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share table and school food donation guidance pursuant to Senate Bill 557 of 2017 (approved by the Governor of the State of California on September 25, 2017, which added Article 13 [commencing with Section 49580] to Chapter 9 of Part 27 of Division 4 of Title 2 of the Education Code, and to amend Section 114079 of the Health and Safety Code, relating to food safety, as amended, supplemented, superseded and replaced from time to time).

Sec. 12-49. Requirements for Food Recovery Organizations and Services

- a) Food Recovery Services collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(1):
 - 1) The name, address, and contact information for each Commercial Edible Food Generator from which the service collects Edible Food.
 - 2) The quantity in pounds of Edible Food collected from each Commercial Edible Food Generator per month.
 - 3) The quantity in pounds of Edible Food transported to each Food Recovery Organization per month.
 - 4) The name, address, and contact information for each Food Recovery Organization that the Food Recovery Service transports Edible Food to for Food Recovery.
- b) Food Recovery Organizations collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(2):
 - 1) The name, address, and contact information for each Commercial Edible Food Generator from which the organization receives Edible Food.
 - 2) The quantity in pounds of Edible Food received from each Commercial Edible Food Generator per month.
 - 3) The name, address, and contact information for each Food Recovery Service that the organization receives Edible Food from for Food Recovery.
- c) 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 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 March 1. Said date may be amended by City to align with regional goals with 30 day notice to Food Recovery Organizations and Food Recovery Services in the City.

d) Food Recovery Capacity Planning

- 1) Food Recovery Services and Food Recovery Organizations. In order to support Edible Food Recovery capacity planning assessments or other studies conducted by the County, City, hauler, 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. 12-50. Compliance with CalGreen Recycling Requirements

- (a) Persons applying for a permit from the City for new construction and building additions and alternations where the project is covered by the scope of CAL Green shall comply with the requirements of all required components of the California Green Building Standards Code, 24 CCR, Part 11, known as CALGreen, as amended and adopted by City Ordinance Section 7-77. Project applicants shall refer to City Ordinance Section 7-77 for complete CALGreen requirements. It is the responsibility of such applicants to determine the applicability of City Ordinance Section 7-77. Failure to identify a project included within the CALGreen requirements is grounds for immediate denial of the project and retention of all fees paid.

Secs. 12-51—12-75. Reserved.

Section 3. Severability.

If any section, sentence, clause, or phrase of this chapter is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this Chapter. The City hereby declares that it would have passed the ordinance codified in this chapter and adopted this chapter and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

Section 4: This Ordinance shall take effect thirty (30) days from and after its adoption.

Section 5: Within fifteen (15) days after adoption, a summary of this Ordinance shall be published once in a newspaper, published and circulated within City of El Centro, California, and there shall be posted in the Office of the City Clerk a certified copy of the full text of this Ordinance

INTRODUCED at a regular meeting of the City Council of the City of El Centro California, held on the 15th day of February 2022.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of El Centro, California, held on the 1st day of March, 2022.

CITY OF EL CENTRO

By: _____
Tomas Oliva, Mayor

ATTEST:

By: _____ Norma Wyles, City Clerk

APPROVED AS TO FORM:
Office of the City Attorney

By: _____ Elizabeth L. Martyn, City Attorney

STATE OF CALIFORNIA)
COUNTY OF IMPERIAL) ss
CITY OF EL CENTRO)

I, Norma Wyles, City Clerk of the City of El Centro, California, do hereby certify that the foregoing Ordinance No. 22-01 had its first reading on February 15, 2022, and had its second reading on March 1, 2022, and was passed by the following vote:

AYES: Garcia, Viegas-Walker, Oliva, Cardenas-Singh, Marroquin
NOES: None
ABSENT: None
ABSTAINED: None

AYES: Garcia, Viegas-Walker, Oliva, Cardenas-Singh, Marroquin
NOES: None
ABSENT: None
ABSTAINED: None

By: _____
Norma Wyles, City Clerk