

ORDINANCE NO. 592 N.S.

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF
TIBURON REPEALING THE EXISTING CHAPTER 26 AND
ADOPTING A NEW CHAPTER 26 GOVERNING SOLID WASTE
STORAGE, COLLECTION AND DISPOSAL**

WHEREAS, the Town Council adopted the current Chapter 26 (Solid Waste Storage, Collection and Disposal) of the Tiburon Municipal Code in 2011; and

WHEREAS, in the intervening years, both state law and industry practice have changed significantly related to Senate Bill 1383, the Short-Lived Climate Pollutant: Organic Waste Methane Emissions Reduction Act of 2016 (SB 1383) rendering much of the current Chapter 26 outdated; and

WHEREAS, to comply with the requirements of SB 1383 and CalRecycle regulations, jurisdictions must adopt ordinances or other enforcement mechanisms to accomplish the goal of reducing organic materials delivered to landfills; and

WHEREAS, the Town Council finds that adoption of this ordinance is exempt from the requirements of the California Environmental Quality Act pursuant to Sections 15301 and 15061(b)(3) of the CEQA Guidelines because the new Chapter 26 will not change existing solid waste practices; and

WHEREAS, the Town Council hereby adopts this ordinance in order to promote and protect the public health, safety, and general welfare and achieve compliance with state-mandated solid waste disposal codes.

NOW, THEREFORE, the Town Council of the Town of Tiburon does ordain as follows:

SECTION 1. Chapter 26 of the Tiburon Municipal Code is hereby repealed.

SECTION 2. Chapter 26 of the Tiburon Municipal Code is hereby adopted to read as follows:

Chapter 26
SOLID WASTE STORAGE, COLLECTION AND DISPOSAL

Sections:

Article I. In General

- 26-1 Definitions
- 26-2 Purpose of Chapter
- 26-3 Disposal of Solid Waste Generally
- 26-4 Duty to subscribe to Solid Waste Collection Service
 - 26-4.1 Residential Generator Requirements
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- 26-5 Storage Receptacles; Accumulation
 - 26-5.1 Receptacle Location
 - 26-5.2 Improper Use of Public Solid Waste Receptacles
- 26-6 Transportation of Solid Waste in Town
- 26-7 Emergency Removal of Solid Waste
- 26-8 Commercial Edible Food Generator Requirements
- 26-9 Food Recovery Organization and Food Recovery Services Requirements
- 26-10 Administration, Inspections and Enforcement of Chapter.

Article II. Collection

- 26-11 Town Contracts for Collection Services; Renewal of Contract
- 26-12 Terms and Conditions of Contract
- 26-13 Duty of Authorized Collector; Regulation and Supervision of Collection
- 26-14 Responsibility and Liability of Authorized Collector; Liability Insurance Required
- 26-15 Performance bond required of Authorized Collector.
- 26-16 Exclusive rights of Authorized Collector.
- 26-17 Rates and Charges.
- 26-18 Establishment of Routes and Time for Collection.

Article I. In General

- 26-1 Definitions.

For purposes of this chapter, the following words, phrases and terms shall have the meanings set forth by this section unless a different meaning is clearly intended by the use or context of the word, phrase or term:

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

“Authorized collector” means such persons, firms or corporations collecting and delivering for disposal, recycling or processing solid waste (other than solid waste generated by a permitted building project) originating in the town and doing so under a contract, permit or franchise agreement with the town .

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

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

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

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

“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).

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

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

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

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

“Designee” means an entity that the town contracts with or otherwise arranges to carry out any responsibilities of this chapter, as authorized in 14 CCR Section 18982(a)(15). A designee may be a government entity, a hauler, a private entity, or a combination of those entities.

"Dispose" or "dispose of" means the final disposition of solid waste at solid waste facility permitted for disposal.

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

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

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

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

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

“Exempt waste” means biohazardous or biomedical waste, hazardous waste, medical waste, regulated radioactive waste, waste that is volatile, corrosive, or infectious, waste treatment or processing sludge, contaminated soil and dirt, contaminated concrete, contaminated asphalt, automobiles, automobile parts, boats, boat parts, boat trailers, internal combustion engines, lead-acid batteries, any matter or materials which are not acceptable for disposal at a solid waste landfill as defined in AB 939 and subsequent legislation, and those wastes under the control of the Nuclear Regulatory Commission.

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

“Food recovery organization” means an entity that engages in the collection or receipt of edible food from commercial edible food generators and distributes that edible food to the public for food recovery either directly or through other entities or as otherwise defined in 14 CCR Section 18982(a)(25), including, but not limited to: A food bank as defined in Section 113783 of the Health and Safety Code; A nonprofit charitable organization as defined in Section 113841 of the Health and Safety code; and, A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.

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

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

“Garbage” means all non-recyclable packaging and other waste attributed to normal activities of a service unit. Garbage must be generated by and at the service unit wherein the garbage is collected. Garbage does not include recyclable materials, organic materials, debris from construction and demolition, large items, e-waste, universal waste, hazardous waste, household hazardous waste or exempt waste. “Garbage Container” has the same meaning as “Gray Container” in 14 CCR Section 18982(a)(28) and shall be used for the purpose of storage and collection of Landfill Container Waste.

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

“Hauler” means a person who collects material from a generator and delivers it to a reporting entity, end user, or a destination outside of the state. “Hauler” includes public contract haulers, authorized collectors, food waste self-haulers, and self-haulers. A person who transports material from reporting entity to another person is a transporter, not a hauler.

"Hazardous waste" or "hazardous materials" means any waste materials or mixture of wastes defined as such pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. sections 6901 et seq., the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. sections 9601 et seq., and the California Health and Safety Code sections 25110.02, 25115 or 25117, and all future amendments to any of the same or regulations promulgated under any of the same, or as defined by the Environmental Protection Agency, the California Environmental Protection Agency, and the California Integrated Waste Management

Board, or any of them. Where there is a conflict in the definitions employed by two or more agencies having jurisdiction over hazardous waste or solid waste, the term "hazardous waste or materials" shall be construed to have the broader, more encompassing definition. "Hazardous waste" or "hazardous materials" does not mean or include household hazardous waste.

"Household hazardous waste" means materials that the authorized collector may designate from time to time as eligible for curbside pick-up but inappropriate for collection with regular pick-up and that are commonly generated by residential customers. Examples include, without limitation, consumer electronic waste, including computers, monitors, printers and cell phones, latex paint, used motor oil, oil filters, common household batteries (but not car batteries), fluorescent lightbulbs under four feet in length, and nonempty aerosol cans.

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

"Mixed-use property" means properties that contain both living units and commercial or nonliving units.

"Multifamily dwelling" means dwellings that (i) include five or more individual living units and (ii) receive and pay authorized collector's invoices as a single, collective bill.

"Organics Container" has the same meaning as "Green Container" in 14 CCR Section 18982(a)(29) and shall be used for the purpose of storage and collection of Source Separated Organic Waste.

"Organic material" or "Organic Waste" means solid wastes containing material originated from living organisms and their metabolic waste products, including but not limited to food waste, green material, landscape and pruning waste, organic textiles and carpets, lumber, wood, paper products, printing and writing paper, manure, biosolids, digestate, and sludges or as otherwise defined in 14 CCR Section 18982(a)(46).

"Organic material processing facility" means any facility selected by the authorized collector that is approved by the town, or specifically designated by the town, operated and legally permitted for the purpose of receiving and processing organic materials.

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

"Premises" includes a tract or parcel of land with or without habitable buildings or appurtenant structures. (CCR, Section 17225.50) For purposes of this chapter the word premises includes residential and commercial uses of the land, whether owned, leased, rented or subrented, including every dwelling house, dwelling unit, apartment house or multiple-dwelling building, trailer or mobile home park, store, restaurant, rooming house, hotel, motel, office building,

department store, manufacturing, processing or assembling shop or plant, warehouse and every other place or premises where any person resides, or any business is carried on or conducted within the town.

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

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

"Recycling" means the process of collecting, sorting, cleansing, treating and reconstituting materials that would otherwise become garbage and returning them for use or reuse in the form of raw materials for new, used or reconstituted products which meet the quality standard necessary to be used in the marketplace. Recycling does not include transformation as defined in Public Resources Code § 40201. (CCR, Title 14, Section 17225.54)“Recyclable Materials Container” has the same meaning as “Blue Container” in 14 CCR Section 18982(a)(5) and shall be used for the purpose of storage and collection of Source Separated Recyclable Materials.

“Remote Monitoring” means the use of mechanical or electronic devices to identify the types of materials in Recycling Containers, Compost Containers, and/or Landfill Containers for purposes of identifying the quantity of materials in containers (level of fill) and/or presence of Prohibited Container Contaminants.

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

“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).

“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.

“Self-haul” means a person who hauls solid waste, organic waste or recovered material they have 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 materials 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 189881(a)(66)(A).

"Single-family unit" means a dwelling that is not a multifamily unit as defined above (i.e., a dwelling that includes three or fewer individual units or an individual unit on a residential property which property does not receive and pay authorized collector's invoices as a single, collective bill).

"Solid waste" has the same meaning as defined in Public Resources Code Section 40191, which defines solid waste as all putrescible and nonputrescible solid and semisolid wastes, including garbage, recyclable materials, organic materials, demolition and construction wastes, bulky waste, discarded home and industrial appliances, manure, vegetable or animal solid or semisolid wastes, and other discarded solid and semisolid wastes with the exception that Solid Waste does not include any of the following wastes: (1) Hazardous waste, as defined in the Public Resources Code Section 40141, (2) Radioactive waste regulated pursuant to the State Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the Health and Safety Code) and (3) Medical waste regulated pursuant to the State Medical Waste Management Act (Part 14 (commencing with Section 117600) of Division 104 of the Health and Safety Code). Untreated medical waste shall not be disposed of in a Solid Waste landfill, as defined in Public Resources Code Section 40195.1. Medical waste that has been treated and deemed to be Solid Waste shall be regulated pursuant to Division 30 of the Public Resources Code. Recyclable materials and organic materials are a part of solid waste. “Solid waste collection service” means collection of solid waste originating in the town, by a persons, firms or corporations, and doing so under a contract or franchise agreement with the town.

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

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

“Source reduction” means any action which causes a net reduction in the generation of solid waste. Source reduction includes, but is not limited to, reducing the use of nonrecyclable materials, replacing disposable materials and products with reusable materials and products, reducing packaging, reducing the amount of yard wastes generated, establishing garbage rate structures with incentives to reduce the amount of wastes that generator produce, and increasing the efficiency of the use of paper, cardboard, glass, metal, plastic, and other materials. Source reduction does not include steps taken after the material becomes solid waste or actions which would impact air or water resources in lieu of land, including, but not limited to, transformation

"Storage container" means portable enclosed storage units for temporary on-site storage.

“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 as defined in 14 CCR Section 18982(a):

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

“Tier two commercial edible food generator” means a commercial edible food generator that is one of the following:

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

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

“Town manager” means the town manager of the town of Tiburon, or their designee.

26-2 Purpose of Chapter.

The purpose of this chapter is to prevent actual or potential public health hazards and nuisances by the regulation of the accumulation, collection and disposal of solid waste and the licensing of persons engaged therein.

26-3 Disposal of Solid Waste generally.

It is unlawful for any person to keep, deposit, bury or dispose of any Solid Waste in or upon any private property, public street, alley, sidewalk, gutter, park, upon the banks of any stream or creek in the town, or in or upon any of the waters thereof except as provided in this chapter. Every person having the obligation of the disposal of Solid Waste as provided in this chapter shall dispose of the same only through the Collector or as may be expressly permitted by this chapter.

26-4 Duty to Subscribe to Solid Waste Collection Service.

- (a) Every tenant, lessee or occupant of any premises within the town shall have the solid waste collection service by the authorized collector at least once each week, and shall pay the authorized collector for said service at the monthly rates provided therefore.
- (b) A mandatory obligation is imposed on each responsible person occupying any premise to separate and recycle all recyclable material and organic materials from the garbage generated on the premise. Generators shall place source separated organic materials, including food waste, in the organic materials collection container; place source separated recyclable materials in the recyclable material collection container; and place garbage in the approved garbage collection container. Generators shall not place prohibited container contaminants into the garbage collection container, organic materials collection container or recyclable material collection container.
- (c) The authorized collector shall give written notice to the town manager of the address of any occupied premise within the town which is not subscribing to the solid waste collection service provided by the authorized collector.
- (d) Generators shall provide or arrange for access during all inspections and investigations (with the exception of a private residential dwelling unit) and cooperate with the town manager or authorized collector during such inspections and investigations as described in Section 26-10.
- (e) Nothing in this chapter limits the right of any person to donate, sell, or otherwise remove their recyclable materials so long as the removal otherwise complies with this Chapter.
- (f) Organic materials may be fed to animals on the premises where such organic materials is produced, provided that the premises are always kept in a sanitary condition to the satisfaction of the town manager; and provided further that the keeping and feeding of such animals shall at all times conform to the applicable regulations of those entities governing the same now in force or which thereafter may be enacted or promulgated.
- (g) Organic materials may be used in on-site composting or community composting, pursuant to 14 CCR Section 18984.9(c), provided that such operation conforms to the applicable regulations of those entities governing the same now in force or which thereafter may be enacted or promulgated.

26-4.1 Residential Generator Requirements.

Except for residential generators that meet the self-hauler requirements in section 26-4.4, each residential generator shall subscribe to a level of solid waste collection service with the authorized collector for Garbage Container, Recyclable Container and Organics Container in sizes sufficient to handle the volume of garbage, recyclable material, and organic materials generated or accumulated on the premises and comply with requirements of those collection services.

26-4.2 Commercial Generator Requirements.

Commercial generators shall comply with the following requirements.

- (a) Each commercial generator, including all multi-family dwellings that consist of five dwelling units or more, large events and large venues shall be responsible for compliance with the requirements of this Section.
- (b) Except for commercial generators that obtain a waiver or that meet the self-hauler requirements in section 26-4.4, each commercial generator shall subscribe to a level of service with an authorized collector for a Garbage Container, Recyclable Materials container and Organics Container. Container sizes shall be sufficient to handle the volume of garbage, recyclable materials and organic materials generated or accumulated on the premises. Additionally, each commercial generator shall ensure the proper separation of solid waste, as established by the authorized collector, by placing each type of material in the designated collection containers, and ensuring that employees, contractors, volunteers, customers, visitors, and other persons on-site conduct proper source separation of solid waste.
- (c) Supply and allow access to adequate number, size, and location of Garbage Containers, Recyclable Materials Containers and Organics Containers with sufficient labels or colors, conforming with requirements of this section, for employees, contractors, tenants, and customers, consistent with the solid waste collection service.
- (d) Annually provide information to employees, contractors, tenants, and customers about organic materials recovery requirements and about proper sorting of solid waste.
- (e) Provide educational information before, or within, fourteen (14) days of occupation of the premises to new tenants that describes requirements to keep source separated organic materials and source separated recyclable materials separate from garbage (when applicable) and the location of collection containers and the rules governing their use at each property.
- (f) Accommodate and cooperate with the authorized collector's remote monitoring or other inspection of the contents of containers for prohibited container contaminants, to evaluate generator's compliance.
- (g) If a commercial generator self-hauls, the commercial generator shall meet the self-haul requirements in Section 26-4.4 of this Chapter.

Commercial generators, excluding multi-family dwellings consisting of five (5) or more dwelling units, shall also comply with the following additional requirements.

- (h) Provide containers for the collection of source separated organic materials and source separated recyclable materials in all indoor and outdoor areas where garbage disposal containers are provided for customers, for materials generated onsite. Such containers do not need to be provided in restrooms. If a commercial generator does not generate any of the materials that would be collected in one type of collection container, then it is not required to provide that type of container in all areas where disposal collection containers are provided for customers. Pursuant to 14 CCR Section 18984.9(b), the indoor and outdoor containers shall have either:

- (1) A body or lid that is gray or black for collection of garbage, blue for collection of recycling, and green for collection of organic materials. A commercial generator is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the requirements of the subsection prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first or;
- (2) Container labels that include language or graphic images, or both, indicating the primary material accepted and the primary materials prohibited in that container, or containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the container. Pursuant 14 CCR Section 18984.8, the container labeling requirements are required on new containers commencing January 1, 2022.
- (i) To the extent practical through education, training, inspection, and/or other measures, prohibit employees from placing materials in a container not designated for those materials per the solid waste collection service.
- (j) Periodically inspect organic materials, recycling, and garbage containers for contamination and inform employees if containers are contaminated and of the requirements to keep contaminants out of those containers pursuant to 14 CCR Section 18984.9(b)(3).
- (k) Commercial generators that are commercial edible food generators, as defined in Section 26-1, shall comply with commercial edible food generator requirements, pursuant to Section 26-8.

26-4.3 Waivers.

- (a) Pursuant to 14 CCR Section 18984.11, the town may grant waivers to commercial businesses for physical space limitations and/or de minimis volumes. Commercial businesses seeking a waiver shall submit their request in a form specified by the town manager. After reviewing the waiver request, and after an on-site review, if applicable, the town manager may either approve or deny the following waiver requests.
 - (1) De Minimis Waivers: The town may waive a commercial business' obligation to comply with some or all the requirements of Section 26-4.2 if the commercial business meets the following requirements:
 - (i) Submit an application specifying the type of waiver requested and provide documentation as described below.
 - (ii) Provide documentation that either:
 - a) The commercial business receives two or more cubic yards of weekly solid waste collection service (including garbage, recyclable material and organic materials) and disposed organic materials comprises less than 20 gallons per week of the business' total weekly solid waste volume; or

- b) The commercial business receives less than two cubic yards of weekly solid waste collection service (including garbage, recyclable material and organic materials) and disposed organic materials comprises less than 10 gallons per week of the business' total weekly solid waste volume.
 - c) For the purposes of subsections a) and b) above, weekly solid waste collection shall be the sum of weekly garbage collection container volume, recyclable material collection container volume and organic materials collection container volume, measured in cubic yards.
- (iii) Notify the town if circumstances change such that volume of commercial business' organic materials placed in collection containers exceeds threshold required for waiver, in which case waiver will be rescinded.
- (iv) Provide written verification of eligibility for de minimis waiver every five years if the town has approved de minimis waiver.
- (2) Physical Space Waivers: The town may waive a commercial business' obligations (including multi-family dwellings) to comply with some or all of the recyclable materials and/or organic materials collection service requirements if the town has evidence from its own staff, a hauler, licensed architect, or licensed engineer demonstrating that the premises lacks adequate space for the collection containers required for compliance with the collection service requirements. A commercial business or property owner may request a physical space waiver through the following process:
 - (i) Submit an application form specifying the type(s) of collection services for which they are requesting a waiver from mandatory collection service.
 - (ii) Provide documentation that the premises lacks adequate space for the approved recyclable materials collection containers and approved organic materials collection containers including documentation from its authorized collector, licensed architect, or licensed engineer.
 - (iii) Provide written verification to the town that it is still eligible for physical space waiver every five years if the town has approved application for a physical space waiver.

26-4.4 Self-Haul.

- (a) Self-haulers shall haul their source separated recyclable materials to a facility that recovers those materials; and haul their source separated organic materials to a solid waste facility, operation, activity, or property that processes or recovers source separated organic materials.
- (b) Self-haulers that are commercial businesses shall keep a record of the amount of organic materials delivered to each solid waste facility, operation, activity, or property that processes or recovers organic materials; this record shall be subject to inspection by the town. The records shall include the following information:

- (1) Delivery receipts and weight tickets from the entity accepting the waste. If the material is transported to an entity that does not have scales on-site or employs scales incapable of weighing the self-hauler's vehicle in a manner that allows it to determine the weight of materials received, the self-hauler is not required to record the weight of material but shall keep a record of the entities that received the organic materials.
- (2) The amount of material in cubic yards or tons transported by the generator to each entity.
- (3) At the request of the town or authorized collector, complete and retain on-site a self-hauling form certifying that all self-hauling activities will be completed in accordance with this chapter or any other applicable law or regulation. A copy of such form shall be completed and remitted annually to the town.

26-5 Storage Receptacles: Accumulation.

It is unlawful to place or permit to remain any solid waste except in a suitable covered container supplied by the authorized collector as set forth in this chapter.

- (a) Authorized collector shall provide suitable and sufficient collection containers for purchase or rent by any person or entity having a duty to subscribe to solid waste collection service under this chapter.
- (b) The specific nature of the required collection containers shall be established as from time to time approved by the town and the authorized collector.
- (c) Generators shall arrange for a size, quantity and collection frequency of collection containers to adequately store all solid waste generated in connection with the premise between the times designated for collection service. The town shall have the right to review the number and size of such collection containers to evaluate the adequacy of capacity provided for each type of collection service and to review the separation and containment of materials. Generators shall adjust service levels for their collection services as requested by the town in order to meet the standards set forth in this chapter.
- (d) All solid waste shall be placed in collection containers constructed of metal or an approved plastic material and type that is watertight, nonabsorbent, animal resistant, durable, easily cleanable, equipped with handles, and has tight-fitting covers such that the collection containers hold the solid waste without spillage and leakage, escape of odors or access of flies to the contents thereof.
- (e) No person owning or occupying any building, lot or premises shall allow any solid waste to accumulate or remain in or upon the building, lot or premises in a manner in violation of this chapter or that otherwise creates a public nuisance.

26-5.1 Receptacle location.

Except as expressly provided by this section, no solid waste collection containers other than those owned or rented by the town shall be placed or kept in or on any public street, sidewalk,

footpath, or any public place whatsoever, but shall be maintained on the premises in a location and manner so as not to be visible from the public street. Notwithstanding the foregoing, solid waste collection containers may be placed on the day(s) and in the designated collection locations authorized collector for removal and emptying of said collection containers, but shall be removed within twenty-four hours of the day of collection.

26-5.2 Improper Use of Public Solid Waste Receptacles

It is unlawful for any person to place or cause to be placed in any public receptacle owned by the town and located upon public streets or in public places any solid waste originating within or upon any private property.

26-6 Transportation of Solid Waste in Town

- (a) No solid waste shall be removed and carried on and along the streets and alleys of the town, unless the same is carried, conveyed or hauled in conveyances so constructed as to be dustproof, and so arranged as not to permit dust or other matter to sift through or fall upon the streets and alleys. The contents of such conveyances shall be further protected with appropriate covers so as to prevent the same from being blown upon the streets, alleys and adjacent lands.
- (b) No solid waste shall be removed and carried on or along any street or alley of the town, unless the same is transported in watertight containers with proper covers so that the garbage shall not be offensive, and every such container shall be kept clean and such solid waste shall be so loaded that none of it shall fall, drip or spill to or on the ground, sidewalk or pavement.
- (c) Every truck used in the collection or removal of solid waste shall be kept well painted and clean inside and out; and the name of the authorized collector and the truck number shall be prominently displayed on each truck.

26-7 Emergency Removal of Solid Waste.

Nothing in this chapter shall be deemed to prohibit the town from removing and hauling any solid waste considered by the town manager to undermine the health, safety or welfare of the public.

26-8 Commercial Edible Food Generator Requirements.

- (a) Tier one commercial edible food generators must comply with the requirements of this section January 1, 2022, and Tier two commercial edible food generators must comply commencing January 1, 2024, pursuant to 14 CCR Section 18991.3.
- (b) Large venue or large event operators not providing food services, but allowing for food to be provided by others, shall require food facilities operating at the large venue or large event to comply with the requirements of this section, commencing January 1, 2024.
- (c) Commercial edible food generators shall comply with the following requirements:

- (1) Arrange to recover the maximum amount of edible food that would otherwise be disposed.
- (2) Contract with or enter into a written agreement with food recovery organizations or food recovery services for: (a) the collection of edible food for food recovery; or (b) acceptance of the edible food that the commercial edible food generator self-hauls to the food recovery organization for food recovery.
- (3) Shall not intentionally spoil edible food that is capable of being recovered by a food recovery organization or a food recovery service.
- (4) Allow the town's designated enforcement entity or designated third party enforcement entity to access the premises and review records pursuant to 14 CCR Section 18991.4.
- (5) Keep records that include the following information, or as otherwise specified in 14 CCR Section 18991.4:
 - (i) A list of each food recovery service or organization that collects or receives its edible food pursuant to a contract or written agreement established under 14 CCR section 18991.3(b).
 - (ii) A copy of all contracts or written agreements established under 14 CCR section 18991.3(b).
 - (iii) A record of the following information for each of those food recovery services or food recovery organizations:
 - a) The name, address and contact information of the food recovery service or food recovery organization.
 - b) The types of food that will be collected by or self-hauled to the food recovery service or food recovery organization.
 - c) The established frequency that food will be collected or self-hauled.
 - d) The quantity of food, measured in pounds recovered per month, collected or self-hauled to a food recovery service or food recovery organization for food recovery.
- (d) Nothing in this Chapter shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share table and school food donation guidance pursuant to Senate Bill 557 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).

26-9 Food Recovery Organization and Food Recovery Services Requirements.

- (a) Food recovery services collecting or receiving edible food directly from commercial edible food generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(1):
 - (1) The name, address, and contact information for each commercial edible food generator from which the service collects edible food.
 - (2) The quantity in pounds of edible food collected from each commercial edible food generator per month.
 - (3) The quantity in pounds of edible food transported to each food recovery organization per month.
 - (4) The name, address, and contact information for each food recovery organization that the food recovery service transports edible food to for food recovery.
- (b) Food recovery organizations collecting or receiving edible food directly from commercial edible food generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(2):
 - (1) The name, address, and contact information for each commercial edible food generators from which the organization receives edible food.
 - (2) The quantity in pounds of edible food received from each commercial edible food generator per month.
 - (3) The name, address, and contact information for each food recovery service that the organization receives edible food from for food recovery.
- (c) Food recovery organizations and food recovery services that have their primary address physically located in the town and contract with or have written agreements with one or more commercial edible food generators pursuant to 14 CCR Section 18991.3(b) shall annually report to the town it is located in the total pounds of edible food recovered in the previous calendar year from the tier one and tier two commercial edible food generators they have established a contract or written agreement with pursuant to 14 CCR Section 18991.3(b) no later than April 1.

- (d) In order to support edible food recovery capacity planning assessments or other studies conducted by the county, town, special district that provides solid waste collection services, or its designated entity, food recovery services and food recovery organizations operating in the town shall provide information and consultation to the town, upon request, regarding existing, or proposed new or expanded, food recovery capacity that could be accessed by the town and commercial edible food generators. A food recovery service or food recovery organization contacted by the town shall respond to such request for information within 60 days unless a shorter timeframe is otherwise specified by the town.

26-10 Administration, Inspections and Enforcement of Chapter.

- (a) The town manager shall make such rules and interpretation of the terms of this chapter not inconsistent with the provisions of this chapter as may be necessary, reasonable and proper to effect the proper expedient, economical and efficient collection and removal of solid waste by the authorized collector
- (b) The town, authorized collector, or designee is authorized to conduct any inspections, remote monitoring, or other investigations as reasonably necessary to further the goals of this chapter, subject to applicable laws. This may include inspections and investigations, at random or otherwise, of any collection container, collection vehicle load, or transfer, processing, or disposal facility to confirm compliance with this chapter, subject to applicable laws. This section does not allow entry in a private residential dwelling unit for inspection. For the purposes of inspecting collection containers for compliance, the town or authorized collector may conduct container inspections for prohibited container contaminants using remote monitoring, and generators shall accommodate and cooperate with the remote monitoring.
- (c) A person subject to the requirements of this chapter shall provide or arrange for access during all inspections (with the exception of a private residential dwelling unit) and shall cooperate with the town or authorized collector during such inspections and investigations. Such inspections and investigations may include confirmation of proper placement of materials in containers, inspection of edible food recovery activities, review of required records, or other verification or inspection to confirm compliance with any other requirement of this chapter. Failure to provide or arrange for: (i) access to the premises; (ii) installation and operation of remote monitoring equipment, if a remote monitoring program is adopted; or (iii) access to records for any inspection or investigation is a violation of this chapter and may result in penalties.
- (d) Any records obtained by the town, authorized collector, or designee, during inspections, investigations, remote monitoring and other reviews shall be subject to the requirements and applicable disclosure exemptions of the California Public Records Act as set forth in Government Code Section 6250 et seq.
- (e) The town, authorized collector or designee shall accept written complaints from persons regarding an entity that may be potentially non-compliant with this chapter and/or the SB 1383 Regulations.

- (f) A violation of any provision of this chapter shall constitute an infraction and will be grounds for issuance of a notice of violation and assessment of an administrative citation and penalty by the town's enforcement officer or its designated enforcement agency.
- (g) Enforcement actions under this chapter are issuance of a notice of violation and assessment of an administrative citation and assessment of a fine. The town's procedures on imposition of administrative citations and fines as contained in Municipal Code Chapter 31 shall govern the imposition, enforcement, collection, and review of administrative citations and fines issued to enforce this chapter and any rule or regulation adopted pursuant to this chapter. Any section of this chapter may be enforced by the town of Tiburon or, if agreed to, by its designated enforcement agency.
- (h) A violation may be punishable by:
 - a. A fine of one hundred dollars for a first violation;
 - b. A fine of two hundred dollars for a second violation of the same provision of this code within any twelve consecutive month period;
 - c. A fine of five hundred dollars for each additional violation of the same provision of this code within any twelve consecutive-month period. Any citation issued after the issuance of a third citation or violation of the same provision of this code within any twelve consecutive-month period may be charged as a misdemeanor pursuant to the provisions of Chapter 31 of this code.
- (i) The town or designated enforcement agency may issue a notice of violation requiring compliance within 60 days or sooner of issuance of the notice.
- (j) Absent compliance by the respondent within the deadline set forth in the notice of violation, the town or designated enforcement agency shall commence an action to impose penalties, via an administrative citation and fine, pursuant to the town's standard procedures or the standard procedures of its designated enforcement agency.
- (k) The remedies provided in this chapter shall be cumulative and not exclusive and any remedies allowed by law may be used, including civil action or prosecution as a misdemeanor or infraction, in the sole discretion of the town attorney. The town may pursue civil actions in the California courts to seek recovery of unpaid administrative citations, and fines. The town may choose to delay court action until such time as a sufficiently large number of violations, or cumulative size of violations exist such that court action is a reasonable use of town staff and resources.
- (l) Each separate day or any portion thereof on which a violation occurs or is committed, continued or permitted shall be deemed to constitute a separate offense punishable as herein provided.

Article II. Collection

26-11 Town Contracts for Collection Services; Renewal of Contract.

The town council may, with or without having invited bids therefore, enter into a contract with any responsible person or entity to be the authorized collector under this chapter. The term of

such contract, rates of collection and other provisions of such contract shall be as provided by resolution of the town council. Where such a contract has been entered into between the town and a contractor for the collection, removal and disposal of solid waste, and such contractor shall have satisfactorily performed such contract, the town council, without inviting bids or proposals therefore and without giving notice of its intention to do so, may, either prior to or after the expiration of such contract, extend or renew the same for such a period and on such terms and conditions as the town council shall provide by resolution.

26-12 Terms and Conditions of Contract.

The contract shall contain the following provisions:

- (a) The authorized collector shall be required to dispose of all solid waste at appropriate disposal facilities satisfactory to the town.
- (b) The town's authorized collector providing residential, commercial, or industrial organic materials collection services to generators within the town's boundaries shall meet the following requirements and standards as a condition of approval of a contract, agreement, or other authorization with the town to collect organic materials:
 - (1) Through written notice to the town annually on or before January 1, 2022, identify the facilities to which they will transport organic materials including facilities for source separated recyclable materials and source separated organic materials.
 - (2) Transport source separated recyclable materials and source separated organic materials to a facility, operation, activity, or property that recovers organic materials as defined in 14 CCR, Division 7, Chapter 12, Article 2.
 - (3) Obtain approval from the town to haul organic materials, unless it is transporting source separated organic materials to a community composting site or lawfully transporting construction and demolition debris in a manner that complies with 14 CCR Section 18989.1.
- (c) The authorized collector shall comply with all applicable federal, state and local laws, as they may be amended from time to time, in performance of the contract.
- (d) The authorized collector shall be required to make provisions for collection and disposal of household hazardous waste.

26-13 Duty of Authorized Collector; Regulation and Supervision of Collection.

The authorized collector shall provide solid waste collection service to all persons situated within the town; provided, that payment for service is made. The town council may establish standard regulations for the methods of collection of solid waste service charges, including the enforcement thereof. The town manager shall supervise the collection and removal of all solid waste by the authorized collector.

26-14 Responsibility and Liability of Authorized Collector; Liability Insurance Required.

The authorized collector shall be considered as and shall be an independent contractor and shall be responsible to the town for the result of his work to be done, but shall act under his own directions as to the manner of performing this work; and he shall keep himself and all of his employees insured against all liability under state workmen's and employees insurance, compensation and safety laws and against public liability and property damage (including all such liability for use or operation of motor vehicles used in the performance of work hereunder). Such public liability insurance shall be in a form and manner and to the extent satisfactory to the town. Evidence of such insurance shall be filed with the town annually.

26-15 Performance bond required of Authorized Collector.

Prior to execution of any contract authorizing any person or entity to act as the authorized collector under this chapter, said person or entity shall file with the town a bond for the faithful performance of the contract in the sum of one hundred thousand dollars.

26-16 Exclusive Rights of Authorized Collector.

- (a) An award of a contract under this chapter shall confer upon the person to whom the contract is awarded the exclusive right to serve as authorized collector under this chapter during the terms of the contract, to collect, transport and dispose of solid waste, subject only to such exceptions as are specifically set forth in this chapter or the town's contract with authorized collector. All provisions of this chapter applicable to the authorized collector shall constitute and be a part of any contract awarded hereunder.
- (b) Nothing in this chapter shall preclude an occupant, renter, or owner of property in the town to regularly dispose of their solid waste either personally or through the uncompensated services of another, in either case at a county-operated disposal facility.
- (c) No person, other than the authorized collector or persons authorized under subsection (b) of this section, shall remove paper, glass, cardboard, plastic, used motor oil, ferrous metal, aluminum, or other recyclable materials which have been source separated from solid waste materials and placed at a designated collection location for residential curbside collection for the purposes of collection and recycling.

26-17 Rates and charges.

The authorized collector shall charge every user of solid waste collection service, at rates established pursuant to the contract between the town and the authorized collector. Such rates shall be subject to change in accordance with said contract. The authorized collector shall use reasonable efforts to set rates so as to fairly distribute the costs of solid waste collection service between users thereof according to the extent of their usage.

26-18 Establishment of routes and time for collection.

The authorized collector shall establish routes, days and hours for collection of solid waste and may change the same from time to time. When such routes, days and hours are established or changed, the same shall be filed with the town manager.

SECTION 3 SEVERABILITY.

If any section, subsection, clause, sentence, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of a Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Ordinance. The Town Council of the Town of Tiburon hereby declares that it would have passed this Ordinance, any section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that anyone or more sections, subsections, sentences, clauses, or phrases may be declared invalid or unconstitutional.

SECTION 4. EFFECTIVE DATE.

This Ordinance shall take effect and be in force thirty (30) days after the date of passage, and before the expiration of fifteen (15) days after passage by the Town Council, a copy of the ordinance shall be published with the names of the members voting for and against it at least once in a newspaper of general circulation in the Town of Tiburon.

This ordinance was introduced at a regular meeting of the Town Council of the Town of Tiburon on November 17, 2021 and was adopted at a regular meeting of the Town Council of the Town of Tiburon on December 1, 2021 by the following vote:

AYES:	COUNCILMEMBERS:	Fredericks, Griffin, Ryan, Thier, Welner
NAYS:	COUNCILMEMBERS:	None
ABSENT:	COUNCILMEMBERS:	None

JON WELNER, MAYOR
TOWN OF TIBURON

ATTEST:

LEA STEFANI, TOWN CLERK