

## CHAPTER THREE: ENVIRONMENTAL PROTECTIONS

### Subchapter 3.05 - Collection of Solid Waste, Recyclables, and Organic Waste

#### *Division 1: General*

#### **3.05.010 Findings; Purposes.**

- (a) The City Council finds and determines that:
- (1) It is in the public interest to:
    - (A) maximize waste reduction, Recycling and composting options;
    - (B) reduce the amount of Solid Waste, Recyclables and Organic Waste disposed in landfills;
    - (C) recycle paper, aluminum, metal containers, glass, corrugated cardboard, certain plastic containers, and other Recyclable Materials as may be determined from time to time by the City Council;
    - (D) grant franchises and permits to persons and businesses engaged in the collection of Recyclable Materials therein; and
    - (E) require comprehensive reporting of the collection of Recyclable Material by all haulers in the Town to assist in compliance with the CalRecycle Electronic Annual Report.
  - (2) The Town's Recycling program may be negatively impacted by unauthorized scavengers taking Recyclable Materials before those materials can be picked up by a Franchisee or Permittee.
- (b) State Recycling law, Assembly Bill 939, or 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Waste Management Act of 1989 (California Public Resources Code Section 40000, et seq., as amended, supplemented, superseded, and replaced from time to time), requires cities and counties to reduce, reuse, and recycle (including composting) Solid Waste generated in their local jurisdictions to the maximum extent feasible before any incineration or landfill disposal of waste, to conserve water, energy, and other natural resources, and to protect the environment.
- (c) State Recycling law, AB 341 of 2011, 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 local jurisdictions to implement a Mandatory Commercial Recycling program.
- (d) State organics Recycling law, Assembly Bill 1826 of 2014, 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 local jurisdictions to implement a Recycling program to divert Organic Waste from businesses subject to the law, and requires local jurisdictions to implement a Mandatory Commercial Organics Recycling program.

(e) SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016, requires local jurisdictions to adopt and enforce an ordinance or enforceable mechanism to implement relevant provisions of SB 1383 Regulations. The SB 1383 Regulations are intended to divert organic waste from landfills and recover edible food for human consumption.

(f) The purpose of this subchapter is to comply with the Recycling and reporting requirements of AB 939 (hereafter, the "Waste Management Act"), as amended from time to time, including amendments made by SB 1016, AB 341, AB 1826, SB 1383, and their implementing regulations. Specifically, but without limitation, this subchapter is intended to:

- (1) increase Recycling participation rates;
- (2) improve the recovery rates of Recyclable Materials;
- (3) improve reporting capabilities to CalRecycle;
- (4) comply with state Recycling laws;
- (5) reduce waste to landfill; and
- (6) maintain a cost effective, garbage, Recycling, and organic waste collection program for the residents, businesses and institutions of the Town.

[*History: New, ORD. 708, 5/9/12, ORD. 808, 10/27/21*]

### **3.05.020 Definitions.**

For the purpose of this subchapter, the following terms, phrases, words and their derivations shall have the meaning given herein. When consistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular include the plural number.

(a) "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.

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

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

(d) "Charitable Entity" means any not-for-profit organization or entity maintained for community service, education or the public good, including service clubs, scouting organizations, religious and educational organizations and recognized charities.

(e) "Collect" or "Collection" means the operation of gathering together and transporting Solid Waste to a point of disposal and/or Recycling or composting.

(f) "Commercial Business" or "Commercial" means a firm, partnership, proprietorship, joint-stock company, corporation, or association, whether for-profit or nonprofit, strip mall, industrial facility, or a multifamily residential dwelling, or as otherwise defined in 14 CCR Section 18982(a)(6).

(g) "Commercial Edible Food Generator" includes a Tier One or a Tier Two Commercial Edible Food Generator as defined in this subchapter.

(h) "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).

(i) "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.

(j) "Compliance Review" means a review of records by the Town to determine compliance with this subchapter.

(k) "Construction and Demolition Debris" or "C&D" means materials resulting from construction, renovation, remodeling, repair or demolition operations and which has been segregated for Recycling, reuse or remanufacture. Materials include but are not limited to wood, asphalt, concrete, drywall, steel rebar, roofing material and other materials resulting construction, renovation, remodeling, repair or demolition operations.

(l) "Container" means a cart, bin, roll-off, compactor or similar receptacle used to temporarily store Solid Waste, Recyclable Materials, or Organic Waste for collection service.

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

(n) "Designee" means an entity that the Town contracts with or otherwise arranges to carry out any of the Town's responsibilities of this subchapter as authorized in 14 CCR Section 18981.2. A Designee may be a government entity, a franchised hauler, a private entity, or a combination of those entities.

(o) "Designee for Edible Food Recovery" means the County of San Mateo's Office of Sustainability with which the Town has a Memorandum of Understanding for the purposes of Edible Food Recovery including, but not limited to, inspection, investigation, and enforcement of the Edible Food Recovery provisions of this subchapter. Contact information for the Designee for Edible Food Recovery can be found on the County of San Mateo Office of Sustainability website.

(p) "Donate" or "donation" means the act of a generator of Recyclable Materials or Organic Waste giving or conveying items or materials to another person or company, without paying the

recipient or providing any other form of consideration for taking and/or hauling away the donated materials.

(q) "E-waste" means electronic equipment nearing the end of its useful life and determined by the Department of Toxic Substances Control to be covered by the Electronic Waste Recycling Act of 2003. Computers, televisions, VCRs, stereos, copiers, and fax machines are common E-waste products.

(r) "Edible Food" means food intended for and fit for human consumption and collected or received from a Tier One or Tier Two Commercial Edible Food Generator.

(s) "Edible Food Recovery" means actions to collect, receive, and/or re-distribute Edible Food for human consumption from Tier One and Tier Two Commercial Edible Food Generators that otherwise would be disposed of.

(t) "Enforcement Action" means an action of the Town to address non-compliance with this subchapter including, but not limited to, issuing administrative citations, fines, penalties, or using other remedies.

(u) "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 Town 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 the Town's, or its Designee's reasonable opinion would present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose Town, 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.

(v) "Food Distributor" means a company that distributes food to entities including, but not limited to, Supermarkets and Grocery Stores.

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

(x) "Food Recovery Organization" means an entity that engages in the collection or receipt of Edible Food from Tier One or Tier Two Commercial Edible Food Generators and distributes that Edible Food either directly or through other entities, 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.
- (y) "Food Recovery Service" means a person or entity that collects and transports Edible Food from a Tier One or Tier Two Commercial Edible Food Generator to a Food Recovery Organization or other entities for Edible Food Recovery.
- (z) "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.
- (aa) "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 and other food materials and may be modified from time to time per Hauler's organics collection materials requirements. Food Scraps excludes fats, oils, and grease.
- (bb) "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 and materials and may be modified from time to time per Hauler's organics collection materials requirements .
- (cc) "Food Waste" means all Food Scraps, Food-Soiled Paper, and includes Biodegradable Products Institute (BPI) certified container products and other materials which may be included in the organics collection.
- (dd) "Franchise Agreement" means an agreement between the Town and an individual, association or firm, organization or other business entity for the collection of Solid Waste, including Recyclables and Organic Waste.
- (ee) "Franchisee" means an individual, association, firm, organization or other business entity who has entered into a franchise agreement with the Town, whether or not said entity is operated for profit, for the collection of Solid Waste, including Recyclables, within the Town.
- (ff) "Gray Container" has the same meaning as in 14 CCR Section 18982.2(a)(28) and shall be used for the purpose of storage and collection of Gray Container Waste.
- (gg) "Gray Container Waste" means Solid Waste that is collected in a Gray Container that is part of a three-container Organic Waste collection service that prohibits the placement of Organic Waste in the Gray Container as specified in 14 CCR Sections 18984.1(a) and (b), or as otherwise defined in 14 CCR Section 17402(a) (6.5).
- (hh) "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.
- (ii) "Greenhouse gas" or "GHG" means carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>), nitrous oxide (N<sub>2</sub>O), sulfur hexafluoride (SF<sub>6</sub>), hydrofluorocarbons (HFC), perfluorocarbons (PFC), and other fluorinated greenhouse gases.

(jj) "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.

(kk) "Hauler" means a person or entity, or the agents or employees thereof, whom the Town shall have duly licensed, franchised, granted a permit to, or contracted with, to collect, carry, transport, compost, and/or recycle Solid Waste, Recyclables, and Organic Waste within the Town.

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

(mm) "Hazardous Waste" means any material, which by reason of its quality, concentration, composition or physical, chemical or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious illness or pose a substantial threat or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of or otherwise mismanaged or any waste which is defined or regulated as a hazardous waste, toxic waste, hazardous chemical substance or mixture, or asbestos under Applicable Law. If two or more governmental agencies having concurrent or overlapping jurisdiction over hazardous waste adopt conflicting definitions of "hazardous waste", for purposes of collection, transportation, processing and/or disposal, the broader, more expansive definition shall be employed for purposes of this subchapter. Hazardous Waste includes, but is not limited to any of the following:

- (1) Materials regulated by section 40141 of the California Public Resources Code, sections 25110.02, 25115, 25117, 25281 or 25316 of the California Health and Safety Code (the California Hazardous Waste Control Act), and section 13050 of the California Water Code;
- (2) Low-level radioactive waste regulated under Chapter 7.6 (commencing with § 28500) of Division 20 of the Health and Safety Code or under Chapter 6.1 (commencing with § 25015) of Division 20 of the Health and Safety Code);
- (3) Materials regulated under the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq., as amended (including, but not limited to, amendments thereto made by the Solid Waste Disposal Act Amendments of 1980), and related federal, State and local laws and regulations;
- (4) Materials regulated under the Toxic Substance Control Act, 15 U.S.C. Section 2601 et seq., as amended, and related federal State of California, and local laws and regulations, including the California Toxic Substances Account Act, California Health and Safety Code Section 25300 et seq.;
- (5) Materials regulated under the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601, et seq., as amended, and regulations promulgated thereunder; or materials regulated under any future amendments to or re-codification of these statutes or regulations promulgated thereunder and any future additional or substitute federal, State or local laws

and regulations pertaining to the identification, transportation, treatment, storage or disposal of toxic substances or hazardous waste.

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

(oo) "Household Hazardous Waste" means latex paint, batteries, oil filters, fluorescent lamps and tubes including compact fluorescent light bulbs (CFLs), motor oil and other petroleum-based products, cleaning supplies, fire extinguishers, mercury products including thermometers, thermostats, oil based paints, thinners, stains, fertilizers, pesticides, aerosols and antifreeze commonly used in residences.

(pp) "Inspection" means a site visit where the Town, the franchised hauler or other Designee 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 subchapter, or as otherwise defined in 14 CCR Section 18982(a)(35). "Inspection" for the purposes of Edible Food Recovery, "Inspection" means actions to review contracts and other records related to the recovery of Edible Food and may occur off-site via email and other forms of electronic communication, as well as the on-site review of an entity's records and collection, handling, and other procedures for the recovery of Edible Food to determine if the entity is complying with the requirements of this subchapter.

(qq) "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 subchapter.

(rr) "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 subchapter and implementation of the SB 1383 Regulations, 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 subchapter and implementation of the SB 1383 Regulations, 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 sun.

(ss) "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).

(tt) "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.

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

(vv) "Notice of Violation" or "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.

(ww) "Nuisance" means anything which is injurious to human health or is indecent or offensive to the senses and interferes with the comfortable enjoyment of life or property, and affects at the same time an entire community or neighborhood or any considerable number of persons although the extent of annoyance or damage inflicted upon the individual may be unequal, and which occurs as a result of the storage, removal, transport, processing or disposal of Solid Waste.

(xx) "Organic Waste" means Solid Waste 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).

(yy) "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).

(zz) "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). Printing, writing papers including, 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).

(aaa) "Permittee" means an individual, association, firm, organization or other business entity person which has a valid permit from the Town to collect Recyclables within the Town.

(bbb) "Prohibited Container Contaminants" means the following:

- (1) discarded materials placed in the Blue Container that are not identified as acceptable Source Separated Recyclable Materials for the Town's Blue Container.



- (2) discarded materials placed in the Green Container that are not identified as acceptable Source Separated Green Container Organic Waste for the Town's Green Container.
- (3) discarded materials placed in the Gray Container that are acceptable Source Separated Recyclable Materials and/or Source Separated Green Container Organic Wastes to be placed in Town's Green Container and/or Blue Container; and,
- (4) Excluded Waste placed in any container.

(ccc) "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).

(ddd) "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).

(eee) "Recyclable Materials" or "Recyclables" means Solid Waste which may be reused or processed into a form suitable for reuse through reprocessing or remanufacture consistent with the requirements of AB 939, as amended, including, without limitation: paper, newsprint, printed matter, pasteboard, paper containers, cardboard, glass, aluminum, PET, HDPE, and other plastics, metal, food and beverage containers, compostable materials (including food waste, yard waste and other organic materials); wood, brick and stone in reusable size and condition; and Construction and Demolition Debris.

(fff) "Recycle" or "Recycling" means the process of collecting, sorting, cleansing, treating, and/or reconstituting materials that would otherwise become Solid Wastes, and returning 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. Recycling does not include transformation, as defined in Public Resources Code section 40201.

(ggg) "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).

(hhh) "Refuse" means all putrescible and non-putrescible Solid Wastes (except body wastes), whether combustible or non-combustible, including garbage, rubbish, ashes, street cleanings, dead animals, and solid industrial wastes.

(iii) "Remote Monitoring" means the use of the internet of things (IoT) and/or wireless electronic devices to see contents of Containers for purposes of identifying the quantity of materials in containers (level of fill) and/or presence of Prohibited Container Contaminants.

(jjj) "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).

(kkk) "Responsible Person" means an individual, association, firm, organization or other business entity, whether or not said entity is operated for profit, determined by the Town to be qualified and capable of performing each and every obligation imposed by this subchapter.

(lll) "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).

(mmm) "Roll-off containers" or "pull-on containers" means any large detachable containers, eight cubic yards or more in capacity, employed in a system of materials handling in which the loaded container is pulled onto the service vehicle mechanically and transported to an approved site for emptying.

(nnn) "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).

(ooo) "SB 1383" means Senate Bill 1383 (Chapter 395, Statutes of 2016), 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.

(ppp) "SB 1383 Regulations" means the regulations developed by CalRecycle and contained within 14 CCR, Division 7, Chapter 12 and the amended portions of 14 CCR and 27 CCR.

(qqq) "Scavenge" means the act of removing Solid Waste, Recyclables, and/or Organic Waste from a can, bin, or other container into which the Solid Waste, Recyclables, and/or Organic Waste have been placed for collection by a Hauler. Removal by a Hauler shall not constitute scavenging.

(rrr) "Self-Hauler" means a person, who hauls Solid Waste, Organic Waste, or Recyclable Materials 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). For the purposes of Edible Food Recovery, "Self-Hauler" means a Commercial Edible Food Generator which holds a contract with and hauls Edible Food to a Food Recovery Organization or other site for redistribution according to the requirements of this subchapter.

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

(ttt) "Solid Waste" means all putrescible and non-putrescible solid, semisolid, and liquid wastes, and all Recyclables and Organic Waste, including but not limited to garbage, trash, refuse, paper, rubbish, ashes, industrial 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 semi-solid Wastes, except that Solid Waste does not mean or include any of the following wastes:

- (1) Hazardous waste, as defined in Public Resources Code, section 40141;
- (2) Special waste, as defined in this subchapter;
- (3) Radioactive waste regulated pursuant to the Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the Health and Safety Code); and
- (4) Medical waste regulated pursuant to the 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 Section 40195.1. Medical waste that has been treated and deemed to be Solid Waste shall be regulated pursuant to this division.

(uuu) "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 subchapter, Source Separated shall include separation of materials by the generator, property owner, property owner's employee, property manager, or property manager's employee into different containers for the purpose of collection such that Source Separated materials are separated from Gray Container Waste or other Solid Waste for the purposes of collection and processing.

(vvv) "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.

(www) "Source Separated Recyclable Materials" means Source Separated Non-Organic Recyclables.

(xxx) "Special Waste" means any waste matter which is a Hazardous Waste or which requires special handling or processing, including any of the following: flammable waste; waste transported in a bulk tanker; liquid waste; sewage sludge; waste from a septic system or other wastewater treatment or pollution control process; residue and debris from the cleanup of a spill or release of any chemical substance; any soil, waste, residue, debris or other material contaminated by any hazardous material or hazardous waste; dead animals; manure; explosive substances or substances or materials that have been exposed to highly infectious or contagious diseases.

(yyy) "State" means the State of California.

(zzz) "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).

(aaaa) "Tier One Commercial Edible Food Generator" means a Commercial Edible Food Generator that is one of the following: Supermarket, Grocery Store with a total facility size equal to or greater than 10,000 square feet, Food Service Provider, Food Distributor or Wholesale Food Vendor. If the definition in 14 CCR Section 18982(a)(73) of Tier One Commercial Edible Food Generator differs from this definition, the definition in 14 CCR Section 18982(a)(73) shall apply to this subchapter.

(bbbb) "Tier Two Commercial Edible Food Generator" means a Commercial Edible Food Generator that is one of the following: Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet, Hotel with an on-site Food Facility and 200 or more rooms, Health facility with an on-site Food Facility and 100 or more beds, Large Venue, Large Event or a State agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet, or a Local Education Agency 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 subchapter.

(cccc) "Town" means the Town of Colma, California.

(dddd) "Town Enforcement Official" means the city manager or their Designee who is responsible for enforcing the subchapter, including a Regional or County Agency Enforcement Official.

(eeee) "Universal waste" means materials that are hazardous wastes and are generated by several sectors of society, rather than a single source or industry. Universal wastes are not to be disposed of in the trash but are to be properly recycled and or handled in accordance with laws regarding Universal Waste. Universal waste include batteries, cell phones, computers, computer monitors, fluorescent light bulbs, televisions, non-empty aerosol cans, items containing mercury, electronic devices, or any other material, device or item meeting the definitions of "universal waste" or "electronic device" in 22 CCR Sections 66273.9 or 66261.9, as they may be amended.

(ffff) "Vector" means any insect or other arthropod, rodent or other animal capable of transmitting the causative agents of human disease, or disrupting the normal enjoyment of life by adversely affecting the public health and well-being.

(gggg) "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).

[History: formerly § 3.102; ORD. 256, 1/14/81; ORD. 638, 12/14/05; ORD. 658, 06/13/07; ORD. 682, 10/14/09; ORD. 708, 5/9/12, ORD. 808, 10/27/21]

### **3.05.030 Minimum Standards.**

The provisions of this subchapter shall be the minimum requirements for compliance with state Recycling and organic waste diversion mandates, and for protecting the, public health, safety, convenience and general welfare. Higher standards may be imposed by a franchise agreement

or a permit.

[History: New, ORD. 708, 5/9/12, ORD. 808, 10/27/21]

### **3.05.040 No Hauling without a Franchise or Permit.**

Except as expressly provided in this subchapter, it is unlawful for any person to collect, transport over any of the streets of the Town, or dispose of, any Solid Waste generated or accumulated in the Town of Colma, including Recyclables and Organic Waste, unless such person has entered into a franchise agreement with or has obtained a permit issued by the Town to collect and dispose of one or more types of Solid Waste, Recyclables, or Organic Waste.

[History: formerly § 3.05.050(a) and (b), and before that, § 3.405; ORD. 277, 09/08/82; ORD. 638, 12/14/05; ORD. 658, 06/13/07; ORD. 682, 10/14/09; ORD. 708, 5/9/12, ORD. 808, 10/27/21]

### **3.05.050 Illegal Dumping.**

It is unlawful to dump or place Solid Waste, including Recyclables, Organic Waste, Special Waste or Hazardous Waste materials on any lot, land, street, avenue, alley, creek or highway within the Town, except to the extent that a temporary accumulation of such materials is allowed in a particular place under the provisions of a permit issued by the Town.

[History: formerly § 3.05.040, and before that, § 3.404; ORD. 277, 09/08/82; ORD. 638, 12/14/05; ORD. 658, 06/13/07; ORD. 708, 5/9/12, ORD. 808, 10/27/21]

### **3.05.060 Duty to Properly Store or Dispose of Solid Waste.**

(a) It is unlawful to keep, deposit, bury or dispose of any Solid Waste (including Recyclables and Organic Waste), Special Waste and Hazardous Waste materials in or upon any public property, street, alley, sidewalk, gutter, park or 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 subchapter, and every person in the Town who disposes of Solid Waste materials shall dispose of same only in the manner provided in this subchapter.

(b) It is unlawful to keep, deposit, bury or dispose of any Solid Waste (including Recyclables and Organic Waste), Special Waste and Hazardous Waste materials in or upon any private property without the permission of the owner or occupant of that property. Each person who disposes of Solid Waste materials on private property shall dispose of same only in the manner provided in this subchapter.

(c) It is unlawful to store Solid Waste in such a manner so as to promote the propagation, harborage, attraction of vectors, or the creation of a nuisance, or dispose of refuse except as provided in this subchapter.

(d) Each person owning, operating, occupying or in charge of any vacant or occupied premises, business establishment, industry or other property in the Town shall be responsible

for the safe and sanitary storage and disposal of Solid Waste (including Recyclables and Organic Waste), special waste and hazardous waste accumulated on the property.

[*History:* formerly 3.05.010, and before that, § 3.401; ORD. 277, 09/08/82; ORD. 638, 12/14/05; ORD. 658, 06/13/07; ORD. 682, 10/14/09; ORD. 708, 5/9/12, ORD. 808, 10/27/21]

### **3.05.070 Duty to Subscribe to Solid Waste Collection Services.**

(a) Each person owning, operating, occupying or in charge of any occupied premises, business establishment, industry or other property in the Town shall subscribe to Solid Waste, Recyclables, an Organic Waste collection service provided by an Franchisee or Permittee in compliance with the provisions of this subchapter.

(b) Single-Family Organic Waste Generators shall subscribe to the Town's Organic Waste collection services for all Organic Waste. Town or its Designee shall have the right to review the number and size of a generator's containers to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and, Single-Family generators shall adjust its service level for its collection services as requested by the Town or its Designee.

(c) Generators that are Commercial Businesses, including Multi-Family Residential Dwellings, shall subscribe to Solid Waste, Recyclables, and Organic Waste collection service provided by an Franchisee or Permittee in compliance with the provisions of this subchapter, unless it receives a waiver under Section 3.05.130 or is otherwise exempt. Town or its Designee shall have the right to review the number and size of a generator's containers and frequency of collection to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and, Commercial Businesses shall adjust their service level for their collection services as requested by the Town or their Designee.

(d) It is unlawful to arrange for Solid Waste, Recyclables, or Organic Waste collection services provided by any Franchisee or Permittee not holding a valid franchise or permit issued by the Town, whether such services are provided on an ongoing basis, as needed, or with any other frequency.

[*History:* formerly § 3.05.010, and before that, § 3.100; Ord. 277, 09/08/82; Ord. 638, 12/14/05; Ord. 658, 06/13/07; Ord. 708, 5/9/12, Ord. 808, 10/27/21]

### **3.05.080 Design Requirements.**

The design of any new, substantially remodeled, or expanded building or other facility shall provide for the proper storage and collection of Solid Waste, Recyclables, and Organic Waste, and must be approved by the Building Official prior to commencement of construction.

[*History:* formerly § 3.05.030, and before that, § 3.403; ORD. 277, 09/08/82; ORD. 638, 12/14/05; ORD. 658, 06/13/07; ORD 708, 5/9/12, ORD. 808, 10/27/21]

### **3.05.090 Maintenance and Use of Containers.**

(a) *Preparation of Solid Waste.* All Solid Waste, including Recyclables and Organic Waste, shall be drained of free liquid before being deposited for collection.

(b) *Unlawful Use.*

(1) It is unlawful to use Solid Waste, Recycling, or Organic Waste containers provided by a Franchisee or Permittee for any purpose other than to facilitate collection by such Franchisee or Permittee.

(2) It is unlawful to use Solid Waste, Recycling, or Organic Waste containers provided by the owner or occupant of property for any purpose other than to facilitate collection of Solid Waste by the owner or occupant of the property or by persons authorized by the owner or occupant to use such containers.

(c) *Maintaining Solid Waste, Recycling, or Organic Waste Containers.* It is the duty of each person subscribing to services for the collection and handling of Solid Waste, Recyclables, and Organic Waste to maintain receptacles in a reasonably safe and secure manner; and all such receptacles shall be so placed and kept at the designated collection location so as to be readily accessible for removal and collection therefrom and placed such that they will not be a public nuisance or in any degree offensive.

(d) *Containers.* All Solid Waste, Recyclables, and Organic Waste containers for residents or businesses must be non-absorbent, water-tight, vector-resistant, durable, easily cleanable, and designed for safe handling. Containers should be of an adequate size and in sufficient numbers to contain, without overflowing, all the Solid Waste, Recyclables, and Organic Waste that a residence, business or other establishment generates within the designated removal period. Containers when filled shall not exceed weight limits established by the Hauler. Containers shall be maintained in a clean, safe, sound condition, free from putrescible residue, and may not have ragged or sharp edges, or have any other defect liable to hamper or injure any person collecting the contents thereof.

(e) *Separation of Solid Waste from Recyclables and Organics.* Generators shall separate Solid Wastes from Recyclables and Organic Waste and are to be placed in separate containers. Solid Waste shall not be commingled with Recyclables or Organic Waste, and Recyclables shall not be commingled with Organic Waste. Generators shall place designated materials in designated containers and shall not place Prohibited Container Contaminants in collection containers. Using the three-container Collection service (Blue Container, Green Container, and Gray Container), 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 Gray Container Waste in the Gray Container. Generators shall not place materials designated for the Gray Container into the Green Container or Blue Container.

(f) *Points of Collection.* Containers shall be placed for collection at ground level on the property, not within the right-of-way of a street or alley, and accessible to not more than forty feet from the side of the street or alley from which collection is made, provided that containers may be placed for collection at other than ground level and at a distance of more than forty feet when an additional payment for the extra service is agreed upon with the operator.

Notwithstanding the provisions of this subsection, Containers used in automated collection service may be placed in a street or alley as directed by the Hauler.

(g) Additional Requirements for Commercial Businesses. Commercial Businesses (including Multi-Family Residential Dwellings) shall:

- (1) Supply and allow access to adequate number, size, and location of Town's Blue Container, Green Container, and Gray Container collection containers with sufficient labels that include language and or graphic images showing the materials accepted, and materials that are prohibited in that Container. (conforming with Sections 3.05.090(g)(3)(A) and 3.05.090(g)(3)(B) below) for employees, contractors, tenants, and customers, consistent with Town's Blue Container, Green Container, and Gray Container collection service.
- (2) Provide containers for collection of Source Separated Green Container Organic Waste and Source Separated Recyclable Materials in all indoor and outdoor areas where disposal containers are provided for customers, for materials generated by that business (excludes Multi-Family Residential Dwellings). If a Commercial Business does not generate any of the materials that would be collected in one type of container, then the business does not have to provide that container in all areas where disposal containers are provided for customers.
- (3) Pursuant to 14 CCR Section 18984.9(b), these Containers provided by the business shall have either:
  - (A) A body or lid that is color compliant: Green for Source Separated Organic Waste including Food Waste; Blue for Source Separated Recyclable Materials, Gray for non-Organic Waste and non-Recyclable Waste. A Business is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the requirements of the subsection prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first.
  - (B) Container labels that include language and or graphic images showing the materials accepted, and the materials that are prohibited in that Container and or Containers with imprinted text or graphic images that indicate the materials accepted and materials prohibited in the container. Pursuant 14 CCR Section 18984.8, the container labeling requirements are required on new containers commencing January 1, 2022.
- (4) Through education, training, Inspection, and/or other measures to the extent possible (excluding Multi-Family Residential Dwellings), prohibit employees from placing materials in a Container not designated for those materials per the Town's Blue Container, Green Container, and Gray Container collection service.
- (5) Periodically inspect Blue Containers, Green Containers, and Gray Containers for contamination and inform employees if containers are contaminated and of the requirements to keep Contaminants out of those containers pursuant to 14 CCR Section 18984.9(b)(3) (excluding Multi-Family Residential Dwellings).



- (6) Annually provide information to employees, contractors, tenants, and customers about Organic Waste Recovery requirements and about proper sorting of Source Separated Green Container Organic Waste and Source Separated Recyclable Materials.
- (7) Provide education information before or within fourteen (14) days of occupation of the premises to new tenants that describes requirements to keep Source Separated Green Container Organic Waste and Source Separated Recyclable Materials separate from Gray Container Waste (when applicable) and the location of containers and the rules governing their use at each property.
- (8) Provide access for Town or its Designee to their properties during all Inspections conducted in accordance with Section 3.05.330 to confirm compliance with the requirements of this subchapter.
- (9) Cooperate with Town's or its Designee's Inspection of the contents of containers for Prohibited Container Contaminants.
- (10) Nothing in this Section prohibits a generator from preventing or reducing waste generation, managing Organic Waste on site, or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).
- (11) Commercial Businesses that are Tier One or Tier Two Commercial Edible Food Generators shall comply with Food Recovery requirements, pursuant to Section 3.05.190.

[History: formerly § 3.05.060, and before that § 3.406; Ord. 277, 09/08/82; Ord. 638, 12/14/05; ORD. 658, 06/13/07; ORD. 708, 5/9/12, ORD. 808, 10/27/21]

### **3.05.100 Unauthorized Removal of Solid Waste or Recyclables from Containers.**

No person, other than the owner or occupant of premises generating the Solid Waste, Recyclables, and Organic Waste that has been placed for collection in a container, or an employee or agent of the Franchisee or Permittee, shall tamper with any Container or remove or scavenge its contents. Among other things, this section prohibits the scavenging of Recyclable Materials from any Container in which they have been placed for collection, but shall not be deemed to prohibit the generator of Recyclable Materials from selling or donating such materials to a buyer or donee other than a Hauler.

[History: formerly 3.05.100; Ord. 658, 06/13/07; ORD 708, 5/9/12, ORD. 808, 10/27/21]

### **3.05.110 Disposal and Handling of Special Waste.**

(a) *Contagious Disease Refuse.* The removal of clothing, bedding or other Refuse from homes or other places where highly infectious or contagious diseases have prevailed should be performed under the supervision and direction of the County Health Officer. Such Refuse shall not be placed in Containers for regular Collection.

(b) *Inflammable or Explosive Refuse.* Highly inflammable or explosive material shall not be placed in containers for regular collection or refuse, but shall be disposed of as directed by the Colma Fire District Chief at the expense of the owner or processor thereof.

(c) *Special Waste and Universal Waste.* Notwithstanding any other provision of this subchapter, it shall be unlawful for any person, firm or corporation to dispose of, discard or place any Special Waste or universal waste in any receptacle or container placed and intended for Collection and disposal by a Hauler, unless otherwise authorized by the Hauler. All Special Waste and universal waste shall be disposed of in compliance with applicable state laws and regulations.

[History: formerly § 3.05.070, and before that, § 3.407; Ord. 277, 09/08/82; Ord. 638, 12/14/05; Ord. 658, 06/13/07; Ord. 682, 10/14/09; Ord. 708, 5/9/12, Ord. 808, 10/27/21]

### **3.05.120 Frequency of Collection.**

(a) No person owning, operating, occupying, or in charge of any premises, business establishment, industry or other property, vacant or occupied, in the Town shall permit, allow or suffer any garbage to be, remain, or accumulate on any such premises for any period longer than one week.

(b) Each person engaged in selling or furnishing food or drink to members of the public, whether as a primary business or incidental to another business, such as but not limited to bars, soda fountains, restaurants, and theaters, shall remove, or cause to be removed, all garbage accumulated in connection therewith as often as necessary as directed by the County Health Officer, but not less than one time each week.

[History: formerly § 3.05.020, and before that, § 3.402; Ord. 277, 09/08/82; Ord. 638, 12/14/05; Ord. 658, 06/13/07; Ord. 708, 5/9/12, Ord. 808, 10/27/21]

### **3.05.130 Waivers.**

(a) *De Minimis Waivers.* The Town may waive a Commercial Business' obligation (including Multi-Family Residential Dwellings) to comply with some or all the Organic Waste requirements of this subchapter if the Commercial Business provides documentation that the business generates below a certain amount of Organic Waste material as described in Section 3.05.130(a)(2) below. Commercial Businesses requesting a de minimis waiver shall:

(1) Submit an application specifying the services that they are requesting a waiver from and provide documentation as noted in Section 3.05.130(a)(2) below.

(2) Provide documentation that either:

(A) The Commercial Business' total Solid Waste collection service is two cubic yards or more per week and Organic Waste subject to collection in a Green Container comprises less than 20 gallons per week per applicable container of the business' total waste; or,

(B) The Commercial Business' total Solid Waste collection service is less than two cubic yards per week and Organic Waste subject to collection in a Green Container comprises less than 10 gallons per week per applicable container of the business' total waste.

- (3) Notify Town if circumstances change such that Commercial Business's Organic Waste exceeds threshold required for waiver, in which case waiver will be rescinded.
- (4) Provide written verification of eligibility for de minimis waiver every 5 years if Town has approved de minimis waiver.

(b) Physical Space Waivers. The Town may waive a Commercial Business' or property owner's obligations (including Multi-Family Residential Dwellings) to comply with some or all of the Recyclable Materials and/or Organic Waste collection service requirements if the 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 Organic Waste collection requirements.

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

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

[History: New, Ord. 708, 5/9/12, Ord. 808, 10/27/21]

[Reference: Pub. Res. Code § 42649.2]

### ***Division 2: Recycling and Organic Waste Collection***

#### **3.05.140 Mandatory Recycling and Organic Waste Collection Services.**

(a) Each owner or operator of a Commercial Business shall arrange for Recycling and from a Franchisee or Permittee. Each owner or operator of a Commercial Business shall arrange for Organic Waste Collection from a Franchisee. Each owner or operator of a Commercial Business shall Source-separate Recyclable Materials and Organic Waste from Solid Waste and subscribe to Recycling and Organic Waste Collection services that includes collection, self-haul, or make other arrangements for the pick-up of Recyclable Materials or Organic Waste; or

(b) A property owner of a Multi-Family Residential Dwelling may require tenants to source separate their Recyclable Materials and Organic Waste to aid in compliance with this section.

[History: New, Ord. 708, 5/9/12, Ord 808, 10/27/21]

**3.05.150 Preparation and Ownership of Recyclables and Organic Waste.**

(a) Containers containing Recyclable Materials for residential units shall be placed at curbside for collection by the Franchisee or Permittee, and Containers containing Organic Waste for residential units shall be placed at curbside for Collection by the Franchisee, but Containers shall not be placed at curbside earlier than twelve hours prior to the date and time for scheduled collection, nor left remaining at curbside longer than twelve hours following the date and time for scheduled Collection.

(b) Containers containing Recyclable Materials for a Multi-Residential Dwelling, Commercial and/or institutional locations shall be of a size and serviceability agreed to by the Franchisee or Permittee and thereafter placed at the designated collection location. Containers containing Organic Waste for a Multi-Residential Dwelling, Commercial and/or institutional locations shall be of a size and serviceability agreed to by the Franchisee and thereafter placed at the designated Collection location.

(c) From the time of placement of Recyclable Materials at a designated location for collection of Recyclable Materials, or in any Container used for Recycling provided by a Franchisee or Permittee, those Recyclable Materials shall be and become the property of the Franchisee or Permittee. From the time of placement of Organic Waste at a designated location for collection of Organic Waste, or in any Container used for Organic Waste collection provided by a Franchisee, that Organic Waste shall be and become the property of the Franchisee.

[History: New, Ord. 708, 5/9/12, Ord. 808, 10/27/21]

**3.05.160 Collection of Recyclables or Organic Waste By Unauthorized Persons Prohibited.**

(a) It is unlawful for any person, business or other entity to Collect Recyclable Materials or Organic Waste in the Town, except as otherwise provided in this subchapter.

(b) Any person engaged in the unauthorized Collection of Recyclable Materials or Organic Waste is guilty of an infraction. Any such unauthorized collections from one or more locations within the Town shall constitute a separate and distinct offense.

(c) As an alternative to criminal enforcement, both the Town and the Franchisee or Permittee have the independent authority to civilly enforce any provisions of this subchapter, to and including the authority to seek treble damages pursuant to California Government Code Section 66764. The City Manager may invoke these remedies, or any of them, whenever he or she deems it appropriate.

[History: New, Ord. 708, 5/9/12, Ord. 808, 10/27/21]

**3.05.170 Duty to Properly Use Recycling and Organic Waste Containers.**

(a) Each person subscribing to Recycling collection service shall, to the greatest extent practical, make use of the Recyclable Materials collection service provided by the Franchisee or

Permittee, by separating Recyclable Materials from Refuse and Organic Waste and placing the Recyclable Materials in the container provided by the Franchisee or Permittee for this purpose.

(b) Each person subscribing to Organic Waste collection service shall, to the greatest extent practical, make use of the Organic Waste collection service provided by the Franchisee, by separating Organic Waste from Refuse and Recyclable Materials and placing the Organic Waste in the Container provided by the Franchisee for this purpose.

(c) Recyclable Materials for donation, sale, or collection by or to any person or entity, other than a Franchisee or Permittee, may not be stored or transferred by use of the Recycling Containers described in this subchapter, or any other containers used for Recycling provided by the Franchisee or Permittee. Storage of Recyclable Materials at the designated collection location other than for pickup by the Franchisee or Permittee as defined herein, is prohibited.

[*History:* formerly 3.05.010(f), and before that, § 3.401; ORD. 277, 09/08/82; ORD. 638, 12/14/05; ORD. 658, 06/13/07; ORD. 682, 10/14/09; ORD. 708, 5/9/12, ORD. 808, 10/27/21]

### **3.05.180 Sale or Donation of Recyclable Materials or Organic Waste.**

Nothing in this subchapter shall prohibit the generator of Recyclable Materials or Organic Waste from selling or donating such materials to a buyer or donee, provided that, if the Town has awarded an exclusive franchise for the collection and disposal of Solid Waste, Recyclables, or Organic Waste, a generator may not pay any other person other than a Franchisee for collecting, Recycling, or disposing of Recyclables or Organic Waste.

[*History:* formerly § 3.05.050(a), and before that, § 3.405; ORD. 277, 09/08/82; ORD. 638, 12/14/05; ORD. 658, 06/13/07; ORD. 682, 10/14/09; ORD. 708, 5/9/12, ORD. 808, 10/27/21]

## ***Division 3: Edible Food Recovery***

### **3.05.190 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 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) Tier One and Tier Two 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) Use the CalRecycle Model Food Recovery Agreement or the contractual elements contained in the Requirements for Food Recovery Organizations and Food

Recovery Services section of this subchapter to contract with, or otherwise enter into a written agreement with Food Recovery Organizations or Food Recovery Services for:

- (A) the collection of Edible Food for Edible Food Recovery from the Tier One or Tier Two Commercial Edible Food Generator's premises; or,
  - (B) the acceptance of Edible Food that the Tier One or Tier Two Commercial Edible Food Generator self-hauls to the Food Recovery Organization.
- (3) Contract with Food Recovery Organizations and Food Recovery Services able to demonstrate a positive reduction in greenhouse gas emissions from their Edible Food Recovery activity. A list of Food Recovery Organizations and Food Recovery Services is available on the County of San Mateo Office of Sustainability website.
- (4) Shall not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery Organization or a Food Recovery Service.
- (5) Allow Town's enforcement entity or its Designee for Edible Food Recovery to access the premises and inspect procedures and review records related to Edible Food Recovery and/or provide them electronically if requested by the Town or the Designee for Edible Food Recovery.
- (6) Keep records that include the following information:
- (A) A list of each Food Recovery Organization or a Food Recovery Service that collects or receives Edible Food from the Tier One or Tier Two Commercial Edible Food Generator pursuant to a contract or written agreement as required by this subchapter.
  - (B) A copy of all contracts or written agreements established under the provisions of this subchapter.
  - (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 schedule or 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.

- (7) No later than June 30th of each year commencing no later than July 1, 2022 for Tier One Commercial Edible Food Generators and July 1, 2024 for Tier Two Commercial Edible Food Generators, they shall provide an annual Edible Food Recovery report to the Designee for Edible Food Recovery that includes, but is not limited to, the following information: a list of all contracts with Food Recovery Organizations and Food Recovery Services, the amount and type of Edible Food donated to Food Recovery Organizations and Food Recovery Services, the schedule of Edible Food pickup by Food Recovery Organizations and Food Recovery Services, a list of all types of Edible Food categories they generate, such as "baked goods," that are not accepted by the Food Recovery Organizations and Food Recovery Services with whom they contract, the contact information for the manager and all staff responsible for Edible Food Recovery, and certification that all staff responsible for Edible Food Recovery have obtained a food handler card through an American National Standards Institute (ANSI) accredited training provider that meets ASTM International E2659-09 Standard Practice for Certificate Programs, such as ServSafe. Except for the food safety and handling training certification, Tier One and Tier Two Commercial Edible Food Generators may coordinate with their Edible Food Recovery contractors to supply this information. The Designee for Edible Food Recovery will assist in the preparation of these reports by providing guidance and a template located on the County of San Mateo Office of Sustainability website.
- (8) Mandate their Edible Food Recovery staff learn and follow the donation guidelines and attend trainings conducted by Food Recovery Organizations or Food Recovery Services with which they contract regarding best practices and requirements for the timely identification, selection, preparation, and storage of Edible Food to ensure the maximum amount of Edible Food is recovered and to avoid supplying food for collection that is moldy, has been improperly stored, or is otherwise unfit for human consumption.
- (9) Tier One and Tier Two Commercial Edible Food Generators who self-haul Edible Food shall require those transporting Edible Food for recovery to obtain a food handler card through an American National Standards Institute (ANSI) accredited training provider that meets ASTM International E2659-09 Standard Practice for Certificate Programs, such as ServSafe and follow the best practices and standards for proper temperature control, methods, and procedures for the safe handling and transport of food.
- (d) Nothing in this subchapter 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 (Chapter 285, Statutes of 2017), as amended from time to time.

[History: formerly § 3.05.050(b), and before that, § 3.405; Ord. 277, 09/08/82; ORD. 638, 12/14/05; ORD. 658, 06/13/07; ORD. 682, 10/14/09; ORD. 708, 5/9/12, ORD. 808, 10/27/21]

### **3.05.200 Requirements for Food Recovery Organizations and Services.**

(a) Food Recovery Services operating in the Town and collecting or receiving Edible Food directly from Tier One and/or Tier Two Commercial Edible Food Generators via a contract or written agreement established under the requirements of this subchapter, shall maintain the following records:

- (1) The name, address, and contact information for each Tier One and Tier Two Commercial Edible Food Generator from which the service collects Edible Food.
- (2) The quantity in pounds of Edible Food by type collected from each Tier One and Tier Two Commercial Edible Food Generator per month.
- (3) The quantity in pounds of Edible Food by type transported to each Food Recovery Organization or redistribution site per month.
- (4) The name, address, and contact information for each Food Recovery Organization or redistribution site that the Food Recovery Service transports Edible Food to for Edible Food Recovery.

(b) Food Recovery Organizations operating in the Town and collecting or receiving Edible Food directly from Tier One and/or Tier Two Commercial Edible Food Generators via a contract or written agreement established under the requirements of this subchapter, or receiving Edible Food from Food Recovery Services or from other Food Recovery Organizations, shall maintain the following records:

- (1) The name, address, and contact information for each Tier One and Tier Two Commercial Edible Food Generator, Food Recovery Service, or other Food Recovery Organization from which the organization collects or receives Edible Food.
- (2) The quantity in pounds of Edible Food by type collected or received from each Tier One or Tier Two Commercial Edible Food Generator, Food Recovery Service, or other Food Recovery Organization per month.
- (3) The name, address, and contact information for other Food Recovery Organizations or redistribution sites that the Food Recovery Organization transports Edible Food to for Edible Food Recovery.

(c) Food Recovery Organizations and Food Recovery Services operating in the Town shall inform Tier One and Tier Two Commercial Edible Food Generators from which they collect or receive Edible Food about California and Federal Good Samaritan Food Donation Act protection in written communications, such as in their contract or agreement established as required by this subchapter.

(d) Commencing no later than July 1, 2022, Food Recovery Organizations and Food Recovery Services operating in the Town and collecting or receiving Edible Food from Tier One and Tier Two Commercial Edible Food Generators or any other source shall report to the Designee for Edible Food Recovery the following: a detailed Edible Food activity report of the



information collected as required under this subchapter, including weight in pounds by type and source of Edible Food, the schedule/frequency of pickups/drop-offs of Edible Food from/to each Edible Food source or redistribution site, brief analysis of any necessary process improvements or additional infrastructure needed to support Edible Food Recovery efforts, such as training, staffing, refrigeration, vehicles, etc., and an up to date list of Tier One and Tier Two Commercial Edible Food Generators with whom they have contracts or agreements established as required under this subchapter. The Designee for Edible Food Recovery will assist in the preparation of these reports by providing guidance and a template located on the County of San Mateo Office of Sustainability website. This Edible Food activity report shall be submitted quarterly, or at the discretion of the Designee for Edible Food Recovery, less frequently, and shall cover the activity that occurred since the period of the last submission.

(e) Food Recovery Organizations and Food Recovery Services operating in the Town shall contact the Designee for Edible Food Recovery to discuss the requirements of this subchapter before establishing new contracts or agreements with Tier One or Tier Two Commercial Edible Food Generators and to maintain existing contracts or agreements for the recovery of Edible Food with Tier One and Tier Two Commercial Edible Food Generators.

(f) In order to provide the required records to the State, the Town, or the Designee for Edible Food Recovery, and Tier One or Tier Two Commercial Edible Food Generators, contracts between Food Recovery Organizations and Food Recovery Services operating in the Town and Tier One and Tier Two Commercial Edible Food Generators shall either:

- (1) Use the CalRecycle Model Food Recovery Agreement and include a clause requiring the Food Recovery Organization or Food Recovery Service to report to the Tier One and Tier Two Commercial Edible Food Generators with whom they have contracts the annual amount of Edible Food recovered and to inform them of the tax benefits available to those who donate Edible Food to non-profits; or
- (2) Include in their contracts the following elements:
  - (A) List/description of allowable foods the Food Recovery Organization/Food Recovery Service will receive.
  - (B) List/description of foods not accepted by the Food Recovery Organization/Food Recovery Service.
  - (C) Conditions for refusal of food.
  - (D) Food safety requirements, training, and protocols.
  - (E) Transportation and storage requirements and training.
  - (F) A protocol for informing the Tier One or Tier Two Commercial Edible Food Generators of a missed or delayed pickup.
  - (G) Notice that donation dumping is prohibited.

(H) Provisions to collect sufficient information to meet the record-keeping requirements of this subchapter.

(I) Fees/financial contributions/acknowledgement of terms for the pickup and redistribution of Edible Food.

(J) Terms and conditions consistent with the CalRecycle Model Food Recovery Agreement.

(K) Information supplying the Tier One or Tier Two Commercial Edible Food Generators with the annual amount of Edible Food recovered and informing them of the tax benefits that may be available to those who donate Edible Food to non-profits.

(L) Contact name, address, phone number, and email for both responsible parties, including the current on-site staff responsible for Edible Food Recovery.

(M) Food Recovery Organizations accepting self-hauling of Edible Food from Tier One and Tier Two Commercial Edible Food Generators must provide a schedule, including days of the week and acceptable times for drop-offs, and information about any limitation on the amount of food accepted, and/or the packaging requirements or other conditions of transport, such as, but not limited to, maintaining proper temperature control, and other requirements for the safe handling and transport of food, the self-hauler must follow for the Edible Food to be accepted.

(g) Food Recovery Organizations and Food Recovery Services operating in the Town shall demonstrate that all persons, including volunteers and contracted workers using their own vehicle, involved in the handling or transport of Edible Food, have obtained a food handler card through an American National Standards Institute (ANSI) accredited training provider that meets ASTM International E2659-09 Standard Practice for Certificate Programs, such as ServSafe.

(h) Food Recovery Organizations and Food Recovery Services operating in the Town shall use the appropriate temperature control equipment and methods and maintain the required temperatures for the safe handling of Edible Food recovered from Tier One and Tier Two Commercial Edible Food Generators for the duration of the transportation of the Edible Food for redistribution, including Edible Food transported by private vehicles.

(i) In order to ensure recovered Edible Food is eaten and to prevent donation dumping, Food Recovery Organizations and Food Recovery Services operating in the Town shall provide documentation that all redistribution sites which are not themselves Food Recovery Organizations to which they deliver Edible Food have a feeding or redistribution program in place to distribute, within a reasonable time, all the Edible Food they receive. Such documentation may include a website address which explains the program or pamphlets/brochures prepared by the redistribution site.

(j) Food Recovery Organizations and Food Recovery Services operating in the Town unable to demonstrate a positive reduction in GHG emissions for their Edible Food Recovery

operational model cannot contract with Tier One and Tier Two Commercial Edible Food Generators in the Town for the purpose of recovering Edible Food as defined in this subchapter. Food Recovery Organizations and Food Recovery Services contracting to recover Edible Food from a Tier One and Tier Two Commercial Edible Food Generator for redistribution shall consult with the Town's Designee for Edible Food Recovery to document that their overall operational model will achieve a greenhouse gas emissions reduction. Such review may analyze route review, miles traveled for pick-up and redistribution, amount of food rescued, and the likelihood of consumption after redistribution.

(k) Food Recovery Organizations and Food Recovery Services operating in the Town shall visually inspect all Edible Food recovered or received from a Tier One and Tier Two Commercial Edible Food Generator. If significant spoilage is found, or if the food is otherwise found to be unfit for redistribution for human consumption, Food Recovery Organizations and Food Recovery Services shall immediately notify the Designee for Edible Food Recovery using the process found on the County of San Mateo Office of Sustainability's website. The notice shall include:

- (1) The type and amount, in pounds, of spoiled food or food unfit for redistribution for human consumption, or provide a photographic record of the food, or both.
- (2) The date and time such food was identified.
- (3) The name, address and contact information for the Tier One or Tier Two Commercial Edible Food Generator which provided the food.
- (4) The date and time the food was picked up or received.
- (5) A brief explanation of why the food was rejected or refused.

(A) Contracts between Tier One or Tier Two Commercial Edible Food Generators and Food Recovery Organizations or Food Recovery Services shall not include any language prohibiting Tier One or Tier Two Commercial Edible Food Generators from contracting or holding agreements with multiple Food Recovery Organizations or Food Recovery Services listed on the County of San Mateo Office of Sustainability website.

(l) Food Recovery Organizations and Food Recovery Services operating in the Town shall conduct trainings and develop educational material such as donation guidelines and handouts to provide instruction and direction to Tier One and Tier Two Commercial Edible Food Generators with whom they contract regarding best practices and requirements for the timely identification, selection, preparation, and storage of Edible Food to ensure the maximum amount of Edible Food is recovered and to avoid the collection of food that is moldy, has been improperly stored, or is otherwise unfit for human consumption.

(m) Edible Food Recovery Capacity Planning

- (1) Food Recovery Services and Food Recovery Organizations. To support Edible Food Recovery capacity planning assessments or other such studies, Food Recovery Services and Food Recovery Organizations operating in the Town shall

provide information and consultation to the Town and its Designee for Edible Food Recovery upon request, regarding existing, or proposed new or expanded, Edible Food Recovery capacity that could be accessed by the Town and its Tier One and Tier Two Commercial Edible Food Generators. A Food Recovery Service or Food Recovery Organization contacted by the Town, or its Designee for Edible Food Recovery shall respond to such requests for information within 60 days.

(n) Allow Town's enforcement entity or their Designee for Edible Food Recovery to access the premises and inspect procedures and review records related to Edible Food Recovery and/or provide them electronically if requested by the Town or the Designee for Edible Food Recovery.

[History: New, Ord. 708, 5/9/12, Ord. 808, 10/27/21]

#### ***Division 4: Regulation of Franchisees and Permittees, and Collection Practices***

##### **3.05.210 Franchise to Collect Solid Waste, Recyclables, and Organic Waste.**

The City Council may, with or without having invited bids therefor, enter into an exclusive contract with any Responsible Person to collect and handle any or all Solid Waste, including Recyclables and Organic Waste, within the Town. The Franchisee with whom the Town has entered into an exclusive franchise agreement shall have the exclusive right to collect, convey, and transport Solid Waste, including Recyclables and Organic Waste, in, along, or over the public streets, alleys, and highways in the Town, or to designated properties or areas in the Town, for so long as the Franchisee is not in material breach of any term of the franchise agreement. A Franchisee with a franchise agreement shall pay the Town the franchise fee required under the franchise agreement; no permit fee shall be required of such Franchisee.

The Franchisee shall, through written notice to the Town annually on or before October 1st identify the facilities to which they will transport Organic Waste including facilities for Source Separated Recyclable Materials, Source Separated Green Container Organic Waste, and Mixed Waste as defined in 14 CCR, Division 7, Chapter 12, Article 2.

Franchisees, Facility Operators and Community Composting Operations. 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 the Town'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 Town, or their Designee shall respond within 60 days. Community Composting operators, upon the Town's request, shall provide information to the Town 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 Town shall respond within 60 days.

[History: formerly § 3.05.050(c) and before that, § 3.405; ORD. 277, 09/08/82; ORD. 638, 12/14/05; ORD. 658, 06/13/07; ORD. 682, 10/14/09; ORD. 708, 5/9/12, ORD. 808, 10/27/21]

### **3.05.220 Permit to Collect Solid Waste.**

Upon finding that it is in the best interests of the Town to do so, the City Council may grant a permit, good for one year, to any Responsible Person to collect and handle any or all Solid Waste from such properties or areas in the Town that are not eligible for service by a Franchisee operating under an exclusive franchise agreement, and to convey, and transport such Solid Waste in, along, or over the public streets, alleys, and highways in the Town. The City Council may renew the permit each year if the permittee is not in material default of any provisions in its existing permit and renewal is in the best interests of the Town. The permittee shall pay the Town an annual permit fee set forth in the Master Fee Schedule.

*[History: New, Ord. 708, 5/9/12, Ord. 808, 10/27/21]*

### **3.05.230 Permit to Collect Recyclables.**

Upon finding that it is in the best interests of the Town to do so, the City Council may grant a permit, good for one year, to any Responsible Person to provide collect Recyclables only from any properties or areas in the Town, and to convey, and transport such Recyclables in, along, or over the public streets, alleys, and highways in the Town. Thereafter, the City Manager may renew the permit each year if the Permittee is not in material default of any provisions in its existing permit and renewal is in the best interests of the Town. A denial of a request to renew a Permit to Collect Recyclables may be appealed to the City Council in accordance with Colma Municipal Code section 1.02.270. The Permittee shall pay the Town an annual permit fee set forth in the Master Fee Schedule.

*[History: formerly § 3.05.050(f) and before that, § 3.405; Ord. 277, 09/08/82; Ord. 638, 12/14/05; Ord. 658, 06/13/07; Ord. 682, 10/14/09; Ord. 708, 5/9/12, Ord. 808, 10/27/21]*

### **3.05.240 Franchisee or Permittee with Continuation Rights.**

(a) Nothing in this subchapter shall affect the continuation rights granted by section 49520 of the California Public Resources Code to any Franchisee or Permittee, provided that the Franchisee or Permittee shall have paid all required fees and is not in material breach of any term of the permit or franchise under which the Franchisee or Permittee is operating. Any Franchisee or Permittee claiming continuation rights shall be responsible for demonstrating to the Town how those rights have been acquired, and shall provide to the Town a list of that Hauler's customers as of the date upon which continuation rights are first claimed.

(b) To the extent that a Hauler is operating under continuation rights granted by section 49520 of the California Public Resources Code, and the Town gave such Hauler notice of termination of continuation rights prior to November 9, 2010, such Hauler may not commence service to any new customers from and after the effective date of any new Solid Waste, Recyclables or Organic Waste collection franchise granted by the Town.

*[History: formerly § 3.05.050(a) and (b), and before that, § 3.405; ORD. 277, 09/08/82; ORD. 638, 12/14/05; ORD. 658, 06/13/07; ORD. 682, 10/14/09; ORD. 708, 5/9/12, ORD. 808, 10/27/21]*

### **3.05.250 Authorization for Haulers of Electronics Waste (E-waste).**

An approved E-Waste Recycler or Hauler may, without obtaining a permit, collect E-waste, including computers, televisions, copiers, fax machines, stereos and VCRs, that has been left at either the curbside in a marked container or a drop-off site, provided that such Recycler or Hauler has provided to the City Clerk its Covered Electronic Waste Identification (CEWID) number prior to collection of any E-waste.

*[History: formerly 3.05.090; ORD. 658, 06/13/07; ORD. 708, 5/9/12, ORD. 808, 10/27/21]*

### **3.05.260 Self-Haulers and Other Exemptions.**

(a) Nothing in this subchapter shall prohibit a self-hauler from personally collecting, conveying, Recycling, processing or disposing of such Solid Waste, Recyclables or Organic Waste without obtaining the permit required herein, provided that the self-hauler complies with other provisions of this subchapter and any other applicable law.

(b) Nothing herein contained shall prevent any person, business or other entity from allowing Recyclable Materials or Organic Waste to be picked up, dropped off, or otherwise donated to any Charitable Entity or community composting facility.

(c) Nothing herein contained shall inhibit, regulate or restrict any Recycling center, nonprofit drop-off program or Recycling processor as permitted by the Solid Waste Management Resource and Recovery Act of 1972 or the California Beverage Container Recycling and Litter Reduction Act of 1986.

(d) Nothing herein shall prohibit a contractor from Recycling, re-using, or disposing of demolition and construction debris, provided that such contractor shall comply with all Town diversion, recordkeeping and reporting requirements set forth in this subchapter.

*[History: formerly § 3.05.080, and before that, § 3.408; Ord. 277, 09/08/82; Ord. 638, 12/14/05; Ord. 658, 06/13/07; Ord. 708, 5/9/12, Ord. 808, 10/27/21]*

### **3.05.270 Terms of a Franchise or Permit.**

(a) A Franchise agreement or permit shall be in writing, naming the holder of the franchise or permit, and shall include such terms and conditions as the City Council shall establish to further the purposes of this subchapter, which may include but are not limited to:

- (1) Requirements pertaining to the manner, time and frequency of collection;
- (2) Requirements pertaining to collecting and handling Recyclable Materials or Organic Waste;
- (3) Indemnification and insurance provisions satisfactory to the Town;
- (4) Provisions requiring the Franchisee or Permittee to provide requested Solid Waste, Recycling, and Organic Waste diversion reports to the Town, cooperate with the city in reporting requirements, Solid Waste generation studies and the preparation of waste stream and container contamination audits, and to

implement measures to reach the Recycling and organic waste diversion targets mandated by the Waste Management Act (California Public Resources Code Section 40000 et seq.), SB 1016, AB 341, AB 1826, and SB 1383, and their implementing regulations, as they may be amended from time to time; and

- (5) Reporting Requirements, as more fully described elsewhere in this subchapter.

[*History*: formerly § 3.05.050(e) and before that, § 3.405; Ord. 277, 09/08/82; Ord. 638, 12/14/05; Ord. 658, 06/13/07; Ord. 682, 10/14/09; ORD. 708, 5/9/12, ORD. 808, 10/27/21]

### **3.05.280 Records and Reporting.**

(a) Each Franchisee shall prepare the following reports and submit them to the City Manager within 45 days after the close of the reporting period:

- (1) A monthly *Service Complaints Report* containing all complaints by residents or businesses in the Town of Colma relating to service, including missed pickups, and a description of how each complaint was handled.
- (2) A biannual *AB 341/SB 1383 Report* on the implementation and monitoring of the legislation referenced in Section 3.05.270(a)(4), which shall include information about the:
  - (A) The number of businesses subject to AB 341 and the SB 1383 Regulations, modifications to service compared to the prior reporting period, and the related disposal and Recycling generated from each account and each account's address.
  - (B) Information about the businesses that are out of compliance with AB 341 and the SB 1383 Regulations and the legislation referenced in Section 3.05.270(a)(4).
- (3) A quarterly *Recycling and Disposal - by Sector - Report*, which shall include the amount of disposed Solid Waste, Recycled Materials, and Organic Waste from each of the three sectors: commercial, residential, and debris box service, the Recycling and Organic Waste Recycling rate for the commercial, residential sectors and debris box service and the total Recycling rate for the Town.
- (4) An annual *Recycling and Disposal by Sector-Cumulative Annual Report* that includes the residential, commercial and roll-off/debris box disposed and diverted amounts in a year-to-year comparison.
- (5) An annual *Household Hazardous Waste Report* to be sent to the Town prior to August 30 if each year that details the amount and type of Household Hazardous Waste that was collected in the Town.

(b) Each Hauler (and if applicable, the Permittee, as it relates to Organic Waste) shall prepare the following reports and submit them to the City Manager within 45 days after the close of the reporting period:

- (1) A monthly *Service Complaints Report* containing all complaints by residents or businesses in the Town relating to service, including missed pickups, and a description of how each complaint was handled.
- (2) A quarterly *Recyclable Materials Report*, which shall be submitted by the Hauler 45 days after the close of the reporting period, and which shall state for the reporting period:
  - (A) Each location name and address serviced by Hauler, and the monthly Solid Waste, Recycling and Organic Waste subscription level for each customer;
  - (B) Type and quantity of Recyclable Materials collected monthly, e.g., cardboard, paper, beverage containers, mixed Recyclables, wood waste and scrap metal, collected;
  - (C) Type and quantity of Organic Waste collected monthly, e.g., green waste, food waste, and paper, collected;
  - (D) The name of the Material Recovery Facility, authorized Recycling facility, or authorized processing facility where the Recyclable Materials and Organic Waste were delivered and processed; and
  - (E) Colma Permit number (if applicable), address, phone number, contact person, email of Hauler.

[History: New, Ord. 708, 5/9/12, Ord. 808, 10/27/21]

### **3.05.290 Collection Practices.**

(a) *Collection of Solid Waste.* No person may convey Solid Waste, including Recyclables and Organic Waste, over the streets of the Town except in equipment that is water-tight, vector-resistant, durable, easily cleanable and designed for safe hauling, and so operated as to prevent offensive odors escaping there from and garbage from being blown, dropped or spilled.

(b) *Hauler vehicles.* No Hauler shall collect, convey over the streets and alleys of the Town, dispose of any refuse except in equipment that is water-tight, vector-resistant, durable, easily cleanable and designed for safe hauling, and so operated as to prevent offensive odors escaping there from and garbage from being blown, dropped or spilled.

(c) *Disposal.* Disposal of Solid Waste, Recyclables and Organic Waste shall be made outside the Town limits, at a transfer station or disposal facility that is operating in compliance with all applicable laws and holds all permits and other authorizations required for its operations.

(d) *Equipment Safety.* Vehicles and equipment used in the transport of Solid Waste, Recyclables, and Organic Waste shall be constructed and maintained in such a manner to minimize the health and safety hazards to collection personnel and the public.



(e) *Equipment Parking.* For reasons of nuisance and vector problems, uncleaned Solid Waste collection vehicles containing putrescible material shall not be stored on public streets or roads except under emergency conditions. The Hauler must designate a location where the vehicles will be parked when not in service.

(f) *Identification of Hauler.* Each vehicle used for the collection and transport of Solid Waste, Recyclables, and Organic Waste shall be clearly marked with the name of the agency or firm operating the vehicle.

(g) *Time of Collection.* No person shall remove any Solid Waste, Recyclables, or Organic Waste between the hours of 5:00 p.m. and 2:30 a.m. the following date. A Hauler shall provide regular collection service, in compliance with any schedule established by the franchise between the Hauler and the Town, or permit issued by the Town, and the requirements of this subchapter.

[History: New, Ord. 708, 5/9/12, Ord. 808, 10/27/21]

### **3.05.300 Delivery and Recycling and Disposal Requirements.**

(a) Solid Waste other than Recyclables or Organic Waste may only be delivered to a licensed landfill site or licensed transfer station for disposal.

(b) Recyclable Materials may only be delivered, after having been separated from other Solid Wastes, to a material recovery facility (MRF) or other authorized Recyclable collection facility.

(c) Organic Waste may only be delivered to an approved composting facility or a facility that allows diversion credit for the delivered organics materials.

(d) Construction and Demolition Debris may only be delivered to certified construction and demolition Recycling facility or other authorized collection site. The Town's Construction and Demolition ordinance reporting requirements for projects in Colma remain in full effect and the reporting requirements in the subchapter are not modified.

[History: formerly § 3.05.110, and before that, § 3.411; Ord. 277, 09/08/82; Ord. 638, 12/14/05; Ord. 658, 06/13/07; Ord. 708, 5/9/12, Ord. 808, 10/27/21]

### **3.05.310 Modification or Revocation.**

The City Council may modify or revoke a franchise or permit to collect Solid Waste, Recyclables, or Organic Waste for failure to comply with any provision of this subchapter.

[History: formerly § 3.05.120, and before that, § 3.412; Ord. 277, 09/08/82; Ord. 638, 12/14/05; Ord. 658, 06/13/07; Ord. 708, 5/9/12, Ord. 808, 10/27/21]

### **3.05.320 Franchisee's Existing Rights.**

Nothing in this subchapter shall modify, limit, or abrogate in any manner any franchise or permit previously granted or extended by the Town, or the existing right of a person or business to sell or donate its Recyclable Materials or Organic Waste.

[History: Ord. 808, 10/27/21]

### ***Division 5: Inspections and Enforcement***

#### **3.05.330 Inspections and Investigations.**

(a) Town representatives and/or Designee, including the Designee for Edible Food Recovery are authorized to conduct Inspections and investigations, at random or otherwise, of any collection container, collection vehicle loads, or transfer, processing, or disposal facility for materials collected from generators, or Source Separated materials to confirm compliance with this subchapter by Organic Waste Generators, Commercial Businesses (including Multi-Family Residential Dwellings), property owners, Tier One and Tier Two Commercial Edible Food Generators, haulers, Self-Haulers, Food Recovery Services, and Food Recovery Organizations, subject to applicable laws. This Section does not allow Town to enter the interior of a private residential property for Inspection. Town may conduct container Inspections for Prohibited Container Contaminants using Remote Monitoring, and Commercial Businesses shall accommodate and cooperate with the Remote Monitoring.

(b) Regulated entity shall provide or arrange for access during all Inspections (except for residential property interiors) and shall cooperate with the Town's employee, Designee or Designee for Edible Food Recovery 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 subchapter described herein. Failure to provide or arrange for: (i) access to an entity's premises; (ii) installation and operation of Remote Monitoring equipment (optional); or (ii) access to records for any Inspection or investigation is a violation of this subchapter and may result in penalties described.

(c) Town or its Designee are authorized to conduct Inspections and investigations, at random or otherwise, of any collection container, collection vehicle loads, or transfer, processing, or disposal facility for materials collected from generators, or Source Separated materials to confirm compliance with this subchapter 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.

(d) The regulated entity shall provide or arrange for access during all Inspections (except for residential property interiors) and shall cooperate with the Town's employee or its designated entity/Designee during such Inspections and investigations. Such Inspections and investigations may include confirmation of proper placement of materials in containers, Edible Food Recovery activities, records, or any other requirement of this subchapter described herein. Failure to provide or arrange for: (i) access to an entity's premises; access to records for any Inspection or investigation is a violation of this subchapter and may result in penalties described.

(e) Any records obtained by the Town, or its Designee 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.

(f) Town or its Designee are authorized to conduct any Inspections or other investigations as reasonably necessary to further the goals of this subchapter, subject to applicable laws.

(g) Town or its Designee shall receive written complaints from persons regarding an entity that may be potentially non-compliant with SB 1383 Regulations, including receipt of anonymous complaints.

### **3.05.340 Enforcement.**

(a) Violation of any provision of this subchapter shall constitute grounds for issuance of a Notice of Violation and assessment of a fine by a Town Enforcement Official, Designee for Edible Food Recovery, or representative. Enforcement Actions under this subchapter are issuance of an administrative citation and assessment of a fine. The Town's procedures on imposition of administrative fines under Section 2.01.160 et seq. shall govern the imposition, enforcement, collection, and review of administrative citations issued to enforce this subchapter and any rule or regulation adopted pursuant to this subchapter, except as otherwise indicated in this subchapter.

(b) Responsible Entity for Enforcement.

(1) Enforcement pursuant to this subchapter may be undertaken by the Town Enforcement Official, which may be the city manager or their designated entity or combination thereof.

(2) Enforcement may also be undertaken by a Regional or County Agency Enforcement Official, Town's franchised Hauler, or other Designee in consultation with Town Enforcement Official.

(A) Town Enforcement Official, Regional or County Agency Enforcement Official will interpret subchapter; determine the applicability of waivers, if violation(s) have occurred; implement Enforcement Actions; and, determine if compliance standards are met.

(B) Town Enforcement Official(s), Regional Agency Enforcement Official, or Designee for Edible Food Recovery may issue Notices of Violation(s).

(c) Process for Enforcement.

(1) Town Enforcement Official, the Town's franchised Hauler or Regional or County Enforcement Officials and/or Town's Designee for Edible Food Recovery will monitor compliance with the subchapter randomly and through Compliance Reviews, Route Reviews, investigation of complaints, and an Inspection program.

(2) Town or its Designee for Edible Food Recovery may issue an official notification to notify regulated entities of its obligations under this subchapter.

(3) The Town or its Designee for Edible Food Recovery will issue a Notice of Violation to any Tier One or Tier Two Commercial Edible Food Generator found to have Edible Food in any waste container or to any Food Recovery

Organization or Food Recovery Service found to have Edible Food recovered from a Tier One or Tier Two Edible Food Generator in a waste collection container which has not been documented by a notice of significant spoilage as required in this subchapter. Such notice will be provided by email communication immediately upon identification of the violation or within three (3) calendar days after determining that a violation has occurred. If the Town or its Designee for Edible Food Recovery observes Edible Food in a Tier One or Tier Two Commercial Edible Food Generator, or Food Recovery Organization, or Food Recovery Service waste container on more than two (2) consecutive occasion(s), the Town or its Designee for Edible Food Recovery may assess an administrative citation and fine, pursuant to the Edible Food Recovery penalties provisions contained in Section 1.05.020 et. seq., on the Tier One or Tier Two Commercial Edible Food Generator, Food Recovery Organization, or Food Recovery Service.

- (4) Except for violations of generator contamination of container contents, Town shall issue a Notice of Violation requiring compliance within 60 days of issuance of the notice.
  - (5) Absent compliance by the respondent within the deadline set forth in the Notice of Violation, Town shall commence an action to impose penalties, via an administrative citation and fine, pursuant to Sections 1.05.020 and 2.01.160 et seq.
  - (6) For the purposes of Edible Food Recovery, the Designee for Edible Food Recovery shall commence an action to impose penalties, via an administrative citation and fine, pursuant to the Edible Food Recovery penalties provision contained in this subchapter.
  - (7) Notices shall be sent to "owner" at the official address of the owner maintained by the tax collector for the Town or if no such address is available, to the owner at the address of the dwelling or Commercial property or to the party responsible for paying for the collection services, depending upon available information.
- (d) Violations and Penalty Amounts for Types of Violations.
- (1) Any person violating any of the provisions of this subchapter which result in noncompliance with the SB 1383 Regulations, shall be subject to the fines set forth in section 1.05.020 et seq. of the Colma Municipal Code.
  - (2) For violations other than Section 3.05.340(d)(1):
    - (A) Any person violating this subchapter shall be guilty of a misdemeanor, which shall be punishable as set forth in Section 1.05.010 et seq.
    - (B) Keeping or maintaining any property or condition in violation of this subchapter is declared to be a public nuisance, which may be abated pursuant to the procedures set forth in the Property Maintenance and Nuisance Abatement subchapter of the Town of Colma (Colma Municipal Code, subchapter 2.01).

(e) Compliance Deadline Extension Considerations.

The Town may extend the compliance deadlines set forth in a Notice of Violation issued in accordance with this section if it finds that there are extenuating circumstances beyond the control of the respondent that make compliance within the deadlines impracticable, including the following:

- (1) Acts of God such as earthquakes, wildfires, flooding, and other emergencies or natural disasters.
- (2) Delays in obtaining discretionary permits or other government agency approvals; or,
- (3) Deficiencies in Organic Waste recycling infrastructure or Edible Food Recovery capacity and the Town is under a corrective action plan with CalRecycle pursuant to 14 CCR Section 18996.2 due to those deficiencies.

(f) Appeals Process.

Persons receiving an administrative citation containing a penalty for an uncorrected violation may request a hearing to appeal the citation pursuant to Section 2.01.230 et seq. A hearing will be held only if it is requested within the time prescribed and consistent with Town's procedures in the Town's codes for appeals of administrative citations. Evidence may be presented at the hearing. The Town will appoint a hearing officer who shall conduct the hearing and issue a final written order.

(g) Education Period for Non-Compliance

Beginning January 1, 2022 and through December 31, 2023, Town and or their Designee will conduct Inspections, Remote Monitoring, Route Reviews or waste evaluations, and Compliance Reviews, depending upon the type of regulated entity, to determine compliance, and if Town or their Designee 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 subchapter 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.

(h) Civil Penalties for Non-Compliance

Beginning January 1, 2024, if the Town determines that an Organic Waste Generator, Self-Hauler, franchised 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 subchapter, it shall document the noncompliance or violation, issue a Notice of Violation, and take Enforcement Action pursuant to this section, as needed.