



TOWN OF FAIRFAX

STAFF REPORT

December 1, 2021

TO: Mayor and Town Council

FROM: Jonathon Goldman, Interim Public Works Director
Janet Coleson, Esq., Town Attorney

SUBJECT: Second reading by title only and adoption of an Ordinance Amending Chapter 8.08 of the Town Code Relating to Solid Waste, Recyclables and Organic Waste to Implement SB 1383 Regulations

RECOMMENDATION

Waive second reading, read by title only, and adopt: “An Ordinance of the Town Council of the Town of Fairfax Amending Chapter 8.08 of the Fairfax Municipal Code Relating to Solid Waste, Recyclables and Organic Waste.”

BACKGROUND

Senate Bill (SB) 1383, the Short-Lived Climate Pollutant Reduction Act of 2016, directed the California Department of Resources Recycling and Recovery (CalRecycle) to develop regulations to divert 75% of organic waste from landfills and recover 20% of edible food for human consumption statewide by 2025. A key regulatory requirement is that local jurisdictions adopt an ordinance (or other enforceable mechanism) to ensure that entities under the jurisdiction’s authority comply with the regulations. CalRecycle created a model ordinance to satisfy this requirement. Staff worked with R3 Consulting Group (R3) and legal counsel to customize the model ordinance for the Town of Fairfax. The proposed ordinance supports establishment of enforceable SB 1383-related requirements for organic waste generators, haulers, and others, and the proposed ordinance contains similar language for other jurisdictions in Marin County.

DISCUSSION

The proposed ordinance was introduced and first read at Council’s November 3, 2021 regular meeting.

Staff has prepared the attached redlined and clean copies of the ordinance, as well as a revised redline of changes to Chapter 8.08 of the Town Code.

ENVIRONMENTAL CONSIDERATIONS

Approval of the Ordinance is exempt from California Environmental Quality Act (CEQA) review because it does not constitute a project under CEQA pursuant to Guideline 15378(b)(5), which

provides that organizational and administrative activities of governments that will not result in physical changes in the environment are not considered projects for CEQA purposes.

FISCAL IMPACT

The financial impact of implementing SB 1383 is expected to be small to the Town and its solid waste ratepayers. A rate adjustment hearing is expected later in December 2021. Staff is continuing to evaluate the requirements and costs of other aspects of SB 1383 and expects to return to Council at a later date to discuss the cost of these and other SB 1383 requirements. The cost to the City of adopting the Ordinance, however, is negligible.

LEGAL CONSIDERATIONS

The Town Attorney has reviewed and approved the Solid Waste, Recyclables, and Organic Waste Ordinance and the proposed changes to the Town Code. In addition, members of the Town Attorney's Office discussed the Ordinance with MSS's attorney and attorneys for the City of San Rafael, the City of Larkspur and the County of Marin. As a result of those discussions, the Town Attorney is not recommending any changes to the Ordinance.

ATTACHMENTS

- A. Proposed Ordinance (as amended at the 11/3/21 by the Town Council on 1st reading)
- B. A redline of changes to the 11/3/21 posted version of the ordinance (so you can see the amendments the Town Council made on 11/3/21)
- C. A revised redline of changes to Chapter 8.08 of the Fairfax Municipal Code

ORDINANCE NO. ____

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX
AMENDING CHAPTER 8.08 OF THE FAIRFAX MUNICIPAL CODE RELATING TO
SOLID WASTE, RECYCLABLES, AND ORGANIC WASTE**

WHEREAS, SB 1383 (Chapter 395, Statutes of 2016) directed the California Department of Resources Recycling and Recovery (“CalRecycle”) to adopt regulations to reduce organic waste by 50 percent from its 2014 baseline level by 2020 and 75 percent by 2025; and

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

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

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

WHEREAS, the SB 1383 Regulations requires the Town of Fairfax to adopt an ordinance to enforce the SB 1383 Regulations by January 1, 2022; and

WHEREAS, the Town Council desires to amend its Garbage and Rubbish Disposal Ordinance to comply with the SB 1383 Regulations.

**NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF FAIRFAX
DOES ORDAIN AS FOLLOWS:**

Section 1. Chapter 8.08 is hereby amended in its entirety as set forth in Exhibit A, attached hereto and incorporated by this reference.

Section 2. Environmental review is not required because adoption of the Ordinance is not a project under the California Environmental Quality Act (CEQA) pursuant to CEQA Guideline 15378(b)(5) (organization or administrative activities of governments not project).

Section 3. If any section, subsection, clause or phrase in this Ordinance or the application thereof to any person or circumstances is for any reason held invalid, the validity of the remainder of this Ordinance or the application of such provisions to other persons or circumstances shall not be affected thereby. The Town Council hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more sections,

subsections, sentences, clauses or phrases or the application thereof to any person or circumstance be held invalid.

Section 4. No less than five days prior to the adoption of this Ordinance, the Town Clerk posted a summary of this Ordinance in accordance with Government Code section 36933. The Town Clerk will certify to the passage of this Ordinance by the Town Council of the Town of Fairfax, California, and cause a summary to be posted within fifteen (15) days after its passage in the three public places in the Town of Fairfax, to wit: 1. Bulletin Board, Town Hall Offices; 2. Bulletin Board, Fairfax Post Office; and 3. Bulletin Board, Fairfax Women’s Club.

Section 5. This Ordinance shall take effect January 1, 2022.

INTRODUCED on the 3rd day of November 2021, and PASSED AND ADOPTED by the Town Council of the Town of Fairfax on the 1st day of December 2021, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Mayor

ATTEST:

Michele Gardner, Town Clerk

CHAPTER 8.08: SOLID WASTE, RECYCLABLES, AND ORGANIC WASTE

Section

- 8.08.010 Definitions
- 8.08.020 Zones
- 8.08.030 Charges
- 8.08.040 Collection Containers.
- 8.08.050 Duties of owners and occupants
- 8.08.060 Mechanical garbage disposal
- 8.08.070 Duty of Authorized Collector
- 8.08.080 Unlawful Disposal
- 8.08.090 Unlawful Collection
- 8.08.100 Dead animals
- 8.08.110 Contract/Franchise Agreement
- 8.08.120 Violation; penalty
- 8.08.130 Mandatory Garbage, Recycling and Organic Materials Collection
 - 8.08.130-1 Findings
 - 8.08.130-2 Solid Waste Collection Service requirements
 - 8.08.130-3 Commercial Generator requirements.
 - 8.08.130-4 Authorized Collectors
 - 8.08.130-5 Recycling and Organic Materials Collection services
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 - 8.08.130-12 Edible Food Recovery Organization and Service requirements
 - 8.08.130-13 Implementation and enforcement
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 - 8.08.130-15 Forms, regulations and guidelines

§ 8.08.010 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACT. The California Integrated Waste Management Act of 1989 (commencing with Section 40000 of the Public Resources Code), as amended, including but not limited to, the Jobs and Recycling Act of 2011 (AB 341), SB 1016 (Chapter 343, Statutes of 2008), the Mandatory Commercial Organics Recycling Act of 2014 (AB 1826), and the Short-Lived

Climate Pollutants Bill of 2016 (SB 1383), and as implemented by the regulations of CalRecycle.

ANAEROBIC DIGESTION or AD. The biological decomposition of organic matter with little or no oxygen. The anaerobic digestion technology that will initially be utilized by the franchised hauler will be that of the Central Marin Sanitation Agency (a public-operated treatment works) to produce energy and to reduce the volume of Solid Waste that must be landfilled.

AUTHORIZED COLLECTOR. The individual, persons, firm or corporation collecting, and delivering for Disposal, Recycling or processing Solid Waste originating within the Town and doing so under a contract, permit or franchise agreement with the Town. Authorized collector may be referred to as the Franchisee or Franchised Collector.

BULKY WASTE. Large items of Solid Waste such as appliances (white goods), e-waste (except for universal waste), furniture, tires, carpets, mattresses and similar large items, large auto parts, trees, branches, stumps, and other oversize wastes whose large size precludes or complicates their handling by normal collection, processing, or Disposal methods. It does not include abandoned vehicles or household hazardous waste.

CALRECYCLE. California Department of Resources Recycling and Recovery, which is the department designated with responsibility for developing, implementing, and enforcing the SB 1383 Regulations.

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

COLLECTION. To take physical possession of Solid Waste at, and remove from, the place of generation for transport to a Solid Waste facility or other recovery activity.

COMMERCIAL BUSINESS or COMMERCIAL. A firm, partnership, proprietorship, joint-stock company, corporation, or association, whether for-profit or nonprofit, strip mall, industrial facility, or a multi-family dwelling with five (5) or more dwelling units, or as otherwise defined in 14 CCR Section 18982(a)(6). A Multi-Family Residential Dwelling that consists of less than five (5) dwelling units is not “Commercial” for the purposes of this chapter.

COMMERCIAL EDIBLE FOOD GENERATOR. A Tier One or a Tier Two Commercial Edible Food Generator as defined in 14 CCR Section 18982(a)(73) and (a)(74). Food Recovery Organizations and Food Recovery Services are not Commercial Edible Food Generators.

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

CONSTRUCTION AND DEMOLITION DEBRIS or C&D. Used or discarded materials resulting from construction, renovation, remodeling, repair, demolition, excavation or construction clean-up operations on any pavement or structure.

CONTAINER or COLLECTION CONTAINER. For the purpose of this chapter, any bin, box or cart used for the purpose of holding Solid Waste for collection.

DEBRIS BOX. Any ten (10) to forty (40) cubic yard container, or any compactor provided by a Solid Waste Generator, placed in the public right-of-way, on Town property, private property, or elsewhere in the service area, which is procured by a Solid Waste Generator for their use in the Collection of their Solid Waste. Debris boxes are serviced by means of lifting the entire Container, including all contents, onto a designated collection vehicle.

DESIGNATED COLLECTION LOCATION. The place where an Authorized Collector has contracted with either the Town or a private entity to pick up separated Garbage, Recyclable Materials and Organic Materials Collection Containers. This location will customarily be the curbside of a residential neighborhood or the service alley of a commercial (or multi-family) enterprise.

DIRECTOR. The Town Manager of the Town of Fairfax, or his or her designee.

DISPOSAL. The final disposition of Solid Waste at a Solid Waste Facility permitted for disposal.

DIVERSION. Activities reducing or eliminating the amount of Solid Waste from Solid Waste Disposal, and which return these materials to use in the form of raw materials for new, reused, or reconstituted products, which meet the quality standards necessary for commercial use, or for other purposes of reuse.

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

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

ENFORCEMENT ACTION. An action of the Town to address non-compliance with this chapter including, but not limited to, issuing administrative notices, citations, fines, penalties, or using other remedies.

FOOD RECOVERY ORGANIZATION. An entity that engages in the collection or receipt of Edible Food from Commercial Edible Food Generators and distributes that Edible Food to the public for Food Recovery either directly or through other entities or as otherwise defined in 14 CCR Section 18982(a)(25), including, but not limited to: A food bank as defined in Section 113783 of the Health and Safety Code; a nonprofit charitable organization as defined in Section 113841 of the Health and Safety code; and, a nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.

FOOD RECOVERY SERVICE. A person or entity that collects and transports Edible Food from a Commercial Edible Food Generator to a Food Recovery Organization or other entities for Food Recovery, or as otherwise defined in 14 CCR Section 18982(a)(26). A Food

Recovery Service is not a Commercial Edible Food Generator for the purposes of this chapter.

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

FRANCHISE AGREEMENT. an agreement between the Town and the Authorized Collector for the collection and delivery of Solid Waste for Disposal, Recycling or processing originating within the Town.

GARBAGE. All non-recyclable packaging and other waste attributed to normal activities of a service unit. Garbage must be generated by and at the service unit wherein the Garbage is collected. Garbage does not include Recyclable Materials, Organic Materials, Construction and Demolition Debris, large items, e-waste, universal waste, hazardous waste, household hazardous waste or exempt waste.

GENERATOR(S). For the purpose of this chapter, Generator means a person or entity, including a commercial Generator or residential Generator who is responsible for the initial creation of Recyclable Materials and/or Organic Materials, or as otherwise defined as “Organic Waste Generator” in 14 CCR Section 18982(a)(48). Generator may also include tenants, property managers for facilities with leased space, employees and contractors of a Generator, as well as a responsible party for special events. Generator also includes the Town, its facilities, its non-residential properties and its special events, including sponsors and/or co-sponsors.

HAULER. A person who collects material from a Generator and delivers it to a reporting entity, end user, or a destination outside of the state. “Hauler” means the Authorized Collectors, Food Waste self-haulers, and self-haulers as defined in this Chapter. A person who transports material from reporting entity to another person is a transporter, not a hauler.

INSPECTION. A site visit where the Town its designee, or the Authorized Collector reviews records, containers, and an a entity’s collection, handling, Recycling, or Disposal of Solid Waste or Edible Food handling to determine if the entity is complying with requirements set forth in this chapter, or as otherwise defined in 14 CCR Section 18982(a)(35).

MECHANICAL GARBAGE DISPOSAL. Any garbage disposal unit, approved by the Health Officer of the Town, which grinds or prepares Garbage to such an extent as to permit the Garbage to be disposed of through the sewer drains.

MULTI-FAMILY RESIDENTIAL DWELLINGS or MULTI-FAMILY. Five or more residential dwelling units located on a single parcel of land and any mobile home park located in the Town utilizing a common Garbage bin for the accumulation and set-out of Garbage.

ORGANIC MATERIALS or ORGANIC WASTE. Solid Wastes containing material originated from living organisms and their metabolic waste products, including but not limited to Food Waste, green material, landscape and pruning waste, organic textiles and carpets, lumber, wood, paper products, printing and writing paper, manure, biosolids, digestate, and sludges or as otherwise defined in 14 CCR Section 18982(a)(46).

ORGANIC MATERIAL PROCESSING FACILITY. Any facility selected by the Authorized Collector that is approved by the Town, or specifically designated by the Town, operated and legally permitted for the purpose of receiving and processing Organic Materials.

PREMISES. Includes a tract or parcel of land with or without habitable buildings or appurtenant structures. For purposes of this chapter, the word “premises” includes residential and commercial uses of the land, whether owned, leased, subleased, including every dwelling house, dwelling unit, apartment house or multiple-dwelling building, trailer or mobile home park, store, restaurant, rooming house, hotel, motel, office building, department store, manufacturing, processing or assembling shop or plant, warehouse and every other place or premises where any person resides, or any business is carried on or conducted within the Town.

PROHIBITED CONTAINER CONTAMINANTS. Includes (1) discarded materials placed in the designated Recyclables Container that are not identified as acceptable source separated Recyclables; (2) discarded materials placed in the designated Organic Materials collection container that are not identified as acceptable source separated Organic Materials; and (3) discarded materials placed in the Garbage Container that are acceptable source separated Recyclables and/or source separated Organic Materials, and (4) Excluded Waste placed in any Container.

RECYCLABLE MATERIALS or RECYCLABLES. Any material designated to be separated from the waste stream for purposes of Recycling. This designation shall be made by the Town and the Franchisee/Authorized Collector based upon the provisions of the Franchise Agreement, on good public practice, ability to receive an acceptable economic return, and feasibility of separating the material from the waste stream at the point of collection. Recyclable Materials may include, but are not limited to, paper, glass, cardboard, plastics, ferrous metal, and aluminum.

RECYCLING. The process of collecting, sorting, cleansing, treating and reconstituting materials that would otherwise become Garbage and returning them for use or reuse in the form of raw materials for new, used or reconstituted products which meet the quality standard necessary to be used in the marketplace. Recycling does not include transformation as defined in Public Resources Code Section 40201. (14 CCR Section 17225.54).

RESPONSIBLE PARTY. The individual or entity responsible for the Generator’s management of Solid Waste, Recyclable Materials and/or Organic Materials at the Generator’s commercial facility or special event.

SB 1383. SB 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.

SB 1383 REGULATIONS. The regulations developed by CalRecycle and contained within 14 CCR, Division 7, Chapter 12 and the amended portions of 14 CCR and 27 CCR.

SELF-HAULER. A person who hauls Recyclables or Organic Waste or recovered material they have generated using the Generator’s own vehicles, equipment and employees to another person. Self-hauler also includes a person who back-hauls waste. “Back-haul” means generating and transporting Organic Materials to a destination owned and operated by the Generator using the Generator’s own employees, vehicles and equipment.

SOLID WASTE. Has the same meaning as defined in Public Resources Code Section 40191, which defines Solid Waste as all putrescible and non-putrescible solid and semisolid wastes, including Garbage, Recyclable Materials, Organic Materials, Construction and Demolition Debris, Bulky Waste, discarded home and industrial appliances, manure, vegetable or animal solid or semisolid wastes, and other discarded solid and semisolid wastes with the exception that Solid Waste does not include any of the following wastes: (1) Hazardous waste, as defined in the Public Resources Code Section 40141; (2) Radioactive waste regulated pursuant to the State Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the Health and Safety Code); and, (3) Medical waste regulated pursuant to the State Medical Waste Management Act (Part 14 (commencing with Section 117600) of Division 104 of the Health and Safety Code). Untreated medical waste shall not be disposed of in a Solid Waste landfill, as defined in Public Resources Code Section 40195.1. Medical waste that has been treated and deemed to be Solid Waste shall be regulated pursuant to Division 30 of the Public Resources Code. Recyclable Materials and Organic Materials are a part of Solid Waste.

SOLID WASTE COLLECTION SERVICE. A business enterprise in any form that obtains or receives Solid Waste from a commercial Generator, residential Generator, or other non-residential establishment for the primary purpose of removal or hauling such material for ultimate Disposal or Recycling.

SOLID WASTE FACILITY. A permitted Solid Waste transfer or processing station including Material Recovery Facilities, a composting facility, a gasification facility, a transformation facility, an Engineered Municipal Solid Waste conversion facility, and a Disposal facility. Solid Waste facility additionally includes a Solid Waste operation that may be carried out pursuant to an enforcement agency tier notification, as provided in regulations adopted by CalRecycle, or otherwise set forth in the Act.

SOURCE SEPARATE, The process of removing Recyclable Materials and Organic Materials from Solid Waste at the place of generation, prior to Collection, and placing such materials into separate containers designated for Recyclable Materials and Organic Materials, or as otherwise defined in 14 CCR Section 17402.5(b)(4).

SOURCE REDUCTION. Any action which causes a net reduction in the generation of Solid Waste. Source reduction includes, but is not limited to, reducing the use of non-Recyclable Materials, replacing disposable materials and products with reusable materials and products, reducing packaging, reducing the amount of yard wastes generated, establishing Garbage rate structures with incentives to reduce the amount of wastes that Generator produce, and increasing the efficiency of the use of paper, cardboard, glass, metal, plastic, and other materials. Source reduction does not include steps taken after the material becomes Solid Waste or actions which would impact air or water resources in lieu of land, including, but not limited to, transformation.

SPECIAL EVENT. A community, public, commercial, recreational or social event which may serve food or drink, and which may require a permit from the Town. "Special Events" may include the temporary or periodic use of a public street, publicly owned site or facility, or public park.

TIER ONE COMMERCIAL EDIBLE FOOD GENERATOR. A Commercial Edible Food Generator that is one of the following as defined in 14 CCR Section 18982(a):

- (1) Supermarkets with gross annual sales of \$2,000,000 or more.

(2) Grocery store with a total facility size equal to or greater than 10,000 square feet.

(3) Food Service Provider, which means an entity primarily engaged in providing food services to institutional, governmental, commercial, or industrial locations of others based on contractual arrangements with these types of organizations.

(4) Food Distributor, which means a company that distributes food to entities including, but not limited to, supermarkets and grocery stores.

(5) Wholesale food vendor, which means a business or establishment engaged in the merchant wholesale distribution of food, where food (including fruits and vegetables) is received, shipped, stored, prepared for distribution to a retailer, warehouse, distributor, or other destination.

TIER TWO COMMERCIAL EDIBLE FOOD GENERATOR. A Commercial Edible Food Generator that is one of the following:

(1) Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.

(2) Hotel with an on-site food facility and 200 or more rooms.

(3) Health facility with an on-site food facility and 100 or more beds.

(4) Large Venue, which means a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility. For purposes of this chapter 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 chapter 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.

(5) Large Event, which means an event, including, but not limited to, a sporting event or a flea market, that charges an admission price, or is operated by a local agency, and serves an average of more than 2,000 individuals per day of operation of the event, at a location that includes, but is not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for an event,

(6) A state agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet.

(7) A local education agency facility, which means a school district, charter school, or county office of education that is not subject to the control of Town or county regulations related to Solid Waste, or as otherwise defined in 14 CCR Section 18982(a)(40), with an on-site food facility.

TOWN. The Town of Fairfax, California.

§ 8.08.020 ZONES.

The Town of Fairfax, for the purposes of this chapter, shall be divided into two areas, designated respectively as the “hill” and “flat” areas. The areas are presently established upon that certain map entitled “Map Showing Flat Area and Hill Area of the Town of Fairfax for Establishing Garbage Collection Rates” available for inspection in the office of the Town Clerk, and the areas may be changed and amended from time to time by resolution of the Town Council.

§ 8.08.030 CHARGES.

(A) Solid Waste Collection Service charges shall be payable in amounts as established from time to time by resolution of the Town Council. Payment of fees for Solid Waste collection shall be the responsibility of the owner of the Premises from which the Solid Waste is taken, but the fees may be received from the occupant for the account of the owner.

(B) Solid Waste Collection Service started after the tenth day of the calendar month shall be prorated on a monthly rate basis.

§ 8.08.040 COLLECTION CONTAINERS.

(A) All Collection Containers shall have tightly fitting covers.

(B) The Collection Containers may be set out the night before pickup at the Designated Collection Location and must be removed from the Town right-of-way within 24 hours after pickup.

§ 8.08.050 DUTIES OF OWNERS AND OCCUPANTS.

(A) Every owner or occupant of every residential and Commercial Premise in the Town where Solid Waste is accumulated, shall:

- (1) Use Solid Waste Collection Service as often as necessary to keep the Premises clean and free from odor and, in any event, shall arrange for not less than weekly Solid Waste Collection Service;
- (2) Arrange for a size, quantity and collection frequency of Collection Containers to adequately store all Solid Waste generated in connection with the Premise between the times designated for Collection service. The Town and/or Franchisee shall have the right to review the number and size of such Collection Containers to evaluate the adequacy of capacity provided for each type of Collection service and to review the separation and containment of materials. Generators shall adjust service levels for their Collection services as requested by the Town in order to meet the standards set forth in this chapter;
- (3) Utilize Collection Containers provided by the Franchisee/Authorized Collector and place the Collection Containers in a Designated Collection Location on the premises at a point not more than 200 feet from the street;

- (4) If the Collection Container is for use on Commercial Premises, keep the same at a suitable location at ground level, unless the Authorized Collector agrees to a different location;
- (5) Keep the Collection Container clean and sanitary;
- (6) Put no more than the established weight limit of Solid Waste in each collection Container for any one collection;
- (7) Pay all fees when due as provided in this chapter and by resolutions of the Town Council;
- (8) Keep the occupied premises free and clear of Solid Waste at all times; and
- (9) Source Separate Recyclable Materials and Organic Materials from Garbage. Place Source Separated Organic Materials, including Food Waste, in the Organic Materials Collection Container; place source separated Recyclable Materials in the Recyclable Materials Collection Container; and place Garbage in the approved Garbage Collection Container. Generators shall not place Prohibited Container Contaminants into the Garbage Collection Container, Organic Materials Collection Container or Recyclable Materials Collection Container. The Director may excuse or waive violations of this requirement as described in Section 8.08.130-6 . For the first and second violations under this paragraph 10, the Director will refer offenders to an educational training program. Subsequent violations shall be subject to Chapter 1.10 "Administrative Citation and Hearing Process Enforcement."

(B) It is unlawful for any owner or occupant to fail or refuse to comply with any of the requirements set forth in subsection (A) above.

§ 8.08.060 MECHANICAL GARBAGE DISPOSAL.

Notwithstanding the foregoing provisions, an occupant of any Premises, or an owner of any regularly and duly installed mechanical garbage disposal , may dispose of his or her Food Waste by the use of the mechanical garbage disposal, but shall nonetheless be required to use or take regular Solid Waste Collection Service on at least a weekly basis, in accordance with Section 8.08.130.

§ 8.08.070 DUTY OF AUTHORIZED COLLECTOR.

The Authorized Collector(s) of the Town shall:

- (A) Empty all Solid Waste Containers in the Town at least once each week, and in addition thereto, as often as may be requested by the owner or occupant, or as may be necessary to dispose of all Solid Waste as provided for in this chapter;
- (B) Use only Collection Containers and vehicles over the streets of the Town of Fairfax for the hauling of Solid Waste that are watertight, and the Authorized Collector shall not permit any Solid Waste to fall or remain on any street in the Town;
- (C) Dispose of all Solid Waste in a lawful manner outside the boundaries of the Town; and
- (D) Keep all Collection Containers and vehicles used by the Authorized Collector in the hauling of Solid Waste in a clean and sanitary condition.

§ 8.08.080 UNLAWFUL DISPOSAL.

Solid Waste shall be collected and disposed of only as provided for in this chapter, and it shall be unlawful for any person to burn, bury, throw away, carry over any street in the Town, or otherwise dispose of Solid Waste contrary to the provisions of this chapter.

§ 8.08.090 UNLAWFUL COLLECTION.

It is unlawful for any person, except the Authorized Collector or the authorized agents and employees thereof, to collect Solid Waste from within the Town.

§ 8.08.100 DEAD ANIMALS.

(A) Dead animals must be disposed of in a lawful manner by the owner thereof outside the boundaries of the Town. Should any owner fail or refuse to so dispose of the dead animal, then the Town may do so and collect the charge or cost therefor from the owner thereof, and it is the duty of the owner to pay the cost or charge forthwith on being notified of the amount thereof.

§ 8.08.110 CONTRACT/FRANCHISE AGREEMENT.

The Town Council may, with or without inviting bids therefor, enter into a contract with any responsible individual, firm or corporation for the collection, removal and delivery for Disposal, Recycling or processing of Solid Waste collected and accumulated within the Town, under the terms and conditions as may be prescribed by the Town Council; and the right to make the collection shall be exclusive to the contractor, who shall be designated as the Franchisee/Authorized Collector under the provisions of this chapter.

§ 8.08.120 VIOLATION; PENALTY.

(A) Any individual, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine of not to exceed \$500 or by imprisonment of not more than six months, or by both the fine and imprisonment.

(B) Each separate day or any portion thereof during which any violation of this chapter occurs or continues shall be deemed to constitute a separate offense and, upon conviction thereof, shall be punishable as provided in subsection (A) above.

§ 8.08.130 MANDATORY GARBAGE, RECYCLING AND ORGANIC MATERIALS COLLECTION.

§ 8.08.130-1 FINDINGS.

(A) The Town finds that the State of California through its California Waste Management Act of 1989 ("Act"), California Public Resources Code Section 40000, et seq., as amended,

supplemented, superseded and replaced from time to time), as implemented by regulations of CalRecycle, require the Town to reduce, reuse, and recycle (including composting), Solid Waste generated in the Town 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. The Act and Alternative Compliance Act of 2008 (SB 1016, Statutes of 2008), requires that each local jurisdiction in the state to divert 50% of discarded materials from the landfill on a per capita basis.

(B) The Town finds that every city and county in California, including the Town, could face fines for not meeting the above mandated goal.

(C) The Town finds that Mandatory Commercial Recycling was one of the measures adopted in the Assembly Bill 32 Scoping Plan by the Air Resources Board (ARB) pursuant to the California Global Warming Solutions Act (Chapter 488, Statutes of 2006). The Mandatory Commercial Recycling Measure focuses on increased commercial waste diversion as a method to reduce greenhouse gas emissions. It is designed to achieve a reduction in greenhouse gas emissions of 5,000,000 metric tons of carbon dioxide (CO₂) equivalents. To achieve the measure's objective, an additional 2,000,000 to 3,000,000 tons of materials annually will need to be recycled from the commercial sector by the year 2020 and beyond.

(D) AB 341 (Chapter 476, Statutes of 2011) that required any business that generates four cubic yards or more of commercial Solid Waste per week or is a Multi-Family Residential Dwelling with five or more units to arrange for Recycling Collection services.

(E) Assembly Bill 1826 of 2014 requires businesses and certain multi-family property owners that generate a specified threshold amount of Solid Waste, Recycling, and Organic Materials per week to arrange for Recyclable Materials and Organic Waste Collection services for that waste and requires the Town to implement a mandatory Commercial organics Recycling program for designated commercial property owners.

(F) SB 1383 required CalRecycle to develop regulations to reduce organics in landfills and methane emissions. The SB 1383 Regulations require the Town, residential households, Commercial Businesses, Commercial Edible Food Generators, Haulers, Self-Haulers, Food Recovery Organizations, and Food Recovery Services to support achievement of statewide Organic Waste Disposal reduction targets.

(G) The Town continues to make progress in maintaining the Disposal reduction requirements of the state Recycling law, but additional efforts, particularly in the diversion of Organic Materials and the Recycling of paper, cardboard, glass, and other Recyclable Materials generated by Commercial Businesses, will assist the Town in maintaining and exceeding the goal of diverting waste from landfill Disposal. The Town desires to implement a program to further the Marin County Hazardous and Solid Waste Management Joint Powers Authority (JPA) goal to increase the diversion of materials from the landfill and transformation facilities to achieve an 94% diversion goal by 2025, ensure that resources are used to their highest potential, reduce upstream waste and reduce Marin's ecological footprint.

(H) The Town finds that Organic Materials that are buried in the anaerobic conditions of landfills creates methane gas and leachate that may impact air and water quality. Reductions or capture of methane is critical as methane gas from the

decomposition of waste is a source of renewable energy, but if not collected and controlled is at least 21 times as potent as carbon dioxide in contributing to climate change.

(I) The Town finds that reductions in greenhouse gas emissions from Solid Waste management can be realized by recovering traditional Recyclable Materials from the waste stream to use in the manufacturing of products from these materials. Traditional Recyclable Materials have significant intrinsic energy value that displaces fossil fuel energy requirements when introduced back into the manufacturing cycle. Additionally, by remanufacturing products using recycled materials, additional reductions in greenhouse gas emissions are realized through reduced fossil fuel demands in transportation and avoided methane emissions at landfills.

(J) The Town finds that efforts by the Town and the private sector to encourage voluntary diversion of commercial and special event Recyclables Materials have not achieved desired levels of diversion.

(K) The Town finds that mandatory commercial recycling programs in other cities and counties in California, similar to the one implemented by this § 8.08.130, have proven successful.

(L) The Town agrees to be subject to the terms of this chapter for all of the Town's commercial facilities and properties, including parks and Town buildings, as well as Town-sponsored or partnered special events.

§ 8.08.130-2 SOLID WASTE COLLECTION SERVICE REQUIREMENTS.

(A) Each Generator shall be responsible for ensuring and demonstrating its compliance with the requirements of this section. Each Generator shall:

(1) Source Separate Recyclable Materials and Organic Materials from Garbage; and place source separated Organic Materials, including Food Waste, in the Organic Materials Collection Container; place Source Separated Recyclable Materials in the Recyclable Materials Collection Container; and place Garbage in the approved Garbage Collection Container. Generators shall not place Prohibited Container Contaminants into the Garbage Collection Container, Organic Materials Collection Container or Recyclable Materials Collection Container.

(2) Subscribe to a basic level of Solid Waste Collection Service that includes, at a minimum, the collection of Garbage, Recyclable Materials and Organic Materials by the Authorized Collector.. Generators shall arrange for a size, quantity and collection frequency of Collection Containers to adequately store all Solid Waste generated in connection with the Premise between the times designated for Collection service. The Town or Authorized Collector shall have the right to review the number and size of such Collection Containers to evaluate the adequacy of capacity provided for each type of Collection service and to review the separation and containment of materials. Generators shall adjust service levels for their collection services as requested by the Town or Authorized Collector in order to meet the standards set forth in this chapter.

(3) A Self-Hauler may self-haul Source Separated Recyclable Materials and Source Separated Organic Materials in accordance with Section 8.08.130-7 after completing and retaining on-site a self-hauling form certifying that all self-hauling activities will be completed in accordance with this section and any other applicable law or regulation. A

copy of such form shall be available to the Director and the Authorized Collector upon request.

(B) Each Generator shall use Collection Containers provided by the Authorized Collector to collect and store Recyclable Materials and Organic Materials and shall designate areas to collect and/or store such materials.

(C) Each Generator shall prominently post and maintain one or more signs in maintenance or work areas or common areas where Recyclable Materials and/or Organic Materials are collected and/or stored that specify the materials to be Source Separated in addition to collection procedures for such materials.

(D) All Recyclable Materials shall be placed for collection in covered Collection Containers conforming to the following requirements. No Container shall be loaded beyond its capacity. It shall be the Generator's responsibility to keep the containers used for the storage and collection of Recyclable Materials generated on the Premises in a clean and sanitary condition. No material or Container shall be kept or handled in such a manner as to become a nuisance. No putrescible materials shall be commingled with Recyclable Materials. No Recyclable Materials shall be allowed to become odoriferous or a producer of vermin. Lids on Collection Containers shall remain closed at all times while stored or placed for Collection. The Director is specifically authorized to promulgate rules and regulations regarding any and all Recyclable Materials containers including as related to the Recyclable Materials to be placed therein, the placement and maximum weight of high-density materials for collection and the proper use of collection containers.

(E) Each Generator shall ensure that Recyclable Materials and Organic Materials generated at the Generator's site if self-hauled will be taken only to an approved Solid Waste facility to ensure that the materials are recycled or composted and not delivered to a landfill for Disposal. No Generator shall dispose of, or arrange for Disposal of, Recyclable Materials and Organic Materials by placement in a landfill except in an emergency situation, or when no viable markets or Recycling facilities are available, as determined by the Director.

(F) All Recycling and Organic Materials Collection service agreements, subject to the terms of this Chapter and the Franchise Agreement, and other Recycling documents entered into between a Generator and an Authorized Collector shall be available for inspection by the Director or his or her designee, at the principal location of the Generator's commercial facility or special event during normal business hours.

(G) No Franchisee/Authorized Collector shall be held liable for the failure of its customers to comply with this section, unless otherwise specified in the relevant franchise, contract or permit issued by the Town.

(H) Generators shall provide or arrange for access during all inspections and investigations (with the exception of a private residential dwelling unit) and cooperate with the Town or Authorized Collector during such inspections and investigations as described in Section 8.08.130-13.

§ 8.08.130-3 COMMERCIAL GENERATOR REQUIREMENTS

(A) Commercial Generators shall comply with the following requirements.

- (1) Each Commercial Generator, including all Multi-Family Residential Dwellings that consist of five dwelling units or more, Large Events and Large Venues shall be responsible for compliance with the requirements of this section.
 - (2) Each Commercial Generator shall subscribe to a level of service with an Authorized Collector that is sufficient to handle the volume of Garbage, Recyclable Materials and Organic Materials generated or accumulated on the Premises. Additionally, each Commercial Generator shall ensure the proper separation of Solid Waste, as established by the Authorized Collector, by placing each type of material in designated Collection Containers, and ensure that employees, contractors, volunteers, customers, visitors, and other persons on-site conduct proper Source Separation of Solid Waste.
 - (3) Supply and allow access to adequate number, size, and location of Collection Containers with sufficient labels or colors, conforming with requirements of this section, for employees, contractors, tenants, and customers, consistent with the Solid Waste Collection Service.
 - (4) Annually provide information to employees, contractors, tenants, and customers about Organic Materials recovery requirements and about proper sorting of Solid Waste.
 - (5) Provide educational information before, or within, fourteen (14) days of occupation of the Premises to new tenants that describes requirements to keep Source Separated Organic Materials and Source Separated Recyclable Materials separate from Garbage (when applicable) and the location of Collection Containers and the rules governing their use at each property.
 - (6) Accommodate and cooperate with the Authorized Collector's monitoring program for inspection of the contents of containers for Prohibited Container Contaminants, to evaluate Generator's compliance.
 - (7) If a Commercial Generator self-hauls, the commercial Generator shall meet the Self-Hauler requirements of Section 8.08.130-7.
- (B) Commercial Generators, excluding Multi-Family Residential Dwellings consisting of five (5) or more dwelling units, shall comply with the following requirements.
- (1) Provide Containers for the Collection of Source Separated Organic Materials and Source Separated Recyclable Materials in all indoor and outdoor areas where Garbage Containers are provided for customers, for materials generated onsite. Such Containers do not need to be provided in restrooms. If a Commercial Generator does not generate any of the materials that would be collected in one type of Collection Container, then it is not required to provide that type of Container in all areas where Disposal collection containers are provided for customers. Pursuant to 14 CCR Section 18984.9(b), the indoor and outdoor Containers shall have either:
 - (a) A body or lid that is gray or black for Collection of Garbage, blue and/or brown for collection of Recycling, and green for collection of Organic Materials. A Commercial Generator is not required to replace functional containers, including Containers purchased prior to January 1, 2022, that do not comply with the requirements of this subsection prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever date is earlier.

- (b) Container labels that include language or graphic images, or both, indicating the primary material accepted and the primary materials prohibited in that container, or containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the container. Pursuant 14 CCR Section 18984.8, the container labeling requirements are required on new containers commencing January 1, 2022.
- (2) To the extent practical through education, training, inspection, and/or other measures, prohibit employees from placing materials in a container not designated for those materials per the Solid Waste Collection Service.
- (3) Periodically inspect Organic Materials, Recycling, and Garbage Containers for contamination and inform employees if containers are contaminated and of the requirements to keep contaminants out of those containers pursuant to 14 CCR Section 18984.9(b)(3).
- (4) Commercial Generators that are Commercial Edible Food Generators, as defined in Section 8.08.010, shall comply with commercial Edible Food Generator requirements, pursuant to Section 8.08.130-11.

§ 8.08.130-4 AUTHORIZED COLLECTORS.

- (A) No person shall provide services as a hauler of Recyclable Materials or Organic Materials within the boundaries of the Town without either being an Authorized Collector.
- (B) The Town's Franchisee/Authorized Collector providing residential, commercial, or industrial collection services to Generators within the Town's boundaries shall meet the following requirements and standards as a condition of approval of a contract, agreement, or other authorization with the Town to collect Organic Materials and/or Recyclable Materials:
 - (1) Through written notice to the Town annually on or before January 1, 2022, identify the facilities to which they will transport Organic Materials including facilities for Source Separated Recyclable Materials and source separated Organic Materials. Notice is deemed given under the terms of the approved Franchise Agreement.
 - (2) Subject to the terms of the Franchise Agreement, transport source separated Recyclable Materials and Source Separated Organic Materials to a facility, operation, activity, or property that recovers Organic Materials as defined in 14 CCR, Division 7, Chapter 12, Article 2.
 - (3) Obtain approval from the Town to haul Organic Materials, unless it is transporting source separated Organic Materials to a community composting site in a manner that complies with 14 CCR Section 18989.1. Approval is deemed given under the terms of the approved Franchise Agreement.
- (C) The Franchisee shall provide Collection Containers to residential and commercial Generators in conformance with the color and labeling requirements set forth in 14 CCR Section 18784.7 and 14 CCR Section 18784.8 or as specified in the Franchise Agreement.

- (D) Franchisee/Authorized Collector shall provide Collection service and Collection Containers for Recyclable Materials and Organic Materials sufficient to accommodate the quantity and types of Recyclable Materials and Organic Materials to all of its customers and shall provide Solid Waste services as described in Section 8.08.130-5.
- (E) Franchisee/Authorized Collector shall identify collection containers for Garbage, Recyclable Materials and Organic Materials with its name, recognizable corporate or company logo, and phone number of the Franchisee.
- (F) Subject to the terms of the Franchise Agreement, Franchisee/Authorized Collector shall equip and provide Collection Containers for Recyclable Materials and Organic Materials, with locks and/or other suitable features, where feasible, to prevent scavenging, and shall conduct all activities in accordance with this section, applicable laws, Town codes and regulations and best management practices. Vehicles and equipment and Containers shall be kept in a clean and well-maintained condition.
- (G) Franchisee/Authorized Collector shall maintain a copy of its service agreements, if applicable, and all receipts documenting that its customers' Recyclable Materials and Organic Materials have been properly delivered to Solid Waste facilities identified in subsection (B), as well as any documentation evidencing an event of force majeure which prevented the proper delivery of any such materials. Such documents shall be available for inspection by the Director at the place of business during normal business hours and maintained for not less than three years.

§ 8.08.130-5 RECYCLING AND ORGANIC MATERIAL COLLECTION SERVICES.

The Recycling services provided by Franchisee/Authorized Collector shall include, at a minimum, all of the following:

- (A) Collection of Recyclable Materials and Organic Materials at a minimum of once per week, or more often as specified by the applicable contract, license or permit;
- (B) Collection of Recyclable Materials and Organic Materials as identified by the Director;
- (C) Utilization of Collection Containers which comply with Town standards;
- (D) Appropriate signage on all Collection Containers, chutes and/or enclosures which allows users to clearly and easily identify which containers to use for Recyclable Materials, Organic Materials and Garbage and be color-coded.
- (E) Occupant education. For Multi-Family Residential Dwellings, the Authorized Collector shall provide information about Recycling services as follows:
 - (1) Types of Recyclable Materials and Organic Materials accepted, the location of Recycling Containers, and the occupant's responsibility to recycle pursuant to this section. This information shall be distributed to all property managers or owners at least annually.

§ 8.08.130-6 WAIVERS.

- (A) The Town may grant waivers for physical space limitations and/or de minimis volumes. Waiver requests shall be submitted on a form specified by the Director. After reviewing the waiver request, and after an on-site review, if applicable, the Director may either approve or deny the following waiver requests.
- (1) De Minimis Waivers: The Town may waive a Commercial Business' obligation to comply with some or all the requirements of Section 8.08.130-3 if the Commercial Business meets the following requirements:
- (a) Submit an application specifying the type of waiver requested and provide documentation as described below.
 - (b) Provide documentation that the Commercial Business (but excluding Multi-Family Residential Dwellings) generates 32 gallons (or the minimum level of service as defined in the rate schedule) of Solid Waste per week and can demonstrate upon request by the Town or Hauler that they do not exceed the 32 gallon threshold and have a reasonable alternative to disposing of their Recyclable Materials or Organic Waste (e.g., sharing with adjacent business). This exemption does not apply to special events unless the generator demonstrates to the Director that the event will produce less than the threshold amount.
 - (c) Notify the Town if circumstances change such that subsections (a) and (b) no longer applies , in which case the waiver will be rescinded.
 - (d) Provide written verification of eligibility for de minimis waiver every five years if the Town has approved de minimis waiver.
 - (e) The Commercial Business (but excluding Multi-Family Residential Dwellings) may be exempt from the requirement of this section if the Commercial Business demonstrates to the Director that there are no Recyclable Materials and/or Organic Waste being generated by any activities in the Commercial Business.
- (2) Physical Space Waivers: The Town may waive a Commercial Business' or property owner's obligations to comply with some or all of the Recyclable Materials and/or Organic Materials collection service requirements if the Town has evidence from its own staff, a Hauler, licensed architect, or licensed engineer demonstrating that the Premises lacks adequate space for the Collection Containers required for compliance with the Collection service requirements. If, after reviewing the site, the Director determines that it is feasible for collection containers for Recyclable Materials and/ or Organic Materials to be placed either on-site or shared with an adjoining business or property, then the Generator will not be exempted from these requirements and will be responsible for full compliance with this section. A Commercial Business or property owner may request a physical space waiver through the following process:
- (a) Submit an application form specifying the type(s) of collection services for which they are requesting a waiver from mandatory collection service.
 - (b) Provide documentation that the premises lacks adequate space for the approved Recyclable Materials Collection Containers and approved Organic

Materials Collection Containers including documentation from its Authorized Collector, licensed architect, or licensed engineer.

- (c) Provide written verification to the Town that it is still eligible for physical space waiver every five years if the Town has approved application for a physical space waiver.
- (B) If a Generator seeks an exemption, an application for such exemption shall be submitted on a form prescribed by the Director. After reviewing the exemption request, and after an on-site review, if applicable, the Director shall either approve or disapprove the exemption request and shall notify the Authorized Collector if a waiver has been approved.
- (C) Donation. Nothing in this section shall prohibit any Generator from donating its Recyclable Materials or Organic Materials to any non-profit charitable organization.
- (D) Organic Materials may be fed to animals on the Premises where such Organic Materials is produced, provided that the Premises are always kept in a sanitary condition to the satisfaction of the Director; and provided further that the keeping and feeding of such animals shall at all times conform to the applicable regulations of those entities governing the same now in force or which thereafter may be enacted or promulgated.
- (E) Nothing in this chapter prohibits a Generator from preventing or source reducing waste generation, managing Organic Waste on site, or using a community composting site, provided that such conforms to the applicable regulations of those entities governing the same now in force or which thereafter may be enacted or promulgated.

§ 8.08.130-7 SELF-HAULERS.

- (B) Self-Haulers shall haul their Source Separated Recyclable Materials to a facility that recovers those materials; and haul their Source Separated Organic Materials to a Solid Waste facility or a chipping/grinding operation, that processes or recovers Source Separated Organic Materials.
- (C) Self-Haulers that are Commercial Businesses shall keep a record of the amount of Organic Materials delivered to each Solid Waste facility and/or chipping and grinding, operation that processes or recovers Organic Materials; this record shall be subject to inspection by the Town. The records shall include the following information:
 - (1) Delivery receipts and weight tickets from the entity accepting the waste. If the material is transported to an entity that does not have scales on-site or employs scales incapable of weighing the Self-Hauler's vehicle in a manner that allows it to determine the weight of materials received, the Self-Hauler is not required to record the weight of material but shall keep a record of the entities that received the Organic Materials.
 - (2) The amount of material in cubic yards or tons transported by the Generator to each entity.
- (D) A Self-Hauler must retain on-site a self-hauling form certifying that all self-hauling activities will be completed in accordance with this section or any other applicable

law or regulation. The self-hauling form shall be made available to the Director or his or her designee and to the Authorized Collector upon request. At a minimum, the Generator shall provide the following information on the self-hauling form:

- (1) The name, address and telephone number of the Generator's representative that will be signing the self-hauling form.
 - (2) A list of the types of Recyclable Materials that are being transported.
 - (3) For each type of recyclable material, an estimate of the amount that will be self-hauled to a Materials Recovery Facility on a quarterly basis.
 - (4) The name and address of the Materials Recovery Facility.
 - (5) A written statement, signed by the Generator or representative, certifying that the Generator is in compliance with the requirements of this Section 8.08.130-7.
- (D) The Director may restrict or prohibit self-hauling by a Generator if the Director determines, after providing notice and an opportunity for a hearing, that the Generator's self-hauling activities violate the provisions of this section or any other applicable law or regulation.

§ 8.08.130-8 SPECIAL EVENT SOLID WASTE MANAGEMENT.

- (A) For a special event expected to have 500 or more attendants, in addition to any other conditions the Town requires as part of the special event permit, the responsible party shall provide Collection Containers for Recyclable Materials and Organic Materials throughout the event location to make Source Separation of Recyclable Materials, Organic Materials and Garbage convenient for the employees, volunteers, contractors, and customers of the food vendors and attendees of the event. However, Town may at its discretion require a special event with less than 500 attendees to provide some level of Recycling and Organic Materials collection service as a condition of approval of the special event permit.
- (B) The minimum number of collection containers designated for Recyclable Materials and Organic Materials shall equal or exceed the number of Collection Containers designated for Garbage. The collection containers for Garbage, Recyclable Materials and Organic Materials shall be placed as close together as possible throughout the event location in order to provide equally convenient access to users.
- (C) All of the Collection Containers must have appropriate signage and be color coded to identify the type of Solid Waste to be deposited and meet any additional design criteria established by the Town by regulation.
- (D) Food vendors must have at least one separate Collection Container designated for each Recyclable Materials, Organic Materials, and Garbage for use by customers and visitors. Multiple food vendors that provide disposable food service ware and share a common eating area may share an appropriate number, size, and placement of Collection Containers designated for Recyclable Materials, Organic Materials and Garbage for convenient use by customers or visitors or have common access to such a Container which shall be located within a reasonable proximity of the vendors.
- (E) The types of Recyclable Materials suitable for deposit into designated collection containers shall include, at a minimum; plastic bottles and containers, paper,

cardboard, glass, newspaper, metal containers, and cans. Each Recycling collection Container shall be clearly identified as a Recycling Collection Container and shall display a list of types of Recyclable Materials, which may be deposited into the Recycling Collection Container. Each Organic Materials Collection Container shall be clearly identified as an Organic Materials collection container and shall display a list of the types of Organic Materials, which may be deposited into the Organic Materials Collection Container.

- (F) The responsible person shall ensure that the Recyclable Materials deposited into the Recycling Collection Containers and Organic Materials depositing into the Organic Materials Collection Container are delivered to a Solid Waste facility that can accept such materials for Recycling. The Solid Waste facility may be located at a landfill, but Recyclable Materials shall not be delivered to a landfill for Disposal.

§ 8.08.130-9 OWNERSHIP/SCAVENGING OF RECYCLABLE MATERIALS AND ORGANIC MATERIALS.

- (A) All Recyclable Materials and Organic Materials placed in Collection Containers provided by any Authorized Collector sufficient to accommodate the quantity and types of materials generated by Generators shall be considered owned by and be the responsibility of the Authorized Collector. Without permission of either the Authorized Collector, no person shall collect Recyclable Materials or Organic Materials placed in such Collection Containers by Generators.
- (B) No person other than the Authorized Collector under contract with the Generator of the Recyclable Materials and Organic Materials to collect the Recyclable Materials and Organic Materials, shall remove Solid Waste which has been placed at a designated collection location. Except for self-haulers authorized under Section 8.08.130-7, it shall be unlawful for any person to engage in the business of collecting, removing or transporting, or otherwise organizing or directing the collection, removal or transportation of Recyclable Materials and Organic Materials without being an Authorized Collector.

§ 8.08.130-10 REPORTING.

- (A) Each Authorized Collector shall provide bi-annual reports on the dates described below to the Director identifying, at a minimum, the following information, including special events:
 - (1) The total number of Generators it has in the Town, the name and address of the facility serviced, and the name of the responsible party for Solid Waste management;
 - (2) The frequency of collection service provided to the Generator;
 - (3) The amount of Garbage, Recyclable Materials and Organic Materials collected per month by volume in cubic yards and tons, measured by the size of applicable containers of and removed by them within the Town during the previous year;
 - (4) The location of the Solid Waste facility (facilities) to which the Garbage, Recyclable Materials and Organic Materials were taken during the previous quarter; and

- (5) Information about non-compliance by Generators.
- (6) The quarterly reporting periods shall be as follows:

Reporting Period	Due Date
January 1 - March 30	May 1
April 1 - June 30	August 1
July 1 - September 30	November 1
October 1 - December 31	February 1

- (B) If the quarterly report is not filed by the due dates above, the report shall be deemed delinquent after 15 days, and the Authorized Collector shall pay to the Town a delinquent report charge in the amount of \$100. If the report remains delinquent for more than 30 days, the amount shall be increased to \$200. The Director may, at his/her sole discretion, waive the delinquent charge and/or change the quarterly reporting period to a longer time frame (e.g., bi-annual).
- (C) An Authorized Collector’s failure to file the reports required by this section shall, at the option of the Director, constitute cause for termination or suspension of its right to collect Recyclable Materials and Organic Materials under this section.

§ 8.08.130-11 COMMERCIAL EDIBLE FOOD GENERATOR REQUIREMENTS.

- (A) Tier One Commercial Edible Food Generators must comply with the requirements of this section January 1, 2022, and Tier Two Commercial Edible Food Generators must comply commencing January 1, 2024, pursuant to 14 CCR Section 18991.3.
- (B) Large Venue or Large Event operators not providing food services, but allowing for food to be provided by others, shall require Food Facilities operating at the Large Venue or Large Event to comply with the requirements of this section, commencing January 1, 2024.
- (C) Commercial Edible Food Generators shall comply with the following requirements:
 - (1) Arrange to recover the maximum amount of Edible Food that would otherwise be disposed.
 - (2) Contract with or enter into a written agreement with Food Recovery Organizations or Food Recovery Services for: (a) the collection of Edible Food for Food Recovery; or (b) acceptance of the Edible Food that the Commercial Edible Food Generator self-hauls to the Food Recovery Organization for Food Recovery.
 - (3) Shall not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery Organization or a Food Recovery Service.
 - (4) Allow the Town’s designated enforcement entity or designated third party enforcement entity to access the premises and review records pursuant to 14 CCR Section 18991.4.

(5) Keep records that include the following information, or as otherwise specified in 14 CCR Section 18991.4:

- (a) A list of each Food Recovery Service or organization that collects or receives its Edible Food pursuant to a contract or written agreement established under 14 CCR Section 18991.3(b).
- (b) A copy of all contracts or written agreements established under 14 CCR Section 18991.3(b).
- (c) A record of the following information for each of those Food Recovery Services or Food Recovery Organizations:
 - (i) The name, address and contact information of the Food Recovery Service or Food Recovery Organization.
 - (ii) The types of food that will be collected by or self-hauled to the Food Recovery Service or Food Recovery Organization.
 - (iii) The established frequency that food will be collected or self-hauled.
 - (iv) The quantity of food, measured in pounds recovered per month, collected or self-hauled to a Food Recovery Service or Food Recovery Organization for Food Recovery.

(D) Nothing in this Chapter shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share table and school food donation guidance pursuant to SB 557 (Chapter 285, Statutes of 2017) as amended from time to time.

§ 8.08.130-12 EDIBLE FOOD RECOVERY ORGANIZATION AND SERVICE REQUIREMENTS.

(A) Food Recovery Services collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(1):

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

(B) Food Recovery Organizations collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(2):

- (1) The name, address, and contact information for each Commercial Edible Food Generator from which the organization receives Edible Food.

- (2) The quantity in pounds of Edible Food received from each Commercial Edible Food Generator per month.
 - (3) The name, address, and contact information for each Food Recovery Service that the organization receives Edible Food from for Food Recovery.
- (C) Food Recovery Organizations and Food Recovery Services that have their primary address physically located in the Town and contract with or have written agreements with one or more Commercial Edible Food Generators pursuant to 14 CCR Section 18991.3(b) shall annually report to the Town it is located in the total pounds of Edible Food recovered in the previous calendar year from the Tier One and Tier Two Commercial Edible Food Generators they have established a contract or written agreement with pursuant to 14 CCR Section 18991.3(b) no later than April 1.
- (D) In order to support Edible Food Recovery capacity planning assessments or other studies conducted by the County, Town, joint powers authority that provides Solid Waste collection services, or the Town's designated entity, Food Recovery Services and Food Recovery Organizations operating in the Town shall provide information and consultation to the Town, upon request, regarding existing, or proposed new or expanded, Food Recovery capacity that could be accessed by the Town and its Commercial Edible Food Generators. A Food Recovery Service or Food Recovery Organization contacted by the Town shall respond to such request for information within 60 days unless a shorter timeframe is otherwise specified by the Town.

§ 8.08.130-13 IMPLEMENTATION AND ENFORCEMENT.

- (A) Beginning January 1, 2022 and through December 31, 2023, the Town will conduct Inspections, Remote Monitoring, Route Reviews or waste evaluations, and compliance reviews, depending upon the type of regulated entity, to determine compliance with the SB 1383 Regulations, and if the Town 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 chapter 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.
- (B) The Director is authorized to administer and enforce the provisions of this Section 8.08.130, beginning with Section 8.08.130-1 and following. The Director or anyone designated by the Director to be an Enforcement Officer may exercise such enforcement powers. To the extent permitted by law, the Director, Authorized Collector, or Town's designee is authorized to conduct any inspections, remote monitoring, or other investigations as reasonably necessary to further the goals of this chapter, subject to applicable laws. This may include inspections and investigations, at random or otherwise, of any Collection Container, Collection vehicle load, or transfer, processing, or Disposal facility to confirm compliance with this chapter, subject to applicable laws. For the purposes of inspecting Collection Containers for compliance, the Town or Authorized Collector may conduct Container

Inspections for Prohibited Container Contaminants using remote monitoring, and Generators shall accommodate and cooperate with the remote monitoring. A Commercial Business (excluding private residential dwelling units) shall cooperate with the Town or Authorized Collector during such Inspections and investigations. Such Inspections and investigations may include confirmation of proper placement of materials in Containers, Inspection of Edible Food recovery activities, review of required records, or other verification or inspection to confirm compliance with any other requirement of this chapter. Failure to provide or arrange for: (i) access to the Premises; (ii) installation and operation of remote monitoring equipment, if a remote monitoring program is adopted; or (iii) access to records for any inspection or investigation is a violation of this chapter and may result in penalties. Nothing herein shall be read or interpreted to restrict Franchisee/Authorized Collector from conducting curbside audits of residential or commercial Containers that have been set out for Collection.

- (C) Any records obtained by the Town, Authorized Collector, or Town's designee, during Inspections, investigations, remote monitoring and other reviews shall be subject to the requirements and applicable disclosure exemptions of the California Public Records Act as set forth in Government Code Section 6250 et seq.
- (D) Unless otherwise expressly provided by the Town's Code, any person adversely and directly affected by any determination made or action taken by the Director pursuant to the provisions of this section may file an administrative appeal. If no appeal is filed within the time prescribed and consistent with the Town's procedures in the Town's Code, the determination or action of the Director shall be final.
- (E) Incremental notification and enforcement.
 - (1) If an Authorized Collector first finds prohibited container contaminants in a collection container, it shall notify the Generator by written notice attached to the Collection Container identifying the Prohibited Container Contaminants and describing what action must be taken for the materials to be collected.
 - (2) If an Authorized Collector finds Prohibited Container Contaminants in a collection container a second time, they shall notify the Generator by a written "second notice" attached to the Collection Container and identifying the Prohibited Container Contaminants and describing what action must be taken for the materials to be collected.
 - (3) After an Authorized Collector has already left two or more notices for that customer and that type of Collection Container, the Authorized Collector may refuse to empty the container if Prohibited Container Contaminants are found a third time, subject to 14 CCR Section 17331, or as determined by the Director. If the Collection Container is not emptied, the Authorized Collector must leave a tag and send a written notice to the Generator, identifying the Prohibited Container Contaminants and describing what action must be taken for the materials to be Collected; provided, however, that an Authorized Collector may not refuse on this basis to empty Collection Containers from a Multi-Family Residential Dwelling or other Commercial Premise with multiple tenants and joint account Collection service due to Prohibited Container

Contaminants, but may manage contaminated loads as Garbage and charge the Generators accordingly.

- (4) The Authorized Collector shall, in addition to the above, upon request, provide to the Director a list of the names and addresses of those Generators who have received tags or notices or whose collection containers have not been emptied due to non-compliance with this section, and copies of the tags or notices. The Authorized Collector shall also provide to the Director, upon request, a list of the names, addresses, and service levels of the Generators and any additional information required by the Director.
- (5) A Violation of any provision of this chapter shall constitute an infraction and will be grounds for issuance of a Notice of Violation and assessment of an administrative citation and penalty by the Town's enforcement officer or its Designated Enforcement Agency.
- (6) Enforcement Actions under this chapter are issuance of an administrative citation and assessment of a fine. The Town's procedures on imposition of administrative citations and fines as contained in Municipal Code Chapter 1.08, 1.10, 1.12 and 1.16 shall govern the imposition, enforcement, collection, and review of administrative citations and fines issued to enforce this chapter and any rule or regulation adopted pursuant to this chapter. Any section of this chapter may be enforced by the Town or, if agreed to, by its designated Enforcement Agency.
- (7) A violation may be punishable by:
 - (i) A fine not exceeding one hundred dollars for a first violation;
 - (ii) A fine not exceeding two hundred dollars for a second violation of the same provision of this code within any twelve consecutive month period;
 - (iii) A fine not exceeding five hundred dollars for each additional violation of the same provision of this code within any twelve consecutive-month period. Any citation issued after the issuance of a third citation or violation of the same provision of this code within any twelve consecutive-month period may be charged as a misdemeanor pursuant to the provisions of Chapter 1.08 of this code.
- (8) The Town or designated Enforcement Agency may issue a Notice of Violation requiring compliance within 60 days or sooner of issuance of the notice.
- (9) Absent compliance by the respondent within the deadline set forth in the Notice of Violation, the Town or designated Enforcement Agency may commence an action to impose penalties, via an administrative citation and fine, pursuant to the Town's standard procedures or the standard procedures of its designated Enforcement Agency.

§ 8.08.130-14 OTHER ACTIONS AND REMEDIES.

- (A) This section 8.08.130 does not do any of the following:

- (1) Otherwise affect the authority of the Director, or designee to take any other action authorized by any other provision of law.
 - (2) Restrict the power of a Town attorney, district attorney or the Attorney General to bring in the name of the people of California, any criminal proceeding otherwise authorized by law.
 - (3) Prevent the Director or designee from cooperating with, or participating in, a proceeding specified in Section 8.08.130-14(A)(2) above.
- (B) Cumulative remedies. Any remedy provided under this section is cumulative to any other remedy provided in equity or at law. Nothing in this section shall be deemed to limit the right of the Town or its authorized collection agent(s) to bring a civil action or prosecution as a misdemeanor or infraction; nor shall a conviction for such violation exempt any person from a civil action brought by the Town or its authorized collection agent(s). The fees and penalties imposed under this section shall constitute a civil debt and liability owing to the Town from the persons, firms or corporations using or chargeable for such services and shall be collectible in the manner provided by law. The Town may pursue civil actions in the California courts to seek recovery of unpaid administrative citations, and fines.
- (C) Liability. Nothing in this Section 8.08.130 shall be deemed to impose any liability upon the Town or upon any of its officers or employees including without limitation under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA).

§ 8.08.130-15 FORMS, REGULATIONS AND GUIDELINES.

- (A) After public notice and a public hearing, the Director may adopt necessary forms, rules, regulations, and guidelines which may be necessary or desirable to aid in the administration or enforcement of the provisions of this Section 8.08.130, including all necessary policies and procedures for the issuance of the permits, administration of this Section 8.08.130, collection of fees and bonds and/or indemnities, or proof(s) of insurance.
- (B) The Town shall provide information on its website regarding what materials are accepted as Recyclable Materials, Organic Materials and Garbage under this section.
- (C) The Town, Authorized Collector or designee shall accept written complaints from persons regarding an entity that may be potentially non-compliant with this chapter.

ORDINANCE NO. ____

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX
AMENDING CHAPTER 8.08 OF THE FAIRFAX MUNICIPAL CODE RELATING TO
SOLID WASTE, RECYCLABLES, AND ORGANIC WASTE**

WHEREAS, SB 1383 (Chapter 395, Statutes of 2016) directed the California Department of Resources Recycling and Recovery (“CalRecycle”) to adopt regulations to reduce organic waste by 50 percent from its 2014 baseline level by 2020 and 75 percent by 2025; and

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

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

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

WHEREAS, the SB 1383 Regulations requires the Town of Fairfax to adopt an ordinance to enforce the SB 1383 Regulations by January 1, 2022; and

WHEREAS, the Town Council desires to amend its Garbage and Rubbish Disposal Ordinance to comply with the SB 1383 Regulations.

**NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF FAIRFAX
DOES ORDAIN AS FOLLOWS:**

Section 1. Chapter 8.08 is hereby amended in its entirety as set forth in Exhibit A, attached hereto and incorporated by this reference.

Section 2. Environmental review is not required because adoption of the Ordinance is not a project under the California Environmental Quality Act (CEQA) pursuant to CEQA Guideline 15378(b)(5) (organization or administrative activities of governments not project).

Section 3. If any section, subsection, clause or phrase in this Ordinance or the application thereof to any person or circumstances is for any reason held invalid, the validity of the remainder of this Ordinance or the application of such provisions to other persons or circumstances shall not be affected thereby. The Town Council hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more sections,

subsections, sentences, clauses or phrases or the application thereof to any person or circumstance be held invalid.

Section 4. No less than five days prior to the adoption of this Ordinance, the Town Clerk published a summary of this Ordinance in accordance with Government Code section 36933. The Town Clerk will certify to the passage of this Ordinance by the Town Council of the Town of Fairfax, California, and cause a summary to be published once within fifteen (15) days after its passage in a newspaper of general circulation, printed, published and circulated in the Town in accordance with Government Code section 36933.

Section 5. This Ordinance shall take effect January 1, 2022.

INTRODUCED on the 3rd day of November 2021, and **PASSED AND ADOPTED** by the Town Council of the Town of Fairfax on the ___ day of December 2021, by the following vote:

BRUCE ACKERMAN, Mayor

ATTEST:

Michele Gardner, Town Clerk

CHAPTER 8.08: SOLID WASTE, RECYCLABLES, AND ORGANIC WASTE

Section

- 8.08.010 Definitions
- 8.08.020 Zones
- 8.08.030 Charges
- 8.08.040 Collection Containers.
- 8.08.050 Duties of owners and occupants
- 8.08.060 Mechanical garbage disposal
- 8.08.070 Duty of Authorized Collector
- 8.08.080 Unlawful Disposal
- 8.08.090 Unlawful Collection
- 8.08.100 Dead animals
- 8.08.110 Contract/Franchise Agreement
- 8.08.120 Violation; penalty
- 8.08.130 Mandatory Garbage, Recycling and Organic Materials Collection
 - 8.08.130-1 Findings
 - 8.08.130-2 Solid Waste Collection Service requirements
 - 8.08.130-3 Commercial Generator requirements.
 - 8.08.130-4 Authorized Collectors
 - 8.08.130-5 Recycling and Organic Materials Collection services
 - 8.08.130-6 Waivers
 - 8.08.130-7 Self-haulers
 - 8.08.130-8 Special event Solid Waste management
 - 8.08.130-9 Ownership/scavenging of Recyclable Materials and Organic Materials
 - 8.08.130-10 Reporting
 - 8.08.130-11 Commercial Edible Food Generator requirements
 - 8.08.130-12 Edible Food Recovery Organization and Service requirements
 - 8.08.130-13 Implementation and enforcement
 - 8.08.130-14 Other actions and remedies
 - 8.08.130-15 Forms, regulations and guidelines

§ 8.08.010 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACT. The California Integrated Waste Management Act of 1989 (commencing with Section 40000 of the Public Resources Code), as amended, including but not limited to, the Jobs and Recycling Act of 2011 (AB 341), SB 1016 (Chapter 343, Statutes of 2008), the Mandatory Commercial Organics Recycling Act of 2014 (AB 1826), and the Short-Lived

Climate Pollutants Bill of 2016 (SB 1383), and as implemented by the regulations of CalRecycle.

ANAEROBIC DIGESTION or AD. The biological decomposition of organic matter with little or no oxygen. The anaerobic digestion technology that will initially be utilized by the franchised hauler will be that of the Central Marin Sanitation Agency (a public-operated treatment works) to produce energy and to reduce the volume of Solid Waste that must be landfilled.

AUTHORIZED COLLECTOR. The individual, persons, firm or corporation collecting, and delivering for Disposal, Recycling or processing Solid Waste originating within the Town and doing so under a contract, permit or franchise agreement with the Town. Authorized collector may be referred to as the Franchisee or Franchised Collector.

BULKY WASTE. Large items of Solid Waste such as appliances (white goods), e-waste (except for universal waste), furniture, tires, carpets, mattresses and similar large items, large auto parts, trees, branches, stumps, and other oversize wastes whose large size precludes or complicates their handling by normal collection, processing, or Disposal methods. It does not include abandoned vehicles or household hazardous waste.

CALRECYCLE. California Department of Resources Recycling and Recovery, which is the department designated with responsibility for developing, implementing, and enforcing the SB 1383 Regulations.

CCR. The California Code of Regulations. CCR references in this chapter are preceded with a number that refers to the relevant Title of the CCR (e.g., "14 CCR" refers to Title 14 of CCR).

COLLECTION. To take physical possession of Solid Waste at, and remove from, the place of generation for transport to a Solid Waste facility or other recovery activity.

COMMERCIAL BUSINESS or COMMERCIAL. A firm, partnership, proprietorship, joint-stock company, corporation, or association, whether for-profit or nonprofit, strip mall, industrial facility, or a multi-family dwelling with five (5) or more dwelling units, or as otherwise defined in 14 CCR Section 18982(a)(6). A Multi-Family Residential Dwelling that consists of less than five (5) dwelling units is not "Commercial" for the purposes of this chapter.

COMMERCIAL EDIBLE FOOD GENERATOR. A Tier One or a Tier Two Commercial Edible Food Generator as defined in 14 CCR Section 18982(a)(73) and (a)(74). Food Recovery Organizations and Food Recovery Services are not Commercial Edible Food Generators.

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

CONSTRUCTION AND DEMOLITION DEBRIS or C&D. Used or discarded materials resulting from construction, renovation, remodeling, repair, demolition, excavation or construction clean-up operations on any pavement or structure.

CONTAINER or COLLECTION CONTAINER. For the purpose of this chapter, any bin, box or cart used for the purpose of holding Solid Waste for collection.

DEBRIS BOX. Any ten (10) to forty (40) cubic yard container, or any compactor provided by a Solid Waste Generator, placed in the public right-of-way, on Town property, private property, or elsewhere in the service area, which is procured by a Solid Waste Generator for their use in the Collection of their Solid Waste. Debris boxes are serviced by means of lifting the entire Container, including all contents, onto a designated collection vehicle.

DESIGNATED COLLECTION LOCATION. The place where an Authorized Collector has contracted with either the Town or a private entity to pick up separated Garbage, Recyclable Materials and Organic Materials Collection Containers. This location will customarily be the curbside of a residential neighborhood or the service alley of a commercial (or multi-family) enterprise.

DIRECTOR. The Town Manager of the Town of Fairfax, or his or her designee.

DISPOSAL. The final disposition of Solid Waste at a Solid Waste Facility permitted for disposal.

DIVERSION. Activities reducing or eliminating the amount of Solid Waste from Solid Waste Disposal, and which return these materials to use in the form of raw materials for new, reused, or reconstituted products, which meet the quality standards necessary for commercial use, or for other purposes of reuse.

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

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

ENFORCEMENT ACTION. An action of the Town to address non-compliance with this chapter including, but not limited to, issuing administrative notices, citations, fines, penalties, or using other remedies.

FOOD RECOVERY ORGANIZATION. An entity that engages in the collection or receipt of Edible Food from Commercial Edible Food Generators and distributes that Edible Food to the public for Food Recovery either directly or through other entities or as otherwise defined in 14 CCR Section 18982(a)(25), including, but not limited to: A food bank as defined in Section 113783 of the Health and Safety Code; a nonprofit charitable organization as defined in Section 113841 of the Health and Safety code; and, a nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.

FOOD RECOVERY SERVICE. A person or entity that collects and transports Edible Food from a Commercial Edible Food Generator to a Food Recovery Organization or other entities for Food Recovery, or as otherwise defined in 14 CCR Section 18982(a)(26). A Food

Recovery Service is not a Commercial Edible Food Generator for the purposes of this chapter.

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

FRANCHISE AGREEMENT. an agreement between the Town and the Authorized Collector for the collection and delivery of Solid Waste for Disposal, Recycling or processing originating within the Town.

GARBAGE. All non-recyclable packaging and other waste attributed to normal activities of a service unit. Garbage must be generated by and at the service unit wherein the Garbage is collected. Garbage does not include Recyclable Materials, Organic Materials, Construction and Demolition Debris, large items, e-waste, universal waste, hazardous waste, household hazardous waste or exempt waste.

GENERATOR(S). For the purpose of this chapter, Generator means a person or entity, including a commercial Generator or residential Generator who is responsible for the initial creation of Recyclable Materials and/or Organic Materials, or as otherwise defined as “Organic Waste Generator” in 14 CCR Section 18982(a)(48). Generator may also include tenants, property managers for facilities with leased space, employees and contractors of a Generator, as well as a responsible party for special events. Generator also includes the Town, its facilities, its non-residential properties and its special events, including sponsors and/or co-sponsors.

HAULER. A person who collects material from a Generator and delivers it to a reporting entity, end user, or a destination outside of the state. “Hauler” means the Authorized Collectors, Food Waste self-haulers, and self-haulers as defined in this Chapter. A person who transports material from reporting entity to another person is a transporter, not a hauler.

INSPECTION. A site visit where the Town its designee, or the Authorized Collector reviews records, containers, and an a entity’s collection, handling, Recycling, or Disposal of Solid Waste or Edible Food handling to determine if the entity is complying with requirements set forth in this chapter, or as otherwise defined in 14 CCR Section 18982(a)(35).

MECHANICAL GARBAGE DISPOSAL. Any garbage disposal unit, approved by the Health Officer of the Town, which grinds or prepares Garbage to such an extent as to permit the Garbage to be disposed of through the sewer drains.

MULTI-FAMILY RESIDENTIAL DWELLINGS or MULTI-FAMILY. Five or more residential dwelling units located on a single parcel of land and any mobile home park located in the Town utilizing a common Garbage bin for the accumulation and set-out of Garbage.

ORGANIC MATERIALS or ORGANIC WASTE. Solid Wastes containing material originated from living organisms and their metabolic waste products, including but not limited to Food Waste, green material, landscape and pruning waste, organic textiles and carpets, lumber, wood, paper products, printing and writing paper, manure, biosolids, digestate, and sludges or as otherwise defined in 14 CCR Section 18982(a)(46).

ORGANIC MATERIAL PROCESSING FACILITY. Any facility selected by the Authorized Collector that is approved by the Town, or specifically designated by the Town, operated and legally permitted for the purpose of receiving and processing Organic Materials.

PREMISES. Includes a tract or parcel of land with or without habitable buildings or appurtenant structures. For purposes of this chapter, the word “premises” includes residential and commercial uses of the land, whether owned, leased, subleased, including every dwelling house, dwelling unit, apartment house or multiple-dwelling building, trailer or mobile home park, store, restaurant, rooming house, hotel, motel, office building, department store, manufacturing, processing or assembling shop or plant, warehouse and every other place or premises where any person resides, or any business is carried on or conducted within the Town.

PROHIBITED CONTAINER CONTAMINANTS. Includes (1) discarded materials placed in the designated Recyclables Container that are not identified as acceptable source separated Recyclables; (2) discarded materials placed in the designated Organic Materials collection container that are not identified as acceptable source separated Organic Materials; and (3) discarded materials placed in the Garbage Container that are acceptable source separated Recyclables and/or source separated Organic Materials, and (4) Excluded Waste placed in any Container.

RECYCLABLE MATERIALS or RECYCLABLES. Any material designated to be separated from the waste stream for purposes of Recycling. This designation shall be made by the Town and the Franchisee/Authorized Collector based upon the provisions of the Franchise Agreement, on good public practice, ability to receive an acceptable economic return, and feasibility of separating the material from the waste stream at the point of collection. Recyclable Materials may include, but are not limited to, paper, glass, cardboard, plastics, ferrous metal, and aluminum.

RECYCLING. The process of collecting, sorting, cleansing, treating and reconstituting materials that would otherwise become Garbage and returning them for use or reuse in the form of raw materials for new, used or reconstituted products which meet the quality standard necessary to be used in the marketplace. Recycling does not include transformation as defined in Public Resources Code Section 40201. (14 CCR Section 17225.54).

RESPONSIBLE PARTY. The individual or entity responsible for the Generator’s management of Solid Waste, Recyclable Materials and/or Organic Materials at the Generator’s commercial facility or special event.

SB 1383. SB 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.

SB 1383 REGULATIONS. The regulations developed by CalRecycle and contained within 14 CCR, Division 7, Chapter 12 and the amended portions of 14 CCR and 27 CCR.

SELF-HAULER. A person who hauls Recyclables or Organic Waste or recovered material they have generated using the Generator’s own vehicles, equipment and employees to another person. Self-hauler also includes a person who back-hauls waste. “Back-haul” means generating and transporting Organic Materials to a destination owned and operated by the Generator using the Generator’s own employees, vehicles and equipment.

SOLID WASTE. Has the same meaning as defined in Public Resources Code Section 40191, which defines Solid Waste as all putrescible and non-putrescible solid and semisolid wastes, including Garbage, Recyclable Materials, Organic Materials, Construction and Demolition Debris, Bulky Waste, discarded home and industrial appliances, manure, vegetable or animal solid or semisolid wastes, and other discarded solid and semisolid wastes with the exception that Solid Waste does not include any of the following wastes: (1) Hazardous waste, as defined in the Public Resources Code Section 40141; (2) Radioactive waste regulated pursuant to the State Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the Health and Safety Code); and, (3) Medical waste regulated pursuant to the State Medical Waste Management Act (Part 14 (commencing with Section 117600) of Division 104 of the Health and Safety Code). Untreated medical waste shall not be disposed of in a Solid Waste landfill, as defined in Public Resources Code Section 40195.1. Medical waste that has been treated and deemed to be Solid Waste shall be regulated pursuant to Division 30 of the Public Resources Code. Recyclable Materials and Organic Materials are a part of Solid Waste.

SOLID WASTE COLLECTION SERVICE. A business enterprise in any form that obtains or receives Solid Waste from a commercial Generator, residential Generator, or other non-residential establishment for the primary purpose of removal or hauling such material for ultimate Disposal or Recycling.

SOLID WASTE FACILITY. A permitted Solid Waste transfer or processing station including Material Recovery Facilities, a composting facility, a gasification facility, a transformation facility, an Engineered Municipal Solid Waste conversion facility, and a Disposal facility. Solid Waste facility additionally includes a Solid Waste operation that may be carried out pursuant to an enforcement agency tier notification, as provided in regulations adopted by CalRecycle, or otherwise set forth in the Act.

SOURCE SEPARATE, The process of removing Recyclable Materials and Organic Materials from Solid Waste at the place of generation, prior to Collection, and placing such materials into separate containers designated for Recyclable Materials and Organic Materials, or as otherwise defined in 14 CCR Section 17402.5(b)(4).

SOURCE REDUCTION. Any action which causes a net reduction in the generation of Solid Waste. Source reduction includes, but is not limited to, reducing the use of non-Recyclable Materials, replacing disposable materials and products with reusable materials and products, reducing packaging, reducing the amount of yard wastes generated, establishing Garbage rate structures with incentives to reduce the amount of wastes that Generator produce, and increasing the efficiency of the use of paper, cardboard, glass, metal, plastic, and other materials. Source reduction does not include steps taken after the material becomes Solid Waste or actions which would impact air or water resources in lieu of land, including, but not limited to, transformation.

SPECIAL EVENT. A community, public, commercial, recreational or social event which may serve food or drink, and which may require a permit from the Town. "Special Events" may include the temporary or periodic use of a public street, publicly owned site or facility, or public park.

TIER ONE COMMERCIAL EDIBLE FOOD GENERATOR. A Commercial Edible Food Generator that is one of the following as defined in 14 CCR Section 18982(a):

- (1) Supermarkets with gross annual sales of \$2,000,000 or more.

(2) Grocery store with a total facility size equal to or greater than 10,000 square feet.

(3) Food Service Provider, which means an entity primarily engaged in providing food services to institutional, governmental, commercial, or industrial locations of others based on contractual arrangements with these types of organizations.

(4) Food Distributor, which means a company that distributes food to entities including, but not limited to, supermarkets and grocery stores.

(5) Wholesale food vendor, which means a business or establishment engaged in the merchant wholesale distribution of food, where food (including fruits and vegetables) is received, shipped, stored, prepared for distribution to a retailer, warehouse, distributor, or other destination.

TIER TWO COMMERCIAL EDIBLE FOOD GENERATOR. A Commercial Edible Food Generator that is one of the following:

(1) Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.

(2) Hotel with an on-site food facility and 200 or more rooms.

(3) Health facility with an on-site food facility and 100 or more beds.

(4) Large Venue, which means a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility. For purposes of this chapter 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 chapter 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.

(5) Large Event, which means an event, including, but not limited to, a sporting event or a flea market, that charges an admission price, or is operated by a local agency, and serves an average of more than 2,000 individuals per day of operation of the event, at a location that includes, but is not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for an event,

(6) A state agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet.

(7) A local education agency facility, which means a school district, charter school, or county office of education that is not subject to the control of Town or county regulations related to Solid Waste, or as otherwise defined in 14 CCR Section 18982(a)(40), with an on-site food facility.

TOWN. The Town of Fairfax, California.

§ 8.08.020 ZONES.

The Town of Fairfax, for the purposes of this chapter, shall be divided into two areas, designated respectively as the “hill” and “flat” areas. The areas are presently established upon that certain map entitled “Map Showing Flat Area and Hill Area of the Town of Fairfax for Establishing Garbage Collection Rates” available for inspection in the office of the Town Clerk, and the areas may be changed and amended from time to time by resolution of the Town Council.

§ 8.08.030 CHARGES.

(A) Solid Waste Collection Service charges shall be payable in amounts as established from time to time by resolution of the Town Council. Payment of fees for Solid Waste collection shall be the responsibility of the owner of the Premises from which the Solid Waste is taken, but the fees may be received from the occupant for the account of the owner.

(B) Solid Waste Collection Service started after the tenth day of the calendar month shall be prorated on a monthly rate basis.

§ 8.08.040 COLLECTION CONTAINERS.

(A) All Collection Containers shall ~~be of galvanized or heavy plastic material with~~have tightly fitting covers.

(B) The Collection Containers may be set out the night before pickup at the Designated Collection Location and must be removed from the Town right-of-way within 24 hours after pickup.

§ 8.08.050 DUTIES OF OWNERS AND OCCUPANTS.

(A) Every owner or occupant of every residential and Commercial Premise in the Town where Solid Waste is accumulated, shall:

- (1) Use Solid Waste Collection Service as often as necessary to keep the Premises clean and free from odor and, in any event, shall arrange for not less than weekly Solid Waste Collection Service;
- (2) Arrange for a size, quantity and collection frequency of Collection Containers to adequately store all Solid Waste generated in connection with the Premise between the times designated for Collection service. The Town and/or Franchisee shall have the right to review the number and size of such Collection Containers to evaluate the adequacy of capacity provided for each type of Collection service and to review the separation and containment of materials. Generators shall adjust service levels for their Collection services as requested by the Town in order to meet the standards set forth in this chapter;
- (3) Utilize Collection Containers provided by the Franchisee/Authorized Collector and place the Collection Containers in a Designated Collection Location on the premises at a point not more than 200 feet from the street;

- (4) If the Collection Container is for use on Commercial Premises, keep the same at a suitable location at ground level, unless the Authorized Collector agrees to a different location;
- (5) Keep the Collection Container clean and sanitary;
- ~~(6) Wrap all Garbage as accumulated in paper or other suitable wrapping, and forthwith place the Garbage in the designated Collection Container;~~
- (6) ~~(7)~~ Put no more than the established weight limit of Solid Waste in each collection Container for any one collection;
- (7) ~~(8)~~ Pay all fees when due as provided in this chapter and by resolutions of the Town Council;
- (8) ~~(9)~~ Keep the occupied premises free and clear of Solid Waste at all times; and
- (9) ~~(10)~~ Source Separate Recyclable Materials and Organic Materials from Garbage. Place Source Separated Organic Materials, including Food Waste, in the Organic Materials Collection Container; place source separated Recyclable Materials in the Recyclable Materials Collection Container; and place Garbage in the approved Garbage Collection Container. Generators shall not place Prohibited Container Contaminants into the Garbage Collection Container, Organic Materials Collection Container or Recyclable Materials Collection Container. The Director may excuse or waive violations of this requirement as described in Section 8.08.130-6 . For the first and second violations under this paragraph 10, the Director will refer offenders to an educational training program. Subsequent violations shall be subject to Chapter 1.10 "Administrative Citation and Hearing Process Enforcement."

(B) It is unlawful for any owner or occupant to fail or refuse to comply with any of the requirements set forth in subsection (A) above.

§ 8.08.060 MECHANICAL GARBAGE DISPOSAL.

Notwithstanding the foregoing provisions, an occupant of any Premises, or an owner of any regularly and duly installed mechanical garbage disposal , may dispose of his or her Food Waste by the use of the mechanical garbage disposal, but shall nonetheless be required to use or take regular Solid Waste Collection Service on at least a weekly basis, in accordance with Section 8.08.130.

§ 8.08.070 DUTY OF AUTHORIZED COLLECTOR.

The Authorized Collector(s) of the Town shall:

- (A) Empty all Solid Waste Containers in the Town at least once each week, and in addition thereto, as often as may be requested by the owner or occupant, or as may be necessary to dispose of all Solid Waste as provided for in this chapter;
- (B) Use only Collection Containers and vehicles over the streets of the Town of Fairfax for the hauling of Solid Waste that are watertight, and the Authorized Collector shall not permit any Solid Waste to fall or remain on any street in the Town;

(C) Dispose of all Solid Waste in a lawful manner outside the boundaries of the Town;
and

(D) Keep all Collection Containers and vehicles used by the Authorized Collector in the hauling of Solid Waste in a clean and sanitary condition.

§ 8.08.080 UNLAWFUL DISPOSAL.

Solid Waste shall be collected and disposed of only as provided for in this chapter, and it shall be unlawful for any person to burn, bury, throw away, carry over any street in the Town, or otherwise dispose of Solid Waste contrary to the provisions of this chapter.

§ 8.08.090 UNLAWFUL COLLECTION.

It is unlawful for any person, except the Authorized Collector or the authorized agents and employees thereof, to collect Solid Waste from within the Town.

§ 8.08.100 DEAD ANIMALS.

(A) Dead animals must be disposed of in a lawful manner by the owner thereof outside the boundaries of the Town. Should any owner fail or refuse to so dispose of the dead animal, then the Town may do so and collect the charge or cost therefor from the owner thereof, and it is the duty of the owner to pay the cost or charge forthwith on being notified of the amount thereof.

§ 8.08.110 CONTRACT/FRANCHISE AGREEMENT.

The Town Council may, with or without inviting bids therefor, enter into a contract with any responsible individual, firm or corporation for the collection, removal and delivery for Disposal, Recycling or processing of Solid Waste collected and accumulated within the Town, under the terms and conditions as may be prescribed by the Town Council; and the right to make the collection shall be exclusive to the contractor, who shall be designated as the Franchisee/Authorized Collector under the provisions of this chapter.

§ 8.08.120 VIOLATION; PENALTY.

(A) Any individual, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine of not to exceed \$500 or by imprisonment of not more than six months, or by both the fine and imprisonment.

(B) Each separate day or any portion thereof during which any violation of this chapter occurs or continues shall be deemed to constitute a separate offense and, upon conviction thereof, shall be punishable as provided in subsection (A) above.

§ 8.08.130 MANDATORY GARBAGE, RECYCLING AND ORGANIC MATERIALS COLLECTION.

§ 8.08.130-1 FINDINGS.

(A) The Town finds that the State of California through its California Waste Management Act of 1989 ("Act"), California Public Resources Code Section 40000, et seq., as amended, supplemented, superseded and replaced from time to time), as implemented by regulations of CalRecycle, require the Town to reduce, reuse, and recycle (including composting), Solid Waste generated in the Town 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. The Act and Alternative Compliance Act of 2008 (SB 1016, Statutes of 2008), requires that each local jurisdiction in the state to divert 50% of discarded materials from the landfill on a per capita basis.

(B) The Town finds that every city and county in California, including the Town, could face fines for not meeting the above mandated goal.

(C) The Town finds that Mandatory Commercial Recycling was one of the measures adopted in the Assembly Bill 32 Scoping Plan by the Air Resources Board (ARB) pursuant to the California Global Warming Solutions Act (Chapter 488, Statutes of 2006). The Mandatory Commercial Recycling Measure focuses on increased commercial waste diversion as a method to reduce greenhouse gas emissions. It is designed to achieve a reduction in greenhouse gas emissions of 5,000,000 metric tons of carbon dioxide (CO₂) equivalents. To achieve the measure's objective, an additional 2,000,000 to 3,000,000 tons of materials annually will need to be recycled from the commercial sector by the year 2020 and beyond.

(D) AB 341 (Chapter 476, Statutes of 2011) that required any business that generates four cubic yards or more of commercial Solid Waste per week or is a Multi-Family Residential Dwelling with five or more units to arrange for Recycling Collection services.

(E) Assembly Bill 1826 of 2014 requires businesses and certain multi-family property owners that generate a specified threshold amount of Solid Waste, Recycling, and Organic Materials per week to arrange for Recyclable Materials and Organic Waste Collection services for that waste and requires the Town to implement a mandatory Commercial organics Recycling program for designated commercial property owners.

(F) SB 1383 required CalRecycle to develop regulations to reduce organics in landfills and methane emissions. The SB 1383 Regulations require the Town, residential households, Commercial Businesses, Commercial Edible Food Generators, Haulers, Self-Haulers, Food Recovery Organizations, and Food Recovery Services to support achievement of statewide Organic Waste Disposal reduction targets.

(G) The Town continues to make progress in maintaining the Disposal reduction requirements of the state Recycling law, but additional efforts, particularly in the diversion of Organic Materials and the Recycling of paper, cardboard, glass, and other Recyclable Materials generated by Commercial Businesses, will assist the Town in maintaining and exceeding the goal of diverting waste from landfill Disposal. The Town desires to implement a program to further the Marin County Hazardous and Solid Waste Management Joint Powers Authority (JPA) goal to increase the diversion of materials from the landfill and transformation facilities to achieve an 94% diversion goal by 2025, ensure that

resources are used to their highest potential, reduce upstream waste and reduce Marin's ecological footprint.

(H) The Town finds that Organic Materials that are buried in the anaerobic conditions of landfills creates methane gas and leachate that may impact air and water quality. Reductions or capture of methane is critical as methane gas from the decomposition of waste is a source of renewable energy, but if not collected and controlled is at least 21 times as potent as carbon dioxide in contributing to climate change.

(I) The Town finds that reductions in greenhouse gas emissions from Solid Waste management can be realized by recovering traditional Recyclable Materials from the waste stream to use in the manufacturing of products from these materials. Traditional Recyclable Materials have significant intrinsic energy value that displaces fossil fuel energy requirements when introduced back into the manufacturing cycle. Additionally, by remanufacturing products using recycled materials, additional reductions in greenhouse gas emissions are realized through reduced fossil fuel demands in transportation and avoided methane emissions at landfills.

(J) The Town finds that efforts by the Town and the private sector to encourage voluntary diversion of commercial and special event Recyclables Materials have not achieved desired levels of diversion.

(K) The Town finds that mandatory commercial recycling programs in other cities and counties in California, similar to the one implemented by this § 8.08.130, have proven successful.

(L) The Town agrees to be subject to the terms of this chapter for all of the Town's commercial facilities and properties, including parks and Town buildings, as well as Town-sponsored or partnered special events.

§ 8.08.130-2 SOLID WASTE COLLECTION SERVICE REQUIREMENTS.

(A) Each Generator shall be responsible for ensuring and demonstrating its compliance with the requirements of this section. Each Generator shall:

(1) Source Separate Recyclable Materials and Organic Materials from Garbage; and place source separated Organic Materials, including Food Waste, in the Organic Materials Collection Container; place Source Separated Recyclable Materials in the Recyclable Materials Collection Container; and place Garbage in the approved Garbage Collection Container. Generators shall not place Prohibited Container Contaminants into the Garbage Collection Container, Organic Materials Collection Container or Recyclable Materials Collection Container.

(2) Subscribe to a basic level of Solid Waste Collection Service that includes, at a minimum, the collection of Garbage, Recyclable Materials and Organic Materials by the Authorized Collector.. Generators shall arrange for a size, quantity and collection frequency of Collection Containers to adequately store all Solid Waste generated in connection with the Premise between the times designated for Collection service. The Town or Authorized Collector shall have the right to review the number and size of such Collection Containers to evaluate the adequacy of capacity provided for each type of Collection service and to review the separation and containment of materials. Generators shall adjust service levels

for their collection services as requested by the Town or Authorized Collector in order to meet the standards set forth in this chapter.

(3) A Self-Hauler may self-haul Source Separated Recyclable Materials and Source Separated Organic Materials in accordance with Section 8.08.130-7 after completing and retaining on-site a self-hauling form certifying that all self-hauling activities will be completed in accordance with this section and any other applicable law or regulation. A copy of such form shall be available to the Director and the Authorized Collector upon request.

(B) Each Generator shall use Collection Containers provided by the Authorized Collector to collect and store Recyclable Materials and Organic Materials and shall designate areas to collect and/or store such materials.

(C) Each Generator shall prominently post and maintain one or more signs in maintenance or work areas or common areas where Recyclable Materials and/or Organic Materials are collected and/or stored that specify the materials to be Source Separated in addition to collection procedures for such materials.

(D) All Recyclable Materials shall be placed for collection in covered Collection Containers conforming to the following requirements. No Container shall be loaded beyond its capacity. It shall be the Generator's responsibility to keep the containers used for the storage and collection of Recyclable Materials generated on the Premises in a clean and sanitary condition. No material or Container shall be kept or handled in such a manner as to become a nuisance. No putrescible materials shall be commingled with Recyclable Materials. No Recyclable Materials shall be allowed to become odoriferous or a producer of vermin. Lids on Collection Containers shall remain closed at all times while stored or placed for Collection. The Director is specifically authorized to promulgate rules and regulations regarding any and all Recyclable Materials containers including as related to the Recyclable Materials to be placed therein, the placement and maximum weight of high-density materials for collection and the proper use of collection containers.

(E) Each Generator shall ensure that Recyclable Materials and Organic Materials generated at the Generator's site if self-hauled will be taken only to an approved Solid Waste facility to ensure that the materials are recycled or composted and not delivered to a landfill for Disposal. No Generator shall dispose of, or arrange for Disposal of, Recyclable Materials and Organic Materials by placement in a landfill except in an emergency situation, or when no viable markets or Recycling facilities are available, as determined by the Director.

(F) All Recycling and Organic Materials Collection service agreements, subject to the terms of this Chapter and the Franchise Agreement, and other Recycling documents entered into between a Generator and an Authorized Collector shall be available for inspection by the Director or his or her designee, at the principal location of the Generator's commercial facility or special event during normal business hours.

(G) No Franchisee/Authorized Collector shall be held liable for the failure of its customers to comply with this section, unless otherwise specified in the relevant franchise, contract or permit issued by the Town.

(H) Generators shall provide or arrange for access during all inspections and investigations (with the exception of a private residential dwelling unit) and cooperate

with the Town or Authorized Collector during such inspections and investigations as described in Section 8.08.130-13.

§ 8.08.130-3 COMMERCIAL GENERATOR REQUIREMENTS

(A) Commercial Generators shall comply with the following requirements.

- (1) Each Commercial Generator, including all Multi-Family Residential Dwellings that consist of five dwelling units or more, Large Events and Large Venues shall be responsible for compliance with the requirements of this section.
- (2) Each Commercial Generator shall subscribe to a level of service with an Authorized Collector that is sufficient to handle the volume of Garbage, Recyclable Materials and Organic Materials generated or accumulated on the Premises. Additionally, each Commercial Generator shall ensure the proper separation of Solid Waste, as established by the Authorized Collector, by placing each type of material in designated Collection Containers, and ensure that employees, contractors, volunteers, customers, visitors, and other persons on-site conduct proper Source Separation of Solid Waste.
- (3) Supply and allow access to adequate number, size, and location of Collection Containers with sufficient labels or colors, conforming with requirements of this section, for employees, contractors, tenants, and customers, consistent with the Solid Waste Collection Service.
- (4) Annually provide information to employees, contractors, tenants, and customers about Organic Materials recovery requirements and about proper sorting of Solid Waste.
- (5) Provide educational information before, or within, fourteen (14) days of occupation of the Premises to new tenants that describes requirements to keep Source Separated Organic Materials and Source Separated Recyclable Materials separate from Garbage (when applicable) and the location of Collection Containers and the rules governing their use at each property.
- (6) Accommodate and cooperate with the Authorized Collector's monitoring program for inspection of the contents of containers for Prohibited Container Contaminants, to evaluate Generator's compliance.
- (7) If a Commercial Generator self-hauls, the commercial Generator shall meet the Self-Hauler requirements of Section 8.08.130-7.

(B) Commercial Generators, excluding Multi-Family Residential Dwellings consisting of five (5) or more dwelling units, shall comply with the following requirements.

- (1) Provide Containers for the Collection of Source Separated Organic Materials and Source Separated Recyclable Materials in all indoor and outdoor areas where Garbage Containers are provided for customers, for materials generated onsite. Such Containers do not need to be provided in restrooms. If a Commercial Generator does not generate any of the materials that would be collected in one type of Collection Container, then it is not required to provide that type of Container in all areas where Disposal collection containers are provided for customers. Pursuant to 14 CCR Section 18984.9(b), the indoor and outdoor Containers shall have either:

- (a) A body or lid that is gray or black for Collection of Garbage, blue and/or brown for collection of Recycling, and green for collection of Organic Materials. A Commercial Generator is not required to replace functional containers, including Containers purchased prior to January 1, 2022, that do not comply with the requirements of this subsection prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever date is earlier.
- (b) Container labels that include language or graphic images, or both, indicating the primary material accepted and the primary materials prohibited in that container, or containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the container. Pursuant 14 CCR Section 18984.8, the container labeling requirements are required on new containers commencing January 1, 2022.
- (2) To the extent practical through education, training, inspection, and/or other measures, prohibit employees from placing materials in a container not designated for those materials per the Solid Waste Collection Service.
- (3) Periodically inspect Organic Materials, Recycling, and Garbage Containers for contamination and inform employees if containers are contaminated and of the requirements to keep contaminants out of those containers pursuant to 14 CCR Section 18984.9(b)(3).
- (4) Commercial Generators that are Commercial Edible Food Generators, as defined in Section 8.08.010, shall comply with commercial Edible Food Generator requirements, pursuant to Section 8.08.130-11.

§ 8.08.130-4 AUTHORIZED COLLECTORS.

- (A) No person shall provide services as a hauler of Recyclable Materials or Organic Materials within the boundaries of the Town without either being an Authorized Collector.
- (B) The Town's Franchisee/Authorized Collector providing residential, commercial, or industrial collection services to Generators within the Town's boundaries shall meet the following requirements and standards as a condition of approval of a contract, agreement, or other authorization with the Town to collect Organic Materials and/or Recyclable Materials:
 - (1) Through written notice to the Town annually on or before January 1, 2022, identify the facilities to which they will transport Organic Materials including facilities for Source Separated Recyclable Materials and source separated Organic Materials. Notice is deemed given under the terms of the approved Franchise Agreement.
 - (2) Subject to the terms of the Franchise Agreement, transport source separated Recyclable Materials and Source Separated Organic Materials to a facility, operation, activity, or property that recovers Organic Materials as defined in 14 CCR, Division 7, Chapter 12, Article 2.
 - (3) Obtain approval from the Town to haul Organic Materials, unless it is transporting source separated Organic Materials to a community composting

site in a manner that complies with 14 CCR Section 18989.1. Approval is deemed given under the terms of the approved Franchise Agreement.

- (C) The Franchisee shall provide Collection Containers to residential and commercial Generators in conformance with the color and labeling requirements set forth in 14 CCR Section 18784.7 and 14 CCR Section 18784.8 or as specified in the Franchise Agreement.
- (D) Franchisee/Authorized Collector shall provide Collection service and Collection Containers for Recyclable Materials and Organic Materials sufficient to accommodate the quantity and types of Recyclable Materials and Organic Materials to all of its customers and shall provide Solid Waste services as described in Section 8.08.130-5.
- (E) Franchisee/Authorized Collector shall identify collection containers for Garbage, Recyclable Materials and Organic Materials with its name, recognizable corporate or company logo, and phone number of the Franchisee.
- (F) Subject to the terms of the Franchise Agreement, Franchisee/Authorized Collector shall equip and provide Collection Containers for Recyclable Materials and Organic Materials, with locks and/or other suitable features, where feasible, to prevent scavenging, and shall conduct all activities in accordance with this section, applicable laws, Town codes and regulations and best management practices. Vehicles and equipment and Containers shall be kept in a clean and well-maintained condition.
- (G) Franchisee/Authorized Collector shall maintain a copy of its service agreements, if applicable, and all receipts documenting that its customers' Recyclable Materials and Organic Materials have been properly delivered to Solid Waste facilities identified in subsection (B), as well as any documentation evidencing an event of force majeure which prevented the proper delivery of any such materials. Such documents shall be available for inspection by the Director at the place of business during normal business hours and maintained for not less than three years.

§ 8.08.130-5 RECYCLING AND ORGANIC MATERIAL COLLECTION SERVICES.

The Recycling services provided by Franchisee/Authorized Collector shall include, at a minimum, all of the following:

- (A) Collection of Recyclable Materials and Organic Materials at a minimum of once per week, or more often as specified by the applicable contract, license or permit;
- (B) Collection of Recyclable Materials and Organic Materials as identified by the Director;
- (C) Utilization of Collection Containers which comply with Town standards;
- (D) Appropriate signage on all Collection Containers, chutes and/or enclosures which allows users to clearly and easily identify which containers to use for Recyclable Materials, Organic Materials and Garbage and be color-coded.
- (E) Occupant education. For Multi-Family Residential Dwellings, the Authorized Collector shall provide information about Recycling services as follows:

- (1) Types of Recyclable Materials and Organic Materials accepted, the location of Recycling Containers, and the occupant's responsibility to recycle pursuant to this section. This information shall be distributed to all property managers or owners at least annually.

§ 8.08.130-6 WAIVERS.

- (A) The Town may grant waivers for physical space limitations and/or de minimis volumes. Waiver requests shall be submitted on a form specified by the Director. After reviewing the waiver request, and after an on-site review, if applicable, the Director may either approve or deny the following waiver requests.
 - (1) De Minimis Waivers: The Town may waive a Commercial Business' ~~(but excluding Multi-Family Residential Dwellings with five or more dwelling units)~~ obligation to comply with some or all the requirements of Section 8.08.130-3 if the Commercial Business meets the following requirements:
 - (a) Submit an application specifying the type of waiver requested and provide documentation as described below.
 - (b) Provide documentation that the Commercial Business (but excluding Multi-Family Residential Dwellings) generates 32 gallons (or the minimum level of service as defined in the rate schedule) of Solid Waste per week and can demonstrate upon request by the Town or Hauler that they do not exceed the 32 gallon threshold and have a reasonable alternative to disposing of their Recyclable Materials or Organic Waste [JG1] (e.g., sharing with adjacent business). This exemption does not apply to special events unless the generator demonstrates to the Director [JG2] that the event will produce less than the threshold amount.
 - (c) Notify the Town if circumstances change such that subsections (a) and (b) no longer applies, in which case the waiver will be rescinded.
 - (d) Provide written verification of eligibility for de minimis waiver every five years if the Town has approved de minimis waiver.
 - (e) The [JG3] Commercial Business (but excluding Multi-Family Residential Dwellings) may be exempt from the requirement of this section if the Commercial Business demonstrates to the Director that there are no Recyclable Materials and/or Organic Waste being generated by any activities in the Commercial Business.
 - ~~(c) Notify the Town if circumstances change such that subsections (a) and (b) no longer applies, in which case the waiver will be rescinded.~~
 - ~~(d) Provide written verification of eligibility for de minimis waiver every five years if the Town has approved de minimis waiver.~~
 - (2) Physical Space Waivers: The Town may waive a Commercial Business' or property owner's obligations to comply with some or all of the Recyclable Materials and/or Organic Materials collection service requirements if the Town has evidence from its own staff, a Hauler, licensed architect, or licensed engineer demonstrating that the Premises lacks adequate space for the Collection Containers required for compliance with the Collection service requirements. If, after reviewing the site,

the Director determines that it is feasible for collection containers for Recyclable Materials and/ or Organic Materials to be placed either on-site or shared with an adjoining business or property, then the Generator will not be exempted from these requirements and will be responsible for full compliance with this section. A Commercial Business or property owner may request a physical space waiver through the following process:

- (a) Submit an application form specifying the type(s) of collection services for which they are requesting a waiver from mandatory collection service.
- (b) Provide documentation that the premises lacks adequate space for the approved Recyclable Materials Collection Containers and approved Organic Materials Collection Containers including documentation from its Authorized Collector, licensed architect, or licensed engineer.
- (c) Provide written verification to the Town that it is still eligible for physical space waiver every five years if the Town has approved application for a physical space waiver.

(B) ~~(B)~~ If a Generator seeks an exemption, an application for such exemption shall be submitted on a form prescribed by the Director. After reviewing the exemption request, and after an on-site review, if applicable, the Director shall either approve or disapprove the exemption request and shall notify the Authorized Collector if a waiver has been approved.

(C) ~~(C)~~ Donation. Nothing in this section shall prohibit any Generator from donating its Recyclable Materials or Organic Materials to any non-profit charitable organization.

(D) Organic Materials may be fed to animals on the Premises where such Organic Materials is produced, provided that the Premises are always kept in a sanitary condition to the satisfaction of the Director; and provided further that the keeping and feeding of such animals shall at all times conform to the applicable regulations of those entities governing the same now in force or which thereafter may be enacted or promulgated.

(E) Nothing in this chapter prohibits a Generator from preventing or source reducing waste generation, managing Organic Waste on site, or using a community composting site, provided that such conforms to the applicable regulations of those entities governing the same now in force or which thereafter may be enacted or promulgated.

§ 8.08.130-7 SELF-HAULERS.

(B) ~~(A)~~ Self-Haulers shall haul their Source Separated Recyclable Materials to a facility that recovers those materials; and haul their Source Separated Organic Materials to a Solid Waste facility or a chipping/grinding operation, that processes or recovers Source Separated Organic Materials.

(C) ~~(B)~~ Self-Haulers that are Commercial Businesses shall keep a record of the amount of Organic Materials delivered to each Solid Waste facility and/or chipping and grinding, operation that processes or recovers Organic Materials; this record shall be

subject to inspection by the Town. The records shall include the following information:

- (1) Delivery receipts and weight tickets from the entity accepting the waste. If the material is transported to an entity that does not have scales on-site or employs scales incapable of weighing the Self-Hauler's vehicle in a manner that allows it to determine the weight of materials received, the Self-Hauler is not required to record the weight of material but shall keep a record of the entities that received the Organic Materials.
- (2) The amount of material in cubic yards or tons transported by the Generator to each entity.

(D) ~~(C)~~ A Self-Hauler must retain on-site a self-hauling form certifying that all self-hauling activities will be completed in accordance with this section or any other applicable law or regulation. The self-hauling form shall be made available to the Director or his or her designee and to the Authorized Collector upon request. At a minimum, the Generator shall provide the following information on the self-hauling form:

- (1) The name, address and telephone number of the Generator's representative that will be signing the self-hauling form.
 - (2) A list of the types of Recyclable Materials that are being transported.
 - (3) For each type of recyclable material, an estimate of the amount that will be self-hauled to a Materials Recovery Facility on a quarterly basis.
 - (4) The name and address of the Materials Recovery Facility.
 - (5) A written statement, signed by the Generator or representative, certifying that the Generator is in compliance with the requirements of this Section 8.08.130-7.
- (D) The Director may restrict or prohibit self-hauling by a Generator if the Director determines, after providing notice and an opportunity for a hearing, that the Generator's self-hauling activities violate the provisions of this section or any other applicable law or regulation.

§ 8.08.130-8 SPECIAL EVENT SOLID WASTE MANAGEMENT.

- (A) For a special event expected to have 500 or more attendants, in addition to any other conditions the Town requires as part of the special event permit, the responsible party shall provide Collection Containers for Recyclable Materials and Organic Materials throughout the event location to make Source Separation of Recyclable Materials, Organic Materials and Garbage convenient for the employees, volunteers, contractors, and customers of the food vendors and attendees of the event. However, Town may at its discretion require a special event with less than 500 attendees to provide some level of Recycling and Organic Materials collection service as a condition of approval of the special event permit.
- (B) The minimum number of collection containers designated for Recyclable Materials and Organic Materials shall equal or exceed the number of Collection Containers designated for Garbage. The collection containers for Garbage, Recyclable Materials

and Organic Materials shall be placed as close together as possible throughout the event location in order to provide equally convenient access to users.

- (C) All of the Collection Containers must have appropriate signage and be color coded to identify the type of Solid Waste to be deposited and meet any additional design criteria established by the Town by regulation.
- (D) Food vendors must have at least one separate Collection Container designated for each Recyclable Materials, Organic Materials, and Garbage for use by customers and visitors. Multiple food vendors that provide disposable food service ware and share a common eating area may share an appropriate number, size, and placement of Collection Containers designated for Recyclable Materials, Organic Materials and Garbage for convenient use by customers or visitors or have common access to such a Container which shall be located within a reasonable proximity of the vendors.
- (E) The types of Recyclable Materials suitable for deposit into designated collection containers shall include, at a minimum; plastic bottles and containers, paper, cardboard, glass, newspaper, metal containers, and cans. Each Recycling collection Container shall be clearly identified as a Recycling Collection Container and shall display a list of types of Recyclable Materials, which may be deposited into the Recycling Collection Container. Each Organic Materials Collection Container shall be clearly identified as an Organic Materials collection container and shall display a list of the types of Organic Materials, which may be deposited into the Organic Materials Collection Container.
- (F) The responsible person shall ensure that the Recyclable Materials deposited into the Recycling Collection Containers and Organic Materials depositing into the Organic Materials Collection Container are delivered to a Solid Waste facility that can accept such materials for Recycling. The Solid Waste facility may be located at a landfill, but Recyclable Materials shall not be delivered to a landfill for Disposal.

§ 8.08.130-9 OWNERSHIP/SCAVENGING OF RECYCLABLE MATERIALS AND ORGANIC MATERIALS.

- (A) All Recyclable Materials and Organic Materials placed in Collection Containers provided by any Authorized Collector sufficient to accommodate the quantity and types of materials generated by Generators shall be considered owned by and be the responsibility of the Authorized Collector. Without permission of either the Authorized Collector, no person shall collect Recyclable Materials or Organic Materials placed in such Collection Containers by Generators.
- (B) No person other than the Authorized Collector under contract with the Generator of the Recyclable Materials and Organic Materials to collect the Recyclable Materials and Organic Materials, shall remove Solid Waste which has been placed at a designated collection location. Except for self-haulers authorized under Section 8.08.130-7, it shall be unlawful for any person to engage in the business of collecting, removing or transporting, or otherwise organizing or directing the collection, removal or transportation of Recyclable Materials and Organic Materials without being an Authorized Collector.

§ 8.08.130-10 REPORTING.

- (A) Each Authorized Collector shall provide bi-annual reports on the dates described below to the Director identifying, at a minimum, the following information, including special events:
- (1) The total number of Generators it has in the Town, the name and address of the facility serviced, and the name of the responsible party for Solid Waste management;
 - (2) The frequency of collection service provided to the Generator;
 - (3) The amount of Garbage, Recyclable Materials and Organic Materials collected per month by volume in cubic yards and tons, measured by the size of applicable containers of and removed by them within the Town during the previous year;
 - (4) The location of the Solid Waste facility (facilities) to which the Garbage, Recyclable Materials and Organic Materials were taken during the previous quarter; and
 - (5) Information about non-compliance by Generators.
 - (6) The quarterly reporting periods shall be as follows:

	Reporting Period	Due Date	
(B) If the report shall be after 15 days, Collector shall delinquent	January 1 - March 30	May 1	quarterly report is due dates above, the deemed delinquent and the Authorized pay to the Town a report charge in the amount of \$100. If the report remains delinquent for more than 30 days, the amount shall be increased to \$200. The Director may, at his/her sole discretion, waive the delinquent charge and/or change the quarterly reporting period to a longer time frame (e.g., bi-annual).
	April 1 - June 30	August 1	
	July 1 - September 30	November 1	
	October 1 - December 31	February 1	

- (C) An Authorized Collector's failure to file the reports required by this section shall, at the option of the Director, constitute cause for termination or suspension of its right to collect Recyclable Materials and Organic Materials under this section.

§ 8.08.130-11 COMMERCIAL EDIBLE FOOD GENERATOR REQUIREMENTS.

- (A) Tier One Commercial Edible Food Generators must comply with the requirements of this section January 1, 2022, and Tier Two Commercial Edible Food Generators must comply commencing January 1, 2024, pursuant to 14 CCR Section 18991.3.
- (B) Large Venue or Large Event operators not providing food services, but allowing for food to be provided by others, shall require Food Facilities operating at the Large Venue or Large Event to comply with the requirements of this section, commencing January 1, 2024.
- (C) Commercial Edible Food Generators shall comply with the following requirements:
- (1) Arrange to recover the maximum amount of Edible Food that would otherwise be disposed.

- (2) Contract with or enter into a written agreement with Food Recovery Organizations or Food Recovery Services for: (a) the collection of Edible Food for Food Recovery; or (b) acceptance of the Edible Food that the Commercial Edible Food Generator self-hauls to the Food Recovery Organization for Food Recovery.
- (3) Shall not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery Organization or a Food Recovery Service.
- (4) Allow the Town's designated enforcement entity or designated third party enforcement entity to access the premises and review records pursuant to 14 CCR Section 18991.4.
- (5) Keep records that include the following information, or as otherwise specified in 14 CCR Section 18991.4:
 - (a) A list of each Food Recovery Service or organization that collects or receives its Edible Food pursuant to a contract or written agreement established under 14 CCR Section 18991.3(b).
 - (b) A copy of all contracts or written agreements established under 14 CCR Section 18991.3(b).
 - (c) A record of the following information for each of those Food Recovery Services or Food Recovery Organizations:
 - (i) The name, address and contact information of the Food Recovery Service or Food Recovery Organization.
 - (ii) The types of food that will be collected by or self-hauled to the Food Recovery Service or Food Recovery Organization.
 - (iii) The established frequency that food will be collected or self-hauled.
 - (iv) The quantity of food, measured in pounds recovered per month, collected or self-hauled to a Food Recovery Service or Food Recovery Organization for Food Recovery.
- (D) Nothing in this Chapter shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share table and school food donation guidance pursuant to SB 557 (Chapter 285, Statutes of 2017) as amended from time to time.

§ 8.08.130-12 EDIBLE FOOD RECOVERY ORGANIZATION AND SERVICE REQUIREMENTS.

- (A) Food Recovery Services collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(1):
 - (1) The name, address, and contact information for each Commercial Edible Food Generator from which the service collects Edible Food.
 - (2) The quantity in pounds of Edible Food collected from each Commercial Edible Food Generator per month.

- (3) The quantity in pounds of Edible Food transported to each Food Recovery Organization per month.
 - (4) The name, address, and contact information for each Food Recovery Organization that the Food Recovery Service transports Edible Food to for Food Recovery.
- (B) Food Recovery Organizations collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(2):
- (1) The name, address, and contact information for each Commercial Edible Food Generator from which the organization receives Edible Food.
 - (2) The quantity in pounds of Edible Food received from each Commercial Edible Food Generator per month.
 - (3) The name, address, and contact information for each Food Recovery Service that the organization receives Edible Food from for Food Recovery.
- (C) Food Recovery Organizations and Food Recovery Services that have their primary address physically located in the Town and contract with or have written agreements with one or more Commercial Edible Food Generators pursuant to 14 CCR Section 18991.3(b) shall annually report to the Town it is located in the total pounds of Edible Food recovered in the previous calendar year from the Tier One and Tier Two Commercial Edible Food Generators they have established a contract or written agreement with pursuant to 14 CCR Section 18991.3(b) no later than April 1.
- (D) In order to support Edible Food Recovery capacity planning assessments or other studies conducted by the County, Town, joint powers authority that provides Solid Waste collection services, or the Town's designated entity, Food Recovery Services and Food Recovery Organizations operating in the Town shall provide information and consultation to the Town, upon request, regarding existing, or proposed new or expanded, Food Recovery capacity that could be accessed by the Town and its Commercial Edible Food Generators. A Food Recovery Service or Food Recovery Organization contacted by the Town shall respond to such request for information within 60 days unless a shorter timeframe is otherwise specified by the Town.

§ 8.08.130-13 IMPLEMENTATION AND ENFORCEMENT.

- (A) Beginning January 1, 2022 and through December 31, 2023, the Town will conduct Inspections, Remote Monitoring, Route Reviews or waste evaluations, and compliance reviews, depending upon the type of regulated entity, to determine compliance with the SB 1383 Regulations, and if the Town 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 chapter 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.

- (B) The Director is authorized to administer and enforce the provisions of this Section 8.08.130, beginning with Section 8.08.130-1 and following. The Director or anyone designated by the Director to be an Enforcement Officer may exercise such enforcement powers. To the extent permitted by law, the Director, Authorized Collector, or Town's designee is authorized to conduct any inspections, remote monitoring, or other investigations as reasonably necessary to further the goals of this chapter, subject to applicable laws. This may include inspections and investigations, at random or otherwise, of any Collection Container, Collection vehicle load, or transfer, processing, or Disposal facility to confirm compliance with this chapter, subject to applicable laws. For the purposes of inspecting Collection Containers for compliance, the Town or Authorized Collector may conduct Container Inspections for Prohibited Container Contaminants using remote monitoring, and Generators shall accommodate and cooperate with the remote monitoring. A Commercial Business (excluding private residential dwelling units) shall cooperate with the Town or Authorized Collector during such Inspections and investigations. Such Inspections and investigations may include confirmation of proper placement of materials in Containers, Inspection of Edible Food recovery activities, review of required records, or other verification or inspection to confirm compliance with any other requirement of this chapter. Failure to provide or arrange for: (i) access to the Premises; (ii) installation and operation of remote monitoring equipment, if a remote monitoring program is adopted; or (iii) access to records for any inspection or investigation is a violation of this chapter and may result in penalties. Nothing herein shall be read or interpreted to restrict Franchisee/Authorized Collector from conducting curbside audits of residential or commercial Containers that have been set out for Collection.
- (C) Any records obtained by the Town, Authorized Collector, or Town's designee, during Inspections, investigations, remote monitoring and other reviews shall be subject to the requirements and applicable disclosure exemptions of the California Public Records Act as set forth in Government Code Section 6250 et seq.
- (D) Unless otherwise expressly provided by the Town's Code, any person adversely and directly affected by any determination made or action taken by the Director pursuant to the provisions of this section may file an administrative appeal. If no appeal is filed within the time prescribed and consistent with the Town's procedures in the Town's Code, the determination or action of the Director shall be final.
- (E) Incremental notification and enforcement.
- (1) If an Authorized Collector first finds prohibited container contaminants in a collection container, it shall notify the Generator by written notice attached to the Collection Container identifying the Prohibited Container Contaminants and describing what action must be taken for the materials to be collected.
 - (2) If an Authorized Collector finds Prohibited Container Contaminants in a collection container a second time, they shall notify the Generator by a written "second notice" attached to the Collection Container and identifying the Prohibited Container Contaminants and describing what action must be taken for the materials to be collected.

- (3) After an Authorized Collector has already left two or more notices for that customer and that type of Collection Container, the Authorized Collector may refuse to empty the container if Prohibited Container Contaminants are found a third time, subject to 14 CCR Section 17331, or as determined by the Director. If the Collection Container is not emptied, the Authorized Collector must leave a tag and send a written notice to the Generator, identifying the Prohibited Container Contaminants and describing what action must be taken for the materials to be Collected; provided, however, that an Authorized Collector may not refuse on this basis to empty Collection Containers from a Multi-Family Residential Dwelling or other Commercial Premise with multiple tenants and joint account Collection service due to Prohibited Container Contaminants, but may manage contaminated loads as Garbage and charge the Generators accordingly.
- (4) The Authorized Collector shall, in addition to the above, upon request, provide to the Director a list of the names and addresses of those Generators who have received tags or notices or whose collection containers have not been emptied due to non-compliance with this section, and copies of the tags or notices. The Authorized Collector shall also provide to the Director, upon request, a list of the names, addresses, and service levels of the Generators and any additional information required by the Director.
- (5) A Violation of any provision of this chapter shall constitute an infraction and will be grounds for issuance of a Notice of Violation and assessment of an administrative citation and penalty by the Town's enforcement officer or its Designated Enforcement Agency.
- (6) Enforcement Actions under this chapter are issuance of an administrative citation and assessment of a fine. The Town's procedures on imposition of administrative citations and fines as contained in Municipal Code Chapter 1.08, 1.10, 1.12 and 1.16 shall govern the imposition, enforcement, collection, and review of administrative citations and fines issued to enforce this chapter and any rule or regulation adopted pursuant to this chapter. Any section of this chapter may be enforced by the Town or, if agreed to, by its designated Enforcement Agency.
- (7) A violation may be punishable by:
 - (i) A fine not exceeding one hundred dollars for a first violation;
 - (ii) A fine not exceeding two hundred dollars for a second violation of the same provision of this code within any twelve consecutive month period;
 - (iii) A fine not exceeding five hundred dollars for each additional violation of the same provision of this code within any twelve consecutive-month period. Any citation issued after the issuance of a third citation or violation of the same provision of this code within any twelve consecutive-month period may be charged as a misdemeanor pursuant to the provisions of Chapter 1.08 of this code.
- (8) The Town or designated Enforcement Agency may issue a Notice of Violation requiring compliance within 60 days or sooner of issuance of the notice.

- (9) Absent compliance by the respondent within the deadline set forth in the Notice of Violation, the Town or designated Enforcement Agency may commence an action to impose penalties, via an administrative citation and fine, pursuant to the Town's standard procedures or the standard procedures of its designated Enforcement Agency.

§ 8.08.130-14 OTHER ACTIONS AND REMEDIES.

- (A) This section 8.08.130 does not do any of the following:
- (1) Otherwise affect the authority of the Director, or designee to take any other action authorized by any other provision of law.
 - (2) Restrict the power of a Town attorney, district attorney or the Attorney General to bring in the name of the people of California, any criminal proceeding otherwise authorized by law.
 - (3) Prevent the Director or designee from cooperating with, or participating in, a proceeding specified in Section 8.08.130-14(A)(2) above.
- (B) Cumulative remedies. Any remedy provided under this section is cumulative to any other remedy provided in equity or at law. Nothing in this section shall be deemed to limit the right of the Town or its authorized collection agent(s) to bring a civil action or prosecution as a misdemeanor or infraction; nor shall a conviction for such violation exempt any person from a civil action brought by the Town or its authorized collection agent(s). The fees and penalties imposed under this section shall constitute a civil debt and liability owing to the Town from the persons, firms or corporations using or chargeable for such services and shall be collectible in the manner provided by law. The Town may pursue civil actions in the California courts to seek recovery of unpaid administrative citations, and fines.
- (C) Liability. Nothing in this Section 8.08.130 shall be deemed to impose any liability upon the Town or upon any of its officers or employees including without limitation under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA).

§ 8.08.130-15 FORMS, REGULATIONS AND GUIDELINES.

- (A) After public notice and a public hearing, the Director may adopt necessary forms, rules, regulations, and guidelines which may be necessary or desirable to aid in the administration or enforcement of the provisions of this Section 8.08.130, including all necessary policies and procedures for the issuance of the permits, administration of this Section 8.08.130, collection of fees and bonds and/or indemnities, or proof(s) of insurance.
- (B) The Town shall provide information on its website regarding what materials are accepted as Recyclable Materials, Organic Materials and Garbage under this section.
- (C) The Town, Authorized Collector or designee shall accept written complaints from persons regarding an entity that may be potentially non-compliant with this chapter.

CHAPTER 8.08: ~~GARBAGE~~SOLID WASTE, RECYCLABLES, AND RUBBISH
~~DISPOSAL~~ORGANIC WASTE

Section

- 8.08.010 Definitions
- 8.08.020 Zones
- 8.08.030 Charges
- 8.08.040 ~~Receptacles~~ Collection Containers
- 8.08.050 Duties of owners and occupants
- 8.08.060 Mechanical garbage disposal
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- 8.08.080 Unlawful ~~disposal~~ Disposal
- 8.08.090 Unlawful ~~collection~~ Collection
- 8.08.100 Dead animals
- 8.08.110 Contract/Franchise Agreement
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- ~~8.08.130~~ ~~Requiring mandatory commercial recycling within the Town of Fairfax~~
- 8.08.130 Mandatory Garbage, Recycling and Organic Materials Collection
 - 8.08.130-1 Findings
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 - 8.08.130-4 ~~Franchised haulers and authorized recyclers~~ Authorized Collectors
 - 8.08.130-5 Recycling and Organic Materials Collection services
 - 8.08.130-6 ~~Exemptions~~ Waivers
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 - 8.08.130-8 Special event ~~recycling~~ Solid Waste management
 - 8.08.130-9 Ownership/scavenging of ~~recyclable materials~~ Recyclable Materials and Organic Materials
 - 8.08.130-10 Reporting
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 - 8.08.130-12 Edible Food Recovery Organization and Service requirements
 - 8.08.130-~~11~~13 Implementation and enforcement
 - 8.08.130-~~12~~14 Other actions and remedies
 - 8.08.130-~~13~~15 Forms, regulations and guidelines

§ 8.08.010 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

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

ANAEROBIC DIGESTION or AD. The biological decomposition of organic matter with little or no oxygen. The anaerobic digestion technology that will initially be utilized by the franchised hauler will be that of the Central Marin Sanitation Agency (a public-operated treatment works) to produce energy and to reduce the volume of Solid Waste that must be landfilled.

AUTHORIZED COLLECTOR. The individual, ~~persons,~~ firm or corporation ~~to whom a contract has been awarded by the town for the exclusive right or privilege to collect, remove and dispose of garbage, and who shall be charged with the duty of making the collections within the town.~~collecting, and delivering for Disposal, Recycling or processing Solid Waste originating within the Town and doing so under a contract, permit or franchise agreement with the Town. Authorized collector may be referred to as the Franchisee or Franchised Collector.

~~—GARBAGE. Any and all garbage, debris, animal and vegetable waste (and containers thereof) resulting from the handling, preparation, cooking and consumption of foods, grass cuttings, tree and brush trimmings, roofing, construction and demolition wastes, and all other waste materials such as metal, glass, crockery, sweepings, paper, wrappings, containers, cartons and similar articles.~~

~~—GARBAGE SERVICE. The periodic collection of garbage by the collector.~~

BULKY WASTE. Large items of Solid Waste such as appliances (white goods), e-waste (except for universal waste), furniture, tires, carpets, mattresses and similar large items, large auto parts, trees, branches, stumps, and other oversize wastes whose large size precludes or complicates their handling by normal collection, processing, or Disposal methods. It does not include abandoned vehicles or household hazardous waste.

CALRECYCLE. California Department of Resources Recycling and Recovery, which is the department designated with responsibility for developing, implementing, and enforcing the SB 1383 Regulations.

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

COLLECTION. To take physical possession of Solid Waste at, and remove from, the place of generation for transport to a Solid Waste facility or other recovery activity.

COMMERCIAL BUSINESS or COMMERCIAL. A firm, partnership, proprietorship, joint-stock company, corporation, or association, whether for-profit or nonprofit, strip mall, industrial facility, or a multi-family dwelling with five (5) or more dwelling units, or as otherwise defined in 14 CCR Section 18982(a)(6). A Multi-Family Residential Dwelling that consists of less than five (5) dwelling units is not “Commercial” for the purposes of this chapter.

COMMERCIAL EDIBLE FOOD GENERATOR. A Tier One or a Tier Two Commercial Edible Food Generator as defined in 14 CCR Section 18982(a)(73) and (a)(74). Food Recovery Organizations and Food Recovery Services are not Commercial Edible Food Generators.

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

CONSTRUCTION AND DEMOLITION DEBRIS or C&D. Used or discarded materials resulting from construction, renovation, remodeling, repair, demolition, excavation or construction clean-up operations on any pavement or structure.

CONTAINER or COLLECTION CONTAINER. For the purpose of this chapter, any bin, box or cart used for the purpose of holding Solid Waste for collection.

DEBRIS BOX. Any ten (10) to forty (40) cubic yard container, or any compactor provided by a Solid Waste Generator, placed in the public right-of-way, on Town property, private property, or elsewhere in the service area, which is procured by a Solid Waste Generator for their use in the Collection of their Solid Waste. Debris boxes are serviced by means of lifting the entire Container, including all contents, onto a designated collection vehicle.

DESIGNATED COLLECTION LOCATION. The place where an Authorized Collector has contracted with either the Town or a private entity to pick up separated Garbage, Recyclable Materials and Organic Materials Collection Containers. This location will customarily be the curbside of a residential neighborhood or the service alley of a commercial (or multi-family) enterprise.

DIRECTOR. The Town Manager of the Town of Fairfax, or his or her designee.

DISPOSAL. The final disposition of Solid Waste at a Solid Waste Facility permitted for disposal.

DIVERSION. Activities reducing or eliminating the amount of Solid Waste from Solid Waste Disposal, and which return these materials to use in the form of raw materials for new, reused, or reconstituted products, which meet the quality standards necessary for commercial use, or for other purposes of reuse.

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

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

ENFORCEMENT ACTION. An action of the Town to address non-compliance with this chapter including, but not limited to, issuing administrative notices, citations, fines, penalties, or using other remedies.

FOOD RECOVERY ORGANIZATION. An entity that engages in the collection or receipt of Edible Food from Commercial Edible Food Generators and distributes that Edible Food to the public for Food Recovery either directly or through other entities or as otherwise defined in 14 CCR Section 18982(a)(25), including, but not limited to: A food bank as defined in Section 113783 of the Health and Safety Code; a nonprofit charitable organization as defined in Section 113841 of the Health and Safety code; and, a nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.

FOOD RECOVERY SERVICE. A person or entity that collects and transports Edible Food from a Commercial Edible Food Generator to a Food Recovery Organization or other entities for Food Recovery, or as otherwise defined in 14 CCR Section 18982(a)(26). A Food Recovery Service is not a Commercial Edible Food Generator for the purposes of this chapter.

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

FRANCHISE AGREEMENT. an agreement between the Town and the Authorized Collector for the collection and delivery of Solid Waste for Disposal, Recycling or processing originating within the Town.

GARBAGE. All non-recyclable packaging and other waste attributed to normal activities of a service unit. Garbage must be generated by and at the service unit wherein the Garbage is collected. Garbage does not include Recyclable Materials, Organic Materials, Construction and Demolition Debris, large items, e-waste, universal waste, hazardous waste, household hazardous waste or exempt waste.

GENERATOR(S). For the purpose of this chapter, Generator means a person or entity, including a commercial Generator or residential Generator who is responsible for the initial creation of Recyclable Materials and/or Organic Materials, or as otherwise defined as "Organic Waste Generator" in 14 CCR Section 18982(a)(48). Generator may also include tenants, property managers for facilities with leased space, employees and contractors of a Generator, as well as a responsible party for special events. Generator also includes the Town, its facilities, its non-residential properties and its special events, including sponsors and/or co-sponsors.

HAULER. A person who collects material from a Generator and delivers it to a reporting entity, end user, or a destination outside of the state. "Hauler" means the Authorized Collectors, Food Waste self-haulers, and self-haulers as defined in this Chapter. A person who transports material from reporting entity to another person is a transporter, not a hauler.

INSPECTION. A site visit where the Town its designee, or the Authorized Collector reviews records, containers, and an a entity's collection, handling, Recycling, or Disposal of Solid Waste or Edible Food handling to determine if the entity is complying with

requirements set forth in this chapter, or as otherwise defined in 14 CCR Section 18982(a)(35).

MECHANICAL GARBAGE DISPOSAL-OR GRINDER. Any garbage disposal unit, approved by the Health Officer of the ~~town~~ Town, which grinds or prepares ~~garbage~~ Garbage to such an extent as to permit the ~~garbage~~ Garbage to be disposed of through the sewer drains.

MULTI-FAMILY RESIDENTIAL DWELLINGS or MULTI-FAMILY. Five or more residential dwelling units located on a single parcel of land and any mobile home park located in the Town utilizing a common Garbage bin for the accumulation and set-out of Garbage.

ORGANIC MATERIALS or ORGANIC WASTE. Solid Wastes containing material originated from living organisms and their metabolic waste products, including but not limited to Food Waste, green material, landscape and pruning waste, organic textiles and carpets, lumber, wood, paper products, printing and writing paper, manure, biosolids, digestate, and sludges or as otherwise defined in 14 CCR Section 18982(a)(46).

ORGANIC MATERIAL PROCESSING FACILITY. Any facility selected by the Authorized Collector that is approved by the Town, or specifically designated by the Town, operated and legally permitted for the purpose of receiving and processing Organic Materials.

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

PROHIBITED CONTAINER CONTAMINANTS. Includes (1) discarded materials placed in the designated Recyclables Container that are not identified as acceptable source separated Recyclables; (2) discarded materials placed in the designated Organic Materials collection container that are not identified as acceptable source separated Organic Materials; and (3) discarded materials placed in the Garbage Container that are acceptable source separated Recyclables and/or source separated Organic Materials, and (4) Excluded Waste placed in any Container.

RECYCLABLE MATERIALS or RECYCLABLES. Any material designated to be separated from the waste stream for purposes of Recycling. This designation shall be made by the Town and the Franchisee/Authorized Collector based upon the provisions of the Franchise Agreement, on good public practice, ability to receive an acceptable economic return, and feasibility of separating the material from the waste stream at the point of collection. Recyclable Materials may include, but are not limited to, paper, glass, cardboard, plastics, ferrous metal, and aluminum.

RECYCLING. The process of collecting, sorting, cleansing, treating and reconstituting materials that would otherwise become Garbage and returning them for use or reuse in the form of raw materials for new, used or reconstituted products which meet the quality standard necessary to be used in the marketplace. Recycling does not include

transformation as defined in Public Resources Code Section 40201. (14 CCR Section 17225.54).

RESPONSIBLE PARTY. The individual or entity responsible for the Generator's management of Solid Waste, Recyclable Materials and/or Organic Materials at the Generator's commercial facility or special event.

SB 1383. SB 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.

SB 1383 REGULATIONS. The regulations developed by CalRecycle and contained within 14 CCR, Division 7, Chapter 12 and the amended portions of 14 CCR and 27 CCR.

SELF-HAULER. A person who hauls Recyclables or Organic Waste or recovered material they have generated using the Generator's own vehicles, equipment and employees to another person. Self-hauler also includes a person who back-hauls waste. "Back-haul" means generating and transporting Organic Materials to a destination owned and operated by the Generator using the Generator's own employees, vehicles and equipment.

SOLID WASTE. Has the same meaning as defined in Public Resources Code Section 40191, which defines Solid Waste as all putrescible and non-putrescible solid and semisolid wastes, including Garbage, Recyclable Materials, Organic Materials, Construction and Demolition Debris, Bulky Waste, discarded home and industrial appliances, manure, vegetable or animal solid or semisolid wastes, and other discarded solid and semisolid wastes with the exception that Solid Waste does not include any of the following wastes: (1) Hazardous waste, as defined in the Public Resources Code Section 40141; (2) Radioactive waste regulated pursuant to the State Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the Health and Safety Code); and, (3) Medical waste regulated pursuant to the State Medical Waste Management Act (Part 14 (commencing with Section 117600) of Division 104 of the Health and Safety Code). Untreated medical waste shall not be disposed of in a Solid Waste landfill, as defined in Public Resources Code Section 40195.1. Medical waste that has been treated and deemed to be Solid Waste shall be regulated pursuant to Division 30 of the Public Resources Code. Recyclable Materials and Organic Materials are a part of Solid Waste.

SOLID WASTE COLLECTION SERVICE. A business enterprise in any form that obtains or receives Solid Waste from a commercial Generator, residential Generator, or other non-residential establishment for the primary purpose of removal or hauling such material for ultimate Disposal or Recycling.

SOLID WASTE FACILITY. A permitted Solid Waste transfer or processing station including Material Recovery Facilities, a composting facility, a gasification facility, a transformation facility, an Engineered Municipal Solid Waste conversion facility, and a Disposal facility. Solid Waste facility additionally includes a Solid Waste operation that may be carried out pursuant to an enforcement agency tier notification, as provided in regulations adopted by CalRecycle, or otherwise set forth in the Act.

SOURCE SEPARATE. The process of removing Recyclable Materials and Organic Materials from Solid Waste at the place of generation, prior to Collection, and placing such materials into separate containers designated for Recyclable Materials and Organic Materials, or as otherwise defined in 14 CCR Section 17402.5(b)(4).

SOURCE REDUCTION. Any action which causes a net reduction in the generation of Solid Waste. Source reduction includes, but is not limited to, reducing the use of non-Recyclable Materials, replacing disposable materials and products with reusable materials and products, reducing packaging, reducing the amount of yard wastes generated, establishing Garbage rate structures with incentives to reduce the amount of wastes that Generator produce, and increasing the efficiency of the use of paper, cardboard, glass, metal, plastic, and other materials. Source reduction does not include steps taken after the material becomes Solid Waste or actions which would impact air or water resources in lieu of land, including, but not limited to, transformation.

SPECIAL EVENT. A community, public, commercial, recreational or social event which may serve food or drink, and which may require a permit from the Town. "Special Events" may include the temporary or periodic use of a public street, publicly owned site or facility, or public park.

TIER ONE COMMERCIAL EDIBLE FOOD GENERATOR. A Commercial Edible Food Generator that is one of the following as defined in 14 CCR Section 18982(a):

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

TIER TWO COMMERCIAL EDIBLE FOOD GENERATOR. A Commercial Edible Food Generator that is one of the following:

- (1) Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.
- (2) Hotel with an on-site food facility and 200 or more rooms.
- (3) Health facility with an on-site food facility and 100 or more beds.
- (4) Large Venue, which means a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility. For purposes of this chapter 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 chapter 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.

(5) Large Event, which means an event, including, but not limited to, a sporting event or a flea market, that charges an admission price, or is operated by a local agency, and serves an average of more than 2,000 individuals per day of operation of the event, at a location that includes, but is not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for an event,

(6) A state agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet.

(7) A local education agency facility, which means a school district, charter school, or county office of education that is not subject to the control of Town or county regulations related to Solid Waste, or as otherwise defined in 14 CCR Section 18982(a)(40), with an on-site food facility.

TOWN. The Town of Fairfax, California.

§ 8.08.020 ZONES.

The Town of Fairfax, for the purposes of this chapter, shall be divided into two areas, designated respectively as the “hill” and “flat” areas. The areas are presently established upon that certain map entitled “Map Showing Flat Area and Hill Area of the Town of Fairfax for Establishing Garbage Collection Rates” ~~attached to the ordinance codified in this chapter and~~ available for inspection in the office of the Town Clerk, and the areas may be changed and amended from time to time by resolution of the Town Council.

§ 8.08.030 CHARGES.

(A) ~~Garbage service~~Solid Waste Collection Service charges shall be payable in amounts as established from time to time by resolution of the Town Council. Payment of fees for ~~garbage~~Solid Waste collection shall be the responsibility of the owner of the ~~premises~~Premises from which the ~~garbage~~Solid Waste is taken, but the fees may be received from the occupant for the account of the owner.

(B) ~~Garbage service~~Solid Waste Collection Service started after the tenth day of the calendar month shall be prorated on a monthly rate basis.

§ 8.08.040 ~~RECEPTACLES~~COLLECTION CONTAINERS.

(A) All ~~garbage receptacles shall be of galvanized or heavy plastic material with~~Collection Containers shall have tightly fitting covers ~~and may be of any size up to, but not exceeding, 64 gallons in capacity.~~

(B) The ~~receptacles~~Collection Containers may be set out the night before pickup at the Designated Collection Location and must be removed from the ~~town~~Town right-of-way within 24 hours after pickup.

§ 8.08.050 DUTIES OF OWNERS AND OCCUPANTS.

(A) Every owner or occupant of every ~~residence in the town, and of business premises where garbage~~residential and Commercial Premise in the Town where Solid Waste is accumulated, shall:

- ~~(1)~~ (1) — Use ~~garbage service~~Solid Waste Collection Service as often as necessary to keep the ~~premises~~Premises clean and free from odor and, in any event, shall arrange for not less than weekly ~~garbage service~~Solid Waste Collection Service;
- ~~(2)~~ (2) Arrange for a size, quantity and collection frequency of Collection Containers to adequately store all Solid Waste generated in connection with the Premise between the times designated for Collection service. The Town and/or Franchisee shall have the right to review the number and size of such Collection Containers to evaluate the adequacy of capacity provided for each type of Collection service and to review the separation and containment of materials. Generators shall adjust service levels for their Collection services as requested by the Town in order to meet the standards set forth in this chapter;
- ~~(3)~~ (2) Provide such receptacle or receptacles as may be necessary and place the receptacle or receptacles in a suitable locationUtilize Collection Containers provided by the Franchisee/Authorized Collector and place the Collection Containers in a Designated Collection Location on the premises at a point not more than 200 feet from the street;
- ~~(4)~~ (3) — If the ~~receptacle~~Collection Container is for use on ~~business premises~~Commercial Premises, keep the same at a suitable location at ground level, unless the ~~collector~~Authorized Collector agrees to a different location;
- ~~(5)~~ (4) — Keep the ~~receptacle~~Collection Container clean and sanitary;
- ~~(5) — Wrap all garbage as accumulated in paper or other suitable wrapping, and forthwith place the garbage in his or her own receptacle;~~
- ~~(6)~~ (6) — Put no more than ~~100 pounds of garbage in the receptacle~~the established weight limit of Solid Waste in each collection Container for any one collection;
- ~~(7)~~ (7) — Pay ~~forthwith~~all fees when due ~~all fees~~as provided in this chapter and by resolutions of the Town Council;
- ~~(8)~~ (8) — Keep the occupied premises free and clear of ~~garbage~~Solid Waste at all times; and
- ~~(9)~~ (9) — Source ~~separate recyclable materials and organic materials from solid waste (i.e., residents are prohibited from disposing of organic materials and recyclables in their landfill containers). This requirement shall not apply to commercial facilities that are expressly exempt from mandatory recycling under § 8.08.130-6(A)~~Separate Recyclable Materials and Organic Materials from Garbage. Place Source Separated Organic Materials, including Food Waste, in the Organic Materials Collection Container; place source separated Recyclable Materials in the Recyclable Materials Collection Container; and place Garbage in the approved Garbage Collection Container. Generators shall not place Prohibited Container Contaminants into the Garbage Collection Container, Organic Materials Collection Container or Recyclable Materials Collection Container. The Director (i.e., Town Manager or his or her designee) may excuse or waive violations of this requirement

~~upon reasonable demonstration or explanation that source separation is not feasible or practical under the circumstances~~ as described in Section 8.08.130-6.

For the first and second violations under this paragraph 910, the Director will refer offenders to an educational training program. Subsequent violations shall be subject to Chapter 1.10 "Administrative Citation and Hearing Process Enforcement." ~~All terms in this section shall have the same meanings as provided in § 8.08.130-2.~~

(B) It is unlawful for any owner or occupant to fail or refuse to comply with any of the requirements set forth in ~~division~~ subsection (A) above.

§ 8.08.060 MECHANICAL GARBAGE DISPOSAL.

Notwithstanding the foregoing provisions, an occupant of any ~~premises~~ Premises, or an owner of any regularly and duly installed mechanical garbage disposal ~~or grinder, as defined in § 8.08.010 of this chapter~~, may dispose of his or her ~~garbage~~ Food Waste by the use of the mechanical garbage disposal ~~or grinder~~, but shall nonetheless be required to use or take regular ~~garbage service~~ Solid Waste Collection Service on at least a weekly basis, in accordance with Section 8.08.130.

§ 8.08.070 DUTY OF AUTHORIZED COLLECTOR.

The ~~collector~~ Authorized Collector(s) of the ~~town~~ Town shall:

(A) Empty all ~~garbage receptacles in the town~~ Solid Waste Containers in the Town at least once each week, and in addition thereto, as often as may be requested by the owner or occupant, or as may be necessary to dispose of all ~~garbage~~ Solid Waste as provided for in this chapter;

(B) Use only ~~such receptacles~~ Collection Containers and vehicles over the streets of the Town of Fairfax for the hauling of ~~garbage as~~ Solid Waste that are watertight, and the ~~collector~~ Authorized Collector shall not permit any ~~garbage, waste or refuse~~ Solid Waste to fall or remain on any street in the ~~town~~ Town;

(C) Dispose of all ~~garbage~~ Solid Waste in a lawful manner outside the boundaries of the ~~town~~ Town; and

(D) Keep all ~~receptacles~~ Collection Containers and vehicles used by the ~~collector~~ Authorized Collector in the hauling of ~~garbage~~ Solid Waste in a clean and sanitary condition.

§ 8.08.080 UNLAWFUL DISPOSAL.

~~Garbage~~ Solid Waste shall be collected and disposed of only as provided for in this chapter, and it shall be unlawful for any person to burn, bury, throw away, carry over any street in ~~Fairfax~~ the Town, or otherwise dispose of ~~garbage~~ Solid Waste contrary to the provisions of this chapter.

§ 8.08.090 UNLAWFUL COLLECTION.

It is unlawful for any person, except the ~~collector~~Authorized Collector or the authorized agents and employees thereof, to collect ~~garbage~~Solid Waste from within the ~~town~~Town.

§ 8.08.100 DEAD ANIMALS.

~~—(A) Dead animals weighing less than ten pounds may be disposed of by placing the same in garbage receptacles.~~

(~~B~~A) Dead animals ~~over the weight~~ must be disposed of in a lawful manner by the owner thereof outside the boundaries of the ~~town~~Town. Should any owner fail or refuse to so dispose of the dead animal, then the ~~town~~Town may do so and collect the charge or cost therefor from the owner thereof, and it is the duty of the owner to pay the cost or charge forthwith on being notified of the amount thereof.

§ 8.08.110 CONTRACT/FRANCHISE AGREEMENT.

The Town Council ~~of the town~~ may, with or without inviting bids therefor, enter into a contract with any responsible individual, firm or corporation for the collection, removal and ~~disposal of garbage~~delivery for Disposal, Recycling or processing of Solid Waste collected and accumulated within the ~~town~~Town, under the terms and conditions as may be prescribed by the Town Council; and the right to make the collection shall be exclusive to the contractor, who shall be designated as the ~~collector~~Franchisee/Authorized Collector under the provisions of this chapter.

§ 8.08.120 VIOLATION; PENALTY.

(A) Any individual, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine of not to exceed \$500 or by imprisonment of not more than six months, or by both the fine and imprisonment.

(B) Each separate day or any portion thereof during which any violation of this chapter occurs or continues shall be deemed to constitute a separate offense and, upon conviction thereof, shall be punishable as provided in ~~division~~subsection (A) above.

§ 8.08.130 ~~REQUIRING MANDATORY COMMERCIAL GARBAGE, RECYCLING WITHIN THE TOWN OF FAIRFAX~~AND ORGANIC MATERIALS COLLECTION.

§ 8.08.130-1 FINDINGS.

(A) The ~~town~~Town finds that the State of California through its California Waste Management Act of 1989, ~~Assembly Bill 939 (AB 939 passed and signed into law in 1989)~~ (“Act”), California Public Resources Code Section 40000, et seq., as amended, supplemented, superseded and replaced from time to time), as implemented by regulations of CalRecycle, require the Town to reduce, reuse, and recycle (including composting), Solid Waste generated in the Town 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. The Act and Alternative Compliance Act of 2008 (SB 1016 ~~passed and signed into law in, Statutes of~~ 2008), requires that each local jurisdiction in the state to divert 50% of discarded materials from the landfill ~~garbage disposal~~ on a per capita basis.

(B) The ~~town~~Town finds that every city and county in California, including the ~~town~~Town, could face fines ~~up to \$10,000 a day~~ for not meeting the above mandated goal.

(C) The ~~town~~Town finds that Mandatory Commercial Recycling was one of the measures adopted in the Assembly Bill 32 Scoping Plan by the Air Resources Board (ARB) pursuant to the California Global Warming Solutions Act (Chapter 488, Statutes of 2006). The Mandatory Commercial Recycling Measure focuses on increased commercial waste diversion as a method to reduce ~~GHG~~greenhouse gas emissions. It is designed to achieve a reduction in ~~GHG~~greenhouse gas emissions of 5,000,000 metric tons of carbon dioxide (CO₂) equivalents. To achieve the measure's objective, an additional 2,000,000 to 3,000,000 tons of materials annually will need to be recycled from the commercial sector by the year 2020 and beyond.

(D) ~~The State of California adopted legislation (AB 341)~~ (Chapter 476, Statutes of 2011 ~~[Chesbro, AB 341]~~) that ~~requires~~required any business that generates four cubic yards or more of commercial ~~solid waste~~Solid Waste per week or is a ~~multifamily residential dwelling~~Multi-Family Residential Dwelling with five or more units to arrange for ~~recycling~~Recycling Collection services.

(E) Assembly Bill 1826 of 2014 requires businesses and certain multi-family property owners that generate a specified threshold amount of Solid Waste, Recycling, and Organic Materials per week to arrange for Recyclable Materials and Organic Waste Collection services for that waste and requires the Town to implement a mandatory Commercial organics Recycling program for designated commercial property owners.

(F) SB 1383 required CalRecycle to develop regulations to reduce organics in landfills and methane emissions. The SB 1383 Regulations require the Town, residential households, Commercial Businesses, Commercial Edible Food Generators, Haulers, Self-Haulers, Food Recovery Organizations, and Food Recovery Services to support achievement of statewide Organic Waste Disposal reduction targets.

~~(EG)~~ The ~~town~~Town continues to make progress in maintaining the ~~disposal~~Disposal reduction requirements of the state ~~recycling~~Recycling law, but additional efforts, particularly in the diversion of ~~organics~~Organic Materials and the ~~recycling~~Recycling of paper, cardboard, glass, and other ~~recyclable materials~~Recyclable Materials generated by ~~businesses~~Commercial Businesses, will assist the ~~town~~Town in maintaining and exceeding the goal of diverting waste from landfill ~~disposal~~Disposal. The ~~town~~Town desires to implement a program to ~~encourage~~further the Marin County Hazardous and Solid Waste Management Joint Powers Authority (JPA) goal to increase the diversion of materials from the landfill and transformation facilities ~~achieving~~to achieve an ~~80~~94% diversion goal ~~by 2012 and 94%~~ by 2025, ensure that resources are used to their highest potential, reduce upstream waste and reduce Marin's ecological footprint.

~~(FH)~~ The ~~town~~Town finds that ~~organic or compostable waste that is~~Organic Materials that are buried in the anaerobic conditions of landfills creates methane gas and leachate that may impact air and water quality. Reductions or capture of methane is critical as methane gas from the decomposition of waste is a source of renewable energy, but if not

collected and controlled is at least 21 times as potent as carbon dioxide in contributing to climate change.

(G) The ~~town~~Town finds that reductions in greenhouse gas emissions from ~~solid waste~~Solid Waste management can be realized by recovering traditional ~~recyclable materials~~Recyclable Materials from the waste stream to use in the manufacturing of products from these materials. Traditional ~~recyclable materials~~Recyclable Materials have significant intrinsic energy value that displaces fossil fuel energy requirements when introduced back into the manufacturing cycle. Additionally, by remanufacturing products using recycled materials, additional reductions in greenhouse gas emissions are realized through reduced fossil fuel demands in transportation and avoided methane emissions at landfills.

(H) The ~~town~~Town finds that efforts by the ~~town~~Town and the private sector to encourage voluntary diversion of commercial and special event ~~recyclables materials~~Recyclables Materials have not achieved desired levels of diversion.

(I) The ~~town~~Town finds that mandatory commercial recycling programs in other cities and counties in California, similar to the one implemented by this § 8.08.130, have proven successful.

(J) The ~~town~~Town agrees to be subject to the terms of this ~~§ 8.08.130~~chapter for all of the ~~town's non-residential~~Town's commercial facilities and properties, including parks and ~~town~~Town buildings, as well as ~~town-sponsored~~Town-sponsored or partnered special events.

§ 8.08.130-2 ~~DEFINITIONS~~SOLID WASTE COLLECTION SERVICE REQUIREMENTS.

~~—For the purpose of this § 8.08.130, the following definitions shall apply unless the context clearly indicates or requires a different meaning.~~

~~—(A) ANAEROBIC DIGESTION or AD. The biological decomposition of organic matter with little or no oxygen. The anaerobic digestion technology that will initially be utilized by the franchised hauler will be that of the Central Marin Sanitation Agency (a public operated treatment works) to produce energy and to reduce the volume of solid waste that must be landfilled.~~

~~—(B) AUTHORIZED RECYCLER. Any person or business entity which lawfully purchases source separated recyclable materials and/or source separated organic materials from generators through a proper permit, business license or other regulatory structure or authorization issued by the town, provided that each generator is paid a positive amount in cash for its recyclable materials and/or organic materials and is not charged a fee, directly or indirectly, for such materials.~~

~~—(C) COMMERCIAL FACILITY. All retail, professional, office, wholesale, institutional (schools, colleges) and industrial facilities, and other commercial enterprises offering goods or services to the public, and all multi-family residential dwellings, located within the boundaries of the town.~~

~~—(D) COMPOSTING. The controlled biological decomposition, by anaerobic digestion or processing at a licensed COMPOSTING facility, of organic materials that are kept separate from the refuse stream.~~

~~—(E) DIRECTOR. The Town Manager, including his or her designee.~~

~~—(F) FRANCHISED HAULER. A hauler holding a franchise, contract, license or permit issued by the town which authorizes the exclusive or non-exclusive right to provide solid waste, recyclable materials and organic materials collection and handling services within all or part of the jurisdictional boundaries of the town. In the case of such an exclusive right, there shall be only one FRANCHISED HAULER.~~

~~—(G) GENERATOR. An owner or responsible party for a commercial facility that generates recyclable materials and/or organic materials as a result of its business or operations. GENERATOR may also include tenants, property managers for facilities with leased space, employees and contractors of a GENERATOR, as well as a responsible party for special events. GENERATOR also includes the town, its facilities, its non-residential properties and its special events, including sponsors and/or co-sponsors.~~

~~—(H) MATERIALS RECOVERY FACILITY or MRF. An intermediate processing facility that is designed to accept and recycle source separated recyclable materials and/or to remove recyclable materials and other valuable materials from the waste stream and recycle such materials. In the case of organic materials, MRF shall include any licensed composting facility or licensed AD facility.~~

~~—(I) MULTI-FAMILY RESIDENTIAL DWELLINGS. Four or more residential dwelling units located on a single parcel of land and any mobile home park located in the town utilizing a common garbage bin for the accumulation and set-out of garbage.~~

~~—(J) ORGANIC MATERIALS. A subset of organic recyclable materials consisting of, but not limited to, grass cuttings, weeds, leaves, prunings, branches, dead plants, brush, tree trimmings, dead trees (not more than six inches in diameter), meat and poultry, dairy products, cooking oils and grease, fruit, vegetables, egg shells, coffee grounds, tea bags, pizza boxes, all paper plates, napkins, waxed paper and waxed cardboard, paper towels, and similar materials generated at commercial facilities. ORGANIC MATERIALS do not include materials that cannot be composted, such as, but not limited to, brick, rock, and gravel, large quantities of dirt, concrete, sod, non-organic wastes, oil and wood or sod products. Palm fronds and diseased plants and trees are also excluded from ORGANIC MATERIALS.~~

~~—(K) RECYCLING. The process of collecting, sorting, cleansing, treating and reconstituting materials that would otherwise become solid waste and returning them for use or reuse in the form of raw materials for new, used or reconstituted products which meeting the quality standard necessary to be used in the market place. RECYCLING does not include transformation as defined in Cal. Public Resources Code § 40201.~~

~~—(L) RESPONSIBLE PARTY. The individual or entity responsible for the generator's management of solid waste, recyclable materials and/or organic materials at the generator's commercial facility or special event.~~

~~—(M) RECYCLABLE MATERIALS. Segregated residential, commercial or industrial by-products of some potential economic value that are set aside, handled, packaged, or offered for collection in a manner different from refuse. RECYCLABLE MATERIALS include, but are not limited to, paper, glass, cardboard, plastics, ferrous metal, aluminum and organic materials.~~

~~—(N) SELF HAULER. A generator that is registered with the town to haul its source separated recyclable materials and/or source separated organic materials to a material recovery facility in accordance with the provisions in this § 8.08.130.~~

~~—(O) SOLID WASTE. Waste as defined in Cal. Public Resources Code, Division 30, Part 1, Chapter 2, § 40191 and includes all putrescible and non-putrescible solid, semi-solid, and liquid wastes, including garbage, trash, refuse, rubbish, ashes, industrial wastes, demolition and construction wastes, discarded home and industrial appliances, manure, vegetable or animal solid and semi-solid wastes, and other discarded solid and semi-solid wastes. For the purposes of this Agreement, SOLID WASTE does not include abandoned vehicles and parts thereof, hazardous waste, radioactive waste, or medical waste.~~

~~—(P) SOURCE SEPARATE. The process of removing recyclable materials (including organic materials) from solid waste at the place of generation, prior to collection, into separate containers that are separately designated for recyclable materials, organic materials and garbage for the purposes of recycling.~~

~~—(Q) SPECIAL EVENT. A community, public, commercial, recreational or social event which may serve food or drink and which may require a permit from the town. SPECIAL EVENTS may include the temporary or periodic use of a public street, publicly owned site or facility, or public park.~~

§ 8.08.130-3 SOURCE SEPARATION REQUIREMENTS:

(A) Each ~~generator~~Generator shall be responsible for ensuring and demonstrating its compliance with the requirements of this section. Each ~~generator~~Generator shall:

(1) Source ~~separate recyclable materials and organic materials (as these programs become available) from solid waste; and~~Separate Recyclable Materials and Organic Materials from Garbage; and place source separated Organic Materials, including Food Waste, in the Organic Materials Collection Container; place Source Separated Recyclable Materials in the Recyclable Materials Collection Container; and place Garbage in the approved Garbage Collection Container. Generators shall not place Prohibited Container Contaminants into the Garbage Collection Container, Organic Materials Collection Container or Recyclable Materials Collection Container.

(2) Subscribe to a basic level of ~~recycling service~~Solid Waste Collection Service that includes, at a minimum, the collection of ~~recyclable materials and organic materials (as these programs become available) by a franchised hauler or authorized recycler;~~or Garbage, Recyclable Materials and Organic Materials by the Authorized Collector. Generators shall arrange for a size, quantity and collection frequency of Collection Containers to adequately store all Solid Waste generated in connection with the Premise between the times designated for Collection service. The Town or Authorized Collector shall have the right to review the number and size of such Collection Containers to evaluate the adequacy of capacity provided for each type of Collection service and to review the separation and containment of materials. Generators shall adjust service levels for their collection services as requested by the Town or Authorized Collector in order to meet the standards set forth in this chapter.

(3) ~~Self haul its source separated recyclable materials and source separated organic materials to a MRFA~~ Self-Hauler may self-haul Source Separated Recyclable Materials and Source Separated Organic Materials in accordance with ~~this section~~Section 8.08.130-7 after completing and retaining on-site a ~~self hauling~~self-hauling form certifying that all ~~self hauling~~self-hauling activities will be completed in accordance with this section and any other applicable law or regulation. A copy of such form shall be available to the ~~Town~~ Director and the ~~franchised hauler~~Authorized Collector upon request.

(B) Each ~~generator shall use containers~~ Generator shall use Collection Containers provided by the Authorized Collector to collect and store ~~recyclable materials and organic materials (as these programs become available)~~ Recyclable Materials and Organic Materials and shall designate areas to collect and/or store such materials.

(C) Each ~~generator~~ Generator shall prominently post and maintain one or more signs in maintenance or work areas or common areas where ~~recyclable materials and/or organic materials~~ Recyclable Materials and/or Organic Materials are collected and/or stored that specify the materials to be ~~source separated~~ Source Separated in addition to collection procedures for such materials.

~~—(D) Each generator shall notify and instruct employees in writing of applicable source separation requirements, including outreach and training on what materials are required to be source separated and how to source separate such materials. A copy of such instruction or training materials shall be provided to the Director or his or her designee upon request.~~

(~~E~~) All ~~recyclable materials~~ Recyclable Materials shall be placed for collection in covered ~~collection containers~~ Collection Containers conforming to the following requirements. No ~~container~~ Container shall be loaded beyond its capacity. It shall be the ~~generator's~~ Generator's responsibility to keep the containers used for the storage and collection of ~~recyclable materials~~ Recyclable Materials generated on the ~~premises~~ Premises in a clean and sanitary condition. No material or ~~containers~~ Container shall be kept or handled in such a manner as to become a nuisance. No putrescible materials shall be commingled with ~~recyclables. No recyclable materials~~ Recyclable Materials. No Recyclable Materials shall be allowed to become odoriferous or a producer of vermin. Lids on ~~containers~~ Collection Containers shall remain closed at all times while stored or placed for ~~collection~~ Collection. The Director is specifically authorized to promulgate rules and regulations regarding any and all ~~recyclable materials~~ Recyclable Materials containers including as related to the ~~recyclable materials~~ Recyclable Materials to be placed therein, the placement and maximum weight of high-density materials for collection and the proper use of collection containers.

(~~F~~) Each ~~generator~~ Generator shall ensure that ~~recyclable materials (including organic materials) (as these programs become available)~~ Recyclable Materials and Organic Materials generated at the ~~generator's~~ Generator's site if ~~self hauled~~ self-hauled will be taken only to ~~a MRF~~ an approved Solid Waste facility to ensure that the materials are recycled or composted and not delivered to a landfill for ~~disposal~~ Disposal. No ~~generator~~ Generator shall dispose of, or arrange for ~~disposal of, recyclable materials (including organic materials)~~ Disposal of, Recyclable Materials and Organic Materials by placement in a landfill except in an emergency situation, or when no viable markets or ~~recycling~~ Recycling facilities are available, as determined by the Director. ~~Further, all generators are encouraged to consider recycling additional materials, whether or not they have been specifically designated by the Director.~~

(~~G~~) All ~~recycling~~ Recycling and Organic Materials Collection service agreements ~~and other recycling, subject to the terms of this Chapter and the Franchise Agreement, and other~~ Recycling documents entered into between a ~~generator and an authorized recycler~~ Generator and an Authorized Collector shall be available for inspection by the

Director or his or her designee, at the principal location of the ~~generator's~~Generator's commercial facility or special event during normal business hours.

~~(H)~~(G) No ~~franchised hauler or authorized recycler~~Franchisee/Authorized Collector shall be held liable for the failure of its customers to comply with this section, unless otherwise specified in the relevant franchise, contract or permit issued by the ~~town~~Town.

(H) Generators shall provide or arrange for access during all inspections and investigations (with the exception of a private residential dwelling unit) and cooperate with the Town or Authorized Collector during such inspections and investigations as described in Section 8.08.130-13.

§ 8.08.130-3 COMMERCIAL GENERATOR REQUIREMENTS

(A) Commercial Generators shall comply with the following requirements.

- (1) Each Commercial Generator, including all Multi-Family Residential Dwellings that consist of five dwelling units or more, Large Events and Large Venues shall be responsible for compliance with the requirements of this section.
- (2) Each Commercial Generator shall subscribe to a level of service with an Authorized Collector that is sufficient to handle the volume of Garbage, Recyclable Materials and Organic Materials generated or accumulated on the Premises. Additionally, each Commercial Generator shall ensure the proper separation of Solid Waste, as established by the Authorized Collector, by placing each type of material in designated Collection Containers, and ensure that employees, contractors, volunteers, customers, visitors, and other persons on-site conduct proper Source Separation of Solid Waste.
- (3) Supply and allow access to adequate number, size, and location of Collection Containers with sufficient labels or colors, conforming with requirements of this section, for employees, contractors, tenants, and customers, consistent with the Solid Waste Collection Service.
- (4) Annually provide information to employees, contractors, tenants, and customers about Organic Materials recovery requirements and about proper sorting of Solid Waste.
- (5) Provide educational information before, or within, fourteen (14) days of occupation of the Premises to new tenants that describes requirements to keep Source Separated Organic Materials and Source Separated Recyclable Materials separate from Garbage (when applicable) and the location of Collection Containers and the rules governing their use at each property.
- (6) Accommodate and cooperate with the Authorized Collector's monitoring program for inspection of the contents of containers for Prohibited Container Contaminants, to evaluate Generator's compliance.
- (7) If a Commercial Generator self-hauls, the commercial Generator shall meet the Self-Hauler requirements of Section 8.08.130-7.

(B) Commercial Generators, excluding Multi-Family Residential Dwellings consisting of five (5) or more dwelling units, shall comply with the following requirements.

- (1) Provide Containers for the Collection of Source Separated Organic Materials and Source Separated Recyclable Materials in all indoor and outdoor areas where Garbage Containers are provided for customers, for materials generated onsite.

Such Containers do not need to be provided in restrooms. If a Commercial Generator does not generate any of the materials that would be collected in one type of Collection Container, then it is not required to provide that type of Container in all areas where Disposal collection containers are provided for customers. Pursuant to 14 CCR Section 18984.9(b), the indoor and outdoor Containers shall have either:

- (a) A body or lid that is gray or black for Collection of Garbage, blue and/or brown for collection of Recycling, and green for collection of Organic Materials. A Commercial Generator is not required to replace functional containers, including Containers purchased prior to January 1, 2022, that do not comply with the requirements of this subsection prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever date is earlier.
- (b) Container labels that include language or graphic images, or both, indicating the primary material accepted and the primary materials prohibited in that container, or containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the container. Pursuant 14 CCR Section 18984.8, the container labeling requirements are required on new containers commencing January 1, 2022.
- (2) To the extent practical through education, training, inspection, and/or other measures, prohibit employees from placing materials in a container not designated for those materials per the Solid Waste Collection Service.
- (3) Periodically inspect Organic Materials, Recycling, and Garbage Containers for contamination and inform employees if containers are contaminated and of the requirements to keep contaminants out of those containers pursuant to 14 CCR Section 18984.9(b)(3).
- (4) Commercial Generators that are Commercial Edible Food Generators, as defined in Section 8.08.010, shall comply with commercial Edible Food Generator requirements, pursuant to Section 8.08.130-11.

§ 8.08.130-4 ~~FRANCHISED HAULERS AND~~ AUTHORIZED ~~RECYCLERS~~ COLLECTORS.

- (A) ~~—(A)—~~ No person shall provide services as a hauler of ~~recyclable materials or organic materials~~ Recyclable Materials or Organic Materials within the boundaries of the ~~town~~ Town without either being: an Authorized Collector.
- ~~—(1) A franchised hauler; or~~
- ~~—(2) An authorized recycler.~~
- ~~—(B) Franchised haulers and authorized recyclers shall offer collection service and automatic lift carts, bins or roll-off bins for recyclable materials sufficient to accommodate the quantity and types of recyclable materials and organic materials to all of its customers and shall provide recycling services as described in § 8.08.130-5.~~
- (B) The Town's Franchisee/Authorized Collector providing residential, commercial, or industrial collection services to Generators within the Town's boundaries shall meet the following requirements and standards as a condition of approval of a contract,

agreement, or other authorization with the Town to collect Organic Materials and/or Recyclable Materials:

- (1) Through written notice to the Town annually on or before January 1, 2022, identify the facilities to which they will transport Organic Materials including facilities for Source Separated Recyclable Materials and source separated Organic Materials. Notice is deemed given under the terms of the approved Franchise Agreement.
 - (2) Subject to the terms of the Franchise Agreement, transport source separated Recyclable Materials and Source Separated Organic Materials to a facility, operation, activity, or property that recovers Organic Materials as defined in 14 CCR, Division 7, Chapter 12, Article 2.
 - (3) Obtain approval from the Town to haul Organic Materials, unless it is transporting source separated Organic Materials to a community composting site in a manner that complies with 14 CCR Section 18989.1. Approval is deemed given under the terms of the approved Franchise Agreement.
- (C) The Franchisee shall provide Collection Containers to residential and commercial Generators in conformance with the color and labeling requirements set forth in 14 CCR Section 18784.7 and 14 CCR Section 18784.8 or as specified in the Franchise Agreement.
- (D) Franchisee/Authorized Collector shall provide Collection service and Collection Containers for Recyclable Materials and Organic Materials sufficient to accommodate the quantity and types of Recyclable Materials and Organic Materials to all of its customers and shall provide Solid Waste services as described in Section 8.08.130-5.
- ~~(C) Franchised haulers and authorized recyclers shall identify automatic lift carts, bins or roll off bins for recyclable materials~~E) Franchisee/Authorized Collector shall identify collection containers for Garbage, Recyclable Materials and Organic Materials with its name, recognizable corporate or company logo, and phone number of the ~~franchised hauler or authorized recycler that is legible from a distance of 50 feet~~Franchisee.
- ~~(D) Franchised haulers and authorized recyclers~~F) Subject to the terms of the Franchise Agreement, Franchisee/Authorized Collector shall equip and provide automatic lift carts, bins and roll off bins for recyclable materialsCollection Containers for Recyclable Materials and Organic Materials, with locks and/or other suitable features, where feasible, to prevent scavenging, and shall conduct all activities in accordance with this section, applicable laws, ~~town~~Town codes and regulations and best management practices. Vehicles and equipment and ~~containers~~Containers shall be kept in a clean and well-maintained condition.
- ~~(E) Franchised haulers and authorized recyclers shall not take a customer's recyclable materials to a landfill or other site for disposal. Such materials shall be taken only to a MRF or, in the case of organic materials, to a licensed AD facility or a licensed composting facility. The franchised haulers and authorized recyclers~~G) Franchisee/Authorized Collector shall maintain a copy of its service agreements, if applicable, and all receipts documenting that its customers' recyclable materials and compostable materialsRecyclable Materials and Organic

Materials have been properly delivered to Solid Waste facilities identified in subsection (B), as well as any documentation evidencing an event of force majeure which prevented the proper delivery of any such materials. Such documents shall be available for inspection by the Director at the place of business during normal business hours and maintained for not less than three years.

§ 8.08.130-5 RECYCLING AND ORGANIC MATERIAL COLLECTION SERVICES.

The ~~recycling~~Recycling services provided by ~~franchised haulers and authorized recyclers~~Franchisee/Authorized Collector shall include, at a minimum, all of the following:

- (A) Collection of ~~recyclable materials and organic materials~~Recyclable Materials and Organic Materials at a minimum of once per week, or more often as specified by the applicable contract, license or permit;
- (B) Collection of ~~recyclable materials and organic materials~~Recyclable Materials and Organic Materials as identified by the Director;
- (C) Utilization of ~~recycling receptacles~~Collection Containers which comply with ~~town~~Town standards;
- (D) Appropriate signage on all ~~recycling receptacles, containers~~Collection Containers, chutes and/or enclosures which allows users to clearly and easily identify which containers to use for ~~recyclable materials, organic materials and garbage~~Recyclable Materials, Organic Materials and Garbage and be color-coded.
- (E) Occupant education. For ~~multi-family residential dwellings, the responsible party~~Multi-Family Residential Dwellings, the Authorized Collector shall provide information about ~~recycling~~Recycling services as follows:
 - (1) Types of ~~recyclable materials~~Recyclable Materials and Organic Materials accepted, the location of ~~recycling containers~~Recycling Containers, and the occupant's responsibility to recycle pursuant to this section. This information shall be distributed to all ~~occupants~~property managers or owners at least annually;

~~—(2) All new occupants shall be given information and instructions upon occupancy; and~~

~~—(3) All occupants shall be given new information and instructions upon any change in recycling service.~~

§ 8.08.130-6 EXEMPTIONSWAIVERS.

(A) The Town may grant waivers for physical space limitations and/or de minimis volumes. Waiver requests shall be submitted on a form specified by the Director. After reviewing the waiver request, and after an on-site review, if applicable, the Director may either approve or deny the following waiver requests.

(1) De Minimis Waivers: The Town may waive a Commercial Business' obligation to comply with some or all the requirements of Section 8.08.130-3 if the Commercial Business meets the following requirements:

(a) Submit an application specifying the type of waiver requested and provide documentation as described below.

~~—(A) The following shall be exempt from the requirements of this section:~~

~~—(1) The State of California, or a special district or other local public agency other than the town, as defined, or any employee thereof, when collecting or transporting recyclable materials generated by such entity.~~

~~—(2) Municipal corporations and governmental agencies other than town when using their own vehicles and employees to transport recyclable materials generated by such corporations or agencies.~~

(b) —(B) A generator shall be exempt from the requirements in this section if such generator is a commercial facility that is not a multi-family residential dwelling and Provide documentation that the Commercial Business (but excluding Multi-Family Residential Dwellings) generates 32 gallons (or the minimum level of service as defined in the rate schedule) of ~~solid waste~~ Solid Waste per week and can demonstrate upon request by the ~~town or franchised hauler~~ Town or Hauler that they do not exceed the 32 gallon threshold and have a reasonable alternative to disposing of their ~~recyclable materials~~ Recyclable Materials or Organic Waste (e.g., sharing with adjacent business). This exemption does not apply to special events unless the generator demonstrates to the ~~Administrator~~ Director that the event will produce less than the threshold amount.

~~—(C) A generator may be exempt from the requirement of this section if the generator demonstrates to the Director that there are no recyclable and/or organic materials being generated by any activities in the commercial facility.~~

~~—(D) Space and zone.~~

~~—(1) Generator may be exempted from the requirements of this section by the Director, if it is determined, through a site visit requested by the generator, that either:~~

~~—(a) There is inadequate storage space for automatic lift carts, bins or roll-off bins for recyclable materials on site and that it is infeasible for the generator to share automatic lift carts, bins or roll-off bins for recyclable materials with a generator or an adjoining property; or~~

~~—(b) Compliance with this section would result in a violation of zoning codes or town regulations for minimum parking spaces.~~

~~—(2) If, after reviewing the site, the Director determines that it is feasible for recycling containers to be placed either on-site or shared with an adjoining business or property, then the generator will not be exempted from these requirements and will be responsible for full compliance with this section.~~

(c) Notify the Town if circumstances change such that subsections (a) and (b) no longer applies, in which case the waiver will be rescinded.

(d) Provide written verification of eligibility for de minimis waiver every five years if the Town has approved de minimis waiver.

(e) The Commercial Business (but excluding Multi-Family Residential Dwellings) may be exempt from the requirement of this section if the Commercial Business demonstrates to the Director that there are no Recyclable Materials and/or Organic Waste being generated by any activities in the Commercial Business.

- (2) Physical Space Waivers: The Town may waive a Commercial Business' or property owner's obligations to comply with some or all of the Recyclable Materials and/or Organic Materials collection service requirements if the Town has evidence from its own staff, a Hauler, licensed architect, or licensed engineer demonstrating that the Premises lacks adequate space for the Collection Containers required for compliance with the Collection service requirements. If, after reviewing the site, the Director determines that it is feasible for collection containers for Recyclable Materials and/ or Organic Materials to be placed either on-site or shared with an adjoining business or property, then the Generator will not be exempted from these requirements and will be responsible for full compliance with this section. A Commercial Business or property owner may request a physical space waiver through the following process:
- (a) Submit an application form specifying the type(s) of collection services for which they are requesting a waiver from mandatory collection service.
 - (b) Provide documentation that the premises lacks adequate space for the approved Recyclable Materials Collection Containers and approved Organic Materials Collection Containers including documentation from its Authorized Collector, licensed architect, or licensed engineer.
 - (c) Provide written verification to the Town that it is still eligible for physical space waiver every five years if the Town has approved application for a physical space waiver.
- (B) ~~—(E)—~~ If a ~~generator~~ Generator seeks an exemption, an application for such exemption shall be submitted on a form prescribed by the Director. After reviewing the exemption request, and after an on-site review, if applicable, the Director shall either approve or disapprove the exemption request and shall notify the ~~franchised hauler if an exemption~~ Authorized Collector if a waiver has been approved.
- (C) ~~—(F)—~~ Donation. Nothing in this section shall prohibit any ~~generator~~ Generator from donating its ~~recyclable materials~~ Recyclable Materials or Organic Materials to any non-profit charitable organization, ~~such as a boys' club or similar entity.~~
- (D) Organic Materials may be fed to animals on the Premises where such Organic Materials is produced, provided that the Premises are always kept in a sanitary condition to the satisfaction of the Director; and provided further that the keeping and feeding of such animals shall at all times conform to the applicable regulations of those entities governing the same now in force or which thereafter may be enacted or promulgated.
- (E) Nothing in this chapter prohibits a Generator from preventing or source reducing waste generation, managing Organic Waste on site, or using a community composting site, provided that such conforms to the applicable regulations of those entities governing the same now in force or which thereafter may be enacted or promulgated.

§ 8.08.130-7 ~~SELF-HAUL~~ SELF-HAULERS.

- (B) Self-Haulers shall haul their Source Separated Recyclable Materials to a facility that recovers those materials; and haul their Source Separated Organic Materials to a

Solid Waste facility or a chipping/grinding operation, that processes or recovers Source Separated Organic Materials.

(C) Self-Haulers that are Commercial Businesses shall keep a record of the amount of Organic Materials delivered to each Solid Waste facility and/or chipping and grinding, operation that processes or recovers Organic Materials; this record shall be subject to inspection by the Town. The records shall include the following information:

(1) Delivery receipts and weight tickets from the entity accepting the waste. If the material is transported to an entity that does not have scales on-site or employs scales incapable of weighing the Self-Hauler's vehicle in a manner that allows it to determine the weight of materials received, the Self-Hauler is not required to record the weight of material but shall keep a record of the entities that received the Organic Materials.

(2) The amount of material in cubic yards or tons transported by the Generator to each entity.

~~(D) —(A) Nothing in this section shall preclude any generator from self hauling recyclable materials generated by that person to a MRF. A generator may transport recyclable materials generated at its business or property to a MRF only if the generator or the generator's employee completes its activity by utilizing a vehicle owned by the generator. This self haul exemption does not include contracting for or hiring a third party to transport the recyclable materials. A self hauler~~ Self-Hauler must retain on-site a ~~self hauling~~self-hauling form certifying that all ~~self hauling~~self-hauling activities will be completed in accordance with this section or any other applicable law or regulation. The ~~self hauling~~self-hauling form shall be made available to the Director or his or her designee and to the ~~franchised hauler~~Authorized Collector upon request. At a minimum, the ~~generator~~Generator shall provide the following information on the ~~self hauling~~self-hauling form:

(1) The name, address and telephone number of the ~~generator's~~Generator's representative that will be signing the ~~self hauling~~self-hauling form.

(2) A list of the types of ~~recyclable materials~~Recyclable Materials that are being transported.

(3) For each type of recyclable material, an estimate of the amount that will be ~~self hauled to a MRF~~self-hauled to a Materials Recovery Facility on a quarterly basis.

(4) The name and address of the ~~MRF~~Materials Recovery Facility.

(5) A written statement, signed by the ~~generator~~Generator or representative, certifying that the ~~generator~~Generator is in compliance with the requirements of this ~~§Section~~Section 8.08.130-7.

~~(B)~~ (D) The Director may restrict or prohibit ~~self hauling by a generator~~self-hauling by a Generator if the Director determines, after providing notice and an opportunity for a hearing, that the ~~generator's self hauling~~Generator's self-hauling activities violate the provisions of this section or any other applicable law or regulation.

§ 8.08.130-8 SPECIAL EVENT ~~RECYCLING~~SOLID WASTE MANAGEMENT.

- (A) For a special event expected to have 500 or more attendants, in addition to any other conditions the ~~town~~Town requires as part of the special event permit, the responsible party shall provide ~~recycling receptacles~~Collection Containers for Recyclable Materials and Organic Materials throughout the event location to make ~~source separation of recyclable materials, organic materials and garbage~~Source Separation of Recyclable Materials, Organic Materials and Garbage convenient for the employees, volunteers, contractors, and customers of the food vendors and attendees of the event. However, ~~town~~Town may at its discretion require a special event with less than 500 attendees to provide some level of ~~recycling~~Recycling and Organic Materials collection service as a condition of approval of the special event permit.
- (B) The minimum number of ~~recycling receptacles~~collection containers designated for Recyclable Materials and Organic Materials shall equal or exceed the number of ~~solid waste receptacles. The solid waste and recycling receptacles~~Collection Containers designated for Garbage. The collection containers for Garbage, Recyclable Materials and Organic Materials shall be placed as close together as possible throughout the event location in order to provide equally convenient access to users.
- (C) All of the ~~receptacles~~Collection Containers must have appropriate signage and be color coded to identify the type of ~~refuse~~Solid Waste to be deposited and meet any additional design criteria established by the ~~town~~Town by regulation.
- (D) Food vendors must have at least one separate ~~container each for recyclable materials, organic materials, and garbage~~Collection Container designated for each Recyclable Materials, Organic Materials, and Garbage for use by customers and visitors. Multiple food vendors that provide disposable food service ware and share a common eating area may share an appropriate number, size, and placement of ~~containers for recyclable materials, organic materials and garbage~~Collection Containers designated for Recyclable Materials, Organic Materials and Garbage for convenient use by customers or visitors or have common access to such a ~~container~~Container which shall be located within a reasonable proximity of the vendors.
- (E) The types of ~~recyclable materials~~Recyclable Materials suitable for deposit into ~~each receptacle~~designated collection containers shall include, at a minimum; plastic bottles and containers, paper, cardboard, glass, newspaper, metal containers, and cans. Each ~~recycling receptacle~~Recycling collection Container shall be clearly identified as a ~~recycling receptacle~~Recycling Collection Container and shall display a list of types of ~~recyclable materials~~Recyclable Materials, which may be deposited into the ~~recycling receptacle~~Recycling Collection Container. Each Organic Materials Collection Container shall be clearly identified as an Organic Materials collection container and shall display a list of the types of Organic Materials, which may be deposited into the Organic Materials Collection Container.
- (F) The responsible person shall ensure that the ~~recyclable materials~~Recyclable Materials deposited into the ~~recycling receptacles~~Recycling Collection Containers and Organic Materials depositing into the Organic Materials Collection Container are

delivered to a ~~MRF. The MRF~~Solid Waste facility that can accept such materials for Recycling. The Solid Waste facility may be located at a landfill, but ~~recyclable materials~~Recyclable Materials shall not be delivered to a landfill for ~~disposal~~Disposal.

§ 8.08.130-9 OWNERSHIP/SCAVENGING OF RECYCLABLE MATERIALS AND ORGANIC MATERIALS.

- (A) All ~~recyclable materials~~Recyclable Materials and Organic Materials placed in ~~automatic lift carts, bins or roll-off bins for recyclable materials~~Collection Containers provided by any ~~franchised hauler or authorized recycler~~Authorized Collector sufficient to accommodate the quantity and types of materials generated by ~~generators shall be considered owned by and be the responsibility of either the franchised hauler or authorized recycler. Without permission of either the franchised hauler or authorized recycler, no person shall collect recyclable materials placed in such automatic lift carts, bins or roll-off bins by generators. Manual cardboard collection is the exception. Cardboard broken down and left curbside in a location designated by the franchised hauler,~~Generators shall be considered owned by and be the responsibility of the ~~franchised hauler or authorized recycler that collects cardboard from the generator pursuant to this section.~~Authorized Collector. Without permission of either the Authorized Collector, no person shall collect Recyclable Materials or Organic Materials placed in such Collection Containers by Generators.
- ~~—(B) All recyclable materials placed in recyclable materials containers provided or owned by the generator, shall be considered owned by and be the responsibility of that generator until the material is placed at a franchised hauler's or authorized recycler's designated point of collection or in containers described in division (A).~~
- (~~C~~B) No person other than the ~~franchised hauler or authorized recycler~~Authorized Collector under contract with the ~~generator of the recyclable materials~~Generator of the Recyclable Materials and Organic Materials to collect the ~~recyclable materials~~Recyclable Materials and Organic Materials, shall remove ~~or otherwise interfere with recyclable materials which have~~Solid Waste which has been placed at a designated ~~recycling or recyclable materials~~ collection location. Except ~~as for self-haulers~~ authorized under ~~§Section~~ 8.08.130-67, it shall be unlawful for any person to engage in the business of collecting, removing or transporting, or otherwise ~~organize or direct~~organizing or directing the collection, removal or transportation of ~~recyclable materials~~Recyclable Materials and Organic Materials without being a ~~franchised hauler or authorized recycler~~an Authorized Collector.

§ 8.08.130-10 REPORTING.

- (A) Each ~~franchised hauler and authorized recycler~~Authorized Collector shall provide ~~quarterly~~bi-annual reports on the dates described below to the Director identifying, at a minimum, the following information, including special events:

- (1) The total number of ~~generators~~Generators it has in the ~~town~~Town, the name and address of the facility serviced, and the name of the responsible party for ~~solid waste and recyclable materials~~Solid Waste management;
- (2) The frequency of collection service provided to the ~~generator~~Generator;
- (3) The amount of ~~recyclable materials and organic materials~~Garbage, Recyclable Materials and Organic Materials collected per month by volume in cubic yards and tons, measured by the size of applicable containers of and removed by them within the ~~town~~Town during the previous year;
- (4) The location of the ~~MRF to which the recyclable materials~~Solid Waste facility (facilities) to which the Garbage, Recyclable Materials and Organic Materials were taken during the previous quarter; and
- (5) Information about non-compliance by ~~generators~~Generators.
- (6) The quarterly reporting periods shall be as follows:

=

	Reporting Period	Due Date	
(B) If the not filed by the report shall be after 15 days, hauler or	January 1 - March 30	May 1	quarterly report is due dates above, the deemed delinquent and the franchised authorized recycler <u>Authorized Collector</u>
	April 1 - June 30	August 1	
	July 1 - September 30	November 1	
	October 1 - December 31	February 1	

Collector shall pay to the ~~town~~Town a delinquent report charge in the amount of \$100. If the report remains delinquent for more than 30 days, the amount shall be increased to \$200. The Director may, at his/her sole discretion, waive the delinquent charge and/or change the quarterly reporting period to a longer time frame (e.g., bi-annual).

- (C) An ~~authorized recycler's~~Authorized Collector's failure to file the reports required by this section shall, at the option of the Director, constitute cause for termination or suspension of its right to collect ~~recyclable materials~~Recyclable Materials and Organic Materials under this section.

§ 8.08.130-11 COMMERCIAL EDIBLE FOOD GENERATOR REQUIREMENTS.

- (A) Tier One Commercial Edible Food Generators must comply with the requirements of this section January 1, 2022, and Tier Two Commercial Edible Food Generators must comply commencing January 1, 2024, pursuant to 14 CCR Section 18991.3.
- (B) Large Venue or Large Event operators not providing food services, but allowing for food to be provided by others, shall require Food Facilities operating at the Large Venue or Large Event to comply with the requirements of this section, commencing January 1, 2024.
- (C) Commercial Edible Food Generators shall comply with the following requirements:
 - (1) Arrange to recover the maximum amount of Edible Food that would otherwise be disposed.

- (2) Contract with or enter into a written agreement with Food Recovery Organizations or Food Recovery Services for: (a) the collection of Edible Food for Food Recovery; or (b) acceptance of the Edible Food that the Commercial Edible Food Generator self-hauls to the Food Recovery Organization for Food Recovery.
- (3) Shall not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery Organization or a Food Recovery Service.
- (4) Allow the Town's designated enforcement entity or designated third party enforcement entity to access the premises and review records pursuant to 14 CCR Section 18991.4.
- (5) Keep records that include the following information, or as otherwise specified in 14 CCR Section 18991.4:
 - (a) A list of each Food Recovery Service or organization that collects or receives its Edible Food pursuant to a contract or written agreement established under 14 CCR Section 18991.3(b).
 - (b) A copy of all contracts or written agreements established under 14 CCR Section 18991.3(b).
 - (c) A record of the following information for each of those Food Recovery Services or Food Recovery Organizations:
 - (i) The name, address and contact information of the Food Recovery Service or Food Recovery Organization.
 - (ii) The types of food that will be collected by or self-hauled to the Food Recovery Service or Food Recovery Organization.
 - (iii) The established frequency that food will be collected or self-hauled.
 - (iv) The quantity of food, measured in pounds recovered per month, collected or self-hauled to a Food Recovery Service or Food Recovery Organization for Food Recovery.
- (D) Nothing in this Chapter shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share table and school food donation guidance pursuant to SB 557 (Chapter 285, Statutes of 2017) as amended from time to time.

§ 8.08.130-12 EDIBLE FOOD RECOVERY ORGANIZATION AND SERVICE REQUIREMENTS.

- (A) Food Recovery Services collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(1):
 - (1) The name, address, and contact information for each Commercial Edible Food Generator from which the service collects Edible Food.
 - (2) The quantity in pounds of Edible Food collected from each Commercial Edible Food Generator per month.

- (3) The quantity in pounds of Edible Food transported to each Food Recovery Organization per month.
 - (4) The name, address, and contact information for each Food Recovery Organization that the Food Recovery Service transports Edible Food to for Food Recovery.
 - (B) Food Recovery Organizations collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(2):
 - (1) The name, address, and contact information for each Commercial Edible Food Generator from which the organization receives Edible Food.
 - (2) The quantity in pounds of Edible Food received from each Commercial Edible Food Generator per month.
 - (3) The name, address, and contact information for each Food Recovery Service that the organization receives Edible Food from for Food Recovery.
 - (C) Food Recovery Organizations and Food Recovery Services that have their primary address physically located in the Town and contract with or have written agreements with one or more Commercial Edible Food Generators pursuant to 14 CCR Section 18991.3(b) shall annually report to the Town it is located in the total pounds of Edible Food recovered in the previous calendar year from the Tier One and Tier Two Commercial Edible Food Generators they have established a contract or written agreement with pursuant to 14 CCR Section 18991.3(b) no later than April 1.
 - (D) In order to support Edible Food Recovery capacity planning assessments or other studies conducted by the County, Town, joint powers authority that provides Solid Waste collection services, or the Town's designated entity, Food Recovery Services and Food Recovery Organizations operating in the Town shall provide information and consultation to the Town, upon request, regarding existing, or proposed new or expanded, Food Recovery capacity that could be accessed by the Town and its Commercial Edible Food Generators. A Food Recovery Service or Food Recovery Organization contacted by the Town shall respond to such request for information within 60 days unless a shorter timeframe is otherwise specified by the Town.

§ 8.08.130-~~11~~13 IMPLEMENTATION AND ENFORCEMENT.

- (A) Beginning January 1, 2022 and through December 31, 2023, the Town will conduct Inspections, Remote Monitoring, Route Reviews or waste evaluations, and compliance reviews, depending upon the type of regulated entity, to determine compliance with the SB 1383 Regulations, and if the Town 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 chapter 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.

- (B) ~~—(A)—~~ The Director is authorized to administer and enforce the provisions of this ~~§Section~~ 8.08.130, beginning with ~~§Section~~ 8.08.130-1 and following. The Director or anyone designated by the Director to be an ~~enforcement officer~~ Enforcement Officer may exercise such enforcement powers. To the extent permitted by law, the Director ~~may inspect any collection container, collection vehicle load, or receiving facility for collected garbage or recyclable materials.~~ Authorized Collector, or Town's designee is authorized to conduct any inspections, remote monitoring, or other investigations as reasonably necessary to further the goals of this chapter, subject to applicable laws. This may include inspections and investigations, at random or otherwise, of any Collection Container, Collection vehicle load, or transfer, processing, or Disposal facility to confirm compliance with this chapter, subject to applicable laws. For the purposes of inspecting Collection Containers for compliance, the Town or Authorized Collector may conduct Container Inspections for Prohibited Container Contaminants using remote monitoring, and Generators shall accommodate and cooperate with the remote monitoring. A Commercial Business (excluding private residential dwelling units) shall cooperate with the Town or Authorized Collector during such Inspections and investigations. Such Inspections and investigations may include confirmation of proper placement of materials in Containers, Inspection of Edible Food recovery activities, review of required records, or other verification or inspection to confirm compliance with any other requirement of this chapter. Failure to provide or arrange for: (i) access to the Premises; (ii) installation and operation of remote monitoring equipment, if a remote monitoring program is adopted; or (iii) access to records for any inspection or investigation is a violation of this chapter and may result in penalties. Nothing herein shall be read or interpreted to restrict Franchisee/Authorized Collector from conducting curbside audits of residential or commercial Containers that have been set out for Collection.
- (C) Any records obtained by the Town, Authorized Collector, or Town's designee, during Inspections, investigations, remote monitoring and other reviews shall be subject to the requirements and applicable disclosure exemptions of the California Public Records Act as set forth in Government Code Section 6250 et seq.
- (D) ~~—(B)—~~ Unless otherwise expressly provided by the ~~town's code~~ Town's Code, any person adversely and directly affected by any determination made or action taken by the Director pursuant to the provisions of this section may file an administrative appeal. If no appeal is filed within the time prescribed and consistent with the ~~town's~~ Town's procedures in the ~~town's codes~~ Town's Code, the determination or action of the Director shall be final.
- (E) ~~—(C)—~~ Incremental notification and enforcement.
- (1) ~~—(1)—~~ ~~If a franchised hauler or authorized recycler~~ If an Authorized Collector first finds ~~incorrect materials~~ prohibited container contaminants in a collection container, it shall notify the ~~generator~~ Generator by written notice attached to the ~~recycling container~~ Collection Container identifying the ~~incorrect materials~~ Prohibited Container Contaminants and describing what action must be taken for the materials to be collected.

- ~~(2)~~ ~~—(2) If a franchised hauler or authorized recycler finds incorrect materials~~ If an Authorized Collector finds Prohibited Container Contaminants in a collection container a second time, they shall notify the ~~generator~~ Generator by a written “second notice” attached to the ~~recycling container~~ Collection Container and identifying the ~~incorrect materials~~ Prohibited Container Contaminants and describing what action must be taken for the materials to be collected.
- ~~(3)~~ ~~—(3) After the franchised hauler or authorized recycler~~ an Authorized Collector has already left two or more ~~tags~~ notices for that customer and that type of ~~container, the franchised hauler or authorized recycler~~ Collection Container, the Authorized Collector may refuse to empty the container if ~~contamination occurs~~ Prohibited Container Contaminants are found a third time, subject to ~~Cal. Code of Regulations Title 14, § CCR Section~~ 17331, or as determined by the Director. If the ~~container~~ Collection Container is not emptied, the ~~franchised hauler or authorized recycler~~ Authorized Collector must leave a tag and send a written notice to the ~~generator~~ Generator, identifying the ~~incorrect materials~~ Prohibited Container Contaminants and describing what action must be taken for the materials to be ~~collected~~ Collected; provided, however, that ~~a franchised hauler or authorized recycler~~ an Authorized Collector may not refuse on this basis to empty ~~containers from a multi-family residential dwelling or other commercial facility~~ Collection Containers from a Multi-Family Residential Dwelling or other Commercial Premise with multiple tenants and joint account ~~collection~~ Collection service due to ~~excessive contamination~~ Prohibited Container Contaminants, but may manage contaminated loads as ~~solid waste~~ Garbage and charge the ~~generators~~ Generators accordingly.
- ~~(4)~~ ~~—(4) The franchised hauler or authorized recycler~~ Authorized Collector shall, in addition to the above, upon request, provide to the Director a list of the names and addresses of those ~~generators or responsible parties~~ Generators who have received tags or notices or whose ~~collection~~ collection containers have not been emptied due to non-compliance with this section, ~~or~~ and copies of the tags or notices. The ~~franchised hauler or authorized recycler~~ Authorized Collector shall also provide to the Director, upon request, a list of the names, addresses, and service levels of the ~~generators~~ Generators and any additional information required by the Director.
- ~~(5)~~ A Violation of any provision of this chapter shall constitute an infraction and will be grounds for issuance of a Notice of Violation and assessment of an administrative citation and penalty by the Town’s enforcement officer or its Designated Enforcement Agency.
- ~~(6)~~ Enforcement Actions under this chapter are issuance of an administrative citation and assessment of a fine. The Town’s procedures on imposition of administrative citations and fines as contained in Municipal Code Chapter 1.08, 1.10, 1.12 and 1.16 shall govern the imposition, enforcement, collection, and review of administrative citations and fines issued to enforce this chapter and any rule or regulation adopted pursuant to this chapter. Any section of this

chapter may be enforced by the Town or, if agreed to, by its designated Enforcement Agency.

(7) A violation may be punishable by:

(i) A fine not exceeding one hundred dollars for a first violation;

(ii) A fine not exceeding two hundred dollars for a second violation of the same provision of this code within any twelve consecutive month period;

(iii) A fine not exceeding five hundred dollars for each additional violation of the same provision of this code within any twelve consecutive-month period. Any citation issued after the issuance of a third citation or violation of the same provision of this code within any twelve consecutive-month period may be charged as a misdemeanor pursuant to the provisions of Chapter 1.08 of this code.

(8) The Town or designated Enforcement Agency may issue a Notice of Violation requiring compliance within 60 days or sooner of issuance of the notice.

(9) Absent compliance by the respondent within the deadline set forth in the Notice of Violation, the Town or designated Enforcement Agency may commence an action to impose penalties, via an administrative citation and fine, pursuant to the Town's standard procedures or the standard procedures of its designated Enforcement Agency.

§ 8.08.130-~~12~~14 OTHER ACTIONS AND REMEDIES.

(A) ~~No other powers affected.~~ This section (~~§§ 8.08.130-1 et seq.~~)8.08.130 does not do any of the following:

(1) Otherwise affect the authority of the Director, or designee to take any other action authorized by any other provision of law.

(2) Restrict the power of a ~~town~~Town attorney, district attorney or the Attorney General to bring in the name of the people of California, any criminal proceeding otherwise authorized by law.

(3) Prevent the Director or designee from cooperating with, or participating in, a proceeding specified in §Section 8.08.130-~~11~~14(~~BA~~)(2) above.

~~—(4) Affect in any way existing contractual arrangements including franchises, permits or licenses previously granted or entered into between a franchised hauler or authorized recycler and the town.~~

(B) Cumulative remedies. Any remedy provided under this section is cumulative to any other remedy provided in equity or at law. Nothing in this section shall be deemed to limit the right of the ~~town~~Town or its authorized collection agent(s) to bring a civil action or prosecution as a misdemeanor or infraction; nor shall a conviction for such violation exempt any person from a civil action brought by the ~~town~~Town or its authorized collection agent(s). The fees and penalties imposed under this section shall constitute a civil debt and liability owing to the ~~town~~Town from the persons, firms or corporations using or chargeable for such services and shall be collectible

in the manner provided by law. The Town may pursue civil actions in the California courts to seek recovery of unpaid administrative citations, and fines.

- (C) Liability. Nothing in this §Section 8.08.130 shall be deemed to impose any liability upon the ~~town~~Town or upon any of its officers or employees including without limitation under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA).

§ 8.08.130-~~13~~15 FORMS, REGULATIONS AND GUIDELINES.

- (A) ~~—(A)—~~After public notice and a public hearing, the Director may adopt necessary forms, rules, regulations, and guidelines which may be necessary or desirable to aid in the administration or enforcement of the provisions of this §Section 8.08.130, including all necessary policies and procedures for the issuance of the permits, administration of this §Section 8.08.130, collection of fees and bonds and/or indemnities, or proof(s) of insurance.
- (B) ~~—(B)—~~The ~~town~~Town shall provide information on its website regarding what materials are accepted as ~~recyclable materials, organic materials and garbage~~Recyclable Materials, Organic Materials and Garbage under this section.
- (C) The Town, Authorized Collector or designee shall accept written complaints from persons regarding an entity that may be potentially non-compliant with this chapter.