



Staff Report

March 8, 2022

TO: Honorable Mayor and Members of the Town Council
FROM: Merrill Buck, Town Engineer
DATE: February 24, 2022
RE: Waive the Final Reading and Adopt an Ordinance Adding Chapter 10.12, Waste Collection and Disposal, to the Loomis Municipal Code

Recommendation

It is recommended that the Town Council waive the final reading and adopt Ordinance 289, adding Chapter 10.12, Waste Collection and Disposal, to the Loomis Municipal Code.

Issue Statement and Discussion

On February 8, 2022, after public comment and deliberations, the Town Council voted 5-0 to introduce and read by title only, an ordinance adding Chapter 10.12, Waste Collection and Disposal, to the Loomis Municipal Code. (See Attachment A)

The ordinance is largely responsive to Senate Bill (SB) 1383 which requires jurisdictions to adopt an organic waste reduction and enforcement mechanism, typically done through an ordinance. The proposed ordinance strives to achieve the following policy goals of SB 1383:

- Plan and secure capacity for recycling organic waste and diverting edible food.
- Provide organic waste collection services to all residents and businesses
- Implement an edible food recovery program
- Provide outreach and educational materials to organic waste generators, haulers, and edible food recovery organizations.
- Update the Town's procurement policy to require the purchasing of recycled content paper and recycled organic waste products (such as compost, mulch, or renewable natural gas).
- Monitor SB 1383 compliance and conduct enforcement.
- Maintain accurate compliance records and complete annual reporting.

This staff report represents the second and final reading for the ordinance. Should it be adopted by Council, staff will pursue the following next steps.

Complete Placer County and Recology Agreements

Staff is in the final stages of formalizing a Memorandum of Understanding with Placer County that will delegate to the County the educational outreach and inspection portions of the edible food recovery program. The Franchise Agreement with Recology will also need to be amended to require compliance with the various SB 1383 provisions that pertain to waste haulers.

Provide Outreach and Education

SB 1383 provisions encourage an aggressive outreach program in order to educate potential violators so as to minimize the need for enforcement later. As such, the Town is responsible for ensuring that material is distributed to all organic waste generating customers and edible food generating businesses. Staff will work collaboratively to produce content and material for mass distribution, utilizing material that Placer County and Recology have already prepared, when possible. Recology, Placer County and the Town will use existing communication channels such as websites, newsletters, bill inserts and direct mail to distribute outreach materials on an annual basis.

Perform Recordkeeping and Reporting

The Town is required to maintain files and documents on fourteen different recordkeeping categories that are subject to inspection by CalRecycle. The Town must also submit two compliance reports in 2022, and one annual report thereafter. CalRecycle currently provides an Electronic Annual Reporting system to accept compliance reports for AB 341 and AB 1826. SB 1383 reporting will utilize the same system.

Fee Schedule Update

Jurisdictions are required to enforce SB 1383 requirements and beginning in 2024, a violation of any provision of the ordinance may result in a notice of violation and issuance of fines. The Town will need to update the Master Fee Schedule to include penalty amounts prescribed by SB 1383.

CEQA Requirements

The proposed ordinance is exempt from CEQA pursuant to Sections 15061(b)(3) and 15308 on the grounds that the new solid waste handling requirements will strengthen (not weaken) environmental protection, resulting in a net positive effect on the environment.

Financial and/or Policy Implications

The ordinance, if adopted, would be the responsibility of Town to administer. Costs associated with requirements in the ordinance, including implementation, compliance, enforcement, and procurement will have a fiscal impact on the Town, which staff is still in the process of determining. CalRecycle has offered a one-time grant, from which the Town of Loomis expects to receive \$20,000. It is anticipated that this will cover the first year of administration and procurement required under the ordinance. Staff will review options for achieving cost-recovery over future years and return to Council at a later date, for policy and funding direction.

Attachments

- A. Ordinance 289 – Adding Chapter 10.12, Waste Collection and Disposal

ORDINANCE NO. 289

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOOMIS
ADDING CHAPTER 10.12 TO THE MUNICIPAL CODE,
WASTE COLLECTION AND DISPOSAL**

WHEREAS, Assembly Bill 341 of 2011 requires businesses and Multi-Family property owners that generate a certain amount of Solid Waste to arrange for recycling services and requires the Town and other jurisdictions to implement a Commercial Recycling program; and

WHEREAS, Assembly Bill 1826 of 2014 requires businesses and Multi-Family property owners that generate a certain amount of Solid Waste, Recyclables, and Organic Waste to arrange for recycling services for that waste, requires the Town and other jurisdictions to implement a recycling program to divert Organic Waste from those businesses, and requires the Town to implement a Commercial Recycling Program; and

WHEREAS, Senate Bill 1383, the Short-lived Climate Pollutant Reduction Act of 2016 ("SB 1383") set policy goals of reducing methane emissions at landfills by 75% and recovering at least 20% of Edible Food for human consumption by 2025; and

WHEREAS, in an effort to achieve its policy goals, SB 1383 requires CalRecycle to develop regulations to reduce Organic Waste in landfills; and

WHEREAS, SB 1383 requires jurisdictions to adopt an ordinance or similarly enforceable mechanism to implement relevant portions of SB 1383 including sections mandating subscriptions to Organic Waste Collection for Single Family, Multi-Family and Commercial Generators, sections authorizing Container inspection, and sections establishing enforcement mechanisms for non-compliance; and

WHEREAS, the Town Council will enter into a Memorandum of Understanding with Placer County to further the goals of SB 1383 by delegating the responsibility to provide educational resources and perform inspections of edible food generators and edible food recovery organizations as defined herein; and

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF LOOMIS HEREBY ORDAINS AS FOLLOWS:

Section 1. Purpose & Authority. The purpose of this Ordinance is to set forth the terms and conditions by which Solid Waste, including Garbage, Organic Waste, and Recyclables Collection services may be administered, and to promote the public health, welfare and safety of the community by establishing reasonable regulations relating to the storage, accumulation, collection and disposal of such materials.

Section 2. Findings. The recitals are true and correct as set forth above and are hereby incorporated by reference.

Section 3. Enactment. Chapter 10.12 of the Loomis Municipal Code is hereby added to read as follows:

Chapter 10.12 WASTE COLLECTION AND REDUCTION

10.12.010 Definitions.

A. For the purposes of this Chapter, the words, terms and phrases as defined in this Section shall be construed as set forth herein unless it is apparent from context that a different meaning is intended:

- 1) "Act" means the California Integrated Waste Management Act of 1989 (sometimes referred to as "AB 939"), including but not limited to, the Jobs and Recycling Act of 2011 (AB 341), SB 1016 (Chapter 343, Statutes of 2008 [Wiggins, SB 1016]), the Mandatory Commercial Organics Recycling Act of 2014 (AB 1826), and the Short-Lived Climate Pollutants Bill of 2016 (SB 1383), Public Resources Code § 40000 and following as it may be amended, and as implemented by the regulations of CalRecycle.
- 2) "Authorized Representative" means an entity that the Town contracts with or otherwise arranges to carry out any responsibilities of this Chapter, as authorized by 14 CCR Section 18981.2. An Authorized Representative may be a government agency, a private entity, or a combination of those entities.
- 3) "California Code of Regulations" or "CCR" means the State of California Code of Regulations.
- 4) "Collection" means the operation of gathering together within the Town and transporting to the point of disposal, or processing of any Garbage, Recyclables, and Organic Waste.
- 5) "Commercial Business" or "Commercial" means a firm, partnership, proprietorship, joint-stock company, corporation, or association, whether for-profit or nonprofit, strip mall, industrial facility, or a multifamily residential dwelling, or as otherwise defined in 14 CCR Section 18982(a)(6). A Multi-Family Residential Dwelling that consists of fewer than five (5) units shall not be considered a Commercial Business under this ordinance.
- 6) "Commercial Edible Food Generator" includes a Tier One or a Tier Two Commercial Edible Food Generator as defined in Sections 10.12.010(24) and 10.12.010(25) of this Chapter.
- 7) "Container" means any bin, box, or cart used for the purpose of holding Garbage, Recyclables or Organic Waste for Collection.
- 8) "Edible Food" means food intended for human consumption, 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 Ordinance or in 14 CCR, Division 7, Chapter 12 requires or authorizes the recovery of Edible Food that does not meet the food safety requirements of the California Retail Food Code.

- 9) "Food Recovery" means actions to collect and distribute Edible Food that otherwise would be disposed.
- 10) "Food Recovery Organization" means an entity that engages in the collection or receipt of Edible Food from Commercial Edible Food Generators and distributes that Edible Food to the public for Food Recovery either directly or through other entities or as otherwise defined in 14 CCR Section 18982(a)(25), including, but not limited to:
 - a) A food bank as defined in Section 113783 of the Health and Safety Code;
 - b) A nonprofit charitable organization as defined in Section 113841 of the Health and Safety code; and
 - c) A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.
- 11) "Garbage" means all putrescible and nonputrescible solid, semisolid, and liquid wastes generated or accumulated through the normal activities of a premises. Garbage does not include Recyclables or Organic Waste that is Source Separated and set out for the purposes of Collection and recycling.
- 12) "Multi-Family Residential Dwelling" or "Multi-Family" means of, from, or pertaining to residential premises with five (5) or more dwelling units. Multi-Family premises do not include hotels, motels, or other transient occupancy facilities, which are considered Commercial Businesses.
- 13) "Organic Waste" means Solid Waste containing material originated from living organisms and their metabolic waste products, including but not limited to food waste, green waste, organic textiles and carpets, lumber, wood, paper products, printing and writing paper, manure, biosolids, digestate, and sludges or as otherwise defined in the Act. Biosolids and digestate are as defined by the Act.
- 14) "Organic Waste Generator" means a person or entity that is responsible for the initial creation of Organic Waste, or as otherwise defined in 14 CCR Section 18982(a)(48).
- 15) "Person" means any institution, public or private corporation, governmental unit or jurisdiction, individual, company, firm, association, partnership or other entity.
- 16) "Prohibited Container Contaminants" means (1) discarded materials placed in the designated Recyclables Container that are not identified as acceptable Source Separated Recyclables for the Town's designated Recyclables collection Container; (2) discarded materials placed in the designated Organic Waste collection Container that are not identified as acceptable Source Separated Organic Waste for the Town's designated Organic Waste collection Container; and (3) discarded materials placed in the Garbage Container that are acceptable Source Separated Recyclables and/or Source Separated Organic Waste to be placed in Town's designated Organic Waste collection Container and/or designated Recyclables collection Container, and (4) exempt waste placed in any Container.
- 17) "Recyclables" shall mean those materials that are separated from Solid Waste prior to disposal to be recycled consistent with the requirements of the Act. The Town may adopt a

schedule of materials suitable for recycling, as determined by resolution of the Town Council, or as set forth in a collection agreement, which may be revised periodically.

- 18) "Residential Householder" shall mean any Person or Persons holding or occupying a residential premises in the Town, whether or not the owner of the residential premises.
- 19) "Residential Owner" shall mean the owner of any residential premises within the Town.
- 20) "Self-Hauler" means a Person, who hauls Solid Waste, Organic Waste or Recyclables he or she has generated pursuant to section 10.12.030. E of this Chapter. Self-Hauler also includes a Person who back-hauls waste, or as otherwise defined in 14 CCR Section 18982(a)(66). Back-haul means generating and transporting Organic Waste to a destination owned and operated by the generator using the generator's own employees and equipment, or as otherwise defined in 14 CCR Section 18982(a)(66)(A).
- 21) "Single-Family" means of, from, or pertaining to any residential premises with fewer than five (5) units.
- 22) "Solid Waste" has the same meaning as defined in State Public Resources Code Section 40191, which defines Solid Waste as all putrescible and nonputrescible solid, semisolid, and liquid wastes, including Garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semi-solid wastes, and other discarded solid and semisolid wastes, with the exception that Solid Waste does not include hazardous waste, as defined in the State Public Resources Code Section 40141, radioactive waste regulated pursuant to the State Radiation Control Law, or medical waste regulated pursuant to the State Medical Waste Management Act.
- 23) "Source Separated" means materials, including commingled Recyclables, that have been separated or kept separate from the Solid Waste stream, at the point of generation, for the purpose of additional sorting or processing those materials for recycling or reuse in order to return them to the economic mainstream in the form of raw material for new, reused, or reconstituted products, which meet the quality standards necessary to be used in the marketplace, or as otherwise defined in 14 CCR Section 17402.5(b)(4). For the purposes of this Chapter, Source Separated shall include separation of materials by the generator, property owner, property owner's employee, property manager, or property manager's employee into different Containers for the purpose of Collection such that Source Separated materials are separated from Waste/Mixed Waste or other Solid Waste for the purposes of Collection and processing.
- 24) "Tier One Commercial Edible Food Generator" means a Commercial Edible Food Generator as defined by 14 CCR Section 18982(a)(73) as amended, and includes the following:
 - a) Supermarket.
 - b) Grocery Store with a total facility size equal to or greater than 10,000 square feet.
 - c) Food Service Provider.
 - d) Food Distributor.

e) Wholesale Food Vendor.

25) "Tier Two Commercial Edible Food Generator" means a Commercial Edible Food Generator as defined by 14 CCR Section 18982(a)(74) as amended and includes the following:

- a) Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.
- b) Hotel with an on-site food facility and 200 or more rooms.
- c) Health facility with an on-site food facility and 100 or more beds.
- d) Large venue.
- e) Large event.
- f) A State agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet.
- g) A local education agency facility with an on-site food facility.

26) "Town Manager" means the Town Manager of the Town of Loomis or a designee appointed by the Town Manager.

10.12.020 Exclusive Franchise; Contractor to Collect Solid Waste, Organic Waste, and Recyclables.

A. At such time as there is in force an exclusive franchise agreement entered into by the Town with any Person, firm or corporation for the Collection and transport of municipal Solid Waste, Recyclables and Organic Waste, it is unlawful for any Person other than the Persons in the employ of the Town's Hauler having entered into such contract to collect or transport any Solid Waste, Recyclables and Organic Waste within the Town.

B. As long as there is in force a contract between the Town and any Person or Persons for the Collection of Solid Waste, Recyclables and Organic Waste, it is unlawful for any Person other than such Town's Hauler(s) or those in the employ of such Town's Hauler(s), except as provided under the Self-Haul regulations provided herein, and Section 10.12.110, to collect any Solid Waste, Organic Waste, or Recyclables or to interfere with the Collection, removal, or disposal thereof by such Town's Hauler.

C. For the purposes of this Chapter, the term "Hauler" or the "Town's Hauler" shall be understood as that Person(s), firm(s) or corporation(s) subject to the exclusive franchise agreement or a non-exclusive agreement authorized under this Section 10.12.020 except where stated otherwise.

10.12.030 Organic Waste Generator Requirements and Self Haul Regulations.

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

- 1) Subscribe to and maintain Organic Waste Collection services for all Organic Waste. The Town shall have the right to review the number and size of a generator's Containers to evaluate adequacy of capacity provided for each type of Collection service for proper separation of materials and containment of materials. Single-Family Organic Waste Generators shall adjust service level for its Collection services as requested by the Town.

Generators may additionally manage their Organic Waste by preventing or reducing their Organic Waste, managing Organic Waste on site, and/or using a community composting site pursuant to 14 CCR Section 18984.9(c).

- 2) Participate in the Town's Organic Waste Collection service(s) by correctly placing designated materials in the designated Containers as described below.
 - a) Source Separated Recyclables shall only be placed in the Container identified and designated for Recyclables.
 - b) Source Separated Organic Waste shall only be placed in the Container identified and designated for Organic Waste.
 - c) Garbage shall only be placed in the Container identified and designated for Garbage.
 - d) Prohibited Container Contaminants shall not be placed in any Container.

B. Generators that are Commercial Businesses, including Multi-Family Residential Dwellings shall comply with the following requirements:

- 1) Subscribe to and maintain Organic Waste Collection services for all Organic Waste. The Town shall have the right to review the number and size of a generator's Containers to evaluate adequacy of capacity provided for each type of Collection service for proper separation of materials and containment of materials. Generators subject to these provisions shall adjust service level for its Collection services as requested by the Town. Generators may additionally manage their Organic Waste by preventing or reducing their Organic Waste, managing Organic Waste on site, and/or using a community composting site pursuant to 14 CCR Section 18984.9(c).
- 2) Participate in the Town's Organic Waste Collection service(s) by correctly placing designated materials in the designated Containers as described below.
 - a) Source Separated Recyclables shall only be placed in the Container identified and designated for Recyclables.
 - b) Source Separated Organic Waste shall only be placed in the Container identified and designated for Organic Waste.
 - c) Garbage shall only be placed in the Container identified and designated for Garbage.
 - d) Prohibited Container Contaminants shall not be placed in any Container.
- 3) Supply and allow access to adequate number, size and location of collection Containers with labels or colors sufficient for employees, contractors, tenants, and customers to aid in compliance with the Town's Collection service requirements.
- 4) Excluding Multi-Family Residential Dwellings, Commercial Businesses shall provide Containers for the Collection of Source Separated Organic Waste and Source Separated Recyclables in all indoor and outdoor areas where disposal Containers are provided for customers, for materials generated by that business.
- 5) Excluding Multi-Family Residential Dwellings, Containers provided by Commercial Businesses shall comply with 14 CCR Section 18984.9(b), as may be amended, and shall have either:

- a) A body or lid that conforms with the Container colors provided through the Collection service provided by the Town, with either lids conforming to the color requirements or bodies conforming to the color requirements or both lids and bodies conforming to color requirements. A Commercial Business is not required to replace functional Containers, including Containers purchased prior to January 1, 2022, that do not comply with the requirements of the subsection prior to the end of the useful life of those Containers, or prior to January 1, 2036, whichever comes first.
- b) Container labels that include language 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 to 14 CCR Section 18984.8, the Container labeling requirements are required on new Containers commencing January 1, 2022.

C. Generators that are Commercial Businesses, excluding Multi-Family Residential Dwellings shall:

- 1) 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 Town's Collection service.
- 2) Periodically inspect all Containers for contamination and inform employees if Containers are contaminated and of the requirements to keep Prohibited Container Contaminants out of those Containers pursuant to the Act.
- 3) Annually provide information to employees, contractors, tenants, and customers about Organic Waste recovery requirements and about proper sorting of Organic Waste and Recyclables.
- 4) Nothing in this Section prohibits a generator subject to these provisions from preventing or reducing waste generation, managing Organic Waste on site, or using a community composting site pursuant to 14 CCR Section 18984.9(c).
- 5) Commercial Businesses that are Tier One or Tier Two Commercial Edible Food Generators shall comply with Food Recovery requirements, pursuant to Section 10.12.060 of this Chapter.

D. Waivers

- 1) The Town, in its sole discretion, may issue waivers to Commercial generators or Residential Owners for physical space limitations, and/or de minimis volume waivers for Commercial Generators.
- 2) Commercial Businesses or Single Family generators requesting a physical space waiver shall:
 - a) Submit an application form specifying the type(s) of Collection services for which they are requesting a compliance waiver.

- b) Provide documentation that the premises lacks adequate space for the required Containers including documentation from the contractor, 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.
- 3) Commercial Businesses requesting a de minimis volume waiver shall:
- a) Submit an application specifying the Collection services that they are requesting a waiver from.
 - b) Provide documentation that either:
 - i) The Commercial Business' total Solid Waste Collection service is two cubic yards or more per week and Organic Waste subject to Collection in the designated Containers comprises less than 20 gallons per week per applicable Container of the business' total waste; or
 - ii) The Commercial Business' total Solid Waste Collection service is less than two cubic yards per week and Organic Waste subject to Collection in in the designated Containers comprises less than 10 gallons per week per applicable Container of the business' total waste.
 - iii) For the purposes of subsections (i) and (ii) above, total Solid Waste shall be the sum of the weekly Garbage Collection Container volume, Recyclables Collection Container volume and Organic Waste Collection Container volume, measured in cubic yards.
 - b) Notify the Town if circumstances change such that Commercial Business's Organic Waste exceeds the threshold required for waiver, in which case the waiver will be rescinded.
 - c) Provide written verification of eligibility for de minimis waiver every 5 years, if the Town has approved a de minimis waiver.

E. Self-Haul Regulations

- 1) In addition to the regulations prescribed herein, Self-Haulers are required to adhere to all regulations in this Chapter, including but not limited to the Collection service subscription requirements in Section 10.12.030.
- 2) Self-Haulers shall Source Separate all Recyclables and Organic Waste generated on-site from Solid Waste in a manner consistent with 14 CCR Sections 18984.1 and 18984.2, or shall haul Organic Waste to a high diversion Organic Waste processing facility as specified in 14 CCR Section 18984.3, as may be amended.
- 3) Self-Haulers shall haul their Source Separated Recyclables to a facility that recovers those materials; and haul their Source Separated Organic Waste to a Solid Waste facility, operation, activity, or property that processes or recovers Source Separated Organic Waste. Alternatively, Self-Haulers may haul Organic Waste to a high diversion Organic Waste processing facility.

- 4) Self-Haulers that are Commercial Businesses (including Multi-Family Residential Dwellings) shall keep a record of the amount of Organic Waste delivered to each Solid Waste facility, operation, activity, or property that processes or recovers Organic Waste; this record shall be subject to inspection by the Town by request. The records shall include the following information:
 - a) Delivery receipts and weight tickets from the entity accepting the Organic Waste.
 - b) The amount of material in cubic yards or tons transported by the generator to each entity.
 - c) If the material is transported to an entity that does not have scales on-site, or employs scales incapable of weighing the Self-Hauler's vehicle in a manner that allows it to determine the weight of materials received, the Self-Hauler is not required to record the weight of material but shall keep a record of the entities that received the Organic Waste.
- 5) Commercial Self-Haulers may be required to complete and retain on site a form certifying that all self-hauling operations and activities were completed in compliance with this Section and all applicable laws and regulations. This form shall be subject to Town inspection, or the inspection of the Town Manager's designee upon request.
- 6) Records required by this Section shall be retained for a minimum of twenty-four months.

10.12.040 Placement of Containers – Disposal in Undesignated Areas.

A. Containers receiving Solid Waste, including Garbage, Organic Waste, or Recyclables shall not be stored on or in any street, alley, sidewalk, footpath, or any public place. It is unlawful to keep, place or deposit Solid Waste, including Garbage, Organic Waste, or Recyclables on any private grounds or premises except in the Containers as designated herein. It is unlawful for any Person to throw or deposit any Solid Waste, including Garbage, Organic Waste, or Recyclables or cause the same to be thrown or deposited upon any street, alley, gutter, park or other public place within the Town, or to throw or deposit the same upon any vacant lot, backyard, or to store or keep the same otherwise than in the designated Containers as required. It is unlawful to have, store, deposit or accumulate Solid Waste, including Garbage, Organic Waste, or Recyclables where rats or other vermin can have access thereto or feed thereon. Each day's violation of this section shall be treated and considered and the same shall be a separate and distinct offense.

B. All Containers shall be covered, and it shall be the responsibility of the Town's Hauler to place the cover or covers back on the Container after emptying the same.

C. No Person shall dump, deposit or dispose of or cause or permit to dump, deposit or dispose of Solid Waste, including Garbage, Organic Waste, or Recyclables on a premises in the Town, other than where produced, except upon the Town's designated disposal area.

10.12.050 Accumulation of Solid Waste, Organic Waste, and Recyclables.

It is unlawful for the owner, tenant, lessee or occupant of any property within the Town to maintain thereon, any deposit, collection or accumulation of any Solid Waste, including Garbage, Organic Waste, and Recyclables offensive, injurious or dangerous to health.

10.12.060 Requirements for Commercial Edible Food Generators and Food Recovery Organizations.

A. Tier One Commercial Edible Food Generators must comply with the requirements of this Chapter 10.12 commencing January 1, 2022, and Tier Two Commercial Edible Food Generators must comply commencing January 1, 2024.

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 Chapter, commencing January 1, 2024.

C. Commercial Edible Food Generators shall comply with the following requirements:

- 1) Arrange to recover the maximum amount of Edible Food that would otherwise be disposed.
- 2) Contract with, or enter into a written agreement with Food Recovery Organizations or Food Recovery services for: (i) the collection of Edible Food for Food Recovery; or, (ii) acceptance of the Edible Food that the Commercial Edible Food Generator self-hauls to the Food Recovery Organization for Food Recovery.
- 3) Shall not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery Organization or a Food Recovery Service.
- 4) Allow the Authorized Representative, or Town Manager to access the premises and review records to ensure compliance with this section as permitted by 14 CCR Section 18991.4.
- 5) Keep records that include the following information, or as otherwise specified in 14 CCR Section 18991.4, and as may be amended:
 - 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 the Food Recovery service or Food Recovery Organization.
 - iii) The established frequency that food will be collected.
 - iv) The quantity of food, measured in pounds recovered per month, collected by a Food Recovery service or Food Recovery Organization for Food Recovery.

D. Within sixty (60) days of the Town Manager or the Authorized Representative making a request, Commercial Edible Food Generators shall submit an annual report that includes the information required by subsection (C) above to the requesting entity. The Town Manager or

the Authorized Representative is authorized to increase the reporting frequency to require semi-annual or quarterly reporting for some or all of the information listed above.

E. 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.

F. Nothing in this ordinance or in 14 CCR, Division 7, Chapter 12 requires or authorizes the recovery of Edible Food that does not meet the food safety requirements of the California Retail Food Code.

G. Nothing in this ordinance shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share table and school food donation guidance pursuant to Senate Bill 557 of 2017.

10.12.070 Requirements for Haulers and Facility Operators.

A. Pursuant to the terms of this Section, the Town may provide or arrange to be provided residential and Commercial Organic Waste and Recyclables Collection services to generators within the Town's boundaries through the use of exclusive haulers, subject to the terms of section 10.12.020, or through the use of non-exclusive haulers

B. Haulers 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 Waste:

- 1) Through written notice to the Town at a time of the Town's choosing, identify the facilities to which they will transport Organic Waste and Recyclables including facilities for Source Separated Organic Waste and Source Separated Recyclables. Facilities shall comply with the requirements of the Act and all other applicable laws and regulations. Haulers shall not transport Organic Waste or Recyclables to a landfill without written approval by the Director of Public Works.
- 2) Transport Source Separated Recyclable and Organic Waste to a facility, operation, activity, or property that recovers Organic Waste as defined in 14 CCR, Division 7, Chapter 12, Article 2.
- 3) Obtain approval from the Town to haul Organic Waste, unless it is transporting Source Separated Organic Waste to a community composting site or lawfully transporting it in a manner that complies with 14 CCR Section 18989.1, this ordinance, or requirements of a franchise agreement, other agreement, or Town authorization.

4) Comply with education, equipment, signage, Container labeling, Container color, contamination monitoring, reporting, and other requirements contained within the franchise agreement or other agreement with the Town.

C. Within sixty (60) days of the Town's written request, owners of facilities, operations, and activities that recover Organic Waste shall provide information regarding available and potential new or expanded capacity at their facilities, operations, and activities, including information about capacity necessary for planning purposes.

10.12.080 Fees.

A. The maximum allowable fees for Garbage, Organic Waste and Recyclables Collection services shall be established by resolution of the Town Council, and may be amended from time to time, as deemed appropriate by the Town Council. The Town's Hauler subject to this Chapter may charge fees up to the maximum allowed by the Town Council.

B. The Authorized Representative and Hauler, subject to this Chapter, shall be responsible for collection of these respective fees.

10.12.090 Payment Due Date.

The fees and charges specified in this Chapter shall, in all cases, be payable and due on either the date prescribed by resolution of the Town Council, or the date prescribed by the Town's Hauler subject to this Chapter and approved by the Town.

10.12.100 Failure to Pay.

Failure or refusal to pay fees assessed pursuant to this Chapter may result in the non-collection of Solid Waste, including Garbage, Organic Waste, and Recyclables, creating a condition which the Town may declare to be a public nuisance if permitted to exist. In the event that there is non-payment, the Town Manager may direct the Town's Hauler to make Collection, and the expenses and charges of such Collection may be assessed against the property as provided herein.

10.12.110 Charges Constituting a Lien and Procedures to Lien.

A. Service charges imposed pursuant to these regulations shall constitute a lien upon the parcel of real property to which such service was rendered.

B. Lien Recorded—Procedure.

- 1) The Town Manager shall transmit to Town Council, a report of delinquent charges.
- 2) Notwithstanding any provision in this code to the contrary, any Solid Waste, Organic Waste, or Recyclables Collection service charges which have become delinquent, shall cause the owner of such property to be subject to a lien on the property pursuant to the procedure provided in this section. Any such lien shall be recorded with the County Recorder.

- 3) Prior to the recordation of a lien for delinquent charges, the Town Manager shall cause the notice of a hearing on the delinquent charges to be mailed to the owner. The notice shall contain the date, time and location of the hearing and shall be mailed at least ten (10) calendar days before the date of the hearing. The hearing shall be held before the Town Council. The decision of the Town Council shall be final and conclusive.
- 4) Upon a decision adverse to the owner after hearing, the Town Council shall cause such lien to be recorded with the County Recorder in the form and manner prescribed by law. Thereafter, such lien shall not be released by the Town Manager unless and until it is fully and completely paid or an acceptable arrangement with the Town has been agreed to by the Town.
- 5) The Town Manager is authorized to determine the administrative cost of the delinquency, including costs associated with processing the delinquent account, which will be subject to an individual lien pursuant to the recording procedures of this section. Delinquent charges will be collected as a special assessment. The Town Manager may, as needed, initiate proceedings to make delinquent Garbage, Solid Waste, Organic Waste, and Recyclables Collection service charges a special assessment against the parcels of property to which such service was rendered.
- 6) Hearing.
 - a) At the time fixed for consideration of the report, the Town Council shall hear it along with any objections of the property owners liable to be assessed for delinquent accounts. The Town Council may make such revisions, corrections, or modifications to the report as it may deem just; and in the event the Town Council is satisfied with the correctness of the report (as submitted or as revised, corrected or modified), it shall be confirmed or rejected by resolution.
 - b) The decision of the Town Council on the report, and on all protests or objections thereto, shall be final and conclusive.
- 7) Method of Collection—Applicability of Other Liens, Laws, Etc.
 - a) Upon confirmation of the report by the Town Council, the delinquent charges contained therein shall constitute a special assessment against the property at which the services were rendered. Thereafter, such assessment may be collected at the same time and in the same manner as ordinary property taxes are collected and shall be subject to the same penalties and same procedure of sale as provided for delinquent ordinary property taxes.
 - b) The assessments shall be subordinate to all existing special assessment liens previously imposed upon the property, and paramount to all other liens except those for state, county and municipal taxes with which it shall be upon parity. The lien shall continue until the assessment and all interest and penalties due and payable thereon are paid. All laws applicable to the levy, collection and enforcement of property taxes shall be applicable to the special assessments.

- c) Report Transmitted to Auditor. A certified copy of the confirmed report shall be filed annually with the county auditor on or before August 1st. The descriptions of the parcels subject to the special assessment shall be those used for the same parcels on the County Assessor's map books for the current year.

C. The Town's Hauler shall give written notice to the Town of the name and address of any Person or owner he or she discovers who fails to subscribe for such collection disposal service and the address of the premises for which such Solid Waste, Organic Waste, and Recyclables Collection and disposal service has not been subscribed, unless he or she has been notified by the owner or other person in lawful possession that the property is vacant, or temporarily not occupied, and when he or she has determined that such condition actually exists on the premises.

10.12.120 Inspections and Investigations.

A. The Town Manager or Authorized Representative is authorized to conduct inspections and investigations, at random or otherwise, of any Collection Container, Collection vehicle loads, or transfer, processing, or disposal facility for materials collected from generators, or Source Separated materials to confirm compliance with this ordinance by Organic Waste generators, Commercial Businesses (including Multi-Family Residential Dwellings), property owners, Commercial Edible Food Generators, Self-Haulers, Hauler, and Food Recovery Organizations, subject to applicable laws.

- 1) 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.
- 2) Any records obtained by the Town Manager 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.

B. The Town Manager shall enforce the provisions of this Chapter relating to the performance of the Town's Hauler obligations under the franchise agreement.

C. The Town Manager shall enforce the provisions of this Chapter relating to the Collection and processing or disposal as it related to public health, safety, and welfare.

10.12.130 Violations.

A. In addition to those penalties and procedures provided for in this Chapter, violations of any provision of this Chapter 10.12 shall be subject to the penalties set forth in Section 1.16.010 of this code.

B. In addition to those penalties and procedures provided for in this Chapter, a violation of any provision of this Chapter 10.12 may be enforced by the issuance of an administrative citation as set forth in Chapter 1.20 of this code, and persons receiving an administrative citation shall be afforded the same due process prescribed by Chapter 1.20.

C. Penalties imposed for violations shall not be less than the minimum penalty amounts prescribed under 14 CCR Section 18997.2.

Section 4. CEQA. The Town Council hereby finds that this Ordinance is categorically exempt from the CEQA pursuant to CEQA Guidelines sections 15060(c)(2) for the reason that the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment; and that pursuant to 15061(b)(3) there is no possibility the activity in question may have a significant effect on the environment.

Section 5. Severability. The provisions of this Chapter are hereby declared to be severable. If any provision, clause, word, sentence or paragraph of this Chapter, or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not result in the invalidity of the entire chapter which can be given effect without the invalid provision or application. The Loomis Town Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

Section 6. Effective Date and Publication. This ordinance shall take effect thirty (30) days after its adoption. The Town Clerk is hereby directed to publish a summary of this ordinance within fifteen (15) days after its passage in an adjudicated, published newspaper of general circulation serving the Town of Loomis residents.

I, CAROL PARKER, DEPUTY TOWN CLERK OF THE TOWN OF LOOMIS, HEREBY CERTIFY this ordinance was **introduced** at a regular meeting of the Loomis Town Council on **February 8, 2022** and **PASSED and ADOPTED** by the Town Council of the Town of Loomis at a regular meeting on **March 8, 2022**.

AYES:

NOES:

ABSENT:

ABSTAIN:

Jenny Knisley, Mayor

ATTEST:

Carol Parker, Deputy Town Clerk