



SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: City Manager's Office

**Prepared by: Cory Bytof,
Sustainability Program Manager**

City Manager Approval: _____

TOPIC: AMENDMENT TO THE SAN RAFAEL MUNICIPAL CODE REGARDING RECYCLING OF ORGANIC WASTE TO COMPLY WITH SENATE BILL 1383

SUBJECT: INTRODUCTION OF AN ORDINANCE AMENDING THE SAN RAFAEL MUNICIPAL CODE TO REPEAL CHAPTER 9.19 - REFUSE AND RECYCLED MATERIALS COLLECTION AND DISPOSAL AND REPLACE IT WITH NEW CHAPTER 9.19 - SOLID WASTE COLLECTION AND DISPOSAL AND EDIBLE FOOD RECOVERY

RECOMMENDATION

Pass to print an ordinance amending the San Rafael Municipal Code to repeal Chapter 9.19 - Refuse and Recycled Materials Collection and Disposal and replace it with new Chapter 9.19 - Solid Waste Collection and Disposal and Edible Food Recovery.

EXECUTIVE SUMMARY

This report explains the rationale for passing a new ordinance to replace our current Refuse and Recycled materials Municode chapter with a new chapter that includes provisions meant to comply with Senate Bill 1383, the California Short-Lived Climate Pollutant law. It reviews the history and intention of the law and other State laws regarding refuse collection and regulations, City responsibilities under the new law, our collaboration with Marin Sanitary Service and other agencies, and our status with regard to compliance currently. The Analysis section demonstrates how we are complying with the adoption of this ordinance and the features of the ordinance and new Municode chapter. Council will have the option to introduce the ordinance tonight for a first reading and public hearing, for eventual adoption at the next City Council meeting, or to ask staff for more information and to bring it back at the next City Council meeting for first reading. The ordinance needs to be adopted before April 1, 2022 to be compliant and avoid potential penalties.

BACKGROUND

Waste Hauler and Franchisors' Group

Article XI of the California Constitution and the California Public Resources Code allows cities to regulate refuse and recycling services and to collect a franchise fee from any provider of such

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File No.: _____

Council Meeting: _____

Disposition: _____

services. Marin Sanitary Service (MSS) is our sole provider of refuse hauling and recycling services and performs these services in many surrounding communities as well. These services are pursuant to a Franchise Agreement between the City and MSS, which outlines the services that must be provided by MSS as well as a methodology to be followed to set customer rates each year.

All of the jurisdictions in Marin that have similar agreements with MSS work together to share information and reduce costs: the City of San Rafael, City of Larkspur, the Towns of Ross, San Anselmo, and Fairfax, the Las Gallinas Valley Sanitary District, and the County of Marin. This Marin franchisors' group ("franchisors") meets throughout the year to oversee MSS's operations and works together to conduct annual rate review analyses, align programs, and implement new State laws and regulations.

State Law

In 2014, recognizing the negative impacts of organic materials decomposing in landfills on climate change, the State of California enacted Assembly Bill (AB) 1826 mandating that businesses with certain thresholds of refuse disposal compost their organic materials. Beginning in 2022 [Senate Bill \(SB\) 1383](#), enacted in 2017, will require that all residents and businesses divert their organic waste and recover edible food. SB 1383 will also place new requirements on local governments to implement, monitor and enforce participation in organic waste recycling programs, and the California Department of Resources Recycling and Recovery (CalRecycle) will be authorized to levy fines upon local governments that don't comply. The Marin Sanitary Service franchisors' group have been working with R3 Consulting Group, Inc. to facilitate compliance with SB 1383 and assess opportunities to create economies of scale working together to implement the law.

City Responsibilities

Under SB 1383, every local government in California must conduct the following activities:

- Collection: must provide organic waste collection to all residents and businesses
- Food Recovery: must establish a program for businesses to donate edible food to food recovery organizations
- Education and Outreach: must provide information to residents, businesses, and edible food donors in multiple languages
- Procurement: must procure a pre-determined amount of recycled organic waste products from approved vendors annually
- Enforcement: must conduct inspections and enforce compliance, including issuing fines
- Recordkeeping and Reporting: must maintain accurate and timely records and report to CalRecycle annually

In addition, counties must coordinate with cities, towns and special districts to conduct capacity planning for organics collection and recycling as well as edible food recovery. Although the City is responsible for the implementation of the law, some of the provisions may be assigned to a waste hauler, such as portions of the outreach and education requirement. In addition, Marin Sanitary Service already provides the fully compliant collection services for the City of San Rafael.

Marin Sanitary Service Programs and Services

MSS provides residential, commercial, and multi-family refuse services, including garbage, recycling, and organics (food waste and green waste diversion) collection and processing. MSS also provides garbage and recycling pick-up for City facilities, parks, and all sidewalk receptacles downtown and throughout San Rafael. MSS is a key partner in the City's environmental goals as well as the City and County's zero waste goals. MSS conducts the majority of the outreach for the City for the State's current Mandatory Commercial Recycling and Mandatory Composting laws (AB 341, enacted in 2011, and AB 1826, enacted in 2014), and will provide the majority of this

outreach for the City under SB 1383 as well. This includes information on requirements for businesses to recycle and divert organic waste and require annual monitoring, and notifications to non-compliant businesses. MSS has a robust community outreach and education program and conducts numerous programs and community offerings. All their services including the "[Where Does it Go, Joe](#)" recycling lookup feature can be found on their website at MarinSanitaryService.com.

What Has Been Done to Date

MSS and City staff have been following SB 1383 closely and have been working with the MSS franchisors to align implementation and compliance. In December, the City Council approved a [fourth Amendment](#) to the Amendment and Restatement of Collection Agreement of the City of San Rafael with Marin Sanitary Service which updated their services and offerings to align with the requirements of SB 1383. This included full rollout of their organics services to all customer types as well as container label standards, outreach and education requirements, evaluation and inspection provisions, route reviews, and reporting requirements.

The City has a Fellow and an intern working on outreach who have developed and compiled a suite of outreach materials including new web pages for SB 1383 at CityofSanRafael.org/organics. They have also conducted numerous other types of outreach and education activities and have been working with MSS to align efforts for consistency, accuracy, and efficiency. City staff and interns have met with CalRecycle staff and R3 to ensure that our compliance and implementation planning is adequate and timely. In addition, the City has applied for a CalRecycle Local Assistance Grant to assist in what may be the most challenging aspect of the law: the procurement requirement. Currently the City procures less than 1% of the annual requirement under the law. Complying with this requirement will pose significant challenges both in terms of staff time and resources. Fortunately, CalRecycle has relaxed timelines for this requirement, acknowledging the challenges cities will face in meeting them. Therefore, the City intends to utilize the Local Assistance grant to conduct a procurement and use analysis for the material purchasing target set by CalRecycle.

ANALYSIS

Ordinance and Municode Revision

Upon reviewing the recommended Municode language from CalRecycle and the requirements of the law with R3, MSS, and the other franchisors, City staff decided to recommend to repeal and replace the current refuse provisions with a comprehensive new update. This ensures consistency in definitions and references and makes it easier for members of the public to understand. The proposed ordinance would repeal Chapter 9.19 - *Refuse and Recycled Materials Collection and Disposal* and replace it with new Chapter 9.19 - *Solid Waste Collection and Disposal and Edible Food Recovery*.

Some of the major features of the new ordinance include:

- Requirements to subscribe to organics services from our authorized waste hauler (MSS) and properly sort materials consistent with the waste hauler's three-container program
- A waiver process for businesses that meet minimal ("de minimus") thresholds of organic waste generation
- Requirements for businesses to provide containers for employees, contractors, tenants, and customers for organic waste and recyclable materials
- Requirements that the waste hauler and self-haulers must take materials to facilities allowed by CalRecycle that recover those materials
- Prohibitions on self-haulers to pay another hauling entity to haul their waste
- Requirements to keep records by all haulers, including self-haulers

- Requirements for large, commercial edible food generators to divert edible food and have formal agreements with edible food organizations, and to keep records
- City's right to inspect and enforce as well as issue penalties for enforcement consistent with the City's penalties for other ordinance violations

San Rafael's ordinance is very similar to those adopted by the other MSS franchisors. This will allow for consistency in implementation across the MSS service area and for the City to collaborate with the other agencies with regard to enforcement and reporting. The City is working with R3 and the other franchisors to determine the needs and opportunities for shared enforcement, including an analysis of costs and cost-share, which may be funded by a compliance and regulatory fee on the refuse rates. Zero Waste Marin is working with a third party vendor to align reporting duties and institute a tool all the jurisdictions and MSS can use to streamline and simplify the reporting. County Environmental Health Services is working with us to determine their role in inspection and enforcement as well.

SB 1383 regulations require submission of an initial compliance report by April 2022 and has additional compliance and reporting deadlines in the coming year for items such as food recovery and capacity planning for organic materials processing. The City is working with the other Marin franchisors and Zero Waste Marin to determine roles and responsibilities for some of these requirements. In addition, actual enforcement of provisions in our ordinance is not required until January 2024, allowing waste generators to transition to full compliance over two years' time.

Finally, MSS is conducting other assessments and plans to prepare for additional organic materials from SB 1383 as well as dry biomass that will be generated with the Measure C fire fuel removal efforts. This dry, woody material is already starting to flow through MSS, and the onsite processing of this material will not only reduce the transportation and emissions impact from trucking this material to Stockton and Woodland but will also create a local green energy source used to power MSS operations with any excess energy produced being sold back to the grid through an agreement with MCE Clean Energy. This project is under review with the City's planning department as a modification to the existing use permit.

Staff has determined that this ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines Sections 15061(b)(3) and 15308 on the grounds that it can be seen with certainty that the enhanced solid waste regulations, as provided for in this Ordinance will not have a significant effect on the environment and that the new requirements, which strengthen requirements for the handling of solid waste, represent actions by a regulatory agency (the City) for the protection of the environment.

COMMUNITY OUTREACH

This ordinance and SB 1383 implementation have been discussed at numerous public meetings, including the Climate Change Action Plan quarterly community forums and the San Rafael Chamber of Commerce's Green Business Committee. Notice of the public hearing was published twice in the *Marin Independent Journal* (Attachment C) and emailed to all names on file with the City Clerk and City Manager's Office. Information was available at the City Clerk's office during the 10 days prior to the public hearing. The proposed ordinance and Municode revision were also provided directly to the San Rafael Chamber of Commerce, the Business Improvement District, Marin Builder's Association, and other interested parties.

FISCAL IMPACT

There is no direct fiscal impact to the City at this time. However, subsequent implementation will require an as-yet-to-be-determined annual cost for staff time and procurement. Additional costs

may be borne by certain businesses that currently do not subscribe to organics services, which are provided at approximately 60% reduction of refuse service for the commercial composting program.

OPTIONS

1. Pass to print an ordinance amending the San Rafael Municipal Code to repeal Chapter 9.19 - Refuse and Recycled Materials Collection and Disposal and replace it with new Chapter 9.19 - Solid Waste Collection and Disposal and Edible Food Recovery.
2. Modify or do not pass to the ordinance to print, and direct staff to come back with more information. If not introduced now, this ordinance will need to be introduced at the next City Council meeting on March 7, 2022 to meet the State deadline of April 1, 2022.

RECOMMENDED ACTION

Pass to print an ordinance amending the San Rafael Municipal Code to repeal Chapter 9.19 - Refuse and Recycled Materials Collection and Disposal and replace it with new Chapter 9.19 - Solid Waste Collection and Disposal and Edible Food Recovery.

ATTACHMENTS

Attachment A: Proposed Ordinance
Attachment B: SB 1383 Jurisdiction Responsibilities
Attachment C: Affidavit of Publication

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN RAFAEL
AMENDING THE SAN RAFAEL MUNICIPAL CODE TO REPEAL AND REPLACE
CHAPTER 9.19 CONCERNING SOLID WASTE COLLECTION AND DISPOSAL AND
EDIBLE FOOD RECOVERY, IN ACCORDANCE WITH SENATE BILL 1383**

WHEREAS, Article XI of the California Constitution and the California Public Resources Code allows cities to regulate refuse and recycling services and to collect a franchise fee from any provider of such services. Marin Sanitary Service (MSS) is our sole provider of refuse hauling and recycling services and performs these services in many surrounding communities as well; and

WHEREAS, in 2014, recognizing the negative impacts of organic materials decomposing in landfills on climate change, the State of California enacted Assembly Bill (AB) 1826 mandating that businesses with certain thresholds of refuse disposal compost their organic materials. Beginning in 2022 [Senate Bill \(SB\) 1383](#), enacted in 2017, will require that all residents and businesses divert their organic waste and recover edible food. SB 1383 will also place new requirements on local governments to implement, monitor and enforce participation in organic waste diversion programs, and the California Department of Resources Recycling and Recovery (CalRecycle) will be authorized to levy fines upon local governments that don't comply; and

WHEREAS, Chapter 9.19 of the San Rafael Municipal Code entitled "Refuse and Recycled Materials Collection and Disposal" adopted in 1993, must be updated and amended to comply with SB 1383;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN RAFAEL AS FOLLOWS:

DIVISION 1. AMENDMENT OF SAN RAFAEL MUNICIPAL CODE.

Chapter 9.19 of the San Rafael Municipal Code is hereby repealed in its entirety, and replaced with a new Chapter 9.19 entitled "Solid Waste Collection and Disposal and Edible Food Recovery", to read in its entirety as follows:

**Chapter 9.19 SOLID WASTE COLLECTION AND DISPOSAL AND EDIBLE FOOD
RECOVERY**

Article I. Purpose and Definitions

9.19.010 Purpose.

The purpose of this chapter is to prevent actual or potential public health hazards and nuisance within the city of San Rafael, Marin County, state of California, by regulating the accumulation, collection and disposal of solid waste, and to provide for the licensing and responsibilities of persons engaged therein. It is declared to be in the public interest that the accumulation, storage and disposal of all such materials be handled in such a manner as to

prohibit the harboring and breeding of rodents and insects, to reduce pollution of the air caused by burning, fermentation or putrefaction of such materials, to prevent the spread of disease, to reduce the hazards of fire, and to prevent unsightliness resulting in the depreciation of property values and the comfortable enjoyment of life.

9.19.020 Intent.

It is further the intention of the city by this chapter to provide for the source reduction, recycling and resource recovery of solid waste generated within the city to the maximum extent feasible and as required by state law. Therefore, this chapter establishes and includes an approved solid waste collection program for all persons in the city for the purpose of providing for the orderly and regular collection of solid waste.

9.19.030 Definitions.

A. As used in this chapter:

1. "Act" means the California Integrated Waste Management Act of 1989 (commencing with Section 40000 of the Public Resources Code), as amended by, including but not limited to, the Jobs and Recycling Act of 2011 (AB 341), SB 1016 (Chapter 343, Statutes of 2008 [Wiggins, SB 1016]), the Mandatory Commercial Organics Recycling Act of 2014 (AB 1826), and the Short-Lived Climate Pollutants Bill of 2016 (SB 1383), and as implemented by the regulations of the California Department of Resources Recycling and Recovery ("CalRecycle.").
2. "Authorized collector" means such persons, firms or corporations collecting and delivering for disposal, recycling or processing solid waste (other than solid waste generated by a permitted building project) originating in the city and doing so under a contract or franchise agreement with the city.
3. "Bulky Waste" means 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.
4. "CalRecycle approved solid waste facility, operation, activity, or property" means a facility, operation or activity the use of which is deemed to constitute a reduction in landfill disposal in accordance with 14 CCR, Division 7, Chapter 12 for the purposes of this chapter.
5. "CCR" means the California Code of Regulations. CCR references in this Chapter are preceded with a number that refers to the relevant Title of the CCR (e.g., "14 CCR" refers to Title 14 of CCR).
6. "City manager" means the city manager of the city of San Rafael, or their designee, which may include city employees.
7. "Collection" means to take physical possession of solid waste at, and remove from, the place of generation for transport to a solid waste facility or other recovery activity.
8. "Commercial business" or "Commercial" means a firm, partnership, proprietorship, joint-stock company, corporation, or association, whether for-profit or nonprofit, strip mall, industrial facility, or a multi-family dwelling, or as otherwise defined in 14 (CCR)

Section 18982(a)(6). A multi-family dwelling that consists of (5) or more dwelling units is "Commercial", for the purposes of this Chapter.

9. "Commercial Edible Food Generator" means a Tier One or a Tier Two Commercial Edible Food Generator as defined in 14 CCR Section 18982(a)(73) and (a)(74). Food recovery organizations and food recovery services are not commercial edible food generators.
10. "Community composting" means any activity that composts green material, agricultural material, food material, and vegetative food material, alone or in combination, and the total amount of feedstock and compost on-site at any one time does not exceed 100 cubic yards and 750 square feet, as specified in 14 CCR Section 17855(a)(4); or, as otherwise defined by 14 CCR Section 18982(a)(8).
11. "Composting" means the process of controlled biological decomposition of organic waste.
12. "Construction and demolition debris" or "C&D" means used or discarded materials resulting from construction, renovation, remodeling, repair, demolition, excavation or construction clean-up operations on any pavement or structure.
13. "Container" or "collection container" means, for the purpose of this Chapter, any bin, box or cart used for the purpose of holding solid waste for collection.
14. "Debris box" means any ten (10) to forty (40) cubic yard container, or any compactor provided by a solid waste generator, placed in the public right-of-way, on city 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.
15. "Designee" means an entity that the city contracts with or otherwise arranges to carry out any of the city's responsibilities of this ordinance as authorized in 14 CCR Section 18981.2. A Designee may be a government entity, a hauler, a private entity, or a combination of those entities.
16. "Disposal" means the final disposition of Solid Waste at a solid waste facility permitted for disposal.
17. "Diversion" means activities reducing or eliminating the amount of Solid Waste from Solid Waste Disposal, and which return these materials to use in the form of raw materials for new, reused, or reconstituted products, which meet the quality standards necessary for commercial use, or for other purposes of reuse.
18. "Dwelling unit" means one (1) or more rooms with internal access between all rooms, which provide complete independent living facilities for at least one (1) family, including provisions for living, sleeping, eating, cooking, bathing, and sanitary facilities.
19. "Edible food" means food intended for human consumption, or as otherwise defined in 14 CCR Section 18982(a)(18). For the purposes of this ordinance or as otherwise defined in 14 CCR Section 18982(a)(18), "Edible Food" is not Solid Waste if it is recovered and not discarded. Nothing in this chapter or in 14 CCR, Division 7, Chapter 12 requires or authorizes the Recovery of Edible Food that does not meet the food safety requirements of the California Retail Food Code.

20. "Enforcement action" means an action of the city to address non-compliance with this ordinance including, but not limited to, issuing administrative notices, citations, fines, penalties, or using other remedies.
21. "Enforcement agency" means an entity with the authority to enforce part or all of this chapter as specified herein. Employees and agents of an enforcement agency may carry out inspections and enforcement activities pursuant to this chapter. Nothing in this chapter authorizing an entity to enforce its terms shall require that entity to undertake such enforcement except as agreed to by that entity and the city. The city is an enforcement agency for all Sections of this chapter. The city may choose to additionally delegate enforcement responsibility for certain sections, to other public entities, including the Marin Hazardous and Solid Waste Joint Powers Authority (Zero Waste Marin) and the County of Marin.
22. "Exempt waste" means biohazardous or biomedical waste, Hazardous Waste, medical waste, regulated radioactive waste, waste that is volatile, corrosive, or infectious, waste treatment or processing sludge, contaminated soil and dirt, contaminated concrete, contaminated asphalt, automobiles, automobile parts, boats, boat parts, boat trailers, internal combustion engines, lead-acid batteries, any matter or materials which are not acceptable for disposal at a solid waste landfill as defined in the California Integrated Waste Management Act of 1989 and subsequent legislation, and those wastes under the control of the Nuclear Regulatory Commission. , all as further defined in subsection 38 of this section.
23. "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.
24. "Food recovery service" means a person or entity that collects and transports Edible Food from a Commercial Edible Food Generator to a Food Recovery Organization or other entities for Food Recovery, or as otherwise defined in 14 CCR Section 18982(a)(26). A Food Recovery Service is not a Commercial Edible Food Generator for the purposes of this chapter and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7).
25. "Food waste" means food scraps and trimmings and other putrescible waste that result from food production, preparation, cooking, storage, consumption or handling. Food Waste includes but is not limited to meat, fish and dairy waste, fruit and vegetable waste and grain waste. Food Waste does not include Exempt Waste.
26. "Garbage" means all non-recyclable packaging and other waste attributed to normal activities of a premise. Garbage must be generated by and at the service unit wherein the garbage is collected. Garbage does not include recyclable materials, organic materials, debris from construction and demolition, large items, e-waste, universal waste, hazardous waste, household hazardous waste or exempt waste.

27. "Garbage container" has the same meaning as "Gray Container" in 14 CCR Section 18982(a)(28) and shall be used for the purpose of storage and collection of Garbage.
28. "Generators," for the purpose of this Chapter, means a person or entity, including commercial generators and residential generators, that is responsible for the initial creation of organic materials, or as otherwise defined as "organic waste generator" in 14 CCR Section 18982(a)(48).
29. "Health officer" means the health officer of the county, acting as health officer for the city.
30. "Inspection" means a site visit where the city, its designee or Enforcement agency, reviews records, containers, and an entity's collection, handling, recycling, or disposal of solid waste or edible food handling to determine if the entity is complying with requirements set forth in this ordinance, or as otherwise defined in 14 CCR Section 18982(a)(35).
31. "Organics container" has the same meaning as "Green Container" in 14 CCR Section 18982(a)(29) and shall be used for the purpose of storage and collection of source separated organic materials designated for organic materials processing, including food waste and landscape and pruning waste accepted in the city's organic waste collection program, and other organic materials as determined by the city and authorized collector as acceptable for the organics container. The city and authorized collector shall have the right to promulgate changes to organic material types acceptable for the organics container.
32. "Organic material" or "organic waste" means solid wastes containing material originated from living organisms and their metabolic waste products, including but not limited to food waste, green material, landscape and pruning waste, organic textiles and carpets, lumber, wood, paper products, printing and writing paper, manure, biosolids, digestate, and sludges or as otherwise defined in 14 CCR Section 18982(a)(46).
33. "Organic material processing facility" means any facility selected by the authorized collector that is approved by the city, or specifically designated by the city, operated and legally permitted for the purpose of receiving and processing organic materials.
34. "Person" means any person or persons, firm, association, corporation or other entity acting as principal, agent or officer, servant or employee, for themselves or for any other person, firm or corporation. Person includes employees of the city of San Rafael.
35. "Premises" includes a tract or parcel of land with or without habitable buildings or appurtenant structures. (CCR, Section 17225.50) For purposes of this chapter the word premises includes Residential and Commercial uses of the land, whether owned, leased, rented or sub-let, 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 city.
36. "Prohibited container contaminants" means (1) discarded materials placed in the designated Recyclables container that are not identified as acceptable source separated recyclables for the city's designated recyclables collection container; (2)

- discarded materials placed in the designated organic materials collection container that are not identified as acceptable source separated organic materials for the city's designated organic materials collection container; and (3) discarded materials placed in the garbage container that are acceptable source separated recyclables and/or source separated organic materials to be placed in city's designated organic materials collection container and/or designated recyclables collection container, and (4) Exempt Waste placed in any container.
37. "Recyclable (source separated) materials" or "recyclables" means any material designated to be segregated from the waste stream for purposes of recycling. This designation shall be made by the city and the authorized collector based on good public practice, ability to receive an acceptable economic return, and feasibility of separating the material from the waste stream at the point of collection. Recyclable materials are currently limited to paper, glass, cardboard, plastics, ferrous metal, and aluminum.
 38. "Recycling" means the process of collecting, sorting, cleansing, treating and reconstituting materials that would otherwise become garbage and returning them for use or reuse in the form of raw materials for new, used or reconstituted products which meet the quality standard necessary to be used in the marketplace. Recycling does not include transformation as defined in Public Resources Code § 40201. (CCR, Title 14, Section 17225.54).
 39. "Recycling container" has the same meaning as "Blue Container" in 14 CCR Section 18982.2(a)(5) and shall be used for the purpose of storage and collection of source separated recyclable materials. The city and authorized collector shall have the right to promulgate changes to recyclable material types acceptable for the recycling container.
 40. "Residential" means, for the purposes of this chapter, any premises consisting of between one (1) and four (4) dwelling units, and onsite domestic uses accessory to these dwelling units. A multi-family dwelling that consists of fewer than (5) dwelling units is "Residential", for the purposes of this Chapter.
 41. "Self-hauler" means a person who hauls solid waste, organic waste or recovered material they have generated to another person. Self-hauler also includes a person who back-hauls waste, or as otherwise defined in 14 CCR Section 18982(a)(66). "Back-haul" means generating and transporting organic materials to a destination owned and operated by the generator using the generator's own employees and equipment, or as otherwise defined in 14 CCR Section 189881(a)(66)(A). Self-Hauler does not include any hauling arrangement by which the owner or occupant of the Premises pays any compensation to a third party for such hauling, including any transaction or arrangement involving discounted fees for services.
 42. "Solid waste" means all putrescible and non-putrescible solid and semisolid wastes, including garbage, recyclable materials, organic materials, trash, refuse, paper, rubbish, ashes, industrial wastes demolition and construction wastes, bulky waste, discarded home and industrial appliances, manure, vegetable or animal solid or semisolid wastes, and other discarded solid and semisolid wastes. Solid waste includes materials defined as such per the Public Resources Code Section 49503 and as amended. 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) (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 and (4) abandoned vehicles and parts thereof.

43. "Solid waste collection service" means collection of solid waste originating in the city, by persons, firms or corporations, and doing so under a contract or franchise agreement with the city. Solid waste collection service includes collection of source separated garbage, recyclable material and organic materials.
44. "Solid waste facility" or "facility" means a solid waste transfer or processing station including Material Recovery Facilities, a recycling facility, a composting facility, a gasification facility, a transformation facility, an Engineered Municipal Solid Waste conversion facility, and/or a disposal facility in compliance with the definitions, provisions and requirements set forth in the Act. Solid waste facility additionally includes a solid waste operation that may be carried out pursuant to an enforcement agency notification, as provided in regulations adopted by CalRecycle, or otherwise set forth in the Act.
45. "Source separate" means the process of removing recyclable materials and organic materials from Solid Waste at the place of generation, prior to Collection, and placing such materials into separate containers designated for recyclable materials and organic materials, or as otherwise defined in 14 CCR Section 17402.5(b)(4).
46. "Source reduction" means any action which causes a net reduction in the generation of solid waste. Source reduction includes, but is not limited to, reducing the use of nonrecyclable materials, replacing disposable materials and products with reusable materials and products, reducing packaging, reducing the amount of yard wastes generated, establishing garbage rate structures with incentives to reduce the amount of wastes that generators 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.
47. "Tier One commercial edible food generator" means a Commercial Edible Food Generator that is one of the following as defined in 14 CCR Section 18982(a):
 - a. Supermarket with gross annual sales of \$2,000,000 or more
 - b. Grocery store with a total facility size equal to or greater than 10,000 square feet.
 - c. Food service provider, which means an entity primarily engaged in providing food services to institutional, governmental, commercial, or industrial locations of others based on contractual arrangements with these types of organizations.
 - d. Wholesale food vendor, which means a business or establishment engaged in the merchant wholesale distribution of food, where food (including fruits and vegetables) is received, shipped, stored, prepared for distribution to a retailer, warehouse, distributor, or other destination.

- e. Food Distributor, which means a company that distributes food to entities including, but not limited to, supermarkets and grocery stores.
48. "Tier Two commercial edible food generator" means a Commercial Edible Food Generator that is one of the following as defined in 14 CCR Section 18982(a):
- a. Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.
 - b. Hotel with an on-site food facility and 200 or more rooms.
 - c. Health facility with an on-site food facility and 100 or more beds.
 - d. Large Venue, which means a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility. For purposes of this ordinance and implementation of 14 CCR, Division 7, Chapter 12, a venue facility includes, but is not limited to, a public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts center, fairground, museum, theater, or other public attraction facility. For purposes of this ordinance and implementation of 14 CCR, Division 7, Chapter 12, a site under common ownership or control that includes more than one Large Venue that is contiguous with other Large Venues in the site, is a single Large Venue.
 - e. Large Event, which means an event, including, but not limited to, a sporting event or a flea market, that charges an admission price, or is operated by a local agency, and serves an average of more than 2,000 individuals per day of operation of the event, at a location that includes, but is not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for an event..
 - f. A state agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet.
 - g. A local education agency facility with an on-site food facility. "Local Education Agency" means a school district, charter school, or county office of education that is not subject to the control of city or county regulations related to Solid Waste, or as otherwise defined in 14 CCR Section 18982(a)(40).
49. "User disposal containers" are containers inside a business for the collection of source separated organic materials, source separated recyclables and garbage for employees, contractors, tenants, customers and other users of the business.

Article II. Storage and Disposal

9.19.040 General.

It is the intent of the city that every person residing or conducting business in this city shall subscribe to and participate in solid waste collection service approved by the city and provided by an authorized collector. Nothing in this chapter shall prevent generators from self-hauling to a CalRecycle approved solid waste facility, operation, activity, or property in addition to their solid waste collection service, consistent with the requirements set forth in this chapter; or from

utilizing a temporary debris box service, consistent with section 9.19.320. The City Council may from time-to-time adopt by resolution policies and procedures to implement this Ordinance.

Any references to the California Code of Regulations (CCR) language shall automatically conform to the current CCR in case of amendment by the State.

9.19.050 Prohibited accumulation and disposal.

Except as authorized in this chapter, it is unlawful for any person to:

- A. Throw, bury, deposit, or cause to be thrown or deposited, any solid waste, or allow any collection of same to remain in or upon any private property, public right-of-way, alley, sidewalk, park, watercourse, waterway, levees or banks of watercourses or waterways, or upon any premises whatsoever other than a CalRecycle approved solid waste facility, operation, activity, or property. Any material not disposed of as aforesaid shall be placed in collection containers for collection.
- B. Place or cause to be placed in any public receptacle owned or rented by the city and located upon public streets or in public places, any solid waste originating within or from any private property of more than one-half cubic foot.
- C. Deposit any garbage in a recycling container or organics container.
- D. Dump, place or bury solid waste in any lot, land or street or alley within the city, without first having obtained a solid waste facility permit or exemption from that permit issued by the local enforcement agency (LEA) of Marin County and concurred with by CalRecycle. Under no circumstances whatsoever shall recyclable materials be dumped, placed or buried, as above. This chapter shall not preclude or prohibit the city from siting and permitting a recycling facility consistent with the provisions of the general plan provided that necessary variances are obtained from the California Department of Toxic Substances Control.
- E. Allow any solid waste to accumulate or remain in or upon the building, lot or premises, in a manner that creates a public nuisance. The owner of any premises, business establishment, industry, or other property, vacant or occupied, shall be deemed the responsible party and therefore ultimately responsible for the safe and sanitary storage of all solid waste accumulated on the property. Collection containers shall be filled in a manner that prevents the contents from overflowing and allows the cover to fit securely. Garbage containers, recycling containers, and organics containers shall be of an adequate size and of sufficient numbers to contain without overflowing, all the solid waste that the premise generates within the designated removal period. Overflowing solid waste is a public health violation. It shall be the responsibility of the owner of any building, lot or premises to notify the authorized collector promptly when necessary to increase solid waste collection service, to prevent solid waste from overflowing existing containers. If the city or authorized health officer determines that inadequate service causes a public nuisance or health problem, they may order the generator to increase service. The authorized collector shall increase collection service immediately upon notice.
- F. Deliberately burn solid waste within the city.

9.19.060 Transportation of solid waste.

No person shall move, convey or transport or cause or permit to be moved, conveyed or transported any solid waste upon or along any public street or alley or other public place in the

city; provided, however, the provisions of this section shall not apply to any person conveying solid waste collected outside the city, nor to any person employed by the city who shall be assigned to the work of solid waste removal while acting within the scope of their employment or to any person or entity with whom the city has entered into or may hereafter enter into a contract for the collection, removal or disposal of solid waste or to any employee of such contractor during such time as such contract shall be in force. Nor shall this section be deemed to prohibit an individual from exercising their rights as described in section 9.19.200, which establishes requirements for self-hauling to a CalRecycle approved solid waste facility, operation, activity, or property, and section 9.19.210 which establishes the right to divert recyclable material or organic materials so long as the diversion otherwise complies with this chapter.

9.19.070 Obligation of solid waste collection service.

- A. Except as otherwise provided by this chapter, all occupied premises shall subscribe for solid waste collection service with the authorized collector as herein specified, and for such service a charge shall be collected as per a schedule of maximum rates as shall be set by resolution of the city council.
- B. Every property owner, commercial generator, residential generator, or other organic material generator within the city shall have the obligation for disposal of solid waste as provided in this chapter through the designated authorized collector and shall pay the authorized collector for the solid waste collection service at the rates provided therefor. Failure of receipt of a bill does not obviate responsibility for payment. In each instance, the property owner shall be primarily responsible for the payment of the charges provided for herein. The city or authorized collector may cause a lien to be placed upon the real property for failure to compensate the authorized collector for services rendered.
- C. Generators shall arrange for a size, quantity and collection frequency of containers to adequately store all solid waste generated in connection with the premise, and subject to collection in garbage containers, recycling containers and organics containers, between the times designated for collection service. The city shall have the right to review the number, size and location of such collection containers to evaluate the adequacy, capacity and collection frequency of containers for each type of collection service and to review the source separation and containment of materials. Generators shall adjust the size of containers, number of containers and/ or collection frequency for their collection services as requested by the city in order to meet the standards set forth in this chapter.
- D. Generators shall place source separated organic materials, including food waste, in the organics container; place source separated recyclable materials in the recycling container; and place garbage in the garbage container. The city and authorized collector shall have the right to promulgate changes to material types acceptable for each type of collection container. Generators shall not place prohibited container contaminants into the garbage container, organics container or recycling container.
- E. The authorized collector shall give written notice to the city manager of the address of any occupied premise within the city which is not subscribing to the collection and disposal service provided by the authorized collector.
- F. The owner of each occupied premise shall subscribe for solid waste disposal services within seven (7) days of the occupancy of the premises. If the owner fails to subscribe for service, the authorized collector shall give the owner written notification that such service is required.

- G. Generators shall provide or arrange for access during all inspections and investigations (with the exception of the interior of a private residential dwelling unit) and cooperate with the city manager or authorized collector during such inspections and investigations as described in section 9.19.390.

9.19.080 Commercial generator requirements.

- A. Commercial business owners including multi-family residential dwellings with five (5) or more dwelling units, shall provide or arrange for garbage container, organics container and recycling container collection service for employees, contractors, tenants and customers, and supply and allow access to adequate number, size and location of collection containers with sufficient labels or colors as noted in subsection (B)(1) and (B)(2) below or, if self-hauling, in compliance with self-hauling requirements set forth in this chapter.
- B. Commercial businesses that are not multi-family residential dwellings shall provide containers for the collection of source separated organic materials and source separated recyclable materials in all areas where the commercial business provides disposal containers for employees, contractors, tenants, customers and other users of the premises ("User Disposal Containers"). Such user disposal containers do not need to be provided in restrooms. If a commercial business does not generate, or has a waiver pertaining to, any of the materials that would be collected in one type of user disposal container, then the business does not have to provide that particular type of container in all areas where user disposal containers are provided. Pursuant to 14 CCR Section 18984.9(b), the user disposal containers provided by the business shall have either:
 - 1. A body or lid that conforms with the following container colors, with either lids conforming to these color requirements or bodies conforming to these color requirements, or both lids and bodies conforming to these color requirements: gray or black containers for garbage, blue containers for source separated recyclable materials, and green containers for source separated organic materials. Notwithstanding the foregoing, a commercial business is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the color requirements of this section prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first; or
 - 2. Container labels that include language or graphic images, or both, indicating the primary materials 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. The container labeling requirements are required on new containers commencing January 1, 2022.
- C. Excluding multi-family residential dwellings, 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 recycling container, organics container, and garbage container collection service.
- D. Excluding multi-family residential dwellings, periodically inspect recycling containers, organics containers, and garbage containers for contamination and inform employees if containers are contaminated and of the requirements to keep contaminants out of those containers.
- E. Including multi-family residential dwellings with five (5) or more dwelling units, annually provide information to employees, contractors, tenants, building residents, and

customers about organic waste recovery requirements and about proper sorting of organic materials and recyclable materials. A copy of such information shall be provided to the authorized collector or city manager, upon request.

- F. Including multi-family residential dwellings with five (5) or more dwelling units, provide information before or within fourteen (14) days of new occupation of the premises to new tenants and no less than fourteen (14) days before tenants move out of the premises, unless a tenant does not provide fourteen (14) or more days' notice to before moving out, that describes requirements to keep organic materials subject to collection in the organics container and recycling container separate from each other and from garbage, the location of containers, and the rules governing their use at the premises.
- G. Including multi-family residential dwellings with five (5) or more dwelling units, prominently post and maintain one or more signs where recyclable materials and/or organic waste are collected and/or stored that set forth what materials are required to be source separated, in addition to collection procedures for such materials.
- H. Commercial businesses that are commercial edible food generators, as defined in Section 9.19.030, shall comply with commercial edible food generator requirements, pursuant to Section 9.19.220.

9.19.090 Storage.

Generators shall store solid waste on their property or premises or shall require it to be stored or handled in such manner so as not to promote the propagation, harborage or attraction of animals or the creation of nuisance. (CCR, Section 17312). Each property owner shall keep the area where collection container(s) are located in a clean, safe and sanitary condition.

9.19.100 Solid waste collection areas.

Each commercial business shall:

- A. Designate space on the property to be used for storage of collection containers required by this chapter.
- B. Post a sign clearly identifying all garbage, recycling, and organics container collection areas and the materials accepted therein shall be posted adjacent to all points of access to the collection area(s).
- C. Commercial businesses which share collection services and containers located in a centralized collection area shall provide and maintain space within or adjacent to each waste enclosure, or adjacent to each approved garbage container(s) for placement of sufficient approved organics container(s) and recycling container(s).

9.19.110 Collection containers.

- A. It shall be the duty of every property owner, occupant and tenant of any premises within the city to store all solid waste in collection containers supplied by the authorized collector. These collection containers shall be constructed of metal or an approved plastic material and type which shall be watertight, nonabsorbent, animal resistant, durable, easily cleanable, equipped with handles, and having tight fitting covers such that the containers hold the solid waste without spillage and leakage, escape of odors or access of flies to the contents thereof.
- B. Each dwelling unit shall be required to have a minimum garbage service of one (1) thirty-two (32) gallon cart for garbage collection; one (1) thirty-two (32) gallon cart for

recyclable materials collection; and one (1) thirty-two (32) gallon of more than four (4) dwelling units, no two (2) or more dwelling units shall share communal waste collection services or approved collection containers except with the permission of the authorized collector.

9.19.120 Collection container maintenance.

Each collection container and its cover shall be kept clean, and the cover shall not be removed except to place solid waste therein or to empty the same. Only the authorized collector shall be authorized to maintain or repair the collection containers, and the authorized collector will maintain or replace collection containers as needed.

9.19.130 Collection container placement.

- A. No collection container, other than those owned or rented by the city or authorized collector, shall be placed or kept in or on any public street, sidewalk, footpath, or any public place whatsoever, or remain in public view from any public right-of-way except as herein provided, but shall be maintained on the premises, except as may be provided for removing and emptying by the authorized collector on the day(s) and in the location designated for collection. No person shall place a collection container so that either the sidewalk or street gutter is obstructed.
- B. Collection containers are permitted to be placed in public view and on a public street, sidewalk or footpath only during the forty-eight-hour period commencing at 12:01 a.m. on the day preceding the day of scheduled pick-up and terminating at 12:01 a.m. on the day following such pick-up.
- C. For curbside collection service, the approved location for collection shall be the street curb line adjacent to such premises and collection containers shall be placed in the location by the occupant of such premises for collection by the authorized collector.

9.19.140 Ownership of solid waste.

Solid waste subject to collection by the authorized collector shall become the property of the authorized collector subject to this chapter after such time as the authorized collector takes possession of the wastes (CCR, Section 17334).

9.19.150 Unauthorized removal and ownership of recyclable materials and organic materials.

- A. All recyclable materials and organic materials, upon being placed by the generator into a collection container and placed at an approved location for collection, shall become the property of the authorized collector owning the collection container, unless otherwise provided in a contract, license, or franchise agreement.
- B. No person, other than the generator, authorized collector or city, shall remove recyclable material or organic materials from a collection container placed at the location for collection.

9.19.160 Tampering.

No person shall tamper with, modify, remove from or deposit solid waste in any collection container which has not been provided for their use at a collection site, without permission from

the city or authorized collector. Nor shall any person tamper with any collection container or any recyclable materials on any premises, or collect, remove or dispose of the same, other than in the manner specified by this chapter.

9.19.170 Collection intervals.

All solid waste accumulated at any residential generator or commercial generator's property or premise shall be collected at regular intervals of at least once each week, except that from any place which has solid waste from which foul odors arise, or which is a menace to public health, such solid waste shall be collected at such intervals as necessary for proper sanitation. Nothing in this chapter shall be deemed to prohibit the removal and hauling by any person of materials ordered by the health officer, fire chief or code enforcement officer to be removed upon the ground that the same constitute a health menace, fire hazard or public nuisance.

9.19.180 Collection schedule.

Solid waste shall be collected as provided by this chapter at regular intervals on a schedule established by the authorized collector and approved by the city. The schedule may be changed as deemed necessary by the authorized collector and/or the city.

9.19.190 Waivers.

- A. Pursuant to 14 CCR Section 18984.11, the city may grant waivers to commercial businesses for physical space limitations and/or de minimis volumes. Commercial businesses seeking a waiver shall submit their request in a form specified by the city manager. After reviewing the waiver request, and after an on-site review, if applicable, the city manager may either approve or deny the following waiver requests:
 1. De Minimis Waivers: The city may waive a commercial business' obligation to comply with some or all the organic material collection service requirements if the commercial business meets the following requirements:
 - a. Submits an application specifying the type of waiver requested and provides documentation as described below.
 - b. Provides documentation that either:
 - i. The commercial business receives two or more cubic yards of weekly solid waste collection service and disposed organic materials subject to collection in the organics container or recycling container comprises less than 20 gallons per week of the business' total weekly solid waste volume; or
 - ii. The commercial business receives less than two cubic yards of weekly solid waste collection service and disposed organic materials subject to collection in the organics container or recycling container comprises less than 10 gallons per week of the business' total weekly solid waste volume.
 - iii. For the purposes of subsections (i) and (ii) above, weekly solid waste collection shall be the sum of weekly garbage container volume, recyclable container volume and organics container volume, measured in cubic yards.

- c. Notifies the city if circumstances change such that volume of commercial business' disposed organic materials exceeds threshold required for waiver, in which case the waiver will be rescinded.
 - d. Provides written verification of eligibility for de minimis waiver every five years if the city has approved de minimis waiver.
2. Physical Space Waivers: The city may waive a commercial business' obligations (including multi-family dwellings) to comply with some or all of the recyclable materials and/or organic materials collection service requirements if the city has evidence from its own staff, authorized collector, licensed architect, or licensed engineer demonstrating that the premises lacks adequate space for the collection containers required for compliance with the organic materials collection requirements. 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 recycling containers and/ or organics containers including documentation from the authorized collector, licensed architect, or licensed engineer.
 - c. Provide written verification to the city that it is still eligible for physical space waiver every five years if the city has approved application for a physical space waiver.

9.19.200 Self-hauling.

- A. Self-Haulers shall source separate all recyclable materials and organic materials (materials that the city otherwise requires generators to source separate for collection in recycling containers or organics containers) generated on-site from solid waste in a manner consistent with 14 CCR Sections 18984.1 and 18984.2.
- 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 CalRecycle approved solid waste facility, operation, activity, or property that processes or recovers source separated organic materials.
- C. Self-Haulers that are commercial businesses (including multi-family residential dwellings) shall keep a record of the amount of organic material delivered to each CalRecycle approved solid waste facility, operation, activity, or property that processes or recovers organic materials; this record shall be subject to inspection by the city. The records shall include the following information:
 - 1. Delivery receipts and weight tickets from the entity accepting the waste.
 - 2. The amount of material in cubic yards or tons transported by the generator to each entity.
 - 3. 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.

- D. Self-Haulers must keep records, including dates of self-haul activities, amounts of self-hauled materials, and names and location(s) of the CalRecycle approved solid waste facility, operation, activity, or property where the material was hauled, and make those records available for inspection upon request by the City or Cal Recycle for a period of five years of any self-haul activity.
- E. The City may restrict or prohibit self-hauling by a generator if the City 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.
- F. A residential organic waste generator that self-hauls organic materials is not required to meet the requirements of Section 9.19.200 (C), (D), and (E).

9.19.210 Right to divert recyclable material and organic materials.

- A. Nothing in this chapter limits the right of any person to donate, sell, or otherwise remove their recyclable materials so long as the removal otherwise complies with an authorized collector's franchise agreement and the provisions this chapter. The foregoing notwithstanding, the provisions of this chapter and an authorized collector's franchise agreement do not permit any hauling arrangement by which the generator pays any compensation to a third party for such removal, including any transaction or arrangement involving discounted or net fees for services provided in this chapter.
- B. 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 city manager; and provided further that the keeping and feeding of such animals shall at all times conform to the applicable law including applicable regulations of those entities governing the same now in force or which thereafter may be enacted or promulgated.
- C. Nothing in this chapter prohibits a generator from preventing or reducing waste generation, managing organic waste on site, or using a community composting site, provided that such operation conforms to the applicable regulations of those entities governing the same now in force or which thereafter may be enacted or promulgated.

Article III. Edible Food Recovery Requirements

9.19.220 Commercial edible food generator requirements.

- A. Tier one commercial edible food generators must comply with the requirements of this section commencing January 1, 2022, and tier two commercial edible food generators must comply commencing January 1, 2024, pursuant to 14 CCR Section 18991.3.
- B. Large venue or large event operators not providing food services, but allowing for food to be provided by others, shall require food facilities operating at the large venue or large event to comply with the requirements of this section, commencing January 1, 2024.
- C. 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 food recovery service.
4. Allow the city's designated enforcement agency 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 organization or food recovery service 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 organizations or food recovery services:
 - i. The name, address and contact information of food recovery organization or food recovery service.
 - ii. The types of food that will be collected by or self-hauled to the food recovery organization or food recovery service.
 - iii. The established frequency that food will be collected or self-hauled.
 - iv. The quantity of edible food, measured in pounds recovered per month, collected or self-hauled to a food recovery organization or food recovery service.

D. Nothing in this chapter shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act, the Federal Good Samaritan Act, or share table and school food donation guidance pursuant to Senate Bill 557, Chapter 9 of Part 27 of Division 4 of Title 2 of the Education Code, the California Health and Safety Code, relating to food safety, as amended, supplemented, superseded and replaced from time to time.

9.19.230 Food recovery organization and food recovery services requirements.

- A. Food recovery services collecting or receiving edible food directly from commercial edible food generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(1):
 1. The name, address, and contact information for each commercial edible food generator from which the service collects edible food.
 2. The quantity in pounds of edible food collected from each commercial edible food generator per month.
 3. The quantity in pounds of edible food transported to each food recovery organization per month.
 4. The name, address, and contact information for each food recovery organization that food recovery service transports edible food to for food recovery.

- B. Food recovery organizations collecting or receiving edible food directly from commercial edible food generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(2):
1. The name, address, and contact information for each commercial edible food generator from which the organization receives edible food.
 2. The quantity in pounds of edible food received from each commercial edible food generator per month.
 3. The name, address, and contact information for each food recovery service that the organization receives edible food from for food recovery.
- C. Food recovery organizations and food recovery services that have their primary address physically located in the city and contract with or have written agreements with one or more commercial edible food generators pursuant to 14 CCR Section 18991.3(b) shall annually report to the city 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, city, or designated entity, food recovery services and food recovery organizations operating in the city shall provide information and consultation to the city, upon request, regarding existing, or proposed new or expanded, food recovery capacity that could be accessed by the city and commercial edible food generators. A food recovery service or food recovery organization contacted by the city shall respond to such request for information within 60 days unless a shorter timeframe is otherwise specified by the city.

Article IV. License or Contract

9.19.240 Contract.

The city may after a duly noticed public hearing, with or without having invited bids therefor, enter a contract, including an exclusive franchise agreement, with any responsible person, firm or corporation for the collection, removal or disposal of solid waste accumulated within the city. Such authorized person, firm or corporation shall be the authorized collector for the collection, removal or disposal of solid waste accumulated within the city as set forth in this chapter. The term of the contract, rates of collection, and other provisions of the contract shall be as provided by resolution of the governing body of the city. Where such a contract has heretofore been or hereafter is entered into between the city and a contractor for the collection, removal and disposal of solid waste, and the contractor shall have satisfactorily performed such contract, the city may, after a duly noticed public hearing, without inviting bids or proposals therefor, either prior to or after the expiration of such contract, extend or renew the same for such a period and on such terms and conditions as the city shall provide by resolution. The contractor shall be known as the authorized collector.

9.19.250 Service.

- A. Unless otherwise authorized by the city, the authorized collector must provide solid waste collection service in accordance with section 9.19.320 to all persons situated within the areas specified in such contract, provided payment for such service is made. The service shall be provided in a competent, efficient, clean and courteous manner.
- B. The use of recycling facilities and organic material processing facilities must comply with requirements set forth in section 9.19.310; and use of such facilities must be approved, in writing, by the city manager.
- C. The city may designate one or more intermediary transfer or processing stations of its choice and direct any authorized collector to deposit collected recyclable material, organic materials, and/or solid waste in said facility.

9.19.260 Minimum provisions.

The provisions of this chapter shall be the minimum requirements for the protection of the public health, safety, convenience and general welfare.

9.19.270 Authorized collector.

The authorized collector, in accordance with this chapter, shall be considered as and shall be an independent contractor and shall be responsible to the city for the result of the work to be done, but shall act under their own directions as to the manner of performing the work; and shall keep themselves and all of their employees insured under California's worker's compensation insurance requirements, and shall be insured against public liability and property damage, to be not less than twenty million dollars (\$20,000,000) plus any additional coverage required from time to time by the city (including all such liability for use or operation of motor vehicles used in the performance of work hereunder). Evidence of such insurance shall be filed with the city listing the city as additional insured.

9.19.280 Exclusive right.

The award of a contract hereunder shall grant the authorized collector during the term of the contract the exclusive right to collect, transport and dispose of all solid waste collected within the city except as otherwise expressly provided in this chapter; provided further, however, that debris box service for construction and temporary cleanup purposes may be provided by persons other than the authorized collector.

9.19.290 Performance bonds.

The person or entity to whom such contract shall be awarded shall file with the city a bond for the faithful performance of the contract in the sum of one hundred thousand dollars (\$100,000.00). The bond shall be immediately paid to the city upon determination, as provided in Section 9.19.350 hereof, that the authorized collector has failed to fully perform in a competent, efficient, clean and courteous manner all of the services provided by this chapter or the contract between the city and the authorized collector. In lieu of a performance bond the authorized collector may furnish alternate financial security approved by the finance director and city attorney.

9.19.300 Exceptions.

With the exception that the sanitary requirements of this chapter must be complied with, the provisions hereof shall not apply to persons collecting dead animals, bones or meat scraps for tallow plants or medical wastes.

Article V. Responsibilities of Authorized Collector

9.19.310 Regulations.

- A. Except as otherwise permitted by this chapter, and except for self-hauling which is not in lieu of regular weekly service, it is unlawful for any person to collect or carry solid waste through the streets of the city without first having entered a contract or obtained a permit from the city to do so.
- B. The authorized collector shall not permit any solid waste to fall or remain on any public street or private premises in the city, shall close all gates used by it in collection service, and shall operate as quietly as the circumstances allow.
- C. Collection and transportation equipment shall be maintained and utilized consistent with CCR, Sections 17341 through 17345.
- D. The authorized collector shall further abide by all applicable laws and the regulations and orders of the county health department or officer, and ordinances and general regulations of the city, now or hereafter adopted.

9.19.320 Periodic service.

Unless otherwise authorized by the city or by state law, the collector shall provide not less than weekly service to each owner, resident or tenant within the city. The authorized collector may terminate service to any owner, resident or tenant for nonpayment of the established rates if not fully paid for a period of two (2) months from and after the date such payment is due. Prior to termination of such service, the authorized collector shall notify the city and customer, in writing, of the proposed date of termination and the reason therefor. Such notice shall be given by the authorized collector to the city no less than ten days prior to the date of termination of service. The customer may request temporary suspension of service if the premises are to be vacated for a reasonable period, to be not less than two (2) weeks and to occur no more than three (3) times in a one (1) year period. The customer is also required to provide the authorized collector with a resumption date for service.

9.19.330 Liability.

The authorized collector and the city shall be exempt from responsibility and liability for tampering or misuse of any items left at curbside for collection and/or recycling should spillage or other mishap occur prior to possession by the authorized collector. Once the authorized collector takes possession of the solid waste, the authorized collector then assumes responsibility and liability.

9.19.340 Assignment.

Neither the collection contract nor any part thereof shall be assigned, either voluntarily or by operation of law, except upon the consent expressed by a resolution of the city.

9.19.350 Termination.

If the authorized collector refuses or neglects to comply with the terms of the contract or of any laws, ordinances or regulations above referred to, for a period of thirty (30) days after being notified in writing to do so by the legislative body of the city, then, after a hearing upon not less than ten (10) days' written notice to the authorized collector, the city shall be entitled to terminate the contract.

Article VI. Rates

9.19.360 Charge for service.

A charge shall be collected by the authorized collector at maximum rates to be established between the city and the authorized collector, the rates to be subject to change upon approval of an agreement between the city and the authorized collector. The property owner is responsible for all charges for solid waste removal, including recyclable materials. The rates shall provide to the authorized collector a fair and reasonable compensation and return.

9.19.370 Payment of rates.

It is unlawful for any person to refuse to pay the rates fixed for the collection of solid waste. Nonpayment may result in cessation of service, a violation punishable by law, and/or a lien against the property. It is unlawful for any person to dispose of solid waste, from premises owned, occupied or leased by them, other than by and through the authorized collector, except as provided in this chapter.

9.19.380 Disputed rates.

In any case where a dispute shall arise as to the rate or amount to be paid to the authorized collector, the city shall have the power of final determination of such dispute, and both the authorized collector and the owner, resident or tenant shall be bound thereby. In no event shall the city be obligated in any way to the authorized collector or any owner, resident or tenant for the collection of disputed accounts.

Article VII. Inspections and Enforcement

9.19.390 Inspections.

- A. The city manager, authorized collector, or designee is authorized to conduct any inspections, remote monitoring, or other investigations as reasonably necessary to further the goals of this chapter, subject to the provisions of the authorized collector's franchise agreement and 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

and the provisions of the franchise agreement, subject to applicable laws. This section does not allow entry in a private residential dwelling unit for inspection. For the purposes of inspecting collection containers for compliance, the city manager or authorized collector may conduct container inspections for prohibited container contaminants using remote monitoring, and generators shall accommodate and cooperate with the remote monitoring.

- B. A person subject to the requirements of this chapter shall provide or arrange for access during all inspections (with the exception of the interior of a private residential dwelling unit) and shall cooperate with the city manager, authorized collector or designee during such inspections and investigations. Such inspections and investigations may include confirmation of proper placement of materials in collection 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.
- C. Any records obtained by the city manager, authorized collector, or designee, during inspections, investigations, remote monitoring and other reviews shall be subject to the requirements and applicable disclosure exemptions of the California Public Records Act as set forth in Government Code Section 6250 et seq.
- D. The city, authorized collector or designee shall accept written complaints from persons regarding an entity that may be potentially non-compliant with this chapter.

9.19.400 Violation—Penalty.

- A. Any violation of this chapter may be enforced either as an infraction or as a misdemeanor, or by any remedy available to the city under this code, or under state law.
- B. Enforcement actions under this chapter may include issuance of an administrative citation and assessment of a fine. The city's procedures on imposition of administrative citations and fines as contained in chapter 1 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 city of San Rafael or, if agreed to, by its designated enforcement agency.
- C. A violation may be punishable by:
 - 1. A fine not exceeding one hundred dollars for a first violation;
 - 2. A fine not exceeding two hundred dollars for a second violation of the same provision of this code within any twelve consecutive month period;
 - 3. 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.
- D. Other remedies allowed by law may be used, including civil action. The city may pursue civil actions in the California courts to seek recovery of unpaid administrative citations, and fines. The city may choose to delay court action until such time as a sufficiently large

number of violations, or cumulative size of violations exist such that court action is a reasonable use of city staff and resources.

9.19.410 Damages.

In any civil action by an authorized collector against a person alleged to have violated Public Resources Code, Section 41950, the court may either allow trebled damages, as measured by the value of the material removed, or award a civil penalty of not more than one thousand dollars (\$1,000.00), whichever is greater, for each unauthorized removal, against the unauthorized person removing the recyclable material.

DIVISION 2. CEQA

The City Council finds that this Ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines Sections 15061(b)(3) and 15308 on the grounds that it can be seen with certainty that the enhanced solid waste regulations, as provided for in this Ordinance will not have a significant effect on the environment and that the new requirements, which strengthen requirements for the handling of solid waste, represent actions by a regulatory agency (the City) for the protection of the environment.

DIVISION 3. SEVERABILITY

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Council hereby declares that it would have adopted the Ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more section, subsection, sentence, clause, or phrase be declared invalid.

DIVISION 4. PUBLICATION; EFFECTIVE DATE

A summary of this ordinance shall be published and a certified copy of the full text of this Ordinance shall be posted in the office of the City Clerk at least five (5) days prior to the Council meeting at which it is adopted.

This ordinance shall be in full force and effect thirty (30) days after its final passage, and the summary of this ordinance shall be published within fifteen (15) days after the adoption, together with the names of those Councilmembers voting for or against same, in the Marin Independent Journal, a newspaper of general circulation published and circulated in the City of San Rafael, County of Marin, State of California.

Within fifteen (15) days after adoption, the City Clerk shall also post in the office of the City Clerk, a certified copy of the full text of this ordinance along with the names of those Councilmembers voting for or against the ordinance.

KATE COLIN, Mayor

ATTEST:

LINDSAY LARA, City Clerk

The foregoing Ordinance No. _____ was introduced at a Regular Meeting of the City Council of the City of San Rafael, held on the 22nd day of February 2022 and ordered passed to print by the following vote, to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

and will come up for adoption as an Ordinance of the City of San Rafael at a Regular Meeting of the Council to be held on the 7th day of March 2022.

LINDSAY LARA, City Clerk

SB 1383 Jurisdiction Responsibilities

Jurisdictions should create an action plan that lays out a path to complying with the law. Implementing the law may require:

- Updating hauling contracts to reflect SB 1383 collection requirements
- Adopting an enforceable mechanism/ordinance for collection, recycling, and food recovery requirements
- Planning for rate increases to support new collection and recycling requirements and to fund a food recovery network
- Determining staff and funding needed to implement the law, including
 - Health inspections that could be addressed through a partnership with the county department of public health
 - Model ordinance implementation, which may require staff to modify the model ordinance for the jurisdiction, legal staff to review the ordinance, and presentations to city/county meetings for approval

SB 1383 specifically directs jurisdictions to conduct the following activities.

Collection

Jurisdictions are required to provide organic waste collection to all residents and businesses, which means providing service automatically and not relying on the generator to subscribe.

- Beginning in 2022, SB 1383 requires every jurisdiction to provide organic waste collection services to all residents and businesses. This is what we refer to as automatically providing service, mandatory service, or universal service, in which the resident or business is automatically provided the service.
- The regulations standardize container colors across the state (to be fully implemented by January 1, 2036), and require a jurisdiction to place a label on each new container or lid provided to generators consistent with the container collection requirements (starting January 1, 2022).
- The regulations require contamination monitoring in curbside collection containers. Jurisdictions will typically delegate this task to their hauler.
- Jurisdictions can issue three types of waivers to generators:
 - De minimis
 - Physical space
 - Collection frequency
- CalRecycle can issue three types of waivers to jurisdictions that are eligible, which delay or exclude implementation of some of the requirements:

Additional Information

[Collection](#)

[Collection Systems](#)

[Collection Contamination](#)

[Collection Contamination](#)

- Low population
- Rural exemption
- Elevation waivers

Note: the regulations also place requirements on residents and commercial businesses.

Food Recovery

Jurisdictions are required to establish an edible food recovery program that recovers edible food from the waste stream. This includes:

- Assessing capacity of existing edible food recovery
- Establishing an edible food recovery program (and expanding existing infrastructure if necessary)
- Conducting inspections of:
 - Tier one commercial edible food generators and food recovery organizations and services beginning January 1, 2022
 - Tier two commercial edible food generators beginning January 1, 2024.
- Providing education and outreach

Additional Information

[Food Recovery](#)

[Jurisdictions](#)

[Donors](#)

[Food Recovery Organizations](#)

Education and Outreach

Jurisdictions are required to conduct education and outreach to all affected parties, including generators, edible food recovery organizations, and city/county department staff. This includes:

- Providing information on methods for the prevention of organic waste generation, recycling organic waste onsite, and sending organic waste to community composting
- Providing information to food donors regarding programs for the donation of edible food
- Providing materials in non-English languages so they are linguistically accessible to residents and businesses

Additional Information

[Education](#)

Procurement of Recycled Organic Products

Jurisdictions are responsible for procuring recycled organic waste products like compost, mulch, renewable natural gas (RNG), electricity, and recycled-content paper and paper products.

Procuring does not necessarily mean purchasing.

Additional Information

[Procurement Web Page](#)

[Procurement Calculator](#)

Organic Waste Product Requirements

Each jurisdiction will have a minimum procurement target for recycled organic waste products that is calculated based on its population.

CalRecycle will provide a calculator for a jurisdiction to use to calculate progress towards meeting their target.

CalRecycle will notify jurisdictions of their target Prior to January 1, 2022.

Jurisdictions may procure any combination of the following products to meet their target:

- Compost
- Renewable gas used for transportation fuels, electricity, heating applications, or pipeline injection
- Electricity from biomass conversion produced from organic waste

Recycled-Content Paper and Paper Product Requirements

All departments in a jurisdiction that make paper purchases will be required to purchase and keep purchase records for paper products that:

- Contain postconsumer recycled content
- Are recyclable

Capacity Planning

Jurisdictions are required to evaluate the jurisdiction's readiness and capacity to implement SB 1383, including organics collection and recycling and edible food recovery capacity.

Each county will lead this effort by coordinating with cities, special districts that provide solid waste collection services, and regional agencies located within the county.

Additional Information

[Capacity Planning](#)

[Capacity Planning for Organic Waste Recycling](#)

[Capacity Planning for Food Recovery](#)

Enforcement

Starting January 1, 2022, jurisdictions are required to conduct inspections and enforce compliance with SB 1383. Jurisdictions are required to adopt an ordinance or enforceable mechanism consistent with SB 1383 requirements by January 1, 2022.

Additional Information

[Model Ordinance](#)

Jurisdictions must do an annual compliance review of commercial businesses to ensure they are subscribed to collection service. This requirement was previously established by California's Mandatory Commercial Organics Recycling law (AB 1826, Chesbro, Chapter 727, Statutes of 2014).

Jurisdictions may choose to combine edible food generator with existing health inspections, which may consolidate resources.

Jurisdictions using a 3- or 2-container organic waste collection service are required to monitor contamination.

Recordkeeping and Reporting

Jurisdictions are required to maintaining accurate and timely records of SB 1383 compliance and reporting.

To reduce reporting, jurisdictions are required to maintain records and keep information in an Implementation Record.

Each jurisdiction is required to report to the Department annually on its implementation and compliance with the requirements of 1383.

CITY OF SAN RAFAEL

NOTICE OF PUBLIC HEARING

The City Council of the City of San Rafael will hold a public hearing:

- PURPOSE:** Public Hearing: To introduce and consider an ordinance amending the San Rafael Municipal Code to repeal and replace Chapter 9.19 - Refuse and Recycled Materials Collection and Disposal with new Chapter 9.19 - Solid Waste Collection and Disposal and Edible Food Recovery in accordance with Senate Bill 1383
- DATE/TIME/PLACE:** Tuesday, February 22, 2022, at 7:00 p.m.
Pursuant to state law, the public hearing will be held virtually. Please visit the City's website, www.cityofsanrafael.org, and view the meeting agenda for instructions on how to participate in the public hearing.
- WHAT WILL HAPPEN:** You may comment on the proposed ordinance. The City Council will consider all public testimony and will then decide whether to grant initial approval of the ordinance.
- IF YOU CANNOT ATTEND:** You may send a letter to City Clerk, City of San Rafael, 1400 Fifth Avenue, San Rafael, CA 94901 or by email city.clerk@cityofsanrafael.org.
- FOR MORE INFORMATION:** You may contact Cory Bytof, Sustainability Program Manager at (415) 485-3407 or cory.bytof@cityofsanrafael.org. Office hours are Monday through Friday, 8:30 a.m. to 5:00 p.m.

SAN RAFAEL CITY COUNCIL

/s/ LINDSAY LARA
LINDSAY LARA, City Clerk