

ORDINANCE NO. 2021-08

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AMERICAN CANYON, CALIFORNIA MODIFYING TITLE 8 (HEALTH AND SAFETY) OF THE AMERICAN CANYON MUNICIPAL CODE TO ADD CHAPTER 8.20 MANDATORY MUNICIPAL SOLID WASTE, RECYCLING AND COMPOST MATERIAL DISPOSAL REDUCTION

WHEREAS, Assembly Bill 939 of 1989, the California Integrated Waste Management Act of 1989 (California Public Resources Code Section 40000, et seq., as amended, supplemented, superseded, and replaced from time to time), requires cities and counties to reduce, reuse, and recycle (including composting) MSW generated in their City to the maximum extent feasible before any incineration or landfill disposal of waste, to conserve water, energy, and other natural resources, and to protect the environment; and

WHEREAS, Assembly Bill 341 of 2011 places requirements on businesses and multi-family property owners that generate a specified threshold amount of MSW to arrange for recycling services and the City to implement a mandatory commercial recycling program; and

WHEREAS, Assembly Bill 1826 of 2014 requires businesses and multi-family property owners that generate a specified threshold amount of MSW, Recycling, and Compost Material per week to arrange for recycling services for that waste, requires the City to implement a Mandatory Commercial Organics Recycling program; and

WHEREAS, Senate Bill 1383 (SB 1383), the Short-lived Climate Pollutant Reduction Act of 2016, requires the California Department of Resources Recycling and Recovery (CalRecycle) to develop regulations to reduce organics in landfills as a source of methane. As adopted by CalRecycle, these SB 1383 regulations (SB 1383 Regulations) place requirements on multiple entities including the City, residential households, Commercial Businesses and business owners, Commercial Edible Food Generators, Authorized Contractors, Self-Haulers, Food Recovery Organizations, and Food Recovery Services to support achievement of Statewide Compost Material disposal reduction targets; and

WHEREAS, SB 1383 Regulations require the City to adopt and enforce an ordinance or other enforceable mechanism to implement relevant provisions of the SB 1383; and

WHEREAS, this Ordinance implements the requirements of AB 341, AB 1826, and the SB 1383 Regulations.

WHEREAS, on November 2, 2021, the City of American Canyon City Council conducted a public hearing on the proposed ordinance, at which time all those in attendance were given the opportunity to speak on this proposal.

NOW, THEREFORE THE CITY COUNCIL OF THE CITY OF AMERICAN CANYON, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: Amendment. An Ordinance of the City Council of the City of American Canyon, California modifying Title 8 (Health and Safety) of the American Canyon Municipal Code to add Chapter 8.20 (Mandatory Municipal Solid Waste, Recycling and Compost Material Disposal Reduction) to read as follows:

Chapter 8.20 Mandatory Municipal Solid Waste, Recycling and Compost Material Disposal Reduction Ordinance

Sections:

8.20.010: Definitions

8.20.020: Requirements for Single-Family Generators

8.20.030: Requirements for Commercial Businesses

8.20.040: Waivers for Generators

8.20.050: Requirements for Edible Food Generators

8.20.060: Requirements for Food Recovery Organizations and Services

8.20.070: Requirements for Authorized Contractors and Facility Operators

8.20.080: Self-Hauler Requirements

8.20.090: Procurement Requirements for City Departments, Direct Service Providers, and Vendors

8.20.100: Compliance with CALGreen Recycling Requirements

8.20.110: Model Water Efficient Landscaping Ordinance Requirements

8.20.120: Inspections and Investigation by City

8.20.130: Enforcement

8.20.140: Effective Date

Section 8.20.010: Definitions

For the purposes of this Chapter, the following words, terms, phrases, and their derivations have the meanings given herein. Terms defined elsewhere in the municipal code shall have the same meanings herein unless expressly defined in this Article. When consistent with the context, words used in the present tense include the future tense, and words in the singular number include the plural number.

A. **“Blue Container”** has the same meaning as in 14 CCR Section 18982.2(a)(5) and shall be used for the purpose of storage and collection of Source Separated Recyclable Materials (Non-organic recyclables = glass, metal, and plastic) or Source Separated Blue Container Compost Material (organic recyclables such as clean paper and cardboard).

B. **“CalRecycle”** means California's Department of Resources Recycling and Recovery, and any successor agencies, which is the Department designated with responsibility for developing, implementing, and enforcing SB 1383 Regulations on Cities (and others).

C. **“California Code of Regulations” or “CCR”** means the State of California Code of Regulations. CCR references are preceded with a number that refers to the relevant Title of the CCR (e.g., “14 CCR” refers to Title 14 of CCR).

D. **“City”** means the City of American Canyon, a municipal corporation, and all the territory lying within the municipal boundaries of the City as presently existing or as such boundaries may be modified during the Term.

E. **“City Enforcement Officer”** means the city manager, or other executive in charge or their authorized Designee(s) who is/are partially or wholly responsible for enforcing the ordinance. See also “Regional or County Agency Enforcement Officer”.

F. **“Commercial Business” or “Commercial”** means a firm, partnership, proprietorship, joint-stock company, corporation, or association, whether for-profit or nonprofit, strip mall, industrial facility, or a multifamily residential dwelling, or as otherwise defined in 14 CCR Section 18982(a)(6). A Multi-Family Residential Dwelling that consists of fewer than five (5) units is not a Commercial Business for purposes of implementing this Chapter.

G. **“Commercial Edible Food Generator”** includes a Tier One, or a Tier Two Commercial Edible Food Generator as defined in Sections 8.20.050(uuu) and 8.20.060(vvv) of this Chapter or as otherwise defined in 14 CCR Section 18982(a)(73) and (a)(74). For the purposes of this definition, Food Recovery Organizations and Food Recovery Services are not Commercial Edible Food Generators pursuant to 14 CCR Section 18982(a)(7).

H. **“Compliance Review”** means a review of records by the city to determine compliance with this Section.

I. **“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).

J. **“Compost” or “Compostables”** has the same meaning as in 14 CCR Section 17896.2(a)(4), which stated, as of the effective date of this Chapter, that “Compost” means those materials that are processed in a controlled biological decomposition process, which are source separated from the MSW stream. Compostables include food scraps, soiled paper products, yard trimmings and wood materials that do not contain hazardous waste.

K. **“Compostable Plastic”** means plastic materials that meet the ASTM D6400 standard for composability, or as otherwise described in 14 CCR Section 18984.1(a)(1)(A) or 18984.2(a)(1)(C).

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

M. **“Construction and Demolition Debris” or C&D”** includes waste building materials, packaging and rubble resulting from construction, remodeling, repair or demolition operations on pavements, houses, commercial and industrial buildings, and other structures and improvements.

N. **“Designee”** means an entity that the City contracts with or otherwise arranges to carry out any of the City's responsibilities of this Section 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.

O. **"Direct Service Provider"** means a person, company, agency, district, or other entity that provides a service or services to City pursuant to a contract or other written agreement or as otherwise defined in 14 CCR Section 18982(a)(17).

P. **"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 MSW if it is recovered and not discarded. Nothing in this ordinance or in 14 CCR, Division 7, Chapter 12 requires or authorizes the Recovery of Edible Food that does not meet the food safety requirements of the California Retail Food Code.

Q. **"Enforcement Action"** means an action of the City to address non-compliance with this Chapter including, but not limited to, issuing administrative citations, fines, penalties, or using other remedies.

R. **"Excluded Waste"** means hazardous substance, hazardous waste, infectious waste, designated waste, volatile, corrosive, medical waste, infectious, regulated radioactive waste, and toxic substances or material that facility operator(s), which receive materials from the City and its generators, reasonably believe(s) would, as a result of or upon acceptance, transfer, processing, or disposal, be a violation of local, State, or Federal law, regulation, or ordinance, including: land use restrictions or conditions, waste that cannot be disposed of in Class III landfills or accepted at the facility by permit conditions, waste that in the City's, or its Designee's would present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose City, or its Designee, to potential liability; but not including de minimis volumes or concentrations of waste of a type and amount normally found in Single-Family or Multi-Family MSW after implementation of programs for the safe collection, processing, recycling, treatment, and disposal of batteries and paint in compliance with Sections 41500 and 41802 of the California Public Resources Code. Excluded Waste does not include used motor oil and filters, household batteries, universal wastes, electronic waste, and/or latex paint when such materials are defined as allowable materials for collection through the City's collection programs and the generator or customer has properly placed the materials for collection pursuant to instructions provided by City or its Designee for collection services.

S. **"Food Distributor"** means a company that distributes food to entities including, but not limited to, Supermarkets and Grocery Stores, or as otherwise defined in 14 CCR Section 18982(a)(22).

T. **"Food Facility"** means a commercial & business establishment that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption.

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

V. **"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:

1. A food bank as defined in Section 113783 of the Health and Safety Code;
2. A nonprofit charitable organization as defined in Section 113841 of the Health and Safety code; and,
3. A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.

A Food Recovery Organization is not a Commercial Edible Food Generator for the purposes of this ordinance and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7).

If the definition in 14 CCR Section 18982(a)(25) for Food Recovery Organization differs from this definition, the definition in 14 CCR Section 18982(a)(25) shall apply to this ordinance.

W. **“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 ordinance and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7).

X. **“Food Scraps”** means all surplus, spoiled or unsold food such as, but not limited to, fruits, vegetables, meat, poultry, seafood, shellfish, bones, rice, beans, pasta, bread, cheese, eggshells and solid fats, oils & grease.

Y. **“Food Service Provider”** means an entity primarily engaged in providing food services to institutional, governmental, Commercial, or industrial locations of others based on contractual arrangements with these types of organizations, or as otherwise defined in 14 CCR Section 18982(a)(27).

Z. **“Food-Soiled Paper”** is compostable paper material that has come in contact with food or liquid, such as, but not limited to, compostable paper plates, paper coffee cups, napkins, pizza boxes, coffee filters, tea bags, wax paper, butcher paper and waxed cardboard, paper take out boxes, paper egg cartons, and milk cartons.

AA. **“Food Waste”** means Food Scraps.

BB. **“Gray Container”** has the same meaning as in 14 CCR Section 18982.2(a)(28) and shall be used for the purpose of storage and collection of Gray Container Waste

CC. **“Gray Container Waste”** means MSW that is collected in a Gray Container that is part of a three-container Compost Material collection service that prohibits the placement of Compost Material in the Gray Container as specified in 14 CCR Sections 18984.1(a) and (b), or as otherwise defined in 14 CCR Section 17402(a)(6.5).

DD. **“Green Container”** has the same meaning as in 14 CCR Section 18982.2(a)(29) and shall be used for the purpose of storage and collection of Source Separated Green Container Compost Material.

EE. **“Grocery Store”** means a store primarily engaged in the retail sale of canned food; dry goods; fresh fruits and vegetables; fresh meats, fish, and poultry; and any area that is not separately owned within the store where the food is prepared and served, including a bakery, deli, and meat and seafood departments, or as otherwise defined in 14 CCR Section 18982(a)(30).

FF. **“Hauler Route”** means the designated daily, weekly, etc. itinerary or sequence of stops for each segment of the City’s collection service area, or as otherwise defined in 14 CCR Section 18982(a)(31.5).

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

HH. **“Inspection”** means a site visit where a City reviews records, containers, and an entity’s collection, handling, recycling, or landfill disposal of Compost Material or Edible Food handling to determine if the entity is complying with requirements set forth in this Chapter, or as otherwise defined in 14 CCR Section 18982(a)(35).

II. **“Large Event”** means an event, including, but not limited to, a sporting event or a flea market, that charges an admission price, or is operated by a local agency, and serves an average of more than 2,000 individuals per day of operation of the event, at a location that includes, but is not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for an event. If the definition in 14 CCR Section 18982(a)(38) differs from this definition, the definition in 14 CCR Section 18982(a)(38) shall apply to this ordinance.

JJ. **“Large Venue”** means a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility. For purposes of this Chapter 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 Chapter 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. If the definition in 14 CCR Section 18982(a)(39) differs from this definition in 13 CCR Section 18982(a)39 shall apply to this Section.

KK. **“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 MSW, or as otherwise defined in 14 CCR Section 18982(a)(40).

LL. **“Multi-Family Residential Dwelling” or “Multi-Family”** means of, from, or pertaining to residential premises with five (5) or more dwelling units. Multi-Family premises do not include hotels, motels, or other transient occupancy facilities, which are considered Commercial Businesses.

MM. **Municipal Solid Waste or “MSW”:** means all fractions of discarded putrescible and non-putrescible solid, semi-solid and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, construction, and demolition debris, discarded home and industrial appliances,

manure, vegetable or animal solid and semi-solid wastes, and other discarded substances or materials. MSW does not include:

1. Hazardous waste, as defined in the State 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 State 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 State Health and Safety Code). Untreated medical waste shall not be disposed of in a MSW landfill, as defined in State Public Resources Code Section 40195.1. Medical waste that has been treated and deemed to be MSW shall be regulated pursuant to Division 30 of the State Public Resources Code.
4. Recyclable Materials which have been source or type-separated from other waste material.

NN. **“MWEL0”** refers to the Model Water Efficient Landscape Ordinance (MWEL0), 23 CCR, Division 2, Chapter 2.7

OO. **“Non-Compostable Paper”** includes but is not limited to paper that is coated in a plastic material that will not breakdown in the composting process, or as otherwise defined in 14 CCR Section 18982(a)(41).

PP. **“Non-Local Entity”** means the following entities that are not subject to the City’s enforcement authority, or as otherwise defined in 14 CCR Section 18982(a)(42):

1. State agencies located within the boundaries of the city, including all public-school locations.

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

RR. **“Notice of Violation (NOV)”** means a notice that a violation has occurred that includes a compliance date to avoid an action to seek penalties, or as otherwise defined in 14 CCR Section 18982(a)(45) or further explained in 14 CCR Section 18995.4.

SS. **“Organic Waste”** means MSW’s containing material originated from living organisms and their metabolic waste products, including but not limited to food, green material, landscape and pruning waste, organic textiles and carpets, lumber, wood, Paper products, Printing and Writing Paper, manure, biosolids, digestate, and sludges or as otherwise defined in 14 CCR Section 18982(a)(46). Biosolids and digestate are as defined by 14 CCR Section 18982(a).

TT. **“Organic Waste Generator”** means a person or entity that is responsible for the initial creation of organic waste, or as otherwise defined in 14 CCR Section 18982(a)(48).

UU. **“Paper Products”** include, but are not limited to, paper janitorial supplies, cartons, wrapping, packaging, file folders, hanging files, corrugated boxes, tissue, and toweling, or as otherwise defined in 14 CCR Section 18982(a)(51).

VV. **“Printing and Writing Papers”** include, but are not limited to, copy, xerographic, watermark, cotton fiber, offset, forms, computer printout paper, white wove envelopes, manila envelopes, book paper, note pads, writing tablets, newsprint, and other uncoated writing papers, posters, index cards, calendars, brochures, reports, magazines, and publications, or as otherwise defined in 14 CCR Section 18982(a)(54).

WW. **“Prohibited Container Contaminants”** means the following:

1. Discarded materials placed in the Blue Container that are not identified as acceptable Source Separated Recyclable Materials for the City Blue Container.
2. Discarded materials placed in the Green Container that are not identified as acceptable Source Separated Green Container Compost Material for the City Green Container.
3. Discarded materials placed in the Gray Container that are acceptable Source Separated Recyclable Materials and/or Source Separated Green Container Compost Materials to be placed in City Green Container and/or Blue Container; and
4. Excluded Waste placed in any container.

XX. **“Recovered Organic Waste Products”** means products made from California, landfill-diverted recovered Compost Material processed in a permitted or otherwise authorized facility, or as otherwise defined in 14 CCR Section 18982(a)(60).

YY. **“Recovery”** means any activity or process described in 14 CCR Section 18983.1(b), or as otherwise defined in 14 CCR Section 18982(a)(49).

ZZ. **“Recycled-Content Paper”** means Paper Products and Printing and Writing Paper that consists of at least 30 percent, by fiber weight, postconsumer fiber, or as otherwise defined in 14 CCR Section 18982(a)(61).

AAA. **“Recyclable Materials”** means material which otherwise would become or be treated as MSW but which, by means of a process of collecting, sorting, cleansing, treating, and reconstructing, may be returned to the economic mainstream in the form of finished or source material for new, reused, or reconstituted products, which may be used in the marketplace. “Recyclable Materials” includes paper, books, magazines, cardboard, box board, plastic, metal, glass, and other similar materials authorized by the city for collection by the Authorized Contractor.

BBB. **“Regional Agency”** means regional agency as defined in Public Resources Code Section 40181.

CCC. **“Regional or County Agency Enforcement Officer”** means a regional or county agency enforcement officer, designated by the City with responsibility for enforcing this ordinance in conjunction or consultation with the City Enforcement Officer or City Designee.

DDD. **“Renewable Gas”** means gas derived from organic waste that has been diverted from a California landfill and processed at an in-vessel digestion facility that is permitted or otherwise

authorized by 14 CCR to recycle Organic Waste, or as otherwise defined in 14 CCR Section 18982(a)(62).

EEE. **“Restaurant”** means an establishment primarily engaged in the retail sale of food and drinks for on-premises or immediate consumption, or as otherwise defined in 14 CCR Section 18982(a)(64).

FFF. **“Route Review”** means a visual Inspection of containers along a Hauler Route for the purpose of determining Container Contamination and may include mechanical Inspection methods such as the use of cameras, or as otherwise defined in 14 CCR Section 18982(a)(65).

GGG. **“SB 1383”** means Senate Bill 1383 of 2016 approved by the Governor on September 19, 2016, which added Sections 39730.5, 39730.6, 39730.7, and 39730.8 to the Health and Safety Code, and added Chapter 13.1 (commencing with Section 42652) to Part 3 of Division 30 of the Public Resources Code, establishing methane emissions reduction targets in a Statewide effort to reduce emissions of short-lived climate pollutants as amended, supplemented, superseded, and replaced from time to time.

HHH. **“SB 1383 Regulations” or “SB 1383 Regulatory”** means or refers to, for the purposes of this ordinance, the Short-Lived Climate Pollutants: Organic Waste Reduction regulations developed by CalRecycle and adopted in 2020 that created 14 CCR, Division 7, Chapter 12 and amended portions of regulations of 14 CCR and 27 CCR.

III. **“SB 1383 Eligible Mulch”** means mulch eligible to meet the Annual Recovered Compost Material Product Procurement Target, pursuant to 14 CCR Chapter 12 of Division 7. This SB 1383 Eligible Mulch shall meet the following conditions for the duration of the applicable procurement compliance year, as specified by 14 CCR Section 18993.1 (f)(4):

1. **Produced at one of the following facilities:**
 - i. A transfer/processing facility or transfer/processing operation as defined in 14 CCR Sections 17402(a)(30) and (31), respectively, that is permitted or authorized under 14 CCR Division 7; or,
 - ii. A transfer/processing facility or transfer/processing operation as defined in 14 CCR Sections 17402(a)(30) and (31), respectively, that is permitted or authorized under 14 CCR Division 7; or,
 - iii. A MSW landfill as defined in Public Resources Code Section 40195.1 that is permitted under 27 CCR Division 2.
2. Meet or exceed the physical contamination, maximum metal concentration, and pathogen density standards for land application specified in 14 CCR Sections 17852(a)(24.5) (A)1 through 3, as enforced by Section 6-3-708(a)

JJJ. **“SB 1383 Regulations” or “SB 1383 Regulatory”** means or refers to, for the purposes of this ordinance, the Short-Lived Climate Pollutants: Organic Material Reduction regulations developed by CalRecycle and adopted in 2020 that created 14 CCR, Division 7, Chapter 12 and amended portions of regulations of 14 CCR and 27 CCR.

KKK. **"Self-Hauler"** means a person, who hauls MSW, recyclable or compostable material he or she has generated to a transfer, processing, recovery, or disposal facility other than the Direct Service Provider, whose primary business is not waste hauling. 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 Material to a destination owned and operated by the generator using the generator's own employees and equipment, or as otherwise defined in 14 CCR Section 18982(a)(66)(A).

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

MMM. **"Soiled Paper Products"** means paper towels, tissue products, paper napkins, paper plates and cups, coffee filters, tea bags, waxed paper, butcher paper, paper take-out boxes and containers, greasy pizza boxes, paper bags and cardboard and wax-coated cardboard produce boxes. "Soiled Paper Products" does not include polystyrene, plastic-backed paper, blue-line paper or blueprints, diapers, kitty litter, any paper containing plastics, aluminum foil or foil-lined food wrap.

NNN. **"Source Separated"** means materials, including commingled recyclable materials, that have been separated or kept separate from the MSW stream, at the point of generation, for the purpose of additional sorting or processing those materials for recycling or reuse in order to return them to the economic mainstream in the form of raw material for new, reused, or reconstituted products, which meet the quality standards necessary to be used in the marketplace, or as otherwise defined in 14 CCR Section 17402.5(b)(4). For the purposes of the ordinance, Source Separated shall include separation of materials by the generator, property owner, property owner's employee, property manager, or property manager's employee into different containers for the purpose of collection such that Source Separated materials are separated from Gray Container Waste or other MSW for the purposes of collection and processing.

OOO. **"Source Separated Blue Container Compost Material"** means Source Separated Compost Material (e.g. non-soiled paper products) that can be placed in a Blue Container that is limited to the collection of those compost materials and Non-Organic Recyclables as defined in Section 18982(a)(43), or as otherwise defined by Section 17402(a)(18.7).

PPP. **"Source Separated Green Container Compost Material"** means Source Separated Compost Material that can be placed in a Green Container that is specifically intended for the separate collection of Compostable Material by the generator, excluding Source Separated Blue Container Compost material, carpets, Non-Compostable Paper, and textiles.

QQQ. **"Source Separated Recyclable Materials"** means Source Separated Non-Organic Recyclables and Source Separated Blue Container Compost Material. "Recyclable Materials" includes paper, books, magazines, cardboard, boxes, plastic, metal, glass, food waste and other similar materials authorized by the city for collection by the Authorized Contractor.

RRR. **"State"** means the State of California.

SSS. **"Supermarket"** means a full-line, self-service retail store with gross annual sales of two million dollars (\$2,000,000), or more, and which sells a line of dry grocery, canned goods, or nonfood items and some perishable items, or as otherwise defined in 14 CCR Section 18982(a)(71).

TTT. **“Tier One Commercial Edible Food Generator”** means a Commercial Edible Food Generator that is one of the following:

1. Supermarket.
2. Grocery Store with a total facility size equal to or greater than 10,000 square feet.
3. Food Service Provider.
4. Food Distributor.
5. Wholesale Food Vendor.
6. If the definition in 14 CCR Section 18982(a)(73) of Tier One Commercial Edible Food Generator differs from this definition, the definition in 14 CCR Section 18982(a)(73) shall apply to this ordinance.

UUU. **“Tier Two Commercial Edible Food Generator”** means a Commercial Edible Food Generator that is one of the following:

1. Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.
2. Hotel with an on-site Food Facility and 200 or more rooms.
3. Health facility with an on-site Food Facility and 100 or more beds.
4. Large Venue.
5. Large Event.
6. A State agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet.
7. A Local Education Agency facility with an on-site Food Facility.
8. If the definition in 14 CCR Section 18982(a)(74) of Tier Two Commercial Edible Food Generator differs from this definition, the definition in 14 CCR Section 18982(a)(74) shall apply to this ordinance.

VVV. **“Wholesale Food Vendor”** means a business or establishment engaged in the merchant wholesale distribution of food, where food (including fruits and vegetables) is received, shipped, stored, prepared for distribution to a retailer, warehouse, distributor, or other destination, or as otherwise defined in 14 CCR Section 189852(a)(76).

WWW. **“Uncontainerized Yard Trimming Collection Service” or “Uncontainerized Service”** means a collection service that collects yard trimmings that are placed in a pile or bagged for collection on the street in front of a generator’s house or place of business for collection and transport to a facility that recovers Source Separated Organic Waste, or as otherwise defined in 14 CCR Section 189852(a)(75).

XXX. **“Wholesale Food Vendor”** means a business or establishment engaged in the merchant wholesale distribution of food, where food (including fruits and vegetables) is received, shipped, stored, prepared for distribution to a retailer, warehouse, distributor, or other destination, or as otherwise defined in 14 CCR Section 189852(a)(76).

YYY. **“Yard Trimmings”** means tree trimmings, grass cuttings, leaves, branches, and similar organic materials, including vineyard clippings, sawdust, wooden chopsticks, crates and other clean wood items under 36”.

Section 8.20.020: Requirements for Single-Family Generators

Single-Family Organic Material Generators shall comply with the following requirements except Single-Family generators that meet the Self-Hauler requirements in Section 8.20.080 of this Chapter

- A. Shall subscribe to the City's MSW, Recycling and Compostables collection services for all MSW, recycling, and compostable materials generated as described below in subsection (B). Single-Family MSW, Recycling, and Compost Generators shall comply with the following requirements except Single-Family generators that meet the Self-Hauler requirements in Section 8.20.080 of this Article
- B. Shall participate in the City's MSW, Recycling, and Compost collection service(s) by placing designated materials in designated containers as described below and shall not place Prohibited Container Contaminants in collection containers.
 1. Generator shall place Source Separated Green Container Compostable material, including Food Scraps and Yard Trimmings, in the Green Container; Source Separated Recyclable Materials in the Blue Container; and Gray Container MSW in the Gray Container. Generators shall not place materials designated for the Gray Container into the Green Container or Blue Container.

Section 8.20.030: Requirements of Commercial Businesses

Generators that are Commercial Businesses, including Multi-Family Complexes, shall:

- A. Subscribe to City's three-container collection services and comply with requirements of those services as described below in Section 8-20.030(B), except Commercial Businesses that meet the Self-Hauler requirements in Section 8.20.080 of this Chapter. City shall have the right to review the number and size of a generator's containers and frequency of collection to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and Commercial Businesses shall adjust their service level for their collection services as required by the City.
- B. Except Commercial Businesses that meet the Self-Hauler requirements in Section 8.20.080 of this Chapter, participate in the City's MSW, Recycling and Compostable collection service(s) by placing designated materials in designated containers as described below.
 1. Generator shall place Source Separated Green Container compostable material including Food Scraps and Yard Trimmings, in the Green Container; Source Separated Recyclable Materials in the Blue Container; and Gray Container MSW in the Gray Container. Generators shall not place materials designated for the Gray Container into the Green Container or Blue Container.
- C. Supply and allow access to adequate number, size, and location of collection containers with sufficient labels or colors (conforming with Sections 8.20.030(D)(1) and 8.20.030(D)(2) below) for employees, contractors, tenants, and customers, consistent with City's

Blue Container, Green Container, and Gray Container collection service or, if self-hauling, per the Commercial Businesses' instructions to support its compliance with its self-haul program, in accordance with Section 8.20.080.

- D. Excluding Multi-Family Complexes, provide containers for the collection of Source Separated Green Container compost materials and Source Separated Recyclable Materials in all indoor and outdoor areas where disposal containers are provided for customers, for materials generated by that business. Such containers do not need to be provided in restrooms. If a Commercial Business does not generate any of the materials that would be collected in one type of container, then the business does not have to provide that particular container in all areas where disposal containers are provided for customers. Pursuant to 14 CCR Section 18984.9(b), the containers provided by the business shall have either:
1. A body or lid that conforms with the container colors provided through the collection service provided by City, with either lids conforming to the color requirements or bodies conforming to the color requirements or both lids and bodies conforming to color requirements. A Commercial Business is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the requirements of the subsection prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first.
 2. Container labels that include language or graphic images, or both, indicating the primary material accepted and the primary materials prohibited in that container, or containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the container. Pursuant 14 CCR Section 18984.8, the container labeling requirements are required on new containers commencing January 1, 2022.
- E. Multi-Family Complexes are not required to comply with container placement requirements or labeling requirements in Section 8.20.030(D) pursuant to 14 CCR Section 18984.9(b).
- F. To the extent practical through education, training, inspection, and/or other measures, excluding Multi-Family Complexes, prohibit employees from placing materials in a container not designated for those materials per the City's Blue Container, Green Container, and Gray Container collection service or, if self-hauling, per the Commercial Businesses' instructions to support its compliance with its self-haul program, in accordance with Section 8.20.080.
- G. Excluding Multi-Family Complexes, periodically inspect Blue Containers, Green Containers, and Gray Containers for contamination and inform employees if containers are contaminated and of the requirements to keep contaminants out of those containers pursuant to 14 CCR Section 18984.9(b)(3).

- H. Annually provide information to employees, contractors, tenants, and customers about Compost Material Recovery requirements and about proper sorting of Source Separated Green Container Compost Materials and Source Separated Blue Cart Recyclable Materials.
- I. Provide education information before or within fourteen (14) days of occupation of the premises to new tenants that describes requirements to keep Source Separated Green Container Compost Material and Source Separated Blue Container Recyclable Materials separate from Gray Container Waste (when applicable) and the location of containers and the rules governing their use at each property.
- J. Provide or arrange access for City, its agent or designee to their properties during all Inspections conducted in accordance with Section 8.20.120 of this Chapter to confirm compliance with the requirements of this Chapter.
- K. If a Commercial Business wants to self-haul, meet the Self-Hauler requirements in Section 8.20.080.
- L. Nothing in this Section prohibits a generator from preventing or reducing MSW generation, managing Compost Materials on site, or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).
- M. Commercial Businesses that are Tier One or Tier Two Commercial Edible Food Generators shall comply with Food Recovery requirements, pursuant to Section 8.20.050 & 8.20.060.

Section 8.20.040: Waivers for Generators

- A. De Minimis Waivers: The City may waive a Single Family or Commercial Business' obligation (including Multi-Family Complexes) to comply with some or all of the Compost Material requirements of this Chapter if the Single Family or Commercial Business demonstrate and certify to the satisfaction of the City Compliance Officer or designee that such MSW, recyclable material, and compost collection service is not needed because the owner or occupant satisfies any of the following criteria:
 - 1. Submit an application specifying the services that they are requesting a waiver from and provide documentation as noted in Section 8-20.040(A)(2) below.
 - 2. Provide documentation that either:
 - a. The Commercial Business' total Solid Waste collection service is two cubic yards or more per week and Organic Waste subject to collection in a Blue Container or Green Container comprises less than 20 gallons per week per applicable container of the business' total waste; or,
 - b. Commercial Business' total Solid Waste collection service is less than two cubic yards per week and Organic Waste subject to

collection in a Blue Container or Green Container comprises less than 10 gallons per week per applicable container of the business' total waste.

3. Notify the City if circumstances change such that Commercial Business's Organic Waste exceeds threshold required for waiver, in which case waiver will be rescinded.
 4. Provide written verification of eligibility for de minimis waiver every 5 years, if City has approved de minimis waiver.
- B. Physical Space Waivers: City may waive a Commercial Business' or property owner's obligations (including Multi-Family Residential Dwellings) to comply with some or all of the recyclable materials and/or MSW, recycling and compost collection service requirements if the City has evidence from its own staff, a hauler, licensed architect, or licensed engineer demonstrating that the premises lacks adequate space for the collection containers required for compliance with the MSW, recycling and compost collection requirements or Section 8.20.020 or 8.20.030.

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

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

Section 8.20.50: Requirements for Commercial Edible Food Generators

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

2. Contract with, or enter into a written agreement with, Food Recovery Organizations or Food Recovery Services for: (i) the collection of Edible Food for Food Recovery; or (ii) acceptance of the Edible Food that the Commercial Edible Food Generator self-hauls to the Food Recovery Organization for Food Recovery.
3. Shall not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery Organization or a Food Recovery Service.
4. Allow City's City Compliance Officer or designee to access the premises and review records pursuant to 14 CCR Section 18991.4.
5. Keep records that include the following information, or as otherwise specified in 14 CCR Section 18991.4:
 - a. A list of each Food Recovery Service or organization that collects or receives its Edible Food pursuant to a contract or written agreement established under 14 CCR Section 18991.3(b).
 - b. A copy of all contracts or written agreements established under 14 CCR Section 18991.3(b).
 - c. A record of the following information for each of those Food Recovery Services or Food Recovery Organizations:
 - i. The name, address and contact information of the Food Recovery Service or Food Recovery Organization.
 - ii. The types of food that will be collected by or self-hauled to the Food Recovery Service or Food Recovery Organization.
 - iii. The established frequency that food will be collected or self-hauled.
 - iv. The quantity of food, measured in pounds recovered per month, collected or self-hauled to a Food Recovery Service or Food Recovery Organization for Food Recovery.
6. No later than March 31st of each year, commencing no later than February 1, 2023, for Tier One Commercial Edible Food Generators and February 1, 2025, for Tier Two Commercial Edible Food Generators, provide an annual Food Recovery report to the City that includes the following information:
 - a. A copy of all contracts or written agreements established under 14 CCR Section 18991.3(b).
 - b. The quantity of food, measured in annual pounds recovered, collected or self-hauled to a Food Recovery Service or Food Recovery Organization for Food Recovery.

- c. The name, address and contact information of the Food Recovery Service or Food Recovery Organization.
- D. Nothing in this Chapter shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share table and school food donation guidance pursuant to Senate Bill 557 of 2017 (approved by the Governor of the State of California on September 25, 2017, which added Chapter 13 [commencing with Section 49580] to Chapter 9 of Part 27 of Division 4 of Title 2 of the Education Code, and to amend Section 114079 of the Health and Safety Code, relating to food safety, as amended, supplemented, superseded and replaced from time to time).

Section 8.20.060: Requirements for Food Recovery Organization and Services

- A. Food Recovery Services collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(1):
 - 1. The name, address, and contact information for each Commercial Edible Food Generator from which the service collects Edible Food.
 - 2. The quantity in pounds of Edible Food collected from each Commercial Edible Food Generator per month.
 - 3. The quantity in pounds of Edible Food transported to each Food Recovery Organization per month.
 - 4. The name, address, and contact information for each Food Recovery Organization that the Food Recovery Service transports Edible Food to for Food Recovery.
- B. Food Recovery Organizations collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(2):
 - 1. The name, address, and contact information for each Commercial Edible Food Generator from which the organization receives Edible Food.
 - 2. The quantity in pounds of Edible Food received from each Commercial Edible Food Generator per month.
 - 3. The name, address, and contact information for each Food Recovery Service that the organization receives Edible Food from for Food Recovery.
- C. No later than March 31st of each year, commencing March 31, 2023 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 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).

D. Food Recovery Capacity Planning

In order to support Edible Food Recovery capacity planning assessments or other studies conducted by the City or its designee, 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 its 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.

Section 8.20.070: Requirements for Direct Service Providers / Haulers and Facility Operators

A. Requirements for Authorized Contractor of Direct Service Providers

1. Exclusive franchised Direct Service Provider providing residential, commercial, or industrial compost material collection services to generators within the City's boundaries shall meet the following requirements and standards as a condition of approval of a contract, agreement, or other authorization with the City to collect MSW, recycling, and compost material:
 - a. Through written notice to the city annually on or before March 15th identify the facilities to which they will transport Compost Material including facilities for Source Separated Recyclable Materials and Source Separated Green Container Compost Material.
 - b. Transport Source Separated Recyclable Materials and Source Separated Green Container Compost Material to a facility, operation, activity, or property that recovers Compost Material as defined in 14 CCR, Division 7, Chapter 12, Chapter2.
 - c. Obtain approval from the City to haul Compost Material, unless it is transporting Source Separated Compost Material to a Community Composting site or lawfully transporting C&D in a manner that complies with 14 CCR Section 18989.1, this Section, and City's C&D ordinance.
2. Exclusive franchised Authorized Contractor authorized to collect compostables shall comply with education, equipment, signage, container labeling, container color, contamination monitoring, reporting, and other requirements contained within its franchise agreement, permit license, or other agreements entered into with City.

B. Requirements of Facility Operators and Community Composting Operations

1. Owners of facilities, operations, and activities that recover MSW, Recycling and Compost Material, including, but not limited to, Landfills, Material Recovery Facilities,

Transfer Stations, Compost facilities, in-vessel digestion facilities, and publicly owned treatment works shall, upon City request, provide information regarding available and potential new or expanded capacity at their facilities, operations, and activities, including information about throughput and permitted capacity necessary for planning purposes. Entities contacted by the City shall respond within 60 days.

2. Community Composting operators, upon City request, shall provide information to the City to support Compost Material capacity planning, including, but not limited to, an estimate of the amount of Compost Material anticipated to be handled at the Community Composting operation. Entities contacted by the City shall respond within 60 days

Section 8.20.080: Self Hauler Requirements

- A. Self-Haulers shall source separate all recyclable materials and compost material (materials that City otherwise requires generators to separate for collection in the City's recycling materials and compost collection program) generated on-site from MSW in a manner consistent with 14 CCR Sections 18984.1 and 18984.2 or shall haul Compost Material to a High Diversion Compost Material Processing Facility as specified in 14 CCR Section 18984.3.
- B. Self-Haulers shall haul their Source Separated Recyclable Materials to a facility that recovers those materials; and haul their Source Separated Green Container Compost Material to a MSW facility, operation, activity, or property that processes or recovers Source Separated Compost Material. Alternatively, Self-Haulers may haul Compost Material to a High Diversion Compost Material Processing Facility.
- C. Self-Haulers that are Commercial Businesses (including Multi-Family Complexes) shall keep a record of the amount of Compost Material delivered to each MSW facility, operation, activity, or property that processes or recovers Compost Material; 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 Compost Material.
- D. Self-Haulers that are Commercial Businesses (including Multi-Family Self Haulers) shall provide information collected in Section 8.20.080(c) to City, if requested.
- E. A residential Compost Material Generator that self-hauls Compost Material, as described in Section 5.60.130 is not required to record or report information in Section 8.20.080(C) and (D).

Section 8.20.090: Procurement Requirements for City Departments, Authorized Contractors, and Vendors

- A. Direct Service Providers of landscaping maintenance, renovation, and construction shall:
1. Use Compost and SB 1383 Eligible Mulch, as practicable, produced from recovered Compost Material, for all landscaping renovations, construction, or maintenance performed for the City, whenever available, and capable of meeting quality standards and criteria specified. SB 1383 Eligible Mulch used for land application shall comply with 14 CCR, Division 7, Chapter 12, Chapter 12 and must meet or exceed the physical contamination, maximum metal concentration and pathogen density standards specified in 14 CCR Section 17852(a)(24.5) (A)(1) through (3).
 2. Keep and provide records of Procurement of Recovered Compost Material Products (either through purchase or acquisition) to City, upon completion of projects. Information to be provided shall include:
 - a. General description of how and where the product was used and if applicable, applied.
 - b. Source of product, including name, physical location, and contact information for each entity, operation, or facility from whom the Recovered Compost Material Products were procured.
 - c. Type of product.
 - d. Quantity of each product; and,
 - e. Invoice or other record demonstrating purchase or procurement.
- B. All vendors providing Paper Products and Printing, and Writing Paper shall:
1. If fitness and quality are equal, provide Recycled-Content Paper Products and Recycled-Content Printing and Writing Paper that consists of at least 30 percent, by fiber weight, postconsumer fiber instead of non-recycled products whenever recycled Paper Products and Printing and Writing Paper are available at the same or lesser total cost than non-recycled items or at a total cost of no more than 10% of the total cost for non-recycled items.
 2. Provide Paper Products and Printing and Writing Paper that meet Federal Trade Commission recyclability standard as defined in 16 Code of Federal Regulations (CFR) Section 260.12.
 3. Certify in writing, under penalty of perjury, the minimum percentage of postconsumer material in the Paper Products and Printing and Writing Paper offered or sold to the city. This certification requirement may be waived if the percentage of postconsumer material in the Paper Products, Printing and Writing Paper, or both can be verified by a product label, catalog, invoice, or a manufacturer or vendor internet website.

4. Certify in writing, on invoices or receipts provided, that the Paper Products and Printing and Writing Paper offered or sold to the City is eligible to be labeled with an unqualified recyclable label as defined in 16 Code of Federal Regulations (CFR) Section 260.12 (2013).
5. Provide records to the City's Recovered Compost Material Product procurement recordkeeping staff, in accordance with the City's Recycled-Content Paper procurement policy(ies) of all Paper Products and Printing and Writing Paper purchases within thirty (30) days of the purchase (both recycled-content and non-recycled content, if any is purchased) made by any division or department or employee of the City. Records shall include a copy (electronic or paper) of the invoice or other documentation of purchase, written certifications as required in Sections 7(b)(3) and 7(b)(4) of this Chapter for recycled-content purchases, purchaser name, quantity purchased, date purchased, and recycled content (including products that contain none), and if non-recycled content Paper Products or Printing and Writing Papers are provided, include a description of why Recycled-Content Paper Products or Printing and Writing Papers were not provided.

Section 8.20.100: Compliance with CALGreen Recycling Requirements

- A. Persons applying for a permit from the City for new construction and building additions and alternations shall comply with the requirements of this Section and all required components of the California Green Building Standards Code, 24 CCR, Part 11, known as CALGreen, as amended, if its project is covered by the scope of CALGreen. If the requirements of CALGreen are more stringent than the requirements of this Section, the CALGreen requirements shall apply.
- B. Project applicants shall refer to City's building code for complete CAL Green requirements.
- C. For projects covered by CAL Green, the applicants must comply with the following:
 1. Where five (5) or more Multi-Family dwelling units are constructed on a building site, provide readily accessible areas that serve occupants of all buildings on the site. These accessible areas shall provide Blue and Green Container material storage and collection, consistent with the three container collection program offered by the City, or provide adequate recycling space for Multi-Family Complexes and Commercial premises pursuant to Sections 4.408.1, 4.410.2, 5.408.1, and 5.410.1 of the California Green Building Standards Code, 24 CCR, Part 11 as amended provided amended requirements are more stringent than the CALGreen requirements for adequate recycling space effective January 1, 2020.
 2. New Commercial construction or additions that increase floor area by more than 30% shall provide readily accessible areas identified for Blue Container and Green Container material storage and collection, consistent with the three-container collection program offered by the City, or provide adequate recycling space for Multi-Family Complexes and Commercial premises pursuant to Sections 4.408.1, 4.410.2, 5.408.1, and 5.410.1 of the California Green Building Standards Code, 24 CCR, Part 11

as amended provided amended requirements are more stringent than the CALGreen requirements for adequate recycling space effective January 1, 2020.

3. Comply with CALGreen requirements and applicable law related to management of C&D, including Compost Material in C&D diversion from disposal. Comply with City's C&D ordinance, Chapter 15.32 of City's municipal code, and all written and published City policies and/or administrative guidelines regarding collection, recycling, diversion, tracking, and/or reporting of C&D.

Section 5.6.110: Model Water Efficient Landscaping Ordinance Requirements

- A. Property owners or their building or landscape designers, including anyone requiring a building or planning permit, plan check, or landscape design review from the City, who are constructing a new Single-Family, Multi-Family, public, institutional, or Commercial project with a landscape area greater than 500 square feet, or rehabilitating an existing landscape with a total landscape area greater than 2,500 square feet, shall comply with Sections 492.6(a)(3)(B) (C), (D), and (G) of the MWEL0, including sections related to Compost and mulch use as delineated in this Section.
- B. The following MWEL0 Compost and mulch use requirements are now also included as requirements of this Section.
- C. Property owners or their building or landscape designers that meet the MWEL0 threshold compliance outlined in 5.6.110(A) above shall:
 1. Comply with MWEL0 Sections 492.6 (a)(3)(B)(C)(D) and (G) , which requires landscape design plan submittal with soil preparation, mulch, and amendments section to include the following:
 - a. For landscape installations, Compost a minimum of four cubic yards per 1,000 square feet of permeable area incorporated to a six (6) inches soil depth. Soils with greater than six percent (6%) organic matter in the top six (6) inches of soil are exempt from adding Compost and tilling.
 - b. For landscape installations, a minimum three- (3-) inch layer of mulch shall be applied on all exposed planting areas soil surfaces except in turf areas, creeping or rooting groundcovers, or direct seeding applications where mulch is contraindicated. To provide habitat for beneficial insects and other wildlife up to five percent (5%) of the landscape area may be left without mulch. Designated insect habitat must be included in the landscape design plan as such.
 - c. Organic mulch materials made from recycled or post-consumer materials shall take precedence over inorganic materials or virgin forest products unless the recycled post-consumer organic products are not locally available. Organic mulches are not required where prohibited by local fuel modification plan guidelines or other applicable local ordinances.

2. The MWELO compliance items listed in this Section are not an inclusive list of MWELO requirements; therefore, property owners or their building or landscape designers that meet the MWELO compliance threshold outlined in this Section shall consult the full MWELO for all requirements.
- D. If, after the adoption of this Chapter, the California Department of Water Resources, or its successor agency, amends 23 CCR, Division 2, Chapter 2.7, Sections 492.6(a)(3)(B) (C), (D), and (G) of the MWELO September 15, 2015 requirements, the City shall update the local MWELO ordinance. If the amended MWELO requirements are more stringent than those required in this Section, the revised 23 CCR, Division 2, Chapter 2.7 requirements shall be enforced.

Section 8.20.120: Inspections and Investigations by City

- A. City Enforcement Officer and/or its designated entity, including Designees, are authorized to conduct Inspections and investigations, at random or otherwise, of any collection container, collection vehicle loads, or transfer, processing, or disposal facility for materials collected from generators, or Source Separated materials to confirm compliance with this Section by Compost Material Generators, Commercial Businesses (including Multi-Family Complexes), property owners, Commercial Edible Food Generators, Authorized Contractors, Self-Haulers, Food Recovery Services, and Food Recovery Organizations, subject to applicable laws. This Section does not allow City to enter the interior of a private residential property for Inspection.
- B. Regulated entity shall provide or arrange for access during all Inspections (with the exception of residential property interiors) and shall cooperate with the City's employee or its designated entity/Designee during such Inspections and investigations. Such Inspections and investigations may include confirmation of proper placement of materials in containers, Edible Food Recovery activities, records, or any other requirement of this Chapter described herein. Failure to provide or arrange for: (i) access to an entity's premises; or (ii) access to records for any Inspection or investigation is a violation of this ordinance and may result in penalties described.
- C. Any records obtained by a City during its Inspections and other reviews shall be subject to the requirements and applicable disclosure exemptions of the Public Records Act as set forth in Government Code Section 6250 et seq.
- D. City representatives, its designated entity, and/or Designee are authorized to conduct any Inspections or other investigations as reasonably necessary to further the goals of this ordinance, subject to applicable laws.
- E. City shall receive written complaints from persons regarding an entity that may be potentially non-compliant with SB 1383 Regulations, including receipt of anonymous complaints.

Section 8.20.130: Enforcement

- A. Violation of any provision of this Chapter shall constitute grounds for issuance of a Notice of Violation and assessment of a fine by a City Compliance Officer or Designee. Enforcement Actions under this Chapter are administrative citation issuance and fine assessment. The City's

procedures on administrative fines set forth in chapter 9.12 are hereby incorporated in their entirety, as modified from time to time, and shall govern the imposition, enforcement, collection, and review of administrative citations issued to enforce this Chapter and any rule or regulation adopted pursuant to this Chapter, except as otherwise indicated in this Chapter.

B. Other remedies allowed by law may be used, including civil action or prosecution as misdemeanor or infraction. City may pursue civil actions in the California courts to seek recovery of unpaid administrative citations. 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.

C. Responsible Entity for Enforcement

1. Enforcement pursuant to this Chapter may be undertaken by the City Compliance Officer, which may be the city manager or their designated entity, legal counsel, or combination thereof.
2. Enforcement may also be undertaken by a Regional or County Agency Enforcement Officer, designated by the city, in consultation with City Compliance Officer.
 - a. City Compliance Officer(s) and Regional or County Agency Enforcement Officer will interpret ordinance; determine the applicability of waivers, if violation(s) have occurred; implement Enforcement Actions; and, determine if compliance standards are met.
 - b. City Compliance Officer(s) and Regional or County Agency Enforcement Officer may issue Notices of Violation(s).

D. Process of Enforcement

1. City Compliance Officers or Regional or County Enforcement Officers and/or their Designee will monitor compliance with the ordinance randomly and through Compliance Reviews, Route Reviews, investigation of complaints, and an Inspection program. Chapter 8.20.130 establishes City's right to conduct Inspections and investigations.
2. City may issue an Officer notification to notify regulated entities of its obligations under the ordinance.
3. City shall issue a Notice of Violation requiring compliance within 60 days of issuance of the notice.
4. Absent compliance by the respondent within the deadline set forth in the Notice of Violation, City shall commence an action to impose penalties, via an administrative citation and fine, pursuant to the City's Administrative Citation ordinance in Chapter 1.20 to 1.24.

Notices shall be sent to "owner" at the Officer address of the owner maintained by the tax collector for the City or if no such address is available, to the owner at the address of the dwelling or Commercial property or to the party responsible for paying for the collection services, depending upon available information.

E. Penalty Amounts for Types of Violations

The fine structure in Chapter 9.12, as amended, is hereby incorporated into this Ordinance.

F. Compliance Deadline Extension Considerations

The City may extend the compliance deadlines set forth in a Notice of Violation issued in accordance with Section 8.20.130 if it finds that there are extenuating circumstances beyond the control of the respondent that make compliance within the deadlines impracticable, including the following:

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

G. Appeals

Process

The Appeals Process identified in Chapter 9.12 are hereby incorporated into this ordinance.

H. Education Period for Non-Compliance

Beginning January 1, 2022 and through December 31, 2023, City or its Designee will conduct Inspections, Route Reviews or waste evaluations, and Compliance Reviews, depending upon the type of regulated entity, to determine compliance, and if City determines that Compost Material Generator, Self-Hauler, Authorized Contractor, Tier One Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance, it shall provide educational materials to the entity describing its obligations under this Chapter and a notice that compliance is required by January 1, 2022, and that violations may be subject to administrative civil penalties starting on January 1, 2024

I. Civil Penalties for Non-Compliance

Beginning January 1, 2024, if the City determines a Compost Material Generator, Self-Hauler, Authorized Contractor, Tier One or Tier Two Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance with this Chapter, it shall document the noncompliance or violation, issue a Notice of Violation, and take Enforcement Action pursuant to Section 8.20.130, as needed.

Section 8.20.140: Effective Date

This Chapter shall be effective commencing January 1, 2022.

SECTION 2: CEQA Findings. Compliance with California Environmental Quality Act. The City Council finds that this Ordinance is exempt because it is not a project which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, pursuant to CEQA Guideline section 15378. Further, the action is exempt under CEQA Guidelines Sections 15307 and 15308 for actions by regulatory agencies for the protection of natural resources and the environment.

SECTION 3: Effective Date. This ordinance shall become effective on January 1, 2022.

SECTION 4: Severability. If any section, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that one or more section, subsections, clauses or phrases be declared invalid or unconstitutional.

SECTION 5: Custodian of Records. The documents that constitute the record of proceedings on which this Ordinance is based are located at the City Clerk’s office located at 4831 Broadway, Suite 201, American Canyon, CA. 94503. The custodian of these records is the City Clerk.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of American Canyon, State of California, held on the 2nd day of November, 2021, by the following vote:

AYES:
NOES:

The foregoing Ordinance was adopted at a regular meeting of the City Council of the City of American Canyon, State of California, held on the 16th day of November, 2021, by the following vote:

AYES: Councilmembers Aboudamous, Oro, Washington, Vice Mayor Joseph, and Mayor Garcia
NOES: None
ABSTAIN: None
ABSENT: None

DocuSigned by:
Leon Garcia
0A1B83340DA647C...
Leon Garcia, Mayor

ATTEST:

DocuSigned by:
Taresa Geilfuss
069347683BC94DC...
Taresa Geilfuss City Clerk

APPROVED AS TO FORM:

DocuSigned by:
William D. Ross
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William D. Ross, City Attorney