

ORDINANCE NO. 2021-15

AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
AMENDING CHAPTER 14 OF THE
MUNICIPAL CODE PERTAINING TO SOLID
WASTE AND RECYCLING

The City Council of the City of Escondido, California, does hereby ordain as follows:

SECTION 1. The City Council makes the following findings:

- a) That the City Council has reviewed and considered the requirements of the State of California regarding solid waste recycling (Assembly Bill 939 of 1989 and Assembly Bill 341 of 2011), organic waste recycling (Assembly Bill 1826 of 2014), and short-lived climate pollutants to reduce organics in landfills as a source of methane (SB 1383 of 2016).
- b) That upon consideration of potential State penalties for noncompliance, and incorporating recommendations of the Model Ordinance developed by the California Department of Resources Recycling and Recovery (CalRecycle), Escondido Municipal Code Chapter 14 titled "Garbage and Rubbish" must be updated to meet current regulations prior to January 1, 2022.

SECTION 2. Proper notices of a public hearing have been given and public hearings have been held before the City Council on this issue.

SECTION 3. That Chapter 14 of the Escondido Municipal Code is hereby renamed to “Solid Waste and Recycling” and amended as set forth in Exhibit “A” to this Ordinance and incorporated herein by this reference as though fully set forth herein.

SECTION 4. ENVIRONMENTAL REVIEW. The proposed Ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Sections 15061(b)(3) and 15308, in that the proposed regulations will not result in any environmental impacts and ensures the City of Escondido is meeting State required standards, and the regulatory action is going to help protect the environment.

SECTION 5. SEVERABILITY. If any section, subsection sentence, clause, phrase or portion of this ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions.

SECTION 6. As of the effective date of this ordinance, all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 7. The City Clerk is hereby directed to certify to the passage of this ordinance and to cause the same or a summary to be published one time within 15 days of its passage in a newspaper of general circulation for the City of Escondido.

PASSED, ADOPTED AND APPROVED by the City Council of the City of Escondido at a regular meeting thereof this 15th day of December, 2021 by the following vote to wit:

AYES : Councilmembers: GARCIA, INSCOE, MORASCO, MARTINEZ, MCNAMARA

NOES : Councilmembers: NONE

ABSENT : Councilmembers: NONE

APPROVED:

DocuSigned by:
Paul McNamara
CAACE20783954D3
PAUL MCNAMARA, Mayor of the
City of Escondido, California

ATTEST:

DocuSigned by:
Zack Beck
A58535D0BDC1430...
ZACK BECK, City Clerk of the
City of Escondido, California

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO : ss.
CITY OF ESCONDIDO)

I, Zack Beck, City Clerk of the City of Escondido, hereby certify that the foregoing ORDINANCE NO. 2021-15 passed at a regular meeting of the City Council of the City of Escondido held on the 1st day of December, 2021, after having been read at the regular meeting of said City Council held on the 15th day of December, 2021.

DocuSigned by:
Zack Beck
A58535D0BDC1430...
ZACK BECK, City Clerk of the
City of Escondido, California

ORDINANCE NO. 2021-15

MUNICIPAL CODE AMENDMENT

SECTION I.

Repealing in its entirety, Chapter 14 of the Escondido Municipal Code and adopting in full new text to read as specified below.

CHAPTER 14 SOLID WASTE AND RECYCLING

ARTICLE 1. IN GENERAL

Sec. 14-1.1. Definitions.

Whenever the following defined words and phrases are used in this chapter, they shall have the definition or meaning established by this section, unless it is clearly apparent from the context in which the word or phrase appears that a different definition or meaning is intended.

1. "Animal Waste" means pet waste, manure, fertilizer, or any form of solid excrement produced by any and all forms of domestic or commercial livestock.

2. "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.

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

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

5. "Cardboard" means post-consumer waste paper grade corrugated Cardboard (#11), kraft (brown) paper bags or solid fiber boxes.

6. "City" means the City of Escondido.

7. "City Manager" means the City Manager of the City of Escondido.

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 Multifamily Residential Dwelling, or as otherwise defined in 14 CCR Section 18982(a)(6). A Multifamily Residential Dwelling that consists of fewer than five units is not a Commercial Business for purposes of implementing this ordinance.

9. "Commercial Edible Food Generator" includes a Tier One or a Tier Two Commercial Edible Food Generator as defined in this ordinance 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).

10. "Commercial Solid Waste" means Solid Waste originating from stores, offices, and other commercial sources, but does not include construction and demolition waste.

11. "Compliance Review" means a review of records by the City to determine compliance with this ordinance.

12. "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).

13. "Compost" has the same meaning as in 14 CCR Section 17896.2(a)(4), which stated, as of the effective date of this ordinance, that "Compost" means the product resulting from the controlled biological decomposition of organic Solid Wastes that are Source Separated from the municipal Solid Waste stream, or which are separated at a centralized facility.

14. "Compostable Plastics" or "Compostable Plastic" means plastic materials that meet the ASTM D6400 standard for compostability, or as otherwise described in 14 CCR Section 18984.1(a)(1)(A) or 18984.2(a)(1)(C).

15. "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).

16. "Construction Waste" or "Construction Site Debris" means and includes sweepings, rocks, stones, bricks, plaster, or other building materials whether combustible or noncombustible, resulting from construction, remodeling, repair, or demolition of old buildings or resulting from new construction of any other structure and pavement.

17. "City Council" or "Council" means the city council of the City of Escondido.

18. "Curbside Collection" means the collection of recyclables or refuse from the curb or alleyway.

19. "Designated Source Separated Organic Waste Facility", as defined in 14 CCR Section 18982(14.5), means a Solid Waste facility that accepts a Source Separated Organic Waste collection stream as defined in 14 CCR Section 17402(a)(26.6) and complies with one of the following:

a. The facility is a "transfer/processor," as defined in 14 CCR Section 18815.2(a)(62), that is in compliance with the reporting requirements of 14 CCR Section 18815.5(d), and meets or exceeds an annual average Source Separated organic content Recovery rate of 50 percent between January 1, 2022 and December 31, 2024 and 75 percent on and after January 1, 2025 as calculated pursuant to 14 CCR Section 18815.5(f) for Organic Waste received from the Source Separated Organic Waste collection stream.

i. If a transfer/processor has an annual average Source Separated organic content Recovery rate lower than the rate required in Paragraph 1 of this definition for two consecutive reporting periods, or three reporting periods within three years, the facility shall not qualify as a "Designated Source Separated Organic Waste Facility".

b. The facility is a "composting operation" or "composting facility" as defined in 14 CCR Section 18815.2(a)(13), that pursuant to the reports submitted under 14 CCR Section 18815.7 demonstrates that the percent of the material removed for landfill disposal that is Organic Waste is less than the percent specified in 14 CCR Section 17409.5.8(c)(2) or 17409.5.8(c)(3), whichever is applicable, and, if applicable, complies with the digestate handling requirements specified in 14 CCR Section 17896.5.

i. If the percent of the material removed for landfill disposal that is Organic Waste is more than the percent specified in 14 CCR Section 17409.5.8(c)(2) or 17409.5.8(c)(3), for two consecutive reporting periods, or three reporting periods within three years, the facility shall not qualify as a "Designated Source Separated Organic Waste Facility." For the purposes of this ordinance, the reporting periods shall be consistent with those defined in 14 CCR Section 18815.2(a)(49).

20. "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.

21. "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 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.

22. "Franchisee" means any refuse collector or recycling agent authorized by the City Council of the City of Escondido, pursuant to the procedures established by this chapter.

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

24. "Enforcement Official" means the City Manager or other executive in charge or their authorized Designee(s) who is/are partially or entirely responsible for enforcing this ordinance.

25. "Excluded Waste" means hazardous substance, hazardous waste, infectious waste, designated waste, volatile, corrosive, medical waste, 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, reasonable opinion

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 Multifamily Solid Waste after implementation of programs for the safe collection, processing, recycling, treatment, and disposal of batteries and paint in compliance with Sections 41500 and 41802 of the California Public Resources Code. Excluded Waste does not include used motor oil and filters, household batteries, universal wastes, and/or latex paint when such materials are defined as allowable materials for collection through the City's or its Designee's collection programs and the generator or customer has properly placed the materials for collection pursuant to instructions provided by Jurisdiction or its Designee for collection services.

26. "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).

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

28. "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).

29. "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.

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.

30. "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).

31. "Food Scraps" means all food such as, but not limited to, fruits, vegetables, meat, poultry, seafood, shellfish, bones, rice, beans, pasta, bread, cheese, and eggshells. Food Scraps

excludes fats, oils, and grease when such materials are Source Separated from other Food Scraps.

32. "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).

33. "Food-Soiled Paper" is compostable paper material that has come in contact with food or liquid, such as, but not limited to, compostable paper plates, paper coffee cups, napkins, pizza boxes, and milk cartons.

34. "Food Waste" means Food Scraps and Food-Soiled Paper.

35. "Glass Bottles and Jars" means food and beverage glass containers including container glass covered by the deposit law, and excluding household and kitchen containers such as drinking glasses, cups, and cooking and serving dishes.

36. "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.

37. "Gray Container Waste" means Solid Waste that is collected in a Gray Container that is part of a three-container Organic Waste collection service that prohibits the placement of Organic Waste in the Gray Container as specified in 14 CCR Sections 18984.1(a) and (b), or as otherwise defined in 14 CCR Section 17402(a)(6.5).

38. "Green Container" has the same meaning as in 14 CCR Section 18982.2(a)(29) and shall be used for the purpose of storage and collection of Source Separated Green Container Organic Waste.

39. "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).

40. "Hauler Route" means the designated 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).

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

42. "Inspection" means a site visit where the City reviews records, containers, and an entity's collection, handling, recycling, or landfill disposal of Organic Waste or Edible Food

handling to determine if the entity is complying with requirements set forth in this ordinance, or as otherwise defined in 14 CCR Section 18982(a)(35).

43. "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.

44. "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 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. If the definition in 14 CCR Section 18982(a)(39) differs from this definition, the definition in 14 CCR Section 18982(a)(39) shall apply to this ordinance.

45. "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).

46. "Metal" means recoverable aluminum, tin and bi-metal materials such as used beverage containers, siding, and other recyclable manufactured metal items.

47. "Mixed Paper" means and includes catalogs, cereal boxes, colored paper, computer paper, construction paper, cracker boxes, envelopes (non-padded), envelopes with windows, grocery bags (brown), junk mail, legal pad backings, magazines, shoe boxes, telephone books and white ledger paper.

48. "Multifamily Residential Dwelling" or "Multifamily" means of, from, or pertaining to residential premises with five or more dwelling units. Multifamily premises do not include hotels, motels, or other transient occupancy facilities, which are considered Commercial Businesses.

49. "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).

50. "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):

- a. Special district(s) located within the boundaries of the City;

b. Federal facilities, if any, including military installations, located within the boundaries of the City;

c. Facilities operated by the State park system located within the boundaries of the City, if any;

d. Public universities (including community colleges) located within the boundaries of the City;

e. County fairgrounds located within the boundaries of the City;

f. State agencies located within the boundaries of the City, if any.

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

52. "Occupant" means and includes every owner of and every tenant or Person who is in possession of, is the inhabitant of, or has the care and control of an inhabited residence or a Place of Business including, but not limited to, the United States, the State of California, the county of San Diego, the city of Escondido, and every other local agency.

53. "Organic Waste" means Solid Wastes containing material originated from living organisms and their metabolic waste products, including but not limited to food, green material, Yard Waste, organic textiles and carpets, lumber, wood, Paper Products, printing and writing Paper, 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).

54. "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).

55. "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).

56. "Person" as used in this chapter means any individual, firm, corporation, association or group or combination acting as a unit.

57. "Place of Business" means any hotel, motel, trailer court, Restaurant, cafeteria, market, hospital, or any educational, professional, commercial or industrial establishment of any nature whatsoever, where there is an accumulation of refuse.

58. "Prohibited Container Contaminants" means the following: (a) discarded materials placed in the Blue Container that are not identified as acceptable Source Separated Recyclable Materials for the City's Blue Container; (b) discarded materials placed in the Green Container that are not identified as acceptable Source Separated Green Container Organic Waste for the City's Green Container; (c) discarded materials placed in the Gray Container that are acceptable Source Separated Recyclable Materials and/or Source Separated Green Container Organic Wastes to

be placed in City's Green Container and/or Blue Container; and, (d) Excluded Waste placed in any container.

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

60. "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).

61. "Recyclable Material" means materials that are recyclable and/or reusable within the following categories of residential, commercial (office and hospitality), and industrial as defined more specifically by resolution of the City Council, including: printing and writing papers, glass, Cardboard, rigid plastics and empty plastic beverage bottles and containers, newspaper, White Goods, tin cans, ferrous Metal, aluminum, or other materials which may be recycled for use in an altered form, that has been segregated from other Solid Waste and placed at a designated collection location for the purpose of collection and recycling.

62. "Recycling Operator" means a Person or Persons, firm, partnership, joint venture, association or corporation engaged in the collection and recycling of waste and other discarded materials. For the purposes of this chapter, "recycling" shall mean as established by Government Code Section 66716.6

63. "Regional Agency" means regional agency as defined in Public Resources Code Section 40181.

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

65. "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).

66. "Residential Dwelling Unit" means each place used for residential dwelling purposes for a single family. A structure may have one or more Residential Dwelling Units. No place used primarily for business purposes shall be considered as a Residential Dwelling Unit.

67. "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).

68. "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).

69. "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.

70. "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.

71. "Scavenging" means the uncontrolled and/or unauthorized removal of Solid Waste materials, Recyclable Materials, or Organic Waste.

72. "Self-Hauler" means a Person, who hauls Solid Waste, Organic Waste or Recyclable Material he or she has generated to another Person. Self-Hauler also includes a Person who back-hauls waste, or as otherwise defined in 14 CCR Section 18982(a)(66). Back-haul means generating and transporting Organic Waste to a destination owned and operated by the generator using the generator's own employees and equipment, or as otherwise defined in 14 CCR Section 18982(a)(66)(A).

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

74. "Solid Waste" has the same meaning as defined in State Public Resources Code Section 40191, which defines Solid Waste as all putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, rubbish; ashes, bottles, broken crockery, glass; such industrial, domestic, and organic Solid Wastes or residue of animals sold for meat; Offal, animal excreta, or the carcasses of animals, fish or fowl; industrial wastes; demolition and Construction Wastes that cannot be reused; abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, and other discarded solid and semi Solid Wastes, with the exception that Solid Waste does not include any of the following wastes:

a. Hazardous waste, as defined in the State Public Resources Code Section 40141.

b. 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).

c. 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 Solid Waste landfill, as defined in State 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 State Public Resources Code.

75. "Solid Waste Collector" means any Person or Persons, firm, partnership, joint venture, association or corporation engaged in the collection, transportation or disposal of refuse in the City.

76. "Solid Waste Disposal" includes the collecting, transporting and disposal of Solid Waste in the City.

77. "Solid Waste Disposal Operator" is synonymous with "refuse collector," "contractor" or "collector."

78. "Source Separated" means materials, including commingled Recyclable Materials or Organic Waste, that have been separated or kept separate from the Solid Waste stream, at the point of generation, for the purpose of additional sorting or processing those materials for recycling or reuse in order to return them to the economic mainstream in the form of raw material for new, reused, or reconstituted products, which meet the quality standards necessary to be used in the marketplace, or as otherwise defined in 14 CCR Section 17402.5(b)(4). For the purposes of the 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 Solid Waste for the purposes of collection and processing.

79. "Source Separated Green Container Organic Waste" means Source Separated Organic Waste that can be placed in a Green Container that is specifically intended for the separate collection of Organic Waste by the generator, excluding carpets, Non-Compostable Paper, and textiles.

80. "State" means the State of California.

81. "Streets" mean the public Streets, ways, alleys and places, except State freeways, as the same now or may hereafter exist within the City.

82. "Supermarket" means a full-line, self-service retail store with gross annual sales of \$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).

83. "Tier One Commercial Edible Food Generator" means a Commercial Edible Food Generator that is one of the following:

- a. Supermarket;
- b. Grocery Store with a total facility size equal to or greater than 10,000 square feet;
- c. Food Service Provider;
- d. Food Distributor; or
- e. Wholesale Food Vendor.

If the definition in 14 CCR Section 18982(a)(73) of Tier One Commercial Edible Food Generator differs from this definition, the definition in 14 CCR Section 18982(a)(73) shall apply to this ordinance.

84. "Tier Two Commercial Edible Food Generator" means a Commercial Edible Food Generator that is one of the following:

- a. Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet;
- b. Hotel with an on-site Food Facility and 200 or more rooms;
- c. Health facility with an on-site Food Facility and 100 or more beds;
- d. Large Venue;
- e. Large Event;
- f. A State agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet; or
- g. A Local Education Agency facility with an on-site Food Facility.

If the definition in 14 CCR Section 18982(a)(74) of Tier Two Commercial Edible Food Generator differs from this definition, the definition in 14 CCR Section 18982(a)(74) shall apply to this ordinance.

85. "Transfer Station" means the City's designated site where collected refuse may be transferred to vehicles which will haul the refuse to a disposal site.

86. "Truck" means any Truck, trailer, semi-trailer, conveyance or vehicle used or intended to be used for the purpose of collecting refuse or to haul or transport refuse.

87. "White Goods" means large enameled appliances such as refrigerators, ovens, and washing machines.

88. "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).

89. "Wood Waste" means lumber and wood products but excludes painted wood, wood treated with chemicals and pressure treated wood.

90. "Yard Waste" means landscaping and pruning waste such as leaves, grass, weeds, and wood material from trees and shrubs that are less than four feet in length and six inches in diameter.

Sec. 14-1.2. City Manager duties and authority.

- A. The City Manager is hereby authorized and empowered to adjust, settle, or cancel any charge required or made under this chapter or any controversy which may arise in the administration of this chapter.
- B. The City Manager, or his/her Designee, is hereby authorized to execute, on behalf of the City, any contract, agreement, or other authorization pursuant to this chapter.
- C. The City Manager shall have charge and supervision of the collection and removal of Solid Waste, Recyclable Material, and Organic Waste and shall prescribe and establish the routes and days for such collection and removal from the various parts of the City so as to conform with the provisions of this chapter. The manager shall have the authority to change such routes and days from time to time.
- D. When the routes and days of collection of Solid Waste, Recyclable Material, and Organic Waste are established or changed as authorized by this chapter, the City Manager shall give notice thereof in such manner as he/she deems best.
- E. The type of watertight, Metal body, or container required in vehicles transporting or carrying Solid Waste, Recyclable Material, and Organic Waste over the public Streets and the method of hauling Solid Waste, Recyclable Material, and Organic Waste in vehicles shall be subject to the regulation and approval of the City Manager.
- F. The City Manager, or his/her Designee, shall have responsibility for the enforcement of all provisions of this chapter. Violations of this chapter and regulations adopted pursuant to this chapter will be prosecuted in the same manner as other violations of the City code; however, nothing in the regulations shall prevent the authorized agents or deputies from efforts to obtain voluntary compliance by way of warning, Notice of Violation, or educational means.

Sec. 14-1.3. Severability.

- A. If any section, subsection, sentence, clause, or phrase of this chapter is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions. The City Council of the City of Escondido hereby declares that it would have passed this chapter and each section, subsection, clause, and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional, and would have passed and adopted the same, even though any parts, sections, subsections, sentences, clauses or phrases that may be held invalid had been omitted therefrom.
- B. The provisions of this chapter are intended to augment and be in addition to other provisions of the Escondido Municipal Code. Whenever the provisions of this chapter impose a greater restriction upon Persons, premises, or practices than are imposed by other provisions of the Escondido Municipal Code or applicable law, the provisions of this chapter shall control.

Sec. 14-1.4. City Council authority.

- A. The City Council will, from time to time, appropriate such funds as are necessary to carry out the provisions of this chapter.

- B. The City Council shall have the authority to make other reasonable rules and regulations concerning individual collection, disposal, and hauling of Solid Waste, Recyclable Material, or Organic Waste over City Streets by private Persons, or relating to the operation of a Transfer Station.
- C. The City Council by resolution shall designate materials to be recycled in accordance with this chapter.
- D. Recycling fees and exceptions from recycling fees under this chapter may be established by resolution of the City Council.

ARTICLE 2. CONTAINERS

Sec. 14-2.1. Use of containers required.

All accumulations of Solid Waste, Recyclable Materials and Organic Waste shall be placed in the containers as required by this chapter.

Sec. 14-2.2. Containers.

- A. It shall be the duty of the Occupants of residential, Commercial, and industrial occupancies to maintain containers for the accumulation and disposal of Solid Waste, Recyclable Material, and Organic Waste. Such containers must be adequate to contain the amount of refuse ordinarily accumulated at such place during the intervals between collection.
- B. All containers or receptacles used for the reception, removal, and disposal of Solid Waste, Recyclable Material, and Organic Waste or other refuse shall be water-tight, in good condition, clean and free of putrescible residue, constructed of a material of suitable strength and durability, shall be tight-seamed and provided with handles and tight-fitting lid or cover, which lid shall be and remain affixed to the container at such time as the Solid Waste, Recyclable Material, Organic Waste, and other refuse are placed within the container.
- C. Organic Waste, including Yard Wastes, may be deposited in well-constructed containers having a capacity not in excess of 96 gallons each (residential) and which, when filled, do not collectively exceed a weight of 50 pounds.
- D. No Person shall fill any container with Solid Waste, Recyclable Material, Organic Waste, or other refuse above the top of the container to such extent as to permit the contents of any container to be blown or otherwise strewn about. Paper bags and Cardboard containers shall not be used as containers for the disposal of Solid Waste, Recyclable Material, Organic Waste, and other refuse.
- E. Where a Franchisee, pursuant to a franchise agreement under this chapter, provides carts/containers for refuse, all refuse and recyclables must be containerized only in the carts/containers provided by the Franchisee at the cost and under the terms set out in the franchise agreement. Containers provided by the Franchisee are the sole property of the Franchisee and may not be removed from the residential premises for which they are provided. Franchisee shall be responsible for normal wear and tear of such containers. Costs to repair damages beyond ordinary wear and tear shall be borne by the resident. Costs for additional

carts/containers shall be borne by the resident. All costs shall be as set out in the franchise agreement

F. All containers provided by a Franchisee for collection of Solid Waste, Recyclable Material, and Organic Waste shall be clearly labeled and shall contain the name, address, and phone number of the Franchisee.

G. In Commercial and business zones, containers shall be metal lined, leak proof, constructed of noncombustible materials, provided with an impervious lid, and approved by the fire department or its representative as providing adequate protection against fire hazard.

H. Containers which fail to comply with the requirements of this chapter, or which have deteriorated to the point where they are no longer in compliance will be marked by the collector and will not be collected.

Sec. 14-2.3. Placement of containers generally.

A. It shall be the duty of Occupants of residential property to set out or place containers or receptacles for collection and removal of Solid Waste, Recyclable Material, and Organic Waste not otherwise transported by the Occupant pursuant to this chapter, as follows: in the street at the curb line in front of the premises occupied by the Person for collection by the Franchisee on the day specified by the Franchisee for collection of the Solid Waste, Recyclable Material, or Organic Waste; provided, that the Franchisee may designate some other location for the placement of containers and receptacles to expedite collection.

B. It shall be unlawful to place, deposit, or permit to remain any Solid Waste, Recyclable Material, or Organic Waste containers on the curbs, parkways, or sidewalks of any public street located in residential areas before 6 p.m. on the day prior to collection, or after 6 p.m. on the day of collection after the materials have been removed or collected.

C. Each owner, Occupant, tenant, or lessee of a house or building used for residential, business or Commercial purposes shall maintain supervision and surveillance over the Solid Waste, Recyclable Material, and Organic Waste containers and receptacles on the premises, and shall maintain the same in a sanitary condition. If the containers or receptacles should not be emptied and the contents removed on the date and time scheduled by the Franchisee, they should immediately notify the City or the Franchisee to forthwith arrange for the collection and disposal of the refuse.

D. Junk, salvage, and other Solid Waste which exceeds the limitations specified in this chapter may, in the discretion of the Franchisee, be scheduled for special collection upon the application of the Occupant of the premises. Special collection charges may be assessed by the Franchisee for this service.

E. Notwithstanding subsection B of this ordinance, the City Manager may temporarily allow a Franchisee to place a Commercial Solid Waste, Recyclable Material, or Organic Waste collection container in that portion of a roadway reserved for the parking of vehicles; provided, that the Franchisee shall first agree to defend and indemnify the City for any damage, liability, or claim in any manner caused by the existence of the container at the allowed location; and provided

further, that the Franchisee shall agree to comply with any conditions deemed necessary by the City Manager to protect the public health, safety, or welfare.

Sec. 14-2.4. Placement of containers for Recyclable Material.

A. A Recycling Operator holding a valid Class II franchise may place collection containers on public or private property as follows:

1. On public property with the written permission of the City Manager;

2. On private property with the written permission of the owner, lessee or Person entitled to immediate possession of the property.

B. All collection containers for Recyclable Materials shall be constructed of a solid material and be designed to ensure that the Recyclable Material is confined within the container. All collection containers shall contain the name, address and telephone number of the Recycling Operator.

C. Any container for Recyclable Material placed upon public property in violation of this chapter may be removed by the City according to the following provisions:

1. If the container is placed upon a public street or on a public street right-of-way, so as to cause a hazard to the traveling public, the container may be immediately removed without notice. After removal, the City shall attempt to ascertain the identity of the owner, and if the identity of the owner is ascertained, shall notify the owner of the removal and of the owner's right to reclaim the container.

2. If the container is placed upon public property other than in a manner subject to subparagraph 1 of this subsection C, the container may be removed by the City 10 days after the posting of a notice to remove on the container. The notice to remove shall be of a size not less than eight and one-half by 11 inches and shall contain a statement substantially as follows:

THIS CONTAINER HAS BEEN PLACED ON PUBLIC PROPERTY IN VIOLATION OF CHAPTER 13 OF THE ESCONDIDO MUNICIPAL CODE. IF THIS CONTAINER IS NOT REMOVED ON OR BEFORE _____ (DATE 10 DAYS FROM DATE OF POSTING OF NOTICE), IT WILL BE REMOVED BY THE CITY, YOU WILL BE REQUIRED TO PAY THE COSTS OF REMOVAL. IF YOU DO NOT CLAIM THIS CONTAINER FROM THE CITY WITHIN 30 DAYS AFTER ITS REMOVAL, THE CONTAINER MAY BE DESTROYED OR OTHERWISE DISPOSED OF BY THE CITY.

3. If the container is removed by the City according to this subsection C, the City shall retain the container for 30 days, during which it shall use reasonable efforts to identify the owner. If the container is not reclaimed by the owner within the 30-day period, the City may destroy or otherwise dispose of the container.

4. If the container is removed by the City, the cost of the removal shall be charged against the owner of the container.

ARTICLE 3. STORAGE, DUMPING, BURYING, BURNING, AND DISPOSAL**Sec. 14-3.1. Duration of storage.**

It is unlawful for any Person to store or accumulate any Solid Waste, Recyclable Material, Organic Waste or other refuse in any container or at any location other than as hereinabove set forth, or for any length of time determined by the City Manager or Designee to be an environmental concern, public health hazard, or nuisance.

Sec. 14-3.2. Storage, Dumping, Burning, Burying Prohibited

A. Other than as herein set forth, it is unlawful and a misdemeanor for any Person to dump, burn, bury or otherwise dispose of, or store or accumulate, any Solid Waste, Recyclable Material, or Organic Waste on any private or public property within the City; provided, however, that Yard Waste or Organic Waste may be permitted for the purpose of composting under such circumstances and conditions as are established by the City Manager.

Sec. 14-3.3. Solid Waste, Recyclable Material, and Organic Waste disposal.

A. Solid Waste Disposal operators shall dispose of collected wastes, at contractor's or Franchisee's expense, at an authorized landfill or Transfer Station in a manner satisfactory to the City, and in accordance with all state and local taxes and regulations.

B. Recyclable Material and Organic Waste operators shall properly dispose of all collected waste not recycled in the manner established by this chapter.

Sec. 14-3.4. Special provisions regarding method of disposal.

A. The removal of wearing apparel, bedding or other refuse from homes, hospitals or other places where highly infectious or contagious diseases have prevailed shall be performed under the supervision and discretion of the County Health Officer, and such Solid Waste, Recyclable Material, or Organic Waste shall neither be placed in containers or receptacles nor left for regular collection and disposal.

B. Highly flammable or explosive or radioactive Solid Waste, Recyclable Material, or Organic Waste shall not be placed in containers or receptacles for regular collection and disposal, but shall be removed under the supervision of the City Fire Department at the expense of the owner or possessor of the material.

C. Solid Waste, Recyclable Material, or Organic Waste containing water or other liquids shall be drained before being placed in a container or receptacle. Matter which is subject to decomposition shall be wrapped in paper or other material before being placed in a container or receptacle.

D. No battery acid, poisonous, caustic or toxic material, or other substance capable of damaging clothing or causing injury to Persons shall be mixed or placed with any Solid Waste, Recyclable Material, or Organic Waste which is to be collected, removed or disposed of by the City or its agent. Such items shall be removed at the Occupant's expense only after arrangements have been made with the City or its agent for such removal.

E. Animal Wastes, as herein defined, shall be treated as Solid Waste unless or until the City establishes a program to process it as Organic Waste.

ARTICLE 4. SCAVENGING, TRANSPORTATION, AND COLLECTION

Sec. 14-4.1. General prohibitions.

A. Unless otherwise authorized pursuant to this chapter, it shall be unlawful to remove, collect, carry, or transport Solid Waste, Recyclable Material, or Organic Waste within the City.

B. No Persons shall cast, place, sweep or deposit anywhere within the City, any Solid Waste, Recyclable Material, or Organic Waste in such manner that it may be carried or deposited by wind or rain on any Streets, sidewalk, alley, sewer, storm drain, parkway, or other public place, or into any occupied premises within the City.

C. No Person shall gather, collect, or remove any Solid Waste, Recyclable Material, Organic Waste, Construction Site Debris, Yard Waste, or other refuse from any receptacle or place in which the same may be placed for collection or removal, or interfere with or disturb any such receptacle from any location where the same is placed by the owner thereof, without having a written contract or franchise with the City to collect and remove Solid Waste, Recyclable Material, or Organic Waste, and unless such Person shall be designated by such contract or franchise to collect Solid Waste, Recyclable Material, or Organic Waste and dispose of the same; provided, however, that the Occupant of any premises may remove any Solid Waste, Recyclable Material, or Organic Waste accumulated on the premises occupied by him and dispose of the same in a lawful manner; and further, one who enters into a contract to trim trees, shrubbery, gardens or lawns may dispose of the resultant Yard Waste.

D. No Person, including a contractor or Franchisee authorized to collect Solid Waste, Recyclable Material, or Organic Waste shall drop, spill, or permit such material to fall upon private grounds or public Streets in the City.

Sec. 14-4.2. Scavenging prohibited.

No Person, other than the owner thereof, the owner's agents or employees, an officer or employee of the City, or a Person holding a franchise issued pursuant to this title, or a Franchisee's agents or employees authorized for such purposes, shall do any of the following:

A. Tamper or meddle with any Solid Waste, Recyclable Material, or Organic Waste collection container;

B. Tamper or meddle with the contents of any Solid Waste, Recyclable Material, or Organic Waste collection container;

C. Remove the contents of any Solid Waste, Recyclable Material, or Organic Waste collection container;

D. Remove any Solid Waste, Recyclable Material, or Organic Waste collection container from the location where the container has been placed by the owner of the container or the owner's agent; or

E. Remove, tamper, or meddle with, any Solid Waste, Recyclable Material, or Organic Waste set out for collection, pursuant to the provisions of this title, on private property or on any sidewalk, street or public right-of-way.

Sec. 14-4.3. Special collections available; payment for services.

In the event any Person within the City desires to have Solid Waste, Recyclable Material, or Organic Waste collections more frequent than provided by this chapter, or amounts of Solid Waste, Recyclable Material, or Organic Waste collected at each collection in excess of the maximum amount permitted by this chapter, such Person shall enter into an agreement with one contracting with the City for the removal and transportation of Solid Waste, Recyclable Material, or Organic Waste for the providing of such additional service upon such terms as may be mutually agreeable between such Person and the contractor, and payment for such additional service shall be made directly to the contractor.

Sec. 14-4.4. Transfer of Solid Waste, Recyclable Material, or Organic Waste

Nothing in this chapter shall be construed to prevent the transfer of Solid Waste, Recyclable Material, or Organic Waste to Transfer Stations within City limits for collection authorized by this chapter; provided, that such Transfer Stations should not be conducted in violation of any county, State, or federal or City ordinance. Where the City operates a Transfer Station, users of the station shall follow the rules established for the station by the City Manager.

Sec. 14-4.5. Transporting vehicles to have metal-lined, watertight body.

All vehicles used to collect, remove, transport, or carry Solid Waste, Recyclable Material, or Organic Waste over the public Streets of the City shall have a metallic-lined and watertight body.

Sec. 14-4.6. Body of vehicle to be covered when not in use.

When not actually collecting Solid Waste, Recyclable Material, or Organic Waste the body of a vehicle used to collect Solid Waste shall be covered with a tarpaulin or other suitable covering in order to eliminate offensive odors, flies, or loss of garbage.

Sec. 14-4.7. No parking of loaded Trucks at night.

No Person shall leave trailers or Trucks loaded with Solid Waste, Recyclable Material, or Organic Waste parked for over a 24-hour period on the City Streets.

Sec. 14-4.8. Collection from parks, playgrounds, government buildings.

A Solid Waste, Recyclable Material, or Organic Waste contractor or Franchisee shall, without charge, collect the Solid Waste, Recyclable Material, or Organic Waste from public parks, playgrounds, and City government buildings from the receptacles in which the same is confined. Pickups will be made as requested by City departments.

Sec. 14-4.9. Unlawful collection.

A. Unless otherwise authorized pursuant to this chapter, it is unlawful for any Person to allow, franchise, or enter into any agreement whatsoever for the collection or transportation of refuse within the City.

B. The following types of collection or transportation of Solid Waste are exempted from the contract and franchise requirements of this chapter:

1. The collection and removal of Yard Waste by individual residents and by individuals doing business as professional landscapers, when the collection is directly related to work done on the property from which the Yard Waste are collected or removed.

2. A contractor or Franchisee shall not be required to collect hazardous or dangerous materials as part of regular collection activity under any contract or franchise with the City pursuant to this chapter. Liquid and dry caustics, acids, biohazardous, flammable, explosive materials, insecticides, and similar substances shall not be deposited in collection containers. A contract or franchise for the collection of hazardous or dangerous materials shall be handled under separate agreement between the City's contractor, City's Franchisee, or other qualified haulers and the customer in accordance with the provisions of the California Health and Safety Code and all other applicable laws pertaining to the collection hazardous or dangerous materials.

3. Medical waste (as defined in the California Medical Waste Management Act) shall not be collected by the City's contractor or Franchisee. Institutions producing such medical wastes shall store, dispose, and handle such material only in the manner as approved by the San Diego County Health Officer or their designated deputy in accordance with the California Health and Safety Code.

4. The use of garbage disposal devices authorized by the Uniform Plumbing Code.

5. The periodic transportation and disposal of Solid Waste generated from the Occupant's property by Occupants to an authorized landfill.

C. Nothing in this chapter shall preclude from transporting for his or her own benefit Recyclable Material generated by the Person or on the Person's property to an authorized Recyclable Material collection facility; provided, however, that nothing in this section shall be construed to allow the unauthorized collection or removal of Recyclable Material set aside for recycling or pick-up by a franchised Recycling Operator.

Sec. 14-4.10. Solid Waste, Recyclable Material, and Organic Waste removal.

A. All Solid Waste, Recyclable Materials, and Organic Waste created, produced, or accumulated in or about a dwelling house or place of human habitation in the City shall be mandatorily removed from the premises at least once each week, with the exceptions that no pickup will occur on Thanksgiving Day, Christmas Day and New Year's Day, providing one week's prior notification is made to affected Persons or establishments.

B. All Solid Waste, Recyclable Material, or Organic Waste created, produced, or accumulated at hotels, Restaurants, boardinghouses, or other business houses shall be

mandatorily removed from the premises at least once a week. The San Diego County health department may require a greater number of collections per week. It is declared to be unlawful and a misdemeanor for the occupancy of any premises described in this section to fail or neglect to provide for the removal of refuse. An exemption to the mandatory service may be applied for under the condition that the individual or property owner shows proof of use of a City-approved Solid Waste, Recyclable Material, or Organic Waste collection alternative. Such exemptions may be approved by the City Manager or City Manager's Designee. Each day's violation of this section shall be treated and considered as a separate and distinct offense.

Sec. 14-4.11. Frequency between collections in residential areas.

In the residential areas of the City, no more than eight days shall elapse between one collection of Solid Waste, Recyclable Material, or Organic Waste and the next, and the routes of collection shall be so arranged that collections will be made on the same days of each succeeding week.

Sec. 14-4.12. Collections from Commercial and industrial establishments.

Every Commercial or industrial business may enter into an agreement with the one contracting with or franchised by the City for the removal and transportation of Solid Waste, Recyclable Material, Organic Waste, Yard Waste, and Construction Site Debris for collection services as may be required, and the payment for such services in excess of the amount entered upon the water bills rendered by the City shall be made directly to the contractor pursuant to the requirements of this chapter.

ARTICLE 5. MANDATORY SEPARATION OF RECYCLABLE MATERIAL AND ORGANIC WASTE

Sec. 14-5.1. Mandatory separation of Recyclable Materials, collection and disposal of Solid Waste and recyclables.

A. It shall be mandatory for all Occupants to separate from Solid Waste, for recycling purposes, all Recyclable Materials and Organic Waste and otherwise participate in recycling through the collection service provided by an agency or Franchisee contracted with the City.

B. A responsible Occupant is not prohibited from using alternative collection and disposal methods which are not in conflict with the provisions of this code.

C. Nothing in this section shall preclude any Person from self-hauling Recyclable Materials generated by that Person to an authorized recycling facility or operator. An Occupant may transport Recyclable Materials generated at its business or property to an authorized recycling facility or operator (rather than utilizing an agency or Franchisee contracted with the City). The City Manager, or his/her Designee, may restrict or prohibit self-hauling by an Occupant if the City Manager, or his/her Designee, determines, after providing notice and an opportunity for a hearing, that the Occupant's self-hauling activities violate the provisions of this chapter or any other applicable law or regulation.

D. Nothing in this section shall preclude any Occupant from selling or exchanging at fair market value, for reuse or recycling, recyclables generated from that business, Commercial or

residential property; or from donating to another entity for reuse or recycling recyclables generated from that business, Commercial or residential property.

E. It is unlawful for any Person to fail to separate Recyclable Material. Violations of this section shall be punishable as provided in this code. Nothing in this subsection shall prevent the City from obtaining voluntary compliance with the provisions of this section through educational programs, issuance of warning notices, or other means.

Sec. 14-5.2. Single Family Organic Waste Generators

Single Family Organic Waste Generators shall:

A. Subscribe to City's Organic Waste collection services for all Organic Waste generated as described in this ordinance. The City shall have the right to review the number and size of a generator's containers to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and, Single-Family generators shall adjust its service level for its collection services as requested by the City. Generators may additionally manage their Organic Waste by preventing or reducing their Organic Waste, managing Organic Waste on site, and/or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).

B. Participate in the City's Organic Waste collection service(s) by placing designated materials in designated containers, as described in this chapter, and shall not place Prohibited Container Contaminants in collection containers. Generator shall place Source Separated Green Container Organic Waste, including Food Waste, in the Green Container; Source Separated Recyclable Materials in the Blue Container; and Gray Container Waste in the Gray Container. Generators shall not place materials designated for the Gray Container into the Green Container or Blue Container.

Sec. 14-5.3. Organic Waste Generators that are Commercial Businesses, including Multifamily Residential Dwellings

Generators that are Commercial Businesses, including Multifamily Residential Dwellings, shall:

A. Subscribe to the City's three-container collection services and comply with requirements of this ordinance, except Commercial Businesses that meet the Self-Hauler requirements in this ordinance. The 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 requested by the City.

B. Except Commercial Businesses that meet the Self-Hauler requirements of this ordinance, participate in the City's Organic Waste collection service(s) by placing designated materials in designated containers as described below.

1. Generator shall place Source Separated Green Container Organic Waste, including Food Waste, in the Green Container; Source Separated Recyclable Materials in the Blue Container; and Gray Container Waste in the Gray Container. Generator 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 subparts G(4)(a) and G(4)(b) below) for employees, contractors, tenants, and customers, consistent with 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 K of this ordinance.

D. Excluding Multifamily Residential Dwellings, provide containers for the collection of Source Separated Green Container Organic Waste and Source Separated Recyclable Materials in all indoor and outdoor areas where disposal containers are provided for customers, for materials generated by that business. 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 the 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 14 CCR Section 18984.9 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 material accepted and the primary materials prohibited in that container, or containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the container. Pursuant to 14 CCR Section 18984.8, the container labeling requirements are required on new containers commencing January 1, 2022.

E. Pursuant to 14 CCR Section 18984.9(b), Multifamily Residential Dwellings are not required to comply with container placement requirements or labeling requirement in subsection G(4) of this ordinance.

F. To the extent practical through education, training, Inspection, and/or other measures, excluding Multifamily Residential Dwellings, 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 K of this ordinance.

G. Excluding Multifamily Residential Dwellings, 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 Organic Waste Recovery requirements and about proper sorting of Source Separated Green Container Organic Waste and Source Separated Recyclable Materials.

I. Provide education information before or within 14 days of occupation of the premises to new tenants that describes requirements to keep Source Separated Green Container Organic Waste and Source Separated Recyclable Materials separate from Gray Container Waste (when applicable) and the location of containers and the rules governing their use at each property.

J. Provide or arrange access for the City or its agent to their properties during all Inspections conducted in accordance with section L of this ordinance to confirm compliance with the requirements of this ordinance.

K. Accommodate and cooperate with the City's Remote Monitoring program for Inspection of the contents of containers for Prohibited Container Contaminants, which may be implemented at a later date, to evaluate generator's compliance with subsection G(2). The Remote Monitoring program shall involve installation of Remote Monitoring equipment on or in the Blue Containers, Green Containers, and Gray Containers.

L. At Commercial Business's option and subject to any approval required from the City, implement a Remote Monitoring program for Inspection of the contents of its Blue Containers, Green Containers, and Gray Containers for the purpose of monitoring the contents of containers to determine appropriate levels of service and to identify Prohibited Container Contaminants. Generators may install Remote Monitoring devices on or in the Blue Containers, Green Containers, and Gray Containers subject to written notification to or approval by the City or its Designee.

M. If a Commercial Business wants to self-haul, meet the Self-Hauler requirements in section K of this ordinance.

N. Nothing in this section prohibits a generator from preventing or reducing waste generation, managing Organic Waste on site, or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).

O. Commercial Businesses that are Tier One or Tier Two Commercial Edible Food Generators shall comply with Food Recovery requirements, pursuant to subsection I of this ordinance.

Sec. 14-5.4. Waivers for Organic Waste Generators

A. De Minimis Waivers. The City may waive a Commercial Business' obligation (including Multifamily Residential Dwellings) to comply with some or all of the Organic Waste requirements of this ordinance if the Commercial Business provides documentation that the business generates below a certain amount of Organic Waste material as described in this section. Commercial Businesses requesting a de minimis waiver shall:

1. Submit an application specifying the services that they are requesting a waiver from and provide documentation as noted in this section.

2. Provide documentation that either:

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

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

3. Notify the City if circumstances change such that Commercial Business' 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 the City has approved de minimis waiver.

B. Physical space waivers. The City may waive a Commercial Business' or property owner's obligations (including Multifamily Residential Dwellings) to comply with some or all of the Recyclable Materials and/or Organic Waste 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 Organic Waste collection requirements. A Commercial Business or property owner may request a physical space waiver through the following process:

1. Submit an application form specifying the type(s) of collection services for which they are requesting a compliance waiver.

2. Provide documentation that the premises lacks adequate space for Blue Containers and/or Green Containers including documentation from its hauler, licensed architect, or licensed engineer.

3. Provide written verification to 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.

C. Review and Approval of Waivers by City. The City Manager or the City Manager's Designee shall be responsible for review and determination of any waiver submitted to the City for approval.

Sec. 14-5.5. Requirements for Commercial Edible Food Generators

A. Pursuant to 14 CCR Section 18991.3, Tier One Commercial Edible Food Generators must comply with the requirements of this section I commencing on January 1, 2022, and Tier Two Commercial Edible Food Generators must comply with the requirements of this section I commencing on January 1, 2024.

B. Large Venue or Large Event operators not providing food services, but allowing for food to be provided by others, shall require Food Facilities operating at the Large Venue or Large Event to comply with the requirements of this section, commencing on 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 designated enforcement entity or designated third party enforcement entity to access the premises and review records pursuant to 14 CCR Section 18991.4.
5. Keep records that include the following information, or as otherwise specified in 14 CCR Section 18991.4:
 - a. A list of each Food Recovery Service or organization that collects or receives its Edible Food pursuant to a contract or written agreement established under 14 CCR Section 18991.3(b).
 - b. A copy of all contracts or written agreements established under 14 CCR Section 18991.3(b).
 - c. A record of the following information for each of those Food Recovery Services or Food Recovery Organizations:
 - i. The name, address and contact information of the Food Recovery Service or Food Recovery Organization.
 - ii. The types of food that will be collected by or self-hauled to the Food Recovery Service or Food Recovery Organization.
 - iii. The established frequency that food will be collected or self-hauled.
 - iv. The quantity of food, measured in pounds recovered per month, collected or self-hauled to a Food Recovery Service or Food Recovery Organization for Food Recovery.
6. Provide an annual Food Recovery report to the City:
 - a. No later than July 1, 2022 for Tier One Commercial Edible Food Generators, and annually by July 1 thereafter;
 - b. No later than July 1, 2024 for Tier Two Commercial Edible Food Generators, and annually by July 1 thereafter;
 - c. Each annual Food Recovery report shall include all records required in e(i);

d. Each annual Food Recovery report shall include the amount and type of Edible Food that was not accepted by Food Recovery Organizations or services for donation.

D. Nothing in this ordinance shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share table and school food donation guidance pursuant to Senate Bill 557 of 2017 (approved by the Governor of the State of California on September 25, 2017, which added Article 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).

Sec. 14-5.6. Requirements for Food Recovery Organizations

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 that 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 shall inform generators about California and Federal Good Samaritan Food Donation Act protection in written communications, such as in their contract or agreement established under 14 CCR Section 18991.3(b).

D. Commencing on January 1, 2022, and annually thereafter, 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).

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

Sec. 14-5.7. Requirements for Haulers

A. Exclusive franchised hauler providing residential, Commercial, or industrial Organic Waste 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 Organic Waste:

1. Through written notice to the City annually on or before January 1, identify the facilities to which they will transport Organic Waste including facilities for Source Separated Recyclable Materials and Source Separated Green Container Organic Waste.

2. Transport Source Separated Recyclable Materials and Source Separated Green Container Organic Waste to a facility, operation, activity, or property that recovers Organic Waste as defined in 14 CCR, Division 7, Chapter 12, Article 2.

3. Obtain approval from the City to haul Organic Waste, unless it is transporting Source Separated Organic Waste to a Community Composting site or lawfully transporting Construction Waste or Construction Site Debris in a manner that complies with 14 CCR Section 18989.1 and the City's municipal code.

B. Exclusive franchised hauler authorization to collect Organic Waste 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 agreement entered into with City.

Sec. 14-5.8. Requirements for Facility Operators and Community Composting Operations

A. Owners of facilities, operations, and activities that recover Organic Waste, including, but not limited to, Compost facilities, in-vessel digestion facilities, and publicly-owned treatment works shall, upon City's request, provide information regarding available and potential new or expanded capacity at their facilities, operations, and activities, including information about throughput and

permitted capacity necessary for planning purposes. Entities contacted by the City shall respond within 60 days.

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

Sec. 14-5.9. Self-Hauler Requirements

A. Self-Haulers shall source separate all Recyclable Materials and Organic Waste generated on-site from Solid Waste in a manner consistent with 14 CCR Sections 18984.1 and 18984.2, or shall haul Organic Waste to a High Diversion Organic Waste Processing Facility as specified in 14 CCR Section 18984.3.

B. Self-Haulers shall haul their Source Separated Recyclable Materials to a facility that recovers those materials; and haul their Source Separated Green Container Organic Waste to a Solid Waste facility, operation, activity, or property that processes or recovers Source Separated Organic Waste. Alternatively, Self-Haulers may haul Organic Waste to a High Diversion Organic Waste Processing Facility.

C. Self-Haulers that are Commercial Businesses (including Multifamily Residential Dwellings) shall keep a record of the amount of Organic Waste delivered to each Solid Waste facility, operation, activity, or property that processes or recovers Organic Waste; this record shall be subject to Inspection by the 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 Waste.

D. Self-Haulers that are Commercial Businesses (including Multifamily Self-Haulers) shall provide information collected in subsection K(3) to the City.

E. A residential Organic Waste Generator that self-hauls Organic Waste is not required to record or report information in subparts K(3) and (4).

Sec. 14-5.10. Inspections and Investigations by City.

A. City representatives 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 ordinance by Organic Waste Generators, Commercial Businesses (including Multifamily Residential Dwellings),

property owners, Commercial Edible Food Generators, haulers, 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. For the purposes of inspecting Commercial Business containers for compliance with subsection G(2) or H(2) of this ordinance, City may conduct container inspections for Prohibited Container Contaminants using Remote Monitoring, and Commercial Businesses shall accommodate and cooperate with the Remote Monitoring pursuant to section G or H of this ordinance.

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 ordinance described herein. Failure to provide or arrange for: (i) access to an entity's premises; (ii) installation and operation of Remote Monitoring equipment; or (iii) 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, Remote Monitoring, 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, Remote Monitoring, 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.

Sec. 14-5.11. Enforcement.

A. Violation of any provision of this ordinance shall constitute grounds for issuance of a Notice of Violation and assessment of a fine by the City's Enforcement Official or representative. Enforcement Actions under this ordinance are issuance of an administrative citation and assessment of a fine. The City's procedures on imposition of administrative fines 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 ordinance and any rule or regulation adopted pursuant to this ordinance, except as otherwise indicated in this ordinance.

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

ARTICLE 6. CONTRACTS AND FRANCHISES

Note

*State law reference—Authority to contract for collection or disposal of Solid Waste, Public Resources Code 49300

Sec. 14-6.1. Contract or Franchise for Solid Waste collection – Establishment of charges.

A. Disposal and collection of Solid Waste and recycling of Recyclable Materials and Organic Waste are services to be performed in the City in accordance with the provisions of this chapter. The City Council may, from time to time, issue one or more exclusive or semi-exclusive contracts or franchises to those Persons or entities meeting the criteria of this chapter, and such other standards as may be established by resolution of the City Council, regarding the collection of Solid Waste, Recyclable Material, or Organic Waste from Commercial, business, industrial and residential properties. So long as a contract or franchise remains in force, collection of material provided for herein may be made only in accordance with the terms and conditions of this chapter and the applicable contract or franchise. The fees and charges for such collection, removal, and disposal services shall be those which the City Council may, from time to time, hereafter approve by resolution.

B. Except as specified herein, no Person shall collect, remove, or dispose of any Solid Waste, Recyclable Material, or Organic Waste within the City, nor transport the same over any public Streets or rights-of-way, unless a contract or franchise to do so has first been approved from the City Council. The contractor or Franchisee shall at all times comply with the provisions of this chapter, and all other applicable regulations and laws. For purposes of this chapter, collection does not include the random picking up of loose litter from public places or places open to the public.

C. Collection, removal, and disposal of hazardous Solid Waste is not subject to the provisions of this chapter.

D. The City Council shall not issue more than two Class I franchises or one Class II franchise, unless the City Council finds that public convenience and necessity require additional franchises.

Sec. 14-6.2. Power of City Council to issue contracts or franchises for disposal and collection.

The City Council shall have the power to issue and determine the terms of any contract or franchise for the collection and disposal as provided for in this chapter. The City Council may require as bond from a contractor or Franchisee in an amount determined by the City Council for the faithful performance of such franchise. Contracts or franchises may be exclusive or semi-exclusive as determined by the City Council. Contracts or franchises may be issued with or without competitive bidding. In issuing contracts or franchises for Solid Waste, Recyclable Material, or Organic Waste collection and disposal, the City Council shall not be required to issue a contract or Franchise based upon the offer of lower or lowest rates, but shall be free to issue contracts or franchises to the Persons or entities deemed best suited to comply with the terms of this chapter and such other terms and conditions imposed by the City Council. In addition to all other remedies for violation of this chapter or default by a contractor or Franchisee, the City Council may terminate

a contract or revoke a franchise after a hearing called on 10 days' written notice to the contractor or Franchisee.

Sec. 14-6.3. Contractor's or Franchisee's employees.

A. The contractor or Franchisee must guarantee a top quality of service by industry standards; competent, qualified, sober, identifiable, and uniformed personnel who serve the public in a courteous, helpful, and impartial manner.

B. The City may, at its option, require fingerprinting of the contractor's or Franchisee's employees whose service will cause them to enter onto or work in close proximity to private property.

C. Any employee driving a contractor's or Franchisee's vehicle(s) shall at all times have in their possession a valid and appropriate vehicle operator's license issued by the State of California.

D. The contractor or Franchisee and its employees shall be required to wear clean identifiable uniforms when engaged in refuse collection service on public Streets.

Sec. 14-6.4. Franchise classification.

The City Council may issue franchises based on the size and nature of the Solid Waste, Recyclable Material, or Organic Waste collecting process as follows:

A. Class I Franchise. A Class I franchise may be issued to Solid Waste Disposal operators who provide full-time residential and/or commercial collection services over established routes. Class I providers may also provide other Solid Waste collection services, such as the provision of temporary dump boxes, roll-off binds and temporary containers, but shall not provide Class II services unless a separate Class II franchise has been issued.

B. Class II Franchise. A Class II franchise may be issued for recycling operations. No Person shall conduct recycling operations or be a Recycling Operator unless the Person has been issued a Class II franchise.

Sec. 14-6.5. Minimum requirements for contracts or franchises.

A. As a condition of the City issuing a contract or franchise, the contractor or Franchisee shall agree to appear and defend all actions against the City arising out of the exercise of the contract or franchise, and shall indemnify and hold the City, including its officers, employees and agents harmless of and from all claims, demands, actions, or causes of action of every kind and description resulting directly or indirectly, arising out of, or in any way connected with the exercise of the services under the contract or franchise, including, but not by way of limitation, any act or omission of any officer, employee, or agent of contractor or Franchisee.

B. The contractor or Franchisee shall obtain and keep in force, during the term of the franchise, public liability and bodily injury insurance in an amount not less than \$5,000,000 for the injuries or death to more than one Person arising out of any one accident or occurrence, unless a lesser amount is permitted by the City Council; and workers' compensation insurance covering

all employees of the contract or franchise holder. Copies of such policies, or certificates evidencing such policies, shall be filed with the City Manager. The City shall be named an additional insured on all policies. All policies shall contain a provision requiring a 90-day notice to be given to the City prior to cancellation, modification or reduction of limits. The amounts of public liability insurance for bodily injury and property damage shall be subject to review and adjustment by the City Council.

C. The contractor's or Franchisee's Trucks, trailers, or other vehicles must comply with the regulations as set forth in the California Motor Vehicle Code, all other applicable California codes, and this chapter.

D. The contractor or Franchisee must agree to perform the terms of the contract or franchise in such a manner as to comply with all valid and applicable local and State laws and regulations pertaining to the collection, storage and transportation of Solid Waste, Recyclable Material, and Organic Waste. The contractor or Franchisee shall also comply with all other ordinances and regulations of the City and applicable laws and regulations of the County of San Diego and the State of California, and shall obtain and keep in force all required franchises and business licenses.

E. Additional Requirements for Franchisees.

1. Bulk Items. Class I Franchisees shall be required to collect and dispose of large bulk items on a 24-hour notice with a maximum charge and any limitations to be set by City Council resolution.

2. Community Cleanup. Class I Franchisees shall undertake an annual community cleanup in accordance with criteria established by the City.

Sec. 14-6.6. Contract or Franchise issuance.

A. The City Manager shall investigate the information contained in the contract or franchise application and prepare a report to the City Council as to whether the applicant is capable of complying with the provisions of this chapter and the rules and regulations of the City. After the completion of the investigation, the City Manager shall schedule the matter for a public hearing before the City Council. Notice of the hearing shall be given to the applicant and shall be published in a newspaper of general circulation at least 10 days prior to the date of the hearing.

B. The City Council may by resolution authorize the City Manager or the City Manager's Designee to execute a contract or franchise agreement after the required public hearing.

C. A contract or franchise may be issued for any period of time up to 10 years. A contract or franchise may be renewed pursuant to the procedures set forth in the contract or franchise agreement. In the case of a franchise, the Franchisee shall pay an annual franchise fee in an amount established by the franchise agreement.

D. No assignment or transfer of a contract or franchise pursuant to this chapter, or any right occurring under such contract or franchise, shall be made in whole or in part by the contractor or Franchisee without the prior express consent of the City Council. In the event any assignment or transfer is authorized by the City Council, the assignee shall assume the liability and all other

obligations of the contractor or Franchisee. The City Council may approve or deny the transfer at its sole discretion.

E. A contract or franchise may be revoked:

1. At the option of the City Council, in the event there is a change of ownership of any kind or nature of the operating company, unless approval therefor has been obtained in writing from the City Council; or

2. If it is determined by the City Manager that the contractor or Franchisee has not complied with the provisions of this chapter and all other applicable statutes, ordinances, rules and regulations, the City Manager shall notify the contractor or Franchisee in writing of noncompliance and shall order compliance within 30 days. If noncompliance is not corrected, the City Council, after a hearing, shall be empowered to cancel the contract or franchise or take such other action as the City Council shall determine.

F. When considering whether to issue a contract or franchise under this chapter, the City Council may take into consideration the service performance of the existing Solid Waste, Recyclable Material, and Organic Waste disposal operator or operators, or Recycling Operator or operators, and may give preference to existing providers.

Sec. 14-6.7. Charges for service.

A. When issuing an initial or renewed contract or franchise, the City Council shall approve the charges for services. After approval of the charge by the City Council, a charge for the collection of refuse shall be imposed by the contractor or Franchisee on the owner or Person in control of each residential, Commercial, or individual property, or other entity subscribing to Solid Waste, Recyclable Material, and Organic Waste collection service. The amount of such charges may be fixed and changed from time to time by the contractor or Franchisee after approval by the City Council.

B. All revisions in the rate or charge schedule must be submitted to the City Council for review, and action must be approved by the City Council. The application for rate adjustment shall be made by the contractor or Franchisee 90 days prior to the date of the proposed increase. The City shall act thereon within the 90-day period. Any new rate adjustment will have a maximum increase based on 100 percent of the Consumer Price Index and any unusual extraordinary cost resulting in an increase to the contractor or Franchisee in the cost of providing service since the last rate increase or establishment. Rates shall not be adjusted more than once annually, except to accommodate unforeseen circumstances justifying an increase.

Sec. 14-6.8. Collection in emergencies.

In emergencies such as the breakdown of equipment or other unforeseen or unpreventable circumstances, or where in the judgment of the City Manager the particular situation justifies such action, the City Manager may issue limited or temporary contracts or franchises to private Persons or entities to perform any of the services covered by this chapter, subject to such reasonable fees, charges and conditions as the circumstances may warrant and as the parties involved may agree upon; provided, that such fees and charges received from, or paid to, any private Persons or

corporations under this section for any period exceeding 15 days' duration shall be approved by the City Council.

Sec. 14-6.9. Hours of collection.

The contractor or Franchisee shall not collect Solid Waste, Recyclable Material, and Organic Waste within a residential area between the hours of 6 p.m. and 6:30 a.m. the next day. With prior written permission of the City Manager, this time may be changed.

Sec. 14-6.10. Spillage.

The contractor or Franchisee shall exercise all reasonable care and diligence in collecting Solid Waste, Recyclable Material, and Organic Waste so as to prevent spilling, scattering or dropping refuse, and shall immediately, at the time of occurrence, clean up any spillage.

Sec. 14-6.11. Use of vehicles.

Any Persons who desire to operate privately owned Solid Waste, Recyclable Material, and Organic Waste collection vehicles under the provisions of this chapter shall provide that their vehicles are metallic-lined, watertight, and are provided with a tight cover. The City Manager shall require the contractor or franchise holder to remove from service or repair those vehicles that allow or permit offensive odors to escape and/or refuse to be blown, dropped, or spilled therefrom. The City Council may, when issuing a franchise for a Recycling Operator, establish requirements based upon the different nature and type of the materials collected.

Sec. 14-6.12. Equipment required.

Each vehicle of the contractor or Franchisee shall at all times have in the cab the registration of the Truck, certificate of insurance card, and an identification card with the name of whom to telephone in case of an accident. Each vehicle shall also be equipped with a five-pound fire extinguisher certified by the California State Fire Marshall.

Sec. 14-6.13. Truck inspection.

All of the contractor's or Franchisee's equipment shall be inspected at the discretion of the City Manager or any other appropriate agency at the point of operation as specified in the contractor or franchise.

Sec. 14-6.14. Specifications and restrictions on collection vehicles.

A. Unless otherwise specifically provided in the contract or franchise agreement, all vehicles used for Solid Waste, Recyclable Material, or Organic Waste collection within the City shall:

1. Be completely enclosed with a rigid, nonabsorbent cover while transporting Solid Waste, Recyclable Material, or Organic Waste in or through the City. "Completely enclosed with a rigid, nonabsorbent cover" means that Solid Waste, Recyclable Material, or Organic Waste shall not be visible from the street nor shall any of the substance be permitted to leak, spill or become deposited along the public Streets.

2. All Trucks or vehicles used in the course of Solid Waste, Recyclable Material, or Organic Waste collection shall be painted the same colors as approved by the City Manager, and identified by Truck numerals and company logo. The equipment used shall be kept clean and in good repair at all times.

B. Notwithstanding subsection A, the specifications of vehicles used by Recycling Operators may be separately established by the City Council and specified in the contract or franchise agreement.

Sec. 14-6.15. Inquiries and complaints.

The Class I Franchisees shall provide an office with a full-time manager with toll-free telephone service from the entire City. Telephones will be attended by competent personnel from 8 a.m. to 5 p.m. on regular workdays, and an answering service provided after hours, weekends and holidays.

Sec. 14-6.16. Inspection of revenue records.

Contractor or Franchisee shall keep and preserve during the term of the contract or franchise agreement full, complete, and accurate records of:

A. Customer accounts in a manner that clearly identifies the number of customers within the City and subject to the contract or franchise fee. These records are subject to review by the City Manager at any reasonable time.

B. Specific cost items, such as disposal fees, fuel and similar items that may provide the basis for future rate increases due to unusual circumstances. These records are subject to review by the City Manager at any time City staff has been asked to review special rate increase requests.

ARTICLE 7. FEES AND CHARGES

Sec. 14-7.1. Council to establish.

For the collection services of Solid Waste, Recyclable Material, or Organic Waste, as provided in this chapter, and for the making available of such services, there shall be charged to each Single-Family residence, each residential unit in every multiple dwelling, exclusive of hotels, each trailer park and each Place of Business and hotel, the sums necessary to cover the costs of such collection and the providing of such services, as such sums may be determined from time to time by written resolution of the City Council.

Sec. 14-7.2. Basis for charges.

All charges provided by this chapter shall be fair and reasonable considering the services rendered and the cost to the City for providing and maintaining the services described and required by this chapter.

Sec. 14-7.3. Liability for payment.

The obligation to pay the charges provided in this chapter shall be upon the Person or Persons in whose name the water and/or sewer service is registered for each place of residence or business so served.

Sec. 14-7.4. Payment with water and/or sewer bills.

The charges referred to in this chapter, as determined by written resolution of the City Council, may be entered upon the water and/or sewer bills rendered by the City and shall be paid at the same time and place such water and/or sewer bills are paid.

Sec. 14-7.5. Direct payment to contractor by nonusers of water.

Any Occupant of any Single-Family residence or residential unit in any multiple dwelling, who does not receive water service from the City, or any Place of Business or hotel located within the City which does not receive such service, shall pay the sums so determined by the City Council by written resolution directly to the Person having a contract with the City for the collection and disposal of Solid Waste, Recyclable Material, or Organic Waste.

Sec. 14-7.6. Mandatory collection and payment of charges.

A. The accumulation of Solid Waste, Recyclable Materials, Organic Waste, and other refuse constitutes a menace to the health, welfare and safety of inhabitants of the City, and the orderly and regular collection of Solid Waste, Recyclable Materials, Organic Waste, and other refuse is necessary to prevent the spread of disease, the creation of health menace and fire hazards, and to further the use of reusable resources.

B. The City Council finds and determines that the periodic collection of Solid Waste, Recyclable Materials, and Organic Waste as provided herein, from all residences and places of business in the City benefits all Occupants of property within the City; therefore, all Occupants shall dispose of Solid Waste, Recyclable Materials, and Organic Waste through the regular collection service, or recycling service, or a provider permitted by this chapter and shall be liable for the payment to the City, or to the contractor or Franchisee, of Solid Waste, Recyclable Materials, and Organic Waste collection charges including charges for contracted or franchised recycling services as may from time to time be approved by the City Council.

C. Every Occupant of the City shall be billed periodically for the charges established pursuant to this chapter. Should any Person fail, refuse, or neglect to pay such bill within 30 days after the day that the same is rendered, then a penalty equal to 10 percent of the amount of the bill may be added to the bill and the sum, together with any costs incurred by the contractor or Franchisee, may be recovered by the contractor or Franchisee, as permitted by law.

D. Should the Occupant of any property fail or refuse to pay the charge established in accordance with the provisions of this chapter, then the contractor or Franchisee shall advise the City Manager of such refusal. The failure to pay may, except for the provisions hereof, result in the non-collection of Solid Waste, Recyclable Materials, and Organic Waste, which condition the City Council determines and declares to be a threat to the public health, safety, and welfare, and which condition is declared to be, if permitted to exist, a public nuisance. In the event that there

is nonpayment, the City Manager shall direct the contractor or Franchisee to make collection, and the expenses and charges of collection, including penalties, may be assessed against the property as provided by law or otherwise collected by the City. The contractor or Franchisee shall continue to collect Solid Waste, Recyclable Materials, and Organic Waste when directed to do so by the City Manager even though there is nonpayment.

E. All costs incurred by the City and paid by the City to the contractor or Franchisee shall be recoverable by the City and charged against the property from which the Solid Waste, Recyclable Materials, and Organic Waste was collected. The City Manager shall notify all parties concerned of the cost of any such collection by directing a letter to the Occupant of the property at the address shown on the latest tax roll. Any such notice shall be given 10 days prior to a public hearing and City Council shall review and approve an assessment against the property for the costs incurred in abating the public nuisance. If the total assessment determined and confirmed by the City Council is not paid within 10 days after the determination by the City Council, then there shall be recorded in the office of the city recorder a statement of the total balance due, together with the legal description of the property affected. From and after the date of such recording, the balance due shall be a special assessment against the parcel plus a any administrative fees. The assessment shall be collected at the same time and in the same manner as county taxes are collected, and shall be subject to the same penalties and to the same procedure and sale in case of delinquency as provided for ordinary county taxes. All laws applicable to the levy, collection and enforcement of county taxes shall be applicable to such special assessment.

Sec. 14-7.8. Payment under protest.

Any Occupant of any premises, residential, Commercial, industrial or otherwise, which has been billed for additional Solid Waste, Recyclable Materials, or Organic Waste collection service for his place of residence or business, and which Persons desire to contest the extent or degree of reasonableness of the charge billed, shall make payment of such charges under protest and, at the same time, file a written statement of such protest with the City Manager. Within 30 days after the date of filing, the City Manager shall notify the protesting occupancy of the findings and adjudication and adjustment in the matter. The decision of the City Manager may be appealed by any Person upon submittal of any required appeal fees, in which event such appeal shall be directed to the City Council whose determination, in regular meeting, shall be final. The appeal fee shall be refunded to the protesting Occupant in those cases where the City Council finds in favor of the protest.

SECTION II. Clerical Tasks.

The City Clerk is hereby authorized and directed to change any chapter numbers, article numbers, section and page numbers in the event that the adoption of this Municipal Code amendment reveals that there is a conflict, in order to avoid confusion and possible accidental repeal of existing provisions.