

AN ORDINANCE OF THE CITY OF EUREKA AMENDING SOLID WASTE MANAGEMENT
PROVISIONS OF THE EUREKA MUNICIPAL CODE TO INCORPORATE MANDATORY
ORGANIC WASTE DISPOSAL REDUCTION REQUIREMENTS

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF EUREKA AS FOLLOWS:

TITLE V, CHAPTER 51, SOLID WASTE IS HEREBY REPEALED IN ITS ENTIRETY AND REPLACED WITH THE
FOLLOWING:

SECTION 51.01 FINDINGS, PURPOSE, AND AUTHORITY.

The City Council of the City of Eureka finds and declares:

- (a) State recycling law, Assembly Bill 939 of 1989, the California Integrated Waste Management Act of 1989 (California Public Resources Code Section 40000, et seq., as amended, supplemented, superseded, and replaced from time to time), requires cities and counties to reduce, reuse, and recycle (including composting) Solid Waste generated in their Jurisdictions to the maximum extent feasible before any incineration or landfill disposal of waste, to conserve water, energy, and other natural resources, and to protect the environment.
- (b) State recycling law, Assembly Bill 341 of 2011 (approved by the Governor of the State of California on October 5, 2011, which amended Sections 41730, 41731, 41734, 41735, 41736, 41800, 42926, 44004, and 50001 of, and added Sections 40004, 41734.5, and 41780.01 and Chapter 12.8 (commencing with Section 42649) to Part 3 of Division 30 of, and added and repealed Section 41780.02 of, the Public Resources Code, as amended, supplemented, superseded and replaced from time to time), places requirements on businesses and Multi-Family property owners that generate a specified threshold amount of Solid Waste to arrange for recycling services and requires Jurisdictions to implement a Mandatory Commercial Recycling program.
- (c) State organics recycling law, Assembly Bill 1826 of 2014 (approved by the Governor of the State of California on September 28, 2014, which added Chapter 12.9 (commencing with Section 42649.8) to Part 3 of Division 30 of the Public Resources Code, relating to Solid Waste, as amended, supplemented, superseded, and replaced from time to time), requires businesses and Multi-Family property owners that generate a specified threshold amount of Solid Waste, Recycling, and Organic Waste per week to arrange for recycling services for that waste, requires Jurisdictions to implement a recycling program to divert Organic Waste from businesses subject to the law, and requires Jurisdictions to implement a Mandatory Commercial Organics Recycling program.

- (d) SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016, requires the California Department of Resources Recycling and Recovery (“CalRecycle”) to develop regulations to reduce organics in landfills as a source of methane. The regulations place requirements on multiple entities including Jurisdictions, residential households, Commercial Businesses and business owners, Commercial Edible Food Generators, haulers, Self-Haulers, Food Recovery Organizations, and Food Recovery Services to support achievement of Statewide Organic Waste disposal reduction targets.
- (e) SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016, requires Jurisdictions to adopt and enforce an ordinance or enforceable mechanism to implement relevant provisions of SB 1383 Regulations. This ordinance will also help reduce food insecurity by requiring Commercial Edible Food Generators to arrange to have the maximum amount of their Edible Food, which would otherwise be disposed, be recovered for human consumption.
- (f) Requirements in this ordinance are consistent with other adopted goals of the City including the Humboldt Regional Climate Action Plan and the City of Eureka Zero Waste Action Plan.
- (g) The City adopts this Ordinance in order to comply with SB1383 requirements in a manner that is consistent with and continues to implement the City’s previously adopted programs, policies and goals including the following:
 - 1. Reduce litter and other illegal solid waste disposal practices.
 - 2. Maintain a healthy, safe, economical, coordinated, and orderly regulation of collecting, transporting, and/or disposing of solid waste kept, accumulated or produced within the city.
 - 3. Encourage environmentally acceptable programs of source separation, recycling, composting and salvaging, and the reduction of the total solid waste generated on a city-wide and per capita basis.
 - 4. Provide for the storage, collection, transportation, diversion and recovery of marketable and recyclable materials in compliance with State requirements and the waste reduction and recycling goals set forth therein.
 - 5. Divert waste out of landfills so as to extend landfill life and reduce the need to expand or build new landfills.
 - 6. Prevent nuisances and hazards to public health caused by improper solid waste and garbage disposal, accumulation, storage and removal.
 - 7. Eliminate solid waste and garbage as a breeding site for insects or other vectors, and a food source for rodents and other animals.
 - 8. Reduce blighting conditions.

SECTION 51.02 DEFINITIONS.

Unless the context requires otherwise, the definitions in this Section govern the construction of this Chapter. A term not defined in this Chapter shall have the meaning defined by State law and regulation. If term defined herein differs from an applicable definition in State law or

regulation, the definition in State law or regulation shall apply. The definition of a word applies to any of that word's variants.

- a) "Accumulation" means refuse of any kind, as defined in this chapter, that is not properly contained or stored, or is not removed from the premises as required by this chapter, or is not removed at a frequency that precludes the potential for a nuisance or health hazard as determined by the city.
- b) "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.
- c) "Brown Goods" means electronic equipment such as stereos, televisions, computers, VCRs, DVD players and other similar items. Though not required to be diverted from the waste stream per this chapter, many of these materials may be reused or recycled and are expected to be legally diverted from landfills through the city's bulky item curbside collection program or whenever possible.
- d) "Bulky Items/Bulky Goods" means discarded household appliances including refrigerators, ranges, washers, dryers, water heaters, dishwashers and other similar items (known as "white goods"), electronic equipment such as stereos, televisions, computers, VCRs, DVD players and other similar items (known as "brown goods"), furniture, carpets, mattresses, tires and oversized green wastes such as tree trunks and branches not exceeding two feet in diameter and four feet in length as produced or generated from residential property. Though not specifically required to be diverted from the waste stream per this chapter, many of these materials may be reused, recycled or composted, and are expected to be legally diverted from landfills through the city's bulky item curbside collection program or whenever possible. BULKY ITEMS/GOODS do not include any motor vehicle or any subassembly, component, or part thereof (except tires), any construction and demolition debris, nor hazardous or prohibited wastes.
- e) "City Enforcement Official" means the City Manager or their Designee.
- f) "Collect" or "Collection" means the operation of taking physical possession of, transportation of, and removal of Solid Waste materials from the premises or property where the materials are produced or generated to a point of disposal and/or Recycling or composting.
- g) "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).
- h) "Commercial Edible Food Generator" includes a Tier One, or a Tier Two Commercial Edible Food Generator as 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).

- i) "Community Composting" means any activity that composts green material, agricultural material, food material, and vegetative food material, alone or in combination, and the total amount of feedstock and Compost on-site at any one time does not exceed 100 cubic yards and 750 square feet, as specified in 14 CCR Section 17855(a)(4), or, as otherwise defined by 14 CCR Section 18982(a)(8).
- j) "Compost" 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.
- k) "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).
- l) "C&D" or "Construction and Demolition Debris" means materials resulting from construction, renovation, remodeling, repair, or demolition operations and which has been segregated for Recycling, reuse or remanufacture. Materials include but are not limited to wood, asphalt, concrete, bricks, plaster, drywall, windows, wire, porcelain, toilets, dirt, gravel, rock, steel rebar, roofing material and other materials resulting construction, renovation, remodeling, repair, or demolition operations.
- m) "Container" means any and all types of solid waste receptacles approved by the city for use by customers used to store Solid Waste, Recyclable Materials, or Organic Waste for collection service including any cart, toter, can, bin, roll-off, compactor or similar receptacle
- n) "Curbside" means adjacent to the curb of a public or private street or alley, or on streets without curbs, adjacent to the shoulder of the street; or in shopping centers, business parks and similar premises, adjacent to the garbage enclosures.
- o) "De Minimis" means a commercial business that generates a limited amount of organic waste such as:
 - (1) Generates 2 or more cubic yards of solid waste per week and less than 20 gallons of organic materials per week; or
 - (2) Generate less than 2 cubic yards of solid waste per week and less than 10 gallons of organic material per week
- p) "Designee" means the person, organization or entity to which the City designates activities such as inspections, route audits, waste evaluations or other actions to comply with the requirements of this ordinance. Designees can include entity that the City designates to carry out some or all of the City's responsibilities for compliance with SB 1383 regulations, administration or enforcement of this ordinance as authorized in 14 CCR Section 18981.2. A Designee may be a government entity, a franchised hauler, a private entity, or a combination of those entities as determined by the City.

- q) "Designee for Edible Food Recovery" means the Humboldt County Department of Environmental Health for the Tier 1 and Tier 2 generators for inspection as required by this ordinance.
- r) "Disposal" means to deposit refuse into an approved solid waste landfill, transfer station, contain
- s) "E-waste" means electronic equipment nearing the end of its useful life and determined by the Department of Toxic Substances Control to be covered by the Electronic Waste Recycling Act of 2003. Computers, televisions, VCRs, stereos, copiers, and fax machines are common E-waste products.
- t) "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.
- u) "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.
- v) "Food Recovery Organization" means an entity that engages in the collection or receipt of Edible Food from Tier One or Tier Two Commercial Edible Food Generators and distributes that Edible Food either directly or through other entities, 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.
- (2) 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).
- w) "Food Recovery Service" means a person or entity that collects and transports Edible Food from a Commercial Edible Food Generator to a Food Recovery Organization or other entities for Food Recovery, or as otherwise defined in 14 CCR Section 18982(a)(26). A Food Recovery Service is not a Commercial Edible Food Generator for the purposes of this ordinance and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7).

- x) "Food Scraps" means all food such as, but not limited to, fruits, vegetables, meat, poultry, seafood, shellfish, bones, rice, beans, pasta, bread, cheese, and eggshells and other food materials and may be modified from time to time per Hauler's organics collection materials requirements. Food Scraps excludes fats, oils, and grease.
- y) "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 and materials and may be modified from time to time per Hauler's organics collection materials requirements.
- z) "Food Waste" means solid and semi-solid putrescible waste resulting from Food Scraps, Food-Soiled Paper, winery and other food processing or manufacturing operations and includes Biodegradable Products Institute (BPI) certified container products and other materials which may be included in the organics collection.
- aa) "Franchise Agreement" means an agreement between the City and an individual, association or firm, organization, or other business entity for the collection of Solid Waste, including Recyclables and or Organic Waste.
- bb) "Franchisee" means an individual, association, firm, organization, or other business entity who has entered into a franchise agreement with the City, whether or not said entity is operated for profit, for the collection of Solid Waste, including Recyclables, within the City.
- cc) "Garbage" means any Solid Waste material designated for landfill that is not designated for composting, reuse, or recycling. Garbage is designated for a Gray Container and not allowed in the Blue or Green Container. Garbage does not include prohibited wastes such as hazardous waste and medical waste.
- dd) "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.
- ee) "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).
- ff) "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.
- gg) "Green Waste" means recyclable/compostable plant materials or yard waste, resulting from the maintenance of any plants growing on a property, and that is to be composted, transported or collected at the premises where produced.
- hh) "Hauler/Franchise Collector" means a person, company or entity, or the agents or employees thereof, whom the City shall have duly licensed, franchised, granted a permit to, or contracted with, to collect, carry, transport, compost, and/or recycle Solid Waste, Recyclables, and Organic Waste for the City. The Hauler operates routes or provides

regular service and is directly or indirectly reimbursed for the collection and disposal of solid waste in the city.

ii) "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).

jj) "Hazardous Waste" means any material, which by reason of its quality, concentration, composition or physical, chemical or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious illness or pose a substantial threat or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of or otherwise mismanaged or any waste which is defined or regulated as a hazardous waste, toxic waste, hazardous chemical substance or mixture, or asbestos under Applicable Law. If two or more governmental agencies having concurrent or overlapping jurisdiction over hazardous waste adopt conflicting definitions of "hazardous waste," for purposes of collection, transportation, processing and/or disposal, the broader, more expansive definition shall be employed for purposes of this subchapter. Hazardous Waste includes, but is not limited to any of the following:

- (A) Materials regulated by section 40141 of the California Public Resources Code, sections 25110.02, 25115, 25117, 25281 or 25316 of the California Health and Safety Code (the California Hazardous Waste Control Act), and section 13050 of the California Water Code;
- (B) Low-level radioactive waste regulated under Chapter 7.6 (commencing with § 28500) of Division 20 of the Health and Safety Code or under Chapter 6.1 (commencing with § 25015) of Division 20 of the Health and Safety Code);
- (C) Materials regulated under the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq., as amended (including, but not limited to, amendments thereto made by the Solid Waste Disposal Act Amendments of 1980), and related federal, State, and local laws and regulations;
- (D) Materials regulated under the Toxic Substance Control Act, 15 U.S.C. Section 2601 et seq., as amended, and related federal State of California, and local laws and regulations, including the California Toxic Substances Account Act, California Health, and Safety Code Section 25300 et seq.;
- (E) Materials regulated under the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601, et seq., as amended, and regulations promulgated thereunder; or materials regulated under any future amendments to or re-codification of these statutes or regulations promulgated thereunder and any future additional or substitute federal, State or local laws and regulations

pertaining to the identification, transportation, treatment, storage or disposal of toxic substances or hazardous waste.

- (2) These materials may not be disposed in landfills, and shall be disposed appropriately at an approved HAZARDOUS WASTE disposal facility.
- kk) "Inspection" means a site visit where the City or its Designee 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).
- ll) "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.
- mm) "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 subchapter and implementation of the SB 1383 Regulations, a venue facility includes, but is not limited to, a public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts center, fairground, museum, theater, or other public attraction facility. For purposes of implementation of the SB 1383 Regulations, a site under common ownership or control that includes more than one Large Venue that is contiguous with other Large Venues in the site, is a single Large Venue. 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.
- nn) "Medical Waste" means waste, including bio-hazardous waste, non-RCRA pharmaceutical and sharps waste, as defined by Cal. Health & Safety Code Division 104, Part 14 (Cal. Health & Safety Code § 117600 et seq.), or subsequent revision and home-generated sharps and pharmaceuticals accumulated at a consolidation point. Medical waste may originate from, but is not limited to, hospitals, public or private medical clinics, research laboratories, pharmaceutical industries, blood banks, pathology laboratories, clinical laboratories, veterinary facilities, dialysis or other specialty clinics and other medical facilities. These materials may not be disposed in landfills, and shall be disposed appropriately at an approved hazardous or MEDICAL WASTE disposal facility. MEDICAL WASTE does not include any waste which has been rendered non-bio-hazardous.
- oo) "Multi-Family Residential Dwelling" or "Multi-Family" (MFD) means of, from, or pertaining to residential premises with five (5) or more dwelling units. Multi-Family premises do not include hotels, motels, or other transient occupancy facilities, which are considered Commercial Businesses.

- pp) "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.
- qq) "Occupant" means the person(s) holding possession of premises for permanent or temporary use.
- rr) "Occupancy, Occupied" means premises that are occupied when a person or persons take or hold possession of the premises for permanent or temporary use. For the purposes of determining whether a premise is occupied during periods when collection service is made available to such premises, OCCUPANCY is presumed, unless evidence is presented that gas, electric, telephone and water and sanitary sewer utility services were not being provided to the premises during such periods.
- ss) "Organic Waste" means Solid Waste containing material originated from living organisms and their metabolic waste products, including but not limited to food, green material, landscape and pruning waste, organic textiles and carpets, lumber, wood, Paper Products, Printing and Writing Paper, manure, biosolids, digestate, and sludges or as otherwise defined in 14 CCR Section 18982(a)(46). Biosolids and digestate are as defined by 14 CCR Section 18982(a).
- tt) "Organic Waste Generator" means a person or entity that is responsible for the initial creation of Organic Waste, or as otherwise defined in 14 CCR Section 18982(a)(48).
- uu) "Owner or Property Owner" means the owner of record as shown in the County Assessor's current records as the holder or holders of title to the real property constituting the premises to which refuse collection service is provided.
- vv) "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). Printing, writing papers including, but are not limited to, copy, xerographic, watermark, cotton fiber, offset, forms, computer printout paper, white wove envelopes, manila envelopes, book paper, note pads, writing tablets, newsprint, and other uncoated writing papers, posters, index cards, calendars, brochures, reports, magazines, and publications, or as otherwise defined in 14 CCR Section 18982(a)(54).
- ww) "Premises" means any land, building or structure, or portion thereof, where any refuse may be produced, kept, deposited, placed or accumulated.
- xx) "Prohibited Container Contaminants" means the following: (i) discarded materials placed in the Blue Container that are not identified as acceptable Source Separated Recyclable Materials for the Jurisdiction's Blue Container; (ii) discarded materials placed in the Green Container that are not identified as acceptable Source Separated Green Container Organic Waste for the Jurisdiction's Green Container; (iii) 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 Jurisdiction's Green Container and/or Blue Container; and, (iv) Excluded Waste placed in any container.

- yy) "Recovery" means any activity or process described in 14 CCR Section 18983.1(b), or as otherwise defined in 14 CCR Section 18982(a)(49).
- zz) "Recyclable Waste Materials" means materials removed or separated from other residential, commercial or industrial garbage or solid waste for purposes of reuse, reprocessing or composting. These materials are expected to be legally diverted from landfills whenever possible. Examples of these materials include but are not limited to:
- (1) All recyclable containers, including but not limited to aluminum cans, aerosol cans, containers made of tin and bi-metal, glass bottles and jars, and plastic bottles and packaging and plastic bags.
 - (2) All recyclable paper/fiber including but not limited to newspaper, magazines, white paper, colored paper, cardboard, junk mail, phone books and catalogues.
 - (3) Construction and demolition debris.
 - (4) Bulky items including brown goods, white goods and tires.
 - (5) Clothing and textiles.
 - (6) Green waste and yard waste
 - (7) Food waste.
- aaa) "Recycled-Content Paper" means Paper Products and Printing and Writing Paper that consists of at least 30 percent, by fiber weight, postconsumer fiber, or as otherwise defined in 14 CCR Section 18982(a)(61).
- bbb) "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).
- ccc) "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).
- ddd) "Self-Hauler" means a person or organization who hauls Solid Waste, Organic Waste, or Recyclable Materials 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).
- eee) "Single-Family" means of, from, or pertaining to any residential premises with fewer than five (5) units.

fff) "Solid Waste" means all putrescible and non-putrescible solid, semisolid, and liquid wastes, and all Recyclables and Organic Waste, including but not limited to garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semi-Solid Wastes, and other discarded solid and semi-solid Wastes, except that Solid Waste does not mean or include any of the following wastes:

- (1) Hazardous waste, as defined in Public Resources Code, section 40141;
- (2) Sewage collected and treated in a municipal or regional sewage system, or other highly diluted water-carried materials or substances less than 50% solids content by weight.
- (3) Substances having commercial value which have been salvaged for reuse, composting, recycling, or resale, including but limited to recyclable waste materials or organic waste once these are contained within a collection bin and/or vehicle.
- (4) Mulch, compost or compost piles which are produced or kept at a residence, providing they are properly maintained and stored and not creating a potential health hazard or nuisance.
- (5) Special waste, as defined in this subchapter;
- (6) Radioactive waste regulated pursuant to the Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the Health and Safety Code); and
- (7) Medical waste regulated pursuant to the Medical Waste Management Act (Part 14 (commencing with Section 117600) of Division 104 of the Health and Safety Code). Untreated medical waste shall not be disposed of in a Solid Waste landfill, as defined in Section 40195.1. Medical waste that has been treated and deemed to be Solid Waste shall be regulated pursuant to this division.

ggg) "Source Separated" means materials, including commingled recyclable materials, 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.

- hhh) "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.
- iii) "Source Separated Recyclable Materials" means Source Separated Non-Organic Recyclables.
- jjj) "Special Waste" means any waste matter which is a Hazardous Waste or which requires special handling or processing, including any of the following: flammable waste; waste transported in a bulk tanker; liquid waste; sewage sludge; waste from a septic system or other wastewater treatment or pollution control process; residue and debris from the cleanup of a spill or release of any chemical substance; any soil, waste, residue, debris or other material contaminated by any hazardous material or hazardous waste; dead animals; manure; explosive substances or substances or materials that have been exposed to highly infectious or contagious diseases.
- kkk) "State" means the State of California.
- lll) "Tier One Commercial Edible Food Generator" means a Commercial Edible Food Generator that is one of the following: Supermarket, Grocery Store with a total facility size equal to or greater than 10,000 square feet, Food Service Provider, Food Distributor or 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 subchapter.
- mmm) "Tier Two Commercial Edible Food Generator" means a Commercial Edible Food Generator that is one of the following: Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet, Hotel with an on-site Food Facility and 200 or more rooms, Health facility with an on-site Food Facility and 100 or more beds, Large Venue, Large Event or 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 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 subchapter.
- nnn) "Transfer Station" means those facilities used to receive solid wastes and to temporarily store, separate, convert, or otherwise process the solid waste and/or recyclables, in preparation for transport.
- ooo) "Vector" means a carrier, usually insects or rodents that are capable of transmitting a disease.
- ppp) "Virtually All" means almost entirely, or for all practical purposes, almost everything.
- qqq) "White Goods" means kitchen and laundry appliances or other large appliances or similar items.

rrr) "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).

sss) "Yard Wastes" means leaves, grass, weeds and wood materials from trees and shrubs.

Section 51.03 MANDATORY COLLECTION SERVICE.

(A) Use of city's franchise collection/hauler service required.

(1) The periodic collection of garbage, recyclable items, organics and other solid waste materials from improved properties in the city benefits occupants of places and premises in the city, and promotes and protects the health, safety and welfare of all residents of the city. Therefore, collection services provided by the city's franchise collector/hauler are mandatory for all owners of improved property within the city in or from which solid waste is created, accumulated or produced.

(2) Solid waste must be regulated to the extent necessary to protect the health, safety, and welfare of the public, to conserve disposal capacity, to meet state laws and to ensure cost effective public service. To this end, the City Council finds that to give practical effect to this policy, a mandatory collection ordinance to regulate the collection of waste, and a comprehensive system for the storage, collection, removal, transport, recovery of marketable and recyclable materials, compostable materials and disposal of solid waste in the city is essential.

(B) Applicability.

(1) Mandatory collection service is required for the 3-bin collection of garbage, recyclable items, organics and other solid waste materials generated on all occupied properties within the city, as identified in this chapter. As mandatory collection service is implemented and becomes available pursuant to the subscription guidelines of this chapter, the owner, tenant or occupant of every parcel with one or more businesses and/or residential buildings approved for occupancy and located within the city must subscribe to and thereafter use regularly the collection service franchised by the city.

(2) No provision herein contained should be construed to conflict with any provision of the Integrated Waste Management Act, the Medical Waste Management Act, or any other state or federal law. In the event such a conflict exists, or should exist in the future, state or federal law should be controlling. This chapter is not intended, nor shall it apply to transfer stations or other solid waste disposal facilities.

(C) Subscription to collection service. Subscription to mandatory collection service should not be required until the service becomes available to each affected property. The property owner of each occupied premises must assume responsibility for subscribing to collection service within seven days of either written notification from the city or occupancy of the premises, whichever is sooner. At the city's discretion, providing collection service to all

properties may be implemented in phases as determined by what is most efficient and cost effective and as programs become available and economically viable.

(D) Property owner responsible for securing collection service. The owner of any improved property in or from which garbage, recyclable and organic materials is created, accumulated or produced is responsible for subscribing to the collection service to be rendered to such property by the city's franchised collection service. It is the property owner's responsibility, not the tenant's, to secure and maintain collection services.

(E) Payments on behalf of owner permitted. Nothing in this chapter is intended to prevent an arrangement, or the continuance of an existing arrangement, under which payments for collection service are made by a tenant or tenants, or any agent on behalf of the owner, however any such arrangement will not affect the owner's obligation to the city or to the franchise collector/hauler for payment for such service.

(G) Written notice required for non-use. The city's franchise collector/hauler must give written notice to the City Manager or designated representative of the address of any occupied premise within the city which is not subscribing to the collection and disposal service provided by the collection service franchised by the city.

(H) Failure to subscribe.

(1) If the City Manager has reason to believe that any person required to subscribe for service has failed to subscribe or failed to maintain a subscription for service, the City Manager may cause written notice to be mailed to the owner of the real property so affected directing the owner to subscribe for such service within ten days after the date of the notice.

(2) Any such notice must state that if the person to whom it is directed fails within the ten day period to subscribe for such collection service, or fails to appear and show sufficient cause why such person should not be required to subscribe, the Manager may authorize such service and the charges therefore will be assessed against the real property upon which the premises served are located.

(3) After notice and a public hearing, unpaid delinquent accounts may be confirmed by the City Council, and the amount confirmed will constitute a lien on the property. The lien will continue until the amount of the charges and interest thereon at the legal rate, computed from the date of confirmation of the charge, is paid in full or until it is discharged of record.

(4) Alternatively, or in addition, the confirmed amount may be made a personal obligation of the property owner of record. Alternatively, or in addition, the confirmed amount may be specially assessed against the real property involved, and collected at the same time and in the same manner as ordinary real property taxes.

(I) Exemptions. Property owned by federal, state or local governments will be exempt from the requirements of this section.

Section 51.04 CURBSIDE RECYCLING COLLECTION.

(A) Weekly recycling collection. In addition to mandatory garbage collection, mandatory curbside recycling collection service will be in effect for specific recyclables generated on premises within the city as identified in this chapter. The city's franchise collector/hauler will provide a separate cart for source-separated recyclable materials, and provide pickup service for these recyclable materials on a weekly basis. Designated recyclables must be stored separately from garbage and organic waste. Persons may place the recycling cart curbside on the day of the week scheduled for collection by the collector.

(B) Residential recycling collection system. The curbside collection of residential recyclables may utilize a single-stream collection system. The stream will include but not be limited to all recyclable containers, such as aluminum cans, aerosol cans, containers made of tin and bi-metal, glass bottles and jars, plastic bottles and packaging, all paper/fiber, such as newspaper, magazines, white paper, colored paper, cardboard, junk mail, catalogues and phone books.

(C) Commercial recycling collection. The curbside collection of commercial recyclables may utilize a single-stream collection system. The stream will include but not be limited to all recyclable containers, such as aluminum cans, aerosol cans, containers made of tin and bi-metal, glass bottles and jars, plastic bottles and packaging, all paper/fiber, such as newspaper, magazines, white paper, colored paper, cardboard, junk mail, catalogues and phone books. Collection of commercial recyclables may also include a cardboard bin for collection of cardboard only excluding packaging materials including but not limited to materials such as Styrofoam, packing peanuts, and plastic or wax lined cardboard.

(D) Upon the placement of recyclable materials in a designated recycling collection location for collection by an authorized franchise collector/hauler, the recyclable material will become the property of the authorized franchise collector/hauler.

Section 51.05 CURBSIDE BULKY ITEM/GOODS COLLECTION.

(A) The curbside collection of residential bulky item/goods will be offered by the city's franchise collector/hauler. Each residential property owner may receive two collections per year, and may be used for disposal of white goods, brown goods and other items as approved by the franchise collector/hauler. Residents may contact the franchise collector/hauler directly to access this service. Bulky items/goods placed on the curb for collection will be placed separately from garbage and other recyclables. Many of these materials may be reused, recycled or composted, and are expected to be legally diverted from landfills whenever possible.

(B) Bulky items/goods which are placed in a designated recycling collection location for collection by the city's authorized franchise collector/hauler will remain the property of the bulky goods generator until such bulky goods are collected by such authorized franchise collector/hauler.

(C) Upon the collection of such bulky items/goods, such bulky items/goods will become the property of the authorized franchise collector/hauler or of the city as set forth in the agreement for collection of bulky items/goods entered into by the city and such franchise collector/hauler.

Section 51.06 CURBSIDE ORGANICS WASTE COLLECTION.

Bill No. 1025-C.S.

Ordinance No. _____ C.S.

(A) A curbside organic waste collection service must be offered by the city's franchise collector/hauler. Residents may contact the franchise collector/hauler directly to establish service. Organic materials must be stored separately from garbage and recyclables. Upon establishment of service, the city's franchise collector/hauler will provide a separate bin/cart for diversion of organic waste materials, including food waste, grass clippings, branches, leaves and other yard waste.

(B) Organic waste includes food waste and green waste and the specifications of how these materials are sorted and collected will be determined by the franchise collector/hauler based on program availability and economic viability.

(B) Organic waste which is placed in a designated recycling collection location for collection under the city organic waste collection program will remain the property of the organic waste generator until such organic waste is collected by the city or an authorized franchise collector/hauler.

(C) Upon the collection of such organic waste, such waste will become the property of the authorized franchise collector/hauler or of the city as set forth in the agreement for collection of organic wastes entered into by the city and such franchise collector/hauler.

SECTION 51.07 ORGANICS REQUIREMENTS FOR SINGLE-FAMILY GENERATORS.

Single-Family Organic Waste Generators must comply with the following requirements:

- (a) Must subscribe to City's Organic Waste collection services for all Organic Waste generated as described below in Section 51.07(b). City will 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 will 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) Will participate in the City's Organic Waste collection service(s) by placing designated materials in designated containers as described below and will not place Prohibited Container Contaminants in collection containers.
- (c) Generator will 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 will not place materials designated for the Gray Container into the Green Container or Blue Container.

SECTION 51.08 REQUIREMENTS FOR COMMERCIAL BUSINESSES INCLUDING
MULTI-FAMILY RESIDENTIAL DWELLINGS.

Generators that are Commercial Businesses, including Multi-Family Residential Dwellings, will:

- a) Subscribe to City's three-container collection services and comply with requirements of those services as described below. City will 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 will adjust their service level for their collection services as requested by the City.
- b) Participate in the City's Organic Waste collection service(s) by placing designated materials in designated containers as described below. Generator will 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 will 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 for employees, contractors, tenants, and customers, consistent with City's Blue Container, Green Container, and Gray Container collection service.
- d) Excluding Multi-Family 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 will have either:

(1) A body or lid that conforms with the container colors provided through the collection service provided by City, with either lids conforming to the color requirements or bodies conforming to the color requirements or both lids and bodies conforming to color requirements. A Commercial Business is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the requirements of the subsection prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first.

(2) Container labels that include language or graphic images, or both, indicating the primary material accepted and the primary materials prohibited in that container, or containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the container. Pursuant 14 CCR Section 18984.8, the container labeling requirements are required on new containers commencing January 1, 2023.

- (e) Multi-Family Residential Dwellings are not required to comply with container placement requirements or labeling requirements in Section 6(d) pursuant to 14 CCR Section 18984.9(b).
- (f) To the extent practical through education, training, Inspection, and/or other measures, excluding Multi-Family 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.
- (g) Excluding Multi-Family 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 fourteen (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 City its agent to their properties during all Inspection.
- (k) 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 will comply with Food Recovery requirements.

Section 51.09 COLLECTION AND DISPOSAL OF PROHIBITED WASTES.

No person will knowingly dispose of any prohibited waste with any garbage, organic waste or recyclable materials. Prohibited wastes will include all current hazardous substances, hazardous wastes, electronic wastes (e-waste), and all future prohibited substances or wastes determined to be hazardous by authorities or legislation. All such prohibited hazardous wastes will be collected, transported and disposed in compliance with all applicable federal, state, and local laws and regulations. A list of prohibited wastes will be available for review at the offices of the Humboldt Waste Management Authority.

SECTION 51.10 INDIVIDUAL WASTE REMOVAL.

Bill No. 1025-C.S.

Ordinance No. _____ C.S.

- (A) Nothing in this chapter should be interpreted to prevent any person from carrying his or her own solid waste including garbage, recyclable materials, and organic waste to an approved public or private disposal site for which a valid permit is in effect.
- (B) It is unlawful for any person transporting solid waste within the city to suffer, allow, or permit any portion of the load to be lost in transit.

SECTION 51.11 LITTERING; UNLAWFUL DISPOSAL.

- (A) It is unlawful for any person to throw or deposit any solid waste materials, or to cause the same to be thrown or deposited, upon any street, alley, gutter, park, or other public place. Except for clean fill, and finished compost, it shall be unlawful to throw or deposit solid waste in or upon any vacant lot or back yard, or to store or keep the same otherwise than in containers or bins as required by this chapter.
- (B) It is unlawful to have, store, deposit, or keep solid waste where rodents can have access thereto or feed thereon.
- (C) Each day's violation of this section will be treated, considered, and be a separate and distinct offense.
- (D) It is unlawful for any person to knowingly deposit in any container for collection by a commercial refuse collector, any of the following materials:
 - (1) Hazardous wastes or other prohibited waste as defined by state law.
 - (2) Liquid wastes, including petroleum products or septage.
 - (3) Automobiles, automobile bodies, automobile frames, engines or engine blocks or portions thereof. Light-gauge automobile parts such as hoods, doors, grilles, or fenders are permitted.
 - (4) Animal bodies or portions thereof, except for dogs, cats or smaller animals, not exceeding 25 pounds each, on an individual basis or as permitted by local disposal facility
 - (5) Hot ashes or burning material.
 - (6) Fish processing wastes more than four days old.

SECTION 51.12 ORGANICS DE MINIMIS WAIVERS FOR COMMERCIAL GENERATORS.

The City may provide Waivers for Generators in the following manner, at the City's discretion:

- (a) De Minimis Waivers: City may waive a Commercial Business' obligation 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 below.

Commercial Businesses requesting a de minimis waiver must:

- (1) Submit an application specifying the services that they are requesting a waiver from and provide documentation that shows 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.
- (2) Notify City if circumstances change such that Commercial Business's Organic Waste exceeds threshold required for waiver, in which case waiver will be rescinded.

SECTION 51.13 EXCLUSIONS.

(A) Appear and show cause for exclusion.

- (1) Any written notice sent to a property owner must include an option to appear before the City Manager, or a designated representative, at a time specified within the notice to show cause why such person should not be required to subscribe for the collection of garbage, recyclables, and organic waste. In addition, any property owner not receiving a notice may arrange to appear before the City Manager, or a designated representative, at a time specified to show cause why such person should not be required to subscribe for the collection service. At the appearance, the Manager may find excluded from the requirements of said section only those persons who show:
 - (a) That they are not owners of the property mentioned; or
 - (b) That the property is not within the city limits; or
 - (c) That the property is vacant; or
 - (d) That the residential unit or structure on the property is vacant or temporarily unoccupied for a period in excess of one month; or
 - (e) Unique parcel specific conditions which compel the property owner, tenant or occupant to self haul their garbage, recyclables and organic waste to the transfer station. Such conditions may include properties with long, narrow or steep driveways where the franchisee, in the opinion of the City Manager, is unable to properly and safely use the franchisee's equipment, and granting such exclusion would not create a nuisance; or
 - (f) That the owner or occupant legally recycles and composts virtually all their solid waste so that no unsanitary condition, hazard to health, or public nuisance will arise upon the premises owned, managed or controlled by them if they are not provided with collection and disposal services by a collector.

(2) Declaration required.

(a) All persons claiming an exclusion per this Section must occupy the property and will be asked to sign a declaration or affidavit, under penalty of perjury, once per year stating that they legally recycle and compost virtually all their solid waste so that no unsanitary condition, hazard to health, or public nuisance will arise upon the premises owned, managed or controlled by them.

(b) The signed affidavit must be submitted in person, electronically or through the mail on or before June 1 in order to be excluded from subscribing to collection services for the subsequent fiscal year (July 1 through June 30). Those affidavits submitted electronically must have a timestamp on or before June 1. Those affidavits submitted through the mail must be postmarked on or before June 1. There will be a five-day grace period for extenuating circumstances as deemed appropriate by the City Manager, or a designated representative.

(B) Any exclusion granted by the City Manager is revocable for cause, as determined by the City Manager. Any exclusion granted by the City Manager can be made conditional, as needed to ensure continuing eligibility. Violations of any such conditions can result in the revocation of the exemption, and/or result in the assessment of penalties under Eureka Municipal Code § 10.99.

SECTION 51.14 DISCONTINUING SERVICE UPON VACANCY.

The owner of any premises required to subscribe to a collection service under this chapter may discontinue service when the premises are vacant or the occupant is traveling out of town for one or more months. The owner is required to submit written notice of such vacancy to the city's franchise collector/hauler. Monthly collection fees will continue to accrue until such time as notice is received by the city's franchise collector/hauler. This section may be used by the owner no more than twice per calendar year. In the event of a dispute arising under this section, the dispute shall be reviewed as set forth in this chapter.

SECTION 51.15 BILLING FOR SERVICES.

The City's franchise collector/hauler shall be responsible for billing collection subscribers. IN the event that accounts become more than 60 days delinquent, the franchise collector/hauler may submit those accounts to the city for collection. The franchise collector/hauler shall not cease to provide for properties which have delinquent accounts.

SECTION 51.16 RATE DEVIATIONS.

(A) Metered rates. The city's franchise collector/hauler will include metered service which provides market based incentives to reduce waste and increase waste diversion through curbside collection of recyclable waste materials. Metered service will require that residents and other users, particularly those who recycle and compost the vast majority of their waste, have the opportunity to pay lower rates for smaller garbage bins/carts, thus encouraging higher rates of waste diversion.

- (B) Appropriate rates. The accumulation of solid waste in certain instances may be so far above the normal or average, that the rates approved by the City Council may not be sufficient to fairly compensate the collector for collecting the same, or the accumulation of solid waste in certain instances may be so far below the normal average that the rates fixed by the City Council may not be fair and just to the property owner obligated to pay for the removal of solid waste. If, after attempting to resolve the rate difference, either the collector or the property owner believes such to be the fact, a written application may be made to the City Manager for potential relief, and it will be the duty of the City Manager to make an investigation and, if possible, to fix a rate fair to both parties.
- (C) Disputes over charges made by collectors, or as to the character of the service performed, will be decided by the City Manager or designee.

SECTION 51.17 STORAGE.

A property owner or occupant shall store garbage, recyclable, and organic waste materials on their premises, or shall require it to be stored or handled, in such a manner so as not to promote the propagation, harborage or attraction of vectors, or the creation of a nuisance. It shall be unlawful for any person to allow solid waste to accumulate outside of an authorized waste container.

SECTION 51.18 CONTAINERS.

- (A) Franchise collector/hauler to provide containers. The city's franchise collector/hauler will provide containers to properties subscribing to collection service. The franchise collector/hauler will provide a variety of container sizes to meet the different needs of households. It will be the duty of every property owner, tenant, lessee, or occupant of any premises to arrange for containers large enough to hold all solid waste ordinarily accumulated on the premises in one week's time. Containers must be watertight, have suitable bails or handles and a tight-fitting cover.
- (B) Maintenance and location.
 - (1) All containers, when leaking or in a defective state, must be cleaned, repaired or replaced by the franchise collector/hauler or owner of the container.
 - (2) Individually-serviced residences. Containers must be placed for collection day such that they are easily accessible for collection as approved by the collector. Such placement should occur no earlier than 5:00 p.m. on the day prior to the scheduled collection day, nor later than 10:00 p.m. Emptied containers should be removed promptly from the curb, no later than the day following collection.
 - (3) All other occupancies. Cans, bins, bulk waste containers, and other vessels for waste storage by all other occupancies must be placed such that they are easily accessible for collection as approved by the collector.

SECTION 51.19 FREQUENCY OF COLLECTION OR REMOVAL.

Bill No. 1025-C.S.

Ordinance No. _____ C.S.

Refuse must be collected or removed as follows:

- (A) Food stores and markets, restaurants and other commercial and industrial occupancies generating substantial quantities of solid waste will have the same removed at least two times per week.
- (B) All other occupancies will have solid waste removed at least once a week.
- (C) Notwithstanding divisions (A) and (B) of this section, every occupancy will remove and/or subscribe to a waste removal schedule as frequently as necessary to maintain sanitary, nuisance-free, vector-free, clean and aesthetic conditions on the premises.
- (D) Said solid waste will be collected and removed pursuant to the schedules of this section except when prevented by disruptions due to strikes, severe and unusual weather conditions, or other acts of God which prevent collection, or holidays interrupting the normal seven-day collection cycle.
- (E) Except in cases of emergency, no regularly scheduled collection will be made on Sunday.

SECTION 51.20 DELINQUENT ACCOUNTS.

- (A) When a delinquent account is forwarded to the city by the city's franchise collector/hauler, the city will then, pursuant to the authority contained in Cal. Gov't Code § 38790.1, attempt to collect the delinquent fees in the manner described in Cal. Gov't Code § 25831.
- (B) Late fees. Prior to forwarding a delinquent account to the city, a late fee will be applied to delinquent accounts by the city's franchise collector/hauler as an incentive to secure payment. The amount of the fee will be determined by the city's franchise collector/hauler and authorized by the City Council.

SECTION 51.21 RIGHT TO COLLECT SOLID WASTE.

- (A) Only the city and its duly authorized agents, servants, or employees, or persons holding a permit, or contract for the collection of solid waste including garbage, recyclables, and organic waste in the city, will have the right to gather and collect in the city, and it will be unlawful for any person to gather or collect the same except as provided in this chapter.
- (B) The city may issue permits to non-profit organizations for temporary curbside or drop-off collection of recyclable materials.
- (C) The Council hereby finds that approved methods of solid waste management, collection and disposal are essential to the preservation of the health, safety, and well-being of the public within the city.

- (D) The Council hereby finds that the city is empowered by its Charter and by the Cal. Public Resources Code to contract for collection and disposal of solid waste under such terms prescribed by the Council through ordinance.

SECTION 51.22 UNAUTHORIZED COLLECTION PROHIBITED.

- (A) No person, other than an authorized franchise collector/hauler, will remove solid waste including garbage, recyclables, organic waste or bulky items/goods which have been placed in a designated collection location. Any and each such removal in violation hereof from any designated recycling collection location will constitute a separate and distinct offense.
- (B) Any person who violates any provision of this chapter will be subject to the provisions of § 10.99 and may be charged with an infraction or misdemeanor at the discretion of the City Attorney. Each removal in violation of this chapter will constitute a separate and distinct offense.

SECTION 51.23 CIVIL ACTION BY FRANCHISE COLLECTOR/HAULER.

- (A) Nothing in this chapter will be deemed to limit the right of an authorized franchise collector/hauler to bring a civil action against any person who violates this Chapter.

SECTION 51.24 COLLECTION CONTRACT.

- (A) Contract.
 - (1) Term. An exclusive contract for the collection and disposal of solid waste for a period not to exceed ten years may be entered into by the city in accordance with and subject to the terms and conditions of this chapter.
 - (2) Bidding. The Council may award an exclusive contract with or without competitive bidding under the Cal. Public Resources Code for the collection of solid waste within the city.
 - (3) Extension of term. From time to time, the City Council, after a public hearing, may extend a contract for the collection and disposal of solid waste for successive periods of ten years each, providing that the Council finds the contractor is providing good service at competitive rates.
 - (4) Disposal plans. Such contract will provide that the contractor will collect and dispose the solid waste in the city in the manner provided in this chapter, and in accordance with applicable state and federal laws and regulations.
 - (5) Rates. The contractor will not charge any amount in excess of the rates specified by the City Council.
 - (6) Bond. The contractor may be required to furnish a surety bond to the city in an amount established by the City Council, conditioned upon the faithful performance of the contract and the provisions of this chapter.

- (7) Sole and exclusive rights of contractor. The contractor will have the sole and exclusive right, subject to the provisions of this chapter, to collect all solid waste in the city and transport the same through the streets and public ways of the city. An exclusive right to collect all solid waste in the city will not be applicable to public entities, or to self-disposal as permitted by this chapter.
- (8) Additional terms. The Council, by ordinance, will have power to provide for the inclusion in such contract of such terms as it deems necessary to protect the interests of the city.
- (9) Award of contract. Before the Council awards a contract, the Council will consider the following: the proposed method of collection and disposal of solid waste; the financial stability of the collector or bidder; level of service to be provided by collector or bidder to the city; rates to be charged by collector or bidder for collection; the level of service to be provided to city-owned public facilities; and quantity and quality of equipment and assets owned by collector or bidder to be used in collection.

(B) Collection at City-Owned facilities

- (1) City buildings and facilities. The entity to whom a collection contract is awarded will collect and dispose of the solid waste produced and generated at any city-owned and operated public building or facility, including but not limited to City Hall, City Police Station, City Main Fire Station and all fire stations, Wharfinger Building, Adorni Center, Municipal Auditorium, Sequoia Park and Zoo, Ryan Memorial Building, Municipal Corporation Yard, Wastewater Treatment Plant, the Eureka Marina, Eureka Boardwalk and Fisherman's Terminal and other city-owned and operated buildings, parks or playgrounds. Collection of such solid waste will be made at least once each week or per terms of an approved franchise contract.
- (2) City containers. The city will place all solid waste in containers, bins, or hoppers ready for collection by the contractor.
- (3) Street solid waste containers. The contractor, at no charge to the city, not less frequently than once a week, will service street garbage and recycling containers placed and maintained by the city on any public street or sidewalk.

SECTION 51.25 COLLECTION VEHICLES.

- (A) All equipment and containers used for the collection and hauling of Solid Waste will be so constructed and maintained as to prevent leakage, spillage, or overflow. All trucks and equipment will be clearly identified by an assigned equipment number and with the licensee's name and local telephone number affixed thereto.
- (B) All collection vehicles will be well maintained, painted, clean and in satisfactory mechanical condition.
- (C) For servicing large, bulky, dry loads, an open steel truck bed may be used provided adequate canvas or other covers are applied to restrict any loss of debris.

SECTION 51.26 INSPECTIONS AND INVESTIGATIONS BY CITY.

- (a) City representatives and/or its 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 Multi-Family 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.
- (b) Regulated entity must provide or arrange for access during all Inspections (with the exception of residential property interiors) and must cooperate with the City's 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: access to an entity's premises, or access to records for any Inspection or investigation is a violation of this ordinance and may result in penalties.
- (c) Any records obtained by City or its Designee during its Inspections, will 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 and/or Designee are authorized to conduct any Inspections, as reasonably necessary to further the goals of this ordinance, subject to applicable laws.
- (e) City and/or Designee will receive written complaints from persons regarding an entity that may be potentially non-compliant with SB 1383 Regulations, including receipt of anonymous complaints.

SECTION 51.27 ENFORCEMENT.

- (a) City has broad authority to enforce the provisions of this Chapter including, but not limited to, issuance of a citation, a notice of violation, a notice to abate, an administrative fine, or a declaration of nuisance.
- (b) Other remedies allowed by law may be used, including civil action or prosecution as misdemeanor or infraction. City may pursue civil actions in the California courts to seek recovery of unpaid administrative citations. City may choose to delay court action until such time as a sufficiently substantial number of violations, or cumulative size of violations exist such that court action is a reasonable use of City staff and resources. City may record any notices as liens against the subject property.
- (c) Responsible Entity for Enforcement
 - (1) Enforcement pursuant to this ordinance may be undertaken by the City Enforcement Official or their Designee and the City Attorney

(d) Process for Enforcement

- (1) City Enforcement Official and/or their Designee will monitor compliance with the ordinance randomly and through Compliance Reviews, Route Reviews, investigation of complaints, and an Inspection program. City may issue an official notification to notify regulated entities of its obligations under the ordinance. City Enforcement Official and/or their Designee will issue a Notice of Violation requiring compliance within 60 days of issuance of the notice.
- (2) Absent compliance by the respondent within the deadline set forth in the Notice of Violation, City will commence an action to impose penalties, via an administrative citation and fine, pursuant to the City fine guidelines at the City's discretion. Notices will be sent to "owner" at the official address of the owner maintained by the tax collector for the City or if no such address is available, to the owner at the address of the dwelling or Commercial property or to the party responsible for paying for the collection services, depending upon available information.
- (3) Property owners in the city are responsible for violations caused by tenants.

(e) Penalty Amounts for Types of Violations

The penalty amounts for types of violation will be consistent with the *City of Eureka's Code 10.99 General Penalty* and the City may update the penalty amounts, procedures and process from time to time to ensure compliance with this ordinance.

(f) Appeals Process

Persons receiving an administrative citation containing a penalty for an uncorrected violation may request a hearing to appeal the citation. A hearing will be held only if it is requested within the time prescribed and consistent with City's procedures in the City's codes for appeals of administrative citations §10.47. City will appoint a hearing officer who will conduct the hearing and issue a final written order. Any affected person who is dissatisfied with the determination of the City Manager may appeal the same to the City Council.

(i) Education Period for Non-Compliance

Beginning January 1, 2023 and through December 31, 2023, City or its Designee will conduct Inspections, Route Reviews or waste evaluations, and Compliance Reviews, depending upon the type of regulated entity, to determine compliance, and if City determines that Organic Waste Generator, Self-Hauler, hauler, Tier One Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance, it will provide educational materials to the entity describing its obligations under this ordinance.

(j) Civil Penalties for Non-Compliance

Beginning January 1, 2024, if the City and/or Designee determines that an Organic Waste Generator, Self-Hauler, hauler, Tier One or Tier Two Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance with this ordinance, it will document the noncompliance or violation, issue a Notice of Violation, and take Enforcement Action.

(h) Fee Disputes, Limitations On Time To Challenge

Any subscriber that disputes for any reason a fee or charge imposed under the authority of this chapter may seek review of that fee as set forth in this section. Any and all fee disputes must be filed no later than 30 days after the fee or charge is assessed. If an appeal is not filed within 30 days, the fee or charge is final, unappealable, fully due and payable, and subject to all applicable collection and lien remedies.

SECTION 51.28 REQUIREMENTS FOR HAULERS AND FACILITY OPERATORS.

Requirements for all Haulers providing residential, commercial, or industrial Organic Waste collection services to generators within the City's boundaries will meet the following requirements consistent with the franchise agreement(s), contract(s), agreement(s), or other authorization by the City to operate within the City:

- A. Through written notice to the City annually on or before May 1, identify the facilities to which they will transport Organic Waste including facilities for Source Separated Recyclable Materials, Materials and Source Separated Green Container Organic Waste
- B. 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
- C. 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 C&D in a manner that complies with 14 CCR Section 18989.1 and any additional City requirements.
- D. Comply with the SB 1383 regulation requirements as detailed and required by the City in related franchise agreement, contracts, or other authorization to meet these requirements for the following: collection container requirements, collection container color, collection container labeling, outreach and education, contamination monitoring, reporting, and other requirements contained within its franchise agreement, permit, license, or other agreement entered into and approved by the City.

Requirements for Facility Operators and Community Composting Operations

- (1) 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 will, upon City request, provide information regarding available and potential new or expanded capacity at their facilities,

operations, and activities, including information about throughput and permitted capacity necessary for planning purposes. Entities contacted by the City must respond within 60 days.

- (2) Community Composting operators, upon Jurisdiction request, must 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 must respond within 60 days.

SECTION 51.29 REQUIREMENTS FOR COMMERCIAL EDIBLE FOOD GENERATORS.

Tier One Commercial Edible Food Generators must comply with the requirements of this Section commencing January 1, 2023, and Tier Two Commercial Edible Food Generators must comply commencing January 1, 2024, pursuant to 14 CCR Section 18991.3.

Large Venue or Large Event operators not providing food services, but allowing for food to be provided by others, will require Food Facilities operating at the Large Venue or Large Event to comply with the requirements of this Section, commencing January 1, 2024.

Tier One and Tier Two Commercial Edible Food Generators will comply with the following requirements:

- (1) Arrange to recover the maximum amount of Edible Food that would otherwise be disposed.
- (2) Use the CalRecycle Model Food Recovery Agreement or the contractual elements contained in the Requirements for Food Recovery Organizations and Food Recovery Services section of this subchapter to contract with, or otherwise enter into a written agreement with Food Recovery Organizations or Food Recovery Services for:
 - (A) the collection of Edible Food for Edible Food Recovery from the Tier One or Tier Two Commercial Edible Food Generator's premises; or,
 - (B) the acceptance of Edible Food that the Tier One or Tier Two Commercial Edible Food Generator self-hauls to the Food Recovery Organization.
- (3) Will 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 Edible Food Recovery Designee for Edible Food Recovery to access the premises, inspect procedures, and review records related to Edible Food Recovery and/or provide them electronically if requested by the City or the Designee for Edible Food Recovery.
- (5) Keep records that include the following information:

- (A) A list of each Food Recovery Organization or a Food Recovery Service that collects or receives Edible Food from the Tier One or Tier Two Commercial Edible Food Generator pursuant to a contract or written agreement as required by this ordinance.
- (B) A copy of all contracts or written agreements established under the provisions of this ordinance.
- (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 schedule or 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.

Nothing in this ordinance should 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 (Chapter 285, Statutes of 2017), as amended from time to time.

SECTION 51.30 REQUIREMENTS FOR FOOD RECOVERY ORGANIZATIONS AND SERVICES.

Food Recovery Services operating in the City and collecting or receiving Edible Food directly from Tier One and/or Tier Two Commercial Edible Food Generators via a contract or written agreement established under the requirements of this ordinance, will maintain the following records:

1. The name, address, and contact information for each Tier One and Tier Two Commercial Edible Food Generator from which the service collects Edible Food.
2. The quantity in pounds of Edible Food by type collected from each Tier One and Tier Two Commercial Edible Food Generator per month.
3. The quantity in pounds of Edible Food by type transported to each Food Recovery Organization or redistribution site per month.
4. The name, address, and contact information for each Food Recovery Organization or redistribution site that the Food Recovery Service transports Edible Food to for Edible Food Recovery.

Food Recovery Organizations operating in the City and collecting or receiving Edible Food directly from Tier One and/or Tier Two Commercial Edible Food Generators via a contract or written agreement established under the requirements of this subchapter, or receiving Edible Food from Food Recovery Services or from other Food Recovery Organizations, will maintain the following records:

- a) The name, address, and contact information for each Tier One and Tier Two Commercial Edible Food Generator, Food Recovery Service, or other Food Recovery Organization from which the organization collects or receives Edible Food.
- b) The quantity in pounds of Edible Food by type collected or received from each Tier One or Tier Two Commercial Edible Food Generator, Food Recovery Service, or other Food Recovery Organization per month.
- c) The name, address, and contact information for other Food Recovery Organizations or redistribution sites that the Food Recovery Organization transports Edible Food to for Edible Food Recovery.

Commencing no later than July 1, 2023, Food Recovery Organizations and Food Recovery Services operating in the City and collecting or receiving Edible Food from Tier One and Tier Two Commercial Edible Food Generators or any other source will report to the City and the City's Edible Food Recovery Designee for Edible Food Recovery the following: a detailed Edible Food activity report of the information collected as required under this subchapter, including weight in pounds by type and source of Edible Food, the schedule/frequency of pickups/drop-offs of Edible Food from/to each Edible Food source or redistribution site, brief analysis of any necessary process improvements or additional infrastructure needed to support Edible Food Recovery efforts, such as training, staffing, refrigeration, vehicles, etc., and an up to date list of Tier One and Tier Two Commercial Edible Food Generators with whom they have contracts or agreements established as required under this ordinance.

In order to provide the required records to the State, the City, and the City's Edible Food Recovery Designee for Edible Food Recovery, and Tier One or Tier Two Commercial Edible Food Generators, contracts between Food Recovery Organizations and Food Recovery Services operating in the City and Tier One and Tier Two Commercial Edible Food Generators will use the CalRecycle Model Food Recovery Agreement and include a clause requiring the Food Recovery Organization or Food Recovery Service to report to the Tier One and Tier Two Commercial Edible Food Generators with whom they have contracts the annual amount of Edible Food recovered and to inform them of the tax benefits available to those who donate Edible Food to non-profits;

Food Recovery Capacity Planning. To support Edible Food Recovery capacity planning assessments or other such studies, Food Recovery Services and Food Recovery Organizations operating in the City will provide information and consultation to the County and its Designee for Edible Food Recovery upon request, regarding existing, or proposed new or expanded, Edible Food Recovery capacity that could be accessed by the City and its Tier One and Tier Two Commercial Edible Food Generators. A Food Recovery Service or Food Recovery Organization contacted by the City, or its Designee for Edible Food Recovery will respond to such requests for information within 60 days.

Allow City's enforcement entity and or the City's Designee for Edible Food Recovery to access the premises, inspect procedures, and review records related to Edible Food Recovery and/or provide them electronically if requested by the City or the Designee for Edible Food Recovery.

SECTION 51.31 PROCURMENT REQUIREMENTS FOR CITY DEPARTMENTS.

(a) City departments must comply with the Recovered Organic Waste Product procurement requirements and Recycled-Content Paper procurement requirements per SB 1383 Regulations (14 CCR, Division 7, Chapter 12, Article 12). The City will:

(1) Purchase Recycled-Content Paper Products and Recycled-Content Printing and Writing Paper that consists of at least 30 percent, by fiber weight, postconsumer fiber instead of non-recycled products whenever recycled Paper Products and Printing and Writing Paper are available at the same or lesser total cost than non-recycled items.

(2) Provide Paper Products and Printing and Writing Paper that meet Federal Trade Commission recyclability standard as defined in 16 Code of Federal Regulations (CFR) Section 260.12. Certify in writing, under penalty of perjury, the minimum percentage of postconsumer material in the Paper Products and Printing and Writing Paper offered or sold to the Jurisdiction. This certification requirement may be waived if the percentage of postconsumer material in the Paper Products, Printing and Writing Paper, or both can be verified by a product label, catalog, invoice, or a manufacturer or vendor internet website. (4) Certify in writing, on invoices or receipts provided, that the Paper Products and Printing and Writing Paper offered or sold to the Jurisdiction is eligible to be labeled with an unqualified recyclable label as defined in 16 Code of Federal Regulations (CFR) Section 260.12 (2013).

Provide records to the City's recordkeeping Designee, in accordance with the City's procurement of all Paper Products and Printing and Writing Paper purchases within thirty (30) days of the purchase (both recycled-content and non-recycled content, if any is purchased) made by any division or department or employee of the City. Records will include a copy (electronic or paper) of the invoice or other documentation of purchase, written certifications as required in Sections 15(b)(3) and 15(b)(4) of this ordinance for recycled-content purchases, purchaser name, quantity purchased, date purchased, and recycled content (including products that contain none), and if non-recycled content Paper Products or Printing and Writing Papers are provided, include a description of why Recycled-Content Paper Products.

SECTION 51.32 SEVERABILITY.

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional, the decision will not affect the validity of the remaining portions of the chapter. The City Council hereby declares that it would have passed this

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chapter, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid under law.

SECTION 51.33 EFFECTIVE DATE.

This ordinance shall take effect on February 21, 2023

PASSED, APPROVED AND ADOPTED by the City Council of the City of Eureka in the County of Humboldt, State of California, on the twenty first day of February, 2023 by the following vote:

AYES: COUNCILMEMBERS

NOES: COUNCILMEMBERS

ABSENT: COUNCILMEMBERS

Mayor Pro Tem

THE ABOVE ORDINANCE WAS PRESENTED TO THE MAYOR on the twenty first day of February, 2023, and hereby approved.

Kim Bergel, Mayor

Approved as to Administration:

Approved as to form:

Miles Slattery, City Manager

Autumn Luna, City Attorney

THE ABOVE ORDINANCE WAS ATTESTED BY THE CITY CLERK OF THE CITY OF EUREKA on the twenty first day of February, 2023.

Pamela J. Powell, City Clerk