

**ORDINANCE NO. 2023-761**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FORTUNA  
CALIFORNIA, AMENDING TITLE 8 – HEALTH AND SAFETY OF THE FORTUNA  
MUNICIPAL CODE BY REVISING CHAPTER 8.14– ORGANIC REDUCTION AND  
RECYCLING ORDINANCE**

**WHEREAS**, the City of Fortuna (“City”) is a municipal corporation, duly organized under the constitution and laws of the State of California; and

**WHEREAS**, on June 6, 2022, the City Council passed and adopted Ordinance No. 2022-755, which added Chapter 8.14 to Title 8 of the Fortuna Municipal Code (“FMC”), to implement relevant provisions of Senate Bill 1383 regulating organic waste collection services, generators of organic waste, waste haulers, and generators and processors of edible food, together with enforcement mechanisms and administrative civil penalties for violations of local regulations; and

**WHEREAS**, pursuant to Section 4 of Ordinance No. 2022-755, Ordinance No. 2022-755 was effective as of January 1, 2023; and

**WHEREAS**, pursuant to Section 4 of Ordinance No. 2022-757, the City Council amended Chapter 8.14 to Title 8 of the Fortuna Municipal Code to provide for deferred implementation of certain requirements set forth in Chapter 8.14 to allow time for the City to complete its Franchise Agreement negotiations and to ensure the necessary equipment and regional facilities are available to process the organics waste for recycling; and

**WHEREAS**, the City Council intends, by this Ordinance, to further amend certain provisions of Chapter 8.14 of the FMC to provide for further deferred implementation of certain requirements set forth in Chapter 8.14 to allow time additional for the City to complete its Franchise Agreement negotiations and to ensure the necessary equipment and regional facilities are available to process the organics waste for recycling; and

**WHEREAS**, the City Council has considered the staff report, supporting documents, public testimony, and all appropriate information that has been submitted with this Ordinance.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF FORTUNA DOES ORDAIN AS FOLLOWS:**

**SECTION 1. Recitals.** The above recitals are each incorporated by reference and adopted as findings by the City Council.

**SECTION 2. CEQA.** The City Council finds, pursuant to the California Environment Quality Act (CEQA), Guidelines section 15378, that this Ordinance is not a Project as defined by CEQA. Furthermore, the Ordinance is exempt from CEQA pursuant to CEQA Guidelines section 15061(b)(3) as it is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment.

**SECTION 3. Fortuna Municipal Code Amendment.** Section 8.14.040 (Requirements For Single-Family Generators) of the Fortuna Municipal Code is amended by deleting the text shown below as bold-strike-through-text and adding the text shown below in bold-underlined-text.

#### **8.14.040. REQUIREMENTS FOR SINGLE-FAMILY GENERATORS**

Except Single-Family Organic Waste Generators that meet the Self-Hauler requirements in Section 8.14.100 and/or that are located in a census tract for which CalRecycle has issued a low population waiver (as described in 14 CCR Section 18984.12), Single-Family generators, **on and after July 1, 2024**, shall:

- (a) Be subscribed to the collection service(s) approved by the CITY for Compost Containers, Recycling Containers, and Landfill Containers. The CITY shall have the right to review the number and size of a generator's containers to evaluate the adequacy of capacity provided for each type of collection service and to review the separation of materials and containment of materials. A Single-Family generator shall adjust its service level for its collection services as requested by the CITY in order to meet the standards set forth in this Ordinance. Generators may 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) to the extent permitted by other applicable laws.
- (b) Participate in the Organic Waste collection service(s) approved by the CITY by placing designated materials in designated containers as described below, and not placing Prohibited Container Contaminants in collection containers. Generator shall place Source Separated Compost Container Organic Waste, including Food Waste, in the Compost Container; Source Separated Recyclable Materials in the Recycling Container; and Landfill Container Waste in the Landfill Container; in each case, solely to the extent such materials are acceptable materials in the applicable container under the franchise agreement between the CITY and a Regulated Hauler. Generators shall not place materials designated for the Landfill Container into the Compost Container or the Recycling Container.
- (c) The Enforcement Agency for the provisions of this section is the CITY and any other Designee of the CITY.

**SECTION 4. Fortuna Municipal Code Amendment.** Section 8.14.050 (Requirements For Commercial Business Generators Including Multi-Family Residential Dwellings) of the Fortuna Municipal Code is amended by deleting the text shown below as bold-strike-through-text and adding the text shown below in bold-underlined-text.

#### **8.14.050. REQUIREMENTS FOR COMMERCIAL BUSINESS GENERATORS INCLUDING MULTI-FAMILY RESIDENTIAL DWELLINGS**

**On and after July 1, 2024**, Commercial Business Organic Waste Generators, including Multi-Family Residential Dwellings, shall:

- (a) Except Commercial Businesses that meet the Self-Hauler requirements in Section 8.14.100 and/or that are located in a census tract for which CalRecycle has issued a low population waiver (as described in 14 CCR Section 18984.12):
  - (1) Be subscribed to collection service(s) approved by the CITY for Compost Containers, Recycling Containers, and Landfill Containers and comply with

requirements of those services as described below. 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.

- (2) Participate in collection services approved by the CITY for Organic Waste collection service(s) by placing designated materials in designated containers as described below. Generator shall place Source Separated Compost Container Organic Waste, including Food Waste, in the Compost Container; Source Separated Recyclable Materials in the Recycling Container; and Landfill Container Waste in the Landfill Container; in each case, solely to the extent such materials are acceptable materials in the applicable container under the franchise agreement between the CITY and a Regulated Hauler. Generator shall not place materials designated for the Landfill Container into the Compost Container or Recycling Container.
- (b) Supply and allow access to adequate number, size and location of collection containers with sufficient labels or colors (conforming with subsections (c)(1), (c)(2), and (d) below) for employees, contractors, tenants, and customers, consistent with the Recycling Container, Compost Container, and Landfill Container collection service or, if self-hauling, per the Commercial Businesses' instructions to support its compliance with its self-haul program, in accordance with Section 8.14.100.
- (c) Excluding Multi-Family Residential Dwellings, provide containers for the collection of Source Separated Compost Container Organic Waste and Source Separated Recyclable Materials generated by that business in all areas where the Commercial Business provides disposal containers for employees, contractors, tenants, customers and other users of the premises ("User Disposal Containers"). Such User Disposal Containers do not need to be provided in restrooms. If a Commercial Business does not generate, or has a waiver pertaining to, any of the materials that would be collected in one type of User Disposal Container, then the business does not have to provide that particular type of container in all areas where User Disposal Containers are provided. Pursuant to 14 CCR Section 18984.9(b), the User Disposal Containers provided by the business shall have either:
  - (1) A body or lid that conforms with the following container colors, with either lids conforming to these color requirements or bodies conforming to these color requirements, or both lids and bodies conforming to these color requirements: gray or black containers for Landfill Container Waste, blue containers for Source Separated Recyclable Materials, and green containers for Source Separated Compost Container Organic Waste. Notwithstanding the foregoing, a Commercial Business is not required to replace functional containers, including containers purchased prior to **January 1, 2023**, that do not comply with the color requirements of this 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 materials accepted and the primary materials prohibited in that container, or containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the container. Pursuant 14 CCR Section 18984.8, the container labeling requirements are required on new containers commencing **January 1, 2023**.

- (d) For Multi-Family Residential Dwellings, provide containers for the collection of Source Separated Compost Container Organic Waste and Source Separated Recyclable Materials in all common areas where those materials are being generated and disposal containers are provided for tenants, and in areas for internal consolidation of materials that are later deposited in Organics Containers, Recycling Containers, and Landfill Containers for collection by Regulated Haulers. Such containers do not need to be provided in restrooms accessible from common areas of the Multi-Family Dwelling. Such containers shall comply with the color and labeling requirements specified in subsections (c)(1) and (c)(2) above.
- (e) To the extent practical through education, training, inspection, and/or other measures, prohibit employees from placing materials in a container not designated for those materials per the Recycling Container, Compost Container, and Landfill Container collection service or, if self-hauling, per the Commercial Businesses' instructions to support its compliance with its self-haul program, in accordance with Section 8.14.100.
- (f) Periodically inspect Recycling Containers, Compost Containers, and Landfill 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).
- (g) Annually provide information to employees, contractors, tenants, building residents, and customers about Organic Waste Recovery requirements and about proper sorting of Source Separated Compost Container Organic Waste and Source Separated Recyclable Materials.
- (h) Provide information before or within fourteen days of new occupation of the premises to new tenants and no less than fourteen days before tenants move out of the premises, unless a tenant does not provide fourteen or more days' notice to before moving out, that describes requirements to keep Source Separated Compost Container Organic Waste and Source Separated Recyclable Materials separate from each other and from Landfill Container Waste and the location of containers and the rules governing their use at the property.
- (i) Provide or arrange access for the Enforcement Agency to their properties during all Inspections conducted in connection with this Ordinance and timely provide documents requested by the Enforcement Agency to confirm compliance with the requirements of this chapter.
- (j) Accommodate and cooperate with any Remote Monitoring program established by a Regulated Hauler or the CITY for Inspection of the types of materials placed in containers for Prohibited Container Contaminants to evaluate generator's compliance with subsection (a)(1) above. Notwithstanding any other provision of this chapter, Remote Monitoring equipment may not be installed on or in any containers or other property owned by a

Regulated Hauler without the CITY providing at least 30-days' written notice thereof to the Regulated Hauler and such Regulated Hauler shall be entitled to reimbursement from CITY for any costs or expenses incurred as a result of any damage to the Regulated Hauler's equipment as a result of the installation by CITY or its contractors of any Remote Monitoring equipment.

- (k) At Commercial Business' option and subject to approval by the Enforcement Agency, implement its own Remote Monitoring program for self-inspection of the types of materials placed in Recycling Containers, Compost Containers, and Landfill Containers for the purpose of monitoring the contents of containers to determine appropriate levels of service and to identify Prohibited Container Contaminants. Purchase and maintenance of the Remote Monitoring program shall be the responsibility of the Commercial Business.
- (l) 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) to the extent permitted by other applicable laws.
- (m) The Enforcement Agency for the provisions of this section is the CITY, and any other Designee of the CITY.

**SECTION 5. Fortuna Municipal Code Amendment.** Section 8.14.070 (Requirements For Commercial Edible Food Generators) of the Fortuna Municipal Code is amended by deleting the text shown below as bold-strike-through-text and adding the text shown below in bold-underlined-text.

#### **8.14.070. REQUIREMENTS FOR COMMERCIAL EDIBLE FOOD GENERATORS**

- (a) Tier One Commercial Edible Food Generators must comply with the requirements of this section commencing **July 1, 2024**, and Tier Two Commercial Edible Food Generators must comply commencing January 1, 2024, pursuant to 14 CCR Section 18991.3 or such later deadline established by State law or regulations.
- (b) Large Venue or Large Event operators not providing food services, but allowing for food to be provided by others, shall require Food Facilities operating at the Large Venue or Large Event to comply with the requirements of this section, commencing January 1, 2024 or such later deadline established by State law or regulations.
- (c) **On and after July 1, 2024**, Commercial Edible Food Generators shall comply with the following requirements:

- (1) Arrange to safely recover for human consumption the maximum amount of Edible Food that would otherwise be disposed.
- (2) Enter into a contract or other written agreement with Food Recovery Organizations Food Recovery Services for: (i) the collection for Food Recovery of Edible Food that would otherwise be disposed; or, (ii) acceptance of Edible Food that would otherwise be disposed that the Commercial Edible Food Generator self-hauls to the Food Recovery Organization for Food Recovery.
- (3) Use best efforts to abide by all contractual or written agreement requirements specified by the Food Recovery Organization or Food Recovery Service on how Edible Food should be prepared, packaged, labeled, handled, stored, distributed or transported to the Food Recovery Organization or Service.
- (4) Not intentionally donate food that has not been prepared, packaged, handled, stored and/or transported in accordance with the safety requirements of the California Retail Food Code.
- (5) Not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery Organization or a Food Recovery Service.
- (6) Allow the Enforcement Agency to review records upon request, including by providing electronic copies or allowing access to the premises, pursuant to 14 CCR Section 18991.4.
- (7) 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 Food Recovery 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 and written agreements established under 14 CCR Section 18991.3(b) and/or this chapter.
  - (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.
- (D) If it has not entered into a contract or written agreement with Food Recovery Organizations or Food Recovery Services pursuant to subsection (c)(2) above, a record that describes (i) its direct donation of Edible Food to end recipients (including employees) and/or (ii) its food waste prevention practices that result in it generating no surplus Edible Food that it can donate.
- (8) Tier One Commercial Edible Food Generators and Tier Two Commercial Edible Food Generators shall provide, upon request, a Food Recovery report to the Enforcement Agency that includes the information in Section 8.14.070(c)(7). Entities shall provide the requested information within 60 days of the request.
- (d) Nothing in this Ordinance shall be construed to limit or conflict with (1) 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); or (2) otherwise applicable food safety and handling laws and regulations.
- (e) Nothing in this Ordinance prohibits a Commercial Edible Food Generator from donating Edible Food directly to end recipients for consumption, pursuant to Health and Safety Code Section 114432(a).
- (f) The Enforcement Agency for the provisions of this section is the CITY and any other Designee of the CITY.

**SECTION 6. Fortuna Municipal Code Amendment.** Section 8.14.080 (Requirements For Food Recovery Organizations and Services) of the Fortuna Municipal Code is amended by deleting the text shown below as bold-strike-through-text and adding the text shown below in bold-underlined-text.

**8.14.080. REQUIREMENTS FOR FOOD RECOVERY ORGANIZATIONS AND SERVICES**

- (a) Nothing in this Ordinance prohibits a Food Recovery Service or Food Recovery Organization from refusing to accept edible food from a Commercial Edible Food Generator, in accordance with 14 CCR Section 18990.2(d).
- (b) **On and after July 1, 2024,** 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. This may also include the total quantity in pounds of food collected that was spoiled when received from a Commercial Edible Food Generator or otherwise not able to be used to feed people.
- (3) The quantity in pounds of Edible Food transported to each Food Recovery Organization per month.
- (4) The name, address, and contact information for each Food Recovery Organization that the Food Recovery Service transports Edible Food to for Food Recovery.

(c) **On and after January 1, 2024**, 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. This may also include the total quantity in pounds of food collected that was spoiled when received from a Commercial Edible Food Generator or otherwise not able to be used to feed people.
- (3) The name, address, and contact information for each Food Recovery Service that the organization receives Edible Food from for Food Recovery.

(d) 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 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) according to the following schedule: no later than March 31, 2024, and no later than every March 31 thereafter, submit a report covering the period of January 1 to December 31 of the previous calendar year.

(e) In order to support Edible Food Recovery capacity planning assessments and similar studies, Food Recovery Services and Food Recovery Organizations operating in the City shall provide, upon request, information and consultation to the Enforcement Agency regarding existing, or proposed new or expanded, Food Recovery capacity in a form that can be provided to or that can be accessed by the CITY and Commercial Edible Food Generators in the City A Food Recovery Service or Food Recovery Organization contacted by the Enforcement Agency shall respond to such request for information within 60 days,



unless a shorter timeframe is otherwise specified by the Enforcement Agency.

- (f) The Enforcement Agency for the provisions of this section is the CITY and any other Designee of the CITY.

**SECTION 7. Fortuna Municipal Code Amendment.** Section 8.14.090 (Requirements For Regulated Haulers And Facility Operators) of the Fortuna Municipal Code is amended by deleting the text shown below as bold-strike-through-text and adding the text shown below in bold-underlined-text.

**8.14.090. REQUIREMENTS FOR REGULATED HAULERS AND FACILITY OPERATORS**

- (a) Requirements for Regulated Haulers.

- (1) A Regulated Hauler providing Single-Family, Commercial, or industrial Organic Waste collection service to generators within the City shall meet the following requirements and standards in connection with collection of Organic Waste:

- (A) Through written notice to the CITY annually on or before March 31, identify the facilities to which they will transport Organic Waste including facilities for Source Separated Recyclable Materials and Source Separated Compost Container Organic Waste.

- (B) Commencing July 1, 2024, transport Source Separated Recyclable Materials to a facility that recycles those materials and transport Source Separated Compost 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, Section 8.14.130, and any CITY rules.

- (2) The Enforcement Agency for the provisions of this subsection (a) is the CITY and any other Designee of the CITY.

- (b) 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 shall, upon request from the CITY, provide within 60 days information regarding available and potential new or expanded capacity at their facilities, operations, and activities, including information about through put and permitted capacity necessary for planning purposes.

- (2) Community Composting operators shall, upon request from the CITY, provide

within 60 days information 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.

- (3) The Enforcement Agency for the provisions of this subsection (b) is the CITY and any Designee of the CITY.

**SECTION 8. Fortuna Municipal Code Amendment.** Section 8.14.100 (Requirements For Self-Haulers) of the Fortuna Municipal Code is amended by deleting the text shown below as bold-strike-through-text and adding the text shown below in bold-underlined-text.

#### **8.14.100. REQUIREMENTS FOR SELF-HAULERS**

- (a) **On and after July 1, 2024,** Self-Haulers shall source separate all recyclable materials and Organic Waste (materials that the CITY otherwise requires generators to separate for Collection in the CITY's organics and recycling collection program) generated or handled 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) **On and after July 1, 2024,** Self-Haulers shall haul their Source Separated Recyclable Materials to a facility that recovers those materials; and haul their Source Separated Compost Container Organic Waste to a Solid Waste facility, operation, activity, or property that processes or recovers Source Separated Organic Waste. Alternatively, **on and after July 1, 2024,** Self-Haulers may haul Organic Waste to a High Diversion Organic Waste Processing Facility. Self-Haulers may Back-haul to a destination owned and operated by the generator using the generator's own employees and equipment and then haul those consolidated materials to facilities meeting the requirements of this subsection (b) or otherwise dispose of the waste, recyclables, and organic waste in a manner consistent with this Ordinance.
- (c) Self-Haulers shall certify at least once every five (5) years to compliance with this section, on a form provided by the City, as a precondition to self-hauling, and upon every change of address.
- (d) Self-Haulers that are Commercial Businesses (including Multi-Family Residential Dwellings) shall, **on and after July 1, 2024,** 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 Enforcement Agency. The records shall include the following information:
  - (1) Delivery receipts and weight tickets from the entity accepting the material.
  - (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.

- (e) Self-Haulers that are Commercial Businesses (including Multi-Family Residential Dwellings) shall submit a Certification of Recycling Service Form to the Enforcement Agency for review for compliance if they do not also subscribe to separate collection service for Compost Containers and/or Recycling Containers by a Regulated Hauler. Applications will be considered for approval to the extent permitted by other applicable laws.
- (f) Self-Haulers that are Commercial Businesses (including Multi-Family Residential Dwellings) shall submit a new Certification of Recycling Service Form to the Enforcement Agency for compliance review every five years, if they do not also subscribe to separate collection service for Compost Containers and/or Recycling Containers by a Regulated Hauler.
- (g) Self-Haulers shall notify the Enforcement Agency if they subscribe to separate collection service for Compost Containers and/or Recycling Containers by a Regulated Hauler, such that they are no longer Self-Haulers.
- (h) Self-Haulers that are Commercial Businesses (including Multi-Family Residential Dwellings) shall provide information, upon request, collected in subsection (c) above to the Enforcement Agency. Entities shall provide the requested information within 60 days.
- (i) A Single-Family Organic Waste Generator that self-hauls Organic Waste is not required to record or report information in subsections (d) through (g) above.
- (j) The Enforcement Agency for the provisions of this section is the CITY and any other Designee of the CITY.

**SECTION 9. Fortuna Municipal Code Amendment.** Section 8.14.150 (Enforcement) of the Fortuna Municipal Code is amended by deleting the text shown below as bold-strike-through-text and adding the text shown below in bold-underlined-text.

#### **8.14.150. ENFORCEMENT**

- (a) Violation of any provision of this Chapter shall constitute grounds for issuance of an administrative citation and assessment of a fine by the Enforcement Agency. Enforcement Actions under this Chapter are issuance of an administrative citation with a fine. The CITY's procedures on imposition of administrative fines in Chapter 1.09 are hereby incorporated in their entirety, as modified from time to time, and shall govern the imposition, enforcement, collection, and review of administrative citations issued to enforce this Chapter and any rule or regulation adopted pursuant to this Chapter.
- (b) Other remedies allowed by law may be used, including, but not limited to, civil action or prosecution as a misdemeanor or an 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.

- (c) Enforcement pursuant to this Chapter may be undertaken by the Enforcement Agency.
- (d) Appeals Process. Persons subject to administrative enforcement of this Chapter may request an administrative hearing pursuant to Section 1.09.060.
- (e) Education Period for Non-Compliance Beginning **July 1, 2024**, and through December 31, 2024. The CITY will conduct Inspections, Remote Monitoring, Route Reviews or waste evaluations, and Compliance Reviews, depending upon the type of regulated entity, to determine compliance, and if the CITY determines that Organic Waste Generator, Self-Hauler, Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance, the CITY shall provide educational materials to the entity describing its obligations under this Chapter and a notice that compliance is required by **July 1, 2024**, and that violations may be subject to administrative civil penalties from the CITY starting on January 1, 2024.
- (f) Civil Penalties for Non-Compliance. Beginning **July 1, 2024**, if the CITY determines that an Organic Waste Generator, Self-Hauler, Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance with this Chapter, it shall document the noncompliance or violation, issue an administrative citation and take Enforcement Action, as needed.

**SECTION 10. Severability.** If any provision of this Ordinance or the application thereof is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such invalidity shall not affect the remaining provisions or application of the remaining provisions of this Ordinance, which can be given effect without the invalid provisions or application.

**SECTION 11. Effective Date.** This Ordinance shall become effective thirty (30) days after its adoption by the City Council. The Clerk shall cause this Ordinance to be published in the manner required by Government Code section 36933.

**INTRODUCED AND FIRST READING PERFORMED** on this 5th day of June 2023 by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

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Tami Trent, Mayor

ATTEST:

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Buffy L. Gray, Deputy City Clerk

**SECOND READING PERFORMED AND ADOPTED** on the 20th day of June 2023 by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

ATTEST:

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Tami Trent, Mayor

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Siana L. Emmons, City Clerk