

ORDINANCE NO. 4247

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF HUNTINGTON BEACH  
AMENDING CHAPTER 8.21 OF THE HUNTINGTON BEACH MUNICIPAL CODE  
REFUSE MANAGEMENT AND ADDING CHAPTER 8.22 MANDATORY ORGANIC  
WASTE DISPOSAL REDUCTION

WHEREAS, 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Waste Management Act of 1989 (California Public Resources Code Section 40000, et seq., as amended, supplemented, superseded, and replaced from time to time), requires cities and counties to reduce, reuse, and recycle (including composting) Solid Waste generated in their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; and

WHEREAS, State recycling law, Assembly Bill 341 of 2011 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 the City to implement a mandatory commercial recycling program; and

WHEREAS, State organics recycling law, Assembly Bill 1826 of 2014 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 the City to implement a recycling program to divert Organic Waste from businesses subject to the law, and requires the City to implement a mandatory commercial organics recycling program; and

WHEREAS, SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016, requires CalRecycle to develop regulations to reduce organics in landfills as a source of methane. The regulations place requirements on multiple entities, including the City, residential households, Commercial Businesses and business owners, Commercial Edible Food Generators, haulers, Food Recovery Organizations, and Food Recovery Services to support achievement of Statewide Organic Waste disposal reduction targets; and

WHEREAS, SB 1383 Regulations require the City to adopt and enforce an ordinance or other enforceable mechanism to implement relevant provisions of the SB 1383 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, that would otherwise be disposed, be recovered for human consumption; and

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

The City Council of the City of Huntington Beach does hereby ordain as follows:

SECTION 1. Chapter 8.21.010 is hereby amended to read as follows, with all other definitions remaining the same:

“Organic waste” has the same meaning as defined in Section 8.21.010, which defines organic waste as refuse (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 California Code of Regulations Section 18982(a)(46). Biosolids and digestate are as defined by 14 California Code of Regulations Section 18982(a).

“Refuse” means all putrescible and non-putrescible solid, and semisolid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction 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 or semi-solid wastes, and other discarded solid or semisolid wastes, but not including hazardous waste, radioactive waste regulated pursuant to the State Radiation Control Law, untreated medical waste regulated pursuant to the State Medical Waste Management Act, and liquid waste. Recyclable waste material is considered refuse for purposes of this Chapter. Materials that are sold or donated by the owner thereof to a third party, or thereafter recycled, are not considered refuse for purposes of this Chapter. The term “refuse” shall be synonymous with the term “solid waste” as used in Section 8.22.010 and in the Integrated Waste Management Act, Public Resources Code Section 40000, et seq.

“Residential cart” means a container having a capacity not to exceed 100 gallons and furnished or supplied by the City refuse collector for use in residential collection service. Residential carts shall be colored as described in Section 8.22.020(b).

SECTION 2. Chapter 8.21.130 is hereby amended to read as follows:

“After a container has once been removed by the City pursuant to this Chapter, the owner thereof shall be deemed to have actual notice of the provisions of this Chapter, including prohibition against the placement of unauthorized containers. In the event of a subsequent placement of a container by the same owner, or an affiliate of the owner, that is in violation of this Chapter, the Director may immediately, without the posting of a notice to remove pursuant to subsection A of this section, direct the removal and storage of the unauthorized container and shall, in such case, give notice to the owner to claim the container pursuant to subsections B and C of this section.”

SECTION 3. Chapter 8.21.190 is hereby amended to read as follows:

“The City refuse collector shall dispose of refuse in a manner approved by the Director and consistent with the provisions of Chapters 8.21 and 8.22.”

SECTION 4. Chapter 8.22 is hereby added to read as follows:

Chapter 8.22 MANDATORY ORGANIC WASTE DISPOSAL REDUCTION

8.22.010 Definitions

For the purposes of this Chapter, the following words, terms, phrases, and their derivations have the meanings given herein, or as otherwise defined in 14 California Code of Regulations 18982, as amended. Terms defined elsewhere in Title 8 shall have the same meanings herein unless expressly defined in this Chapter.

“Blue Container” means the same as provided in 14 California Code of Regulations Section 18982(a)(5) and shall be used for the purpose of storage and collection of Source Separated Recyclable Materials or Source Separated Blue Container Organic Waste.

“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. A Multi-Family Residential Dwelling that consists of fewer than five (5) units is not a Commercial Business for purposes of implementing this Chapter.

“Commercial Edible Food Generator” includes a Tier One or a Tier Two Commercial Edible Food Generator. For the purposes of this definition, Food Recovery Organizations and Food Recovery Services are not Commercial Edible Food Generators.

“Compliance Review” means a review of records by the City to determine compliance with this Chapter.

“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 California Code of Regulations Section 18982(a)(8).

“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, as may be amended from time to time.

“Container Contamination” or “Contaminated Container” means a container, regardless of color, that contains Prohibited Container Contaminants.

“C&D” means construction and demolition debris.

“Designee” means an entity that the City contracts with or otherwise arranges to carry out any of the City’s responsibilities of this Chapter as authorized in 14 California Code of Regulations Section 18981.2. A Designee may be a government entity, a hauler, a private entity, or a combination of those entities.

“Edible Food” means food intended for human consumption. For the purposes of this

Chapter, "Edible Food" is not Solid Waste if it is recovered and not discarded. Nothing in this Chapter or in 14 California Code of Regulations, 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.

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

"Excluded Waste" means hazardous substance, hazardous waste, infectious waste, designated waste, volatile, corrosive, medical waste, infectious, regulated radioactive waste, and toxic substances or material that facility operator(s), which receive materials from the City and its generators, reasonably believe(s) would, as a result of or upon acceptance, transfer, processing, or disposal, be a violation of local, State, or Federal law, regulation, or ordinance, including: land use restrictions or conditions, waste that cannot be disposed of in Class III landfills or accepted at the facility by permit conditions, waste that in City's, or its Designee's reasonable opinion would present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose the City, or its Designee, to potential liability; but not including de minimis volumes or concentrations of waste of a type and amount normally found in Single-Family or Multi-Family Solid Waste after implementation of programs for the safe collection, processing, recycling, treatment, and disposal of batteries and paint in compliance with Sections 41500 and 41802 of the California Public Resources Code.

"Food Distributor" means a company that distributes food to entities including, but not limited to, Supermarkets and Grocery Stores.

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

"Food Recovery" means actions to collect and distribute food for human consumption that otherwise would be disposed.

"Food Recovery Organization" means an entity that engages in the collection or receipt of Edible Food from Commercial Edible Food Generators and distributes that Edible Food to the public for Food Recovery either directly or through other entities, including, but not limited to:

- (1) A food bank as defined in Section 113783 of the Health and Safety Code;
- (2) A nonprofit charitable organization as defined in Section 113841 of the Health and Safety code;
- (3) A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code; and
- (4) A Food Recovery Organization is not a Commercial Edible Food Generator for



the purposes of this Chapter and implementation of 14 California Code of Regulations, Division 7, Chapter 12.

“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. A Food Recovery Service is not a Commercial Edible Food Generator for the purposes of this Chapter and implementation of 14 California Code of Regulations, Division 7, Chapter 12.

“Food Service Provider” means an entity primarily engaged in providing food services to institutional, governmental, Commercial, or industrial locations of others based on contractual arrangements with these types of organizations.

“Gray Container” means the same as provided in 14 California Code of Regulations Section 18982(a)(28) and shall be used for the purpose of storage and collection of Gray Container Waste.

“Gray Container Waste” means Solid Waste that is collected in a Gray Container as specified in 14 California Code of Regulations Sections 18984.1(a) and (b), or as otherwise defined in 14 California Code of Regulations Section 17402(a)(6.5). Gray Container Waste may specifically include carpet, Non-Compostable Paper, and textiles.

“Green Container” means the same as provided in 14 California Code of Regulations Section 18982(a)(29) and shall be used for the purpose of storage and collection of Source Separated Green Container Organic Waste.

“Grocery Store” means a store primarily engaged in the retail sale of canned food; dry goods; fresh fruits and vegetables; fresh meats, fish, and poultry; and any area that is not separately owned within the store where the food is prepared and served, including a bakery, deli, and meat and seafood departments.

“Hauler Route” means the designated itinerary or sequence of stops for each segment of the City’s collection service area.

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

“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 Chapter.

“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.

“Large Venue” means a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility. For purposes of this Chapter and implementation of 14 California Code of Regulations, Division 7, Chapter 12, a venue facility includes, but is not limited to, a public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts center, fairground, museum, theater, or other public attraction facility. For purposes of this Chapter and implementation of 14 California Code of Regulations, Division 7, Chapter 12, a site under common ownership or control that includes more than one Large Venue that is contiguous with other Large Venues in the site, is a single Large Venue.

“Local Education Agency” means a school district, charter school, or county office of education that is not subject to the control of city or county regulations related to Solid Waste.

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

“MWELo” refers to the Model Water Efficient Landscape Ordinance (MWELo), 23 California Code of Regulations, Division 2, Chapter 2.7.

“Non-Compostable Paper” includes but is not limited to paper that is coated in a plastic material that will not breakdown in the composting process.

“Non-Local Entity” include, but are not limited to the following entities that are not subject to the City’s enforcement authority, as described in 14 California Code of Regulations, Section 18982(a)(42).

“Non-Organic Recyclables” means non-putrescible and non-hazardous recyclable wastes including but not limited to bottles, cans, metals, plastics and glass.

“Organic Waste” means Solid Wastes 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. Biosolids and digestate are as defined by 14 California Code of Regulations, Section 18982(a).

“Organic Waste Generator” means a person or entity that is responsible for the initial creation of Organic Waste.

“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 City’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 City’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 City’s Green Container and/or Blue Container; and, (iv) Excluded Waste placed in any container.

“Recovered Organic Waste Products” means products made from California, landfill-diverted recovered Organic Waste processed in a permitted or otherwise authorized facility.

“Recovery” means any activity or process described in 14 California Code of Regulations, Section 18983.1(b).

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

“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.

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

“Solid Waste” has the same meaning as defined in State Public Resources Code Section 40191, which defines Solid Waste as all putrescible and nonputrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction 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 semisolid wastes, with the exception that Solid Waste does not include any of the following wastes:

- (1) Hazardous waste, as defined in the State Public Resources Code Section 40141.
- (2) Radioactive waste regulated pursuant to the State Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the State Health and Safety Code).
- (3) Medical waste regulated pursuant to the State Medical Waste Management Act (Part 14 (commencing with Section 117600) of Division 104 of the State Health and Safety Code). Untreated medical waste shall not be disposed of in a Solid

Waste landfill, as defined in State Public Resources Code Section 40195.1. Medical waste that has been treated and deemed to be Solid Waste shall be regulated pursuant to Division 30 of the State Public Resources Code.

“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. For the purposes of this Chapter, 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.

“Source Separated Blue Container Organic Waste” means Source Separated Organic Wastes that can be placed in a Blue Container that is limited to the collection of those Organic Wastes and Non-Organic Recyclables as defined in Section 18982(a)(43).

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

“Source Separated Recyclable Materials” means Source Separated Non-Organic Recyclables and Source Separated Blue Container Organic Waste.

“Supermarket” means a full-line, self-service retail store with gross annual sales of two million dollars (\$2,000,000), or more, and which sells a line of dry grocery, canned goods, or nonfood items and some perishable items.

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

- (1) Supermarket.
- (2) Grocery Store with a total facility size equal to or greater than 10,000 square feet.
- (3) Food Service Provider.
- (4) Food Distributor.
- (5) Wholesale Food Vendor.

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

- (1) Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.

- (2) Hotel with an on-site Food Facility and 200 or more rooms.
- (3) Health facility with an on-site Food Facility and 100 or more beds.
- (4) Large Venue.
- (5) Large Event.
- (6) A State agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet.
- (7) A Local Education Agency facility with an on-site Food Facility.

“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.

#### 8.22.020 Requirements for Single-Family Generators

Single-Family Organic Waste Generators shall:

(a) Subscribe to the City’s three-container Organic Waste collection services. The City shall have the right to review the number, size, and location 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 generator shall adjust its service level for its collection services as requested by the City.

(b) Participate in the City’s three-container system for Source Separated Recyclable Materials, Source Separated Green Container organic materials, and Gray Container Waste collection services. Generator shall place Source Separated Green Container Organic Waste in the Green Container; Source Separated Recyclable Materials in the Blue Container; and Mixed Waste, including Food Waste, in the Gray Container. Generators shall not place materials designated for the Gray Container into the Green Container or Blue Container.

Notwithstanding the above, the City is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the color requirements of this Chapter and the Regulations, prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first. Labels will be placed by the franchise hauler on the containers indicating the primary materials accepted and the primary materials prohibited in the containers. Until compliant colored containers are provided, (Blue Container, Green Container, and Gray Container), Single-Family Waste Generators shall comply with the container label requirements.

(c) Nothing in this Section prohibits a generator from preventing or reducing waste generation, managing Organic waste on site, and/or using a Community Composting site pursuant to 14 California Code of Regulations, Section 18984.9(c).

## 8.22.030 Requirements for Commercial Businesses

Commercial Businesses, which includes Multi-Family Residential Dwellings shall:

(a) Subscribe to the City's three-container Organic waste collection services. The City shall have the right to review the number, size, and location of a generator's containers and frequency of collection to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and, Commercial Businesses shall adjust their service level for their collection services as requested by the City.

(b) Participate in and comply with the City's three-container (Blue Container, Green Container, and Gray Container) collection service by placing designated materials in designated containers. Generator shall place Source Separated Green Container Organic Waste, including Food Waste, in the Green Container; Source Separated Recyclable Materials in the Blue Container; and Gray Container Waste in the Gray Container. Generator shall not place materials designated for the Gray Container into the Green Container or Blue Container.

Notwithstanding the above, the City is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the color requirements of this Chapter and the Regulations, prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first. Labels will be placed by the franchise hauler on the containers indicating the primary materials accepted and the primary materials prohibited in the containers. Until compliant colored containers are provided, (Blue Container, Green Container, and Gray Container), Single-Family Waste Generators shall comply with the container label requirements.

(c) Supply and allow access to adequate number, size and location of collection containers with sufficient labels or colors (conforming with Sections 8.30.030(d)(1) and 8.30.030(d)(2) below) for employees, contractors, tenants, and customers, consistent with City's Blue Container, Green Container, and Gray Container collection service or, if self-hauling, per the Commercial Businesses' instructions to support its compliance with its self-haul program.

(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 California Code of Regulations Section 18984.9(b), the containers provided by the business shall have either:

(1) A body or lid that conforms with the container colors provided through the collection service provided by the City, with either lids conforming to the color requirements or bodies conforming to the color requirements or both lids and bodies conforming to color requirements. A Commercial Business is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the requirements of 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 California Code of Regulations Section 18984.8, the container labels are required on new containers commencing January 1, 2022.

(e) Multi-Family Residential Dwellings are not required to comply with container placement requirements or labeling requirement pursuant to 14 California Code of Regulations 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 or, if self-hauling, per the Commercial Businesses' instructions to support its compliance with its self-haul program, in accordance with Section 8.22.080.

(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 California Code of Regulations, 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 the City or its agent to their properties during all Inspections conducted in accordance with this Chapter to confirm compliance with the requirements of this Chapter.

(k) If implemented, accommodate and cooperate with the City's Remote Monitoring program for Inspection of the contents of containers for Prohibited Container Contaminants, to evaluate generator's compliance with this Chapter. The Remote Monitoring program shall involve installation of Remote Monitoring equipment on or in the Blue Containers, Green Containers, and/or Gray Containers.

(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 California Code of Regulations Section 18984.9(c).

(m) Commercial Businesses that are Tier One or Tier Two Commercial Edible Food Generators shall comply with Food Recovery requirements of this Chapter.

#### 8.22.040 Waivers for Generators

(a) De Minimis Waivers. The City may, at its discretion, waive a Commercial Business' requirement (including Multi-Family Residential Dwellings) to comply with some or all of the Organic Waste requirements of this Chapter if the Commercial Business:

- (1) Submits an application specifying the services that they are requesting a waiver from.
- (2) Provides documentation that either:
  - (A) The Commercial Business' total Solid Waste collection service is two cubic yards or more per week and Organic Waste subject to collection in a Blue Container or Green Container comprises less than 20 gallons per week per applicable container of the business' total waste; or,
  - (B) The Commercial Business' total Solid Waste collection service is less than two cubic yards per week and Organic Waste subject to collection in a Blue Container or Green Container comprises less than 10 gallons per week per applicable container of the business' total waste; and
- (3) Notifies the City if circumstances change such that Commercial Business's Organic Waste exceeds the threshold required for waiver, in which case waiver will be rescinded; and
- (4) Provides written verification of eligibility for de minimis waiver every 5 years, if the City has approved de minimis waiver.

(b) Physical Space Waivers. City may, at its discretion, waive a Commercial Business' or property owner's obligations (including Multi-Family Residential Dwellings) to comply with some or all of the recyclable materials and/or Organic Waste collection service requirements if the City has evidence from its own staff, a hauler, licensed architect, or licensed engineer demonstrating that the premises lack adequate space for the collection containers required for compliance with the Organic Waste collection requirements of this Chapter.

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

- (1) Submit an application form specifying the type(s) of collection services



- for which they are requesting a compliance waiver.
- (2) Provide documentation that the premises lack adequate space for Blue Containers and/or Green Containers including documentation from its hauler, licensed architect, or licensed engineer.
- (3) Provide written verification to the City that it is still eligible for physical space waiver every five years, if the City has approved application for a physical space waiver.

(c) Collection Frequency Waiver. The City, at its discretion and in accordance with 14 California Code of Regulations, Section 18984.11(a)(3), may allow the owner or tenant of any residence, premises, business establishment or industry that subscribes to the City's three-container Organic Waste collection service to arrange for the collection of their Blue Container, Gray Container, or both once every fourteen days, rather than once a week.

#### 8.22.050 Requirements for Commercial Edible Food Generators

(a) Tier One Commercial Edible Food Generators must comply with the requirements of this Section commencing January 1, 2022, and Tier Two Commercial Edible Food Generators must comply commencing January 1, 2024, pursuant to 14 California Code of Regulations Section 18991.3.

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

(c) Commercial Edible Food Generators shall comply with the following requirements:

- (1) Arrange to recover the maximum amount of Edible Food that would otherwise be disposed.
- (2) Contract with, or enter into a written agreement with, Food Recovery Organizations or Food Recovery Services for: (i) the collection of Edible Food for Food Recovery; or, (ii) acceptance of the Edible Food that the Commercial Edible Food Generator self-hauls to the Food Recovery Organization for Food Recovery.
- (3) Shall not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery Organization or a Food Recovery Service.
- (4) Allow City's designated enforcement entity or designated third party enforcement entity to access the premises and review records pursuant to 14 California Code of Regulations Section 18991.4.
- (5) Keep records that include the following information, or as otherwise specified in 14 California Code of Regulations Section 18991.4:

(A) A list of each Food Recovery Service or organization that collects or receives its Edible Food pursuant to a contract or written agreement established under 14 California Code of Regulations Section 18991.3(b).

(B) A copy of all contracts or written agreements established under 14 California Code of Regulations, Section 18991.3(b).

(C) A record of the following information for each of those Food Recovery Services or Food Recovery Organizations:

- (i) The name, address and contact information of the Food Recovery Service or Food Recovery Organization.
- (ii) The types of food that will be collected by or self-hauled to the Food Recovery Service or Food Recovery Organization.
- (iii) The established frequency that food will be collected or self-hauled.
- (iv) The quantity of food, measured in pounds recovered per month, collected or self-hauled to a Food Recovery Service or Food Recovery Organization for Food Recovery.

(6) Commencing no later than February 1, 2022 for Tier One Commercial Edible Food Generators and February 1, 2024 for Tier Two Commercial Edible Food Generators, Commercial Edible Food Generators shall provide a quarterly Food Recovery report to the City that includes the information required in 14 California Code of Regulations Section 18991.4 "Record Keeping Requirements for Commercial Edible Food Generators."

(d) Nothing in this section shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share table and school food donation guidance pursuant to Senate Bill 557 of 2017.

#### 8.22.060 Requirements for Food Recovery Organizations and Services

(a) Food Recovery Services collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 California Code of Regulations Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 California Code of Regulations Section 18991.5(a)(1):

- (1) The name, address, and contact information for each Commercial Edible Food Generator from which the service collects Edible Food.
- (2) The quantity in pounds of Edible Food collected from each Commercial Edible Food Generator per month.
- (3) The quantity in pounds of Edible Food transported to each Food Recovery

Organization per month.

- (4) The name, address, and contact information for each Food Recovery Organization that the Food Recovery Service transports Edible Food to for Food Recovery.

(b) Food Recovery Organizations collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 California Code of Regulations Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 California Code of Regulations Section 18991.5(a)(2):

- (1) The name, address, and contact information for each Commercial Edible Food Generator from which the organization receives Edible Food.
- (2) The quantity in pounds of Edible Food received from each Commercial Edible Food Generator per month.
- (3) The name, address, and contact information for each Food Recovery Service that the organization receives Edible Food from for Food Recovery.

(c) Commencing January 1, 2022, 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 California Code of Regulations Section 18991.3(b) shall report to the City the total pounds of Edible Food recovered in the previous calendar year from the Tier One and Tier Two Commercial Edible Food Generators they have established a contract or written agreement with pursuant to 14 California Code of Regulations Section 18991.3(b), as applicable.

(d) In order to support Edible Food Recovery capacity planning assessments or other studies conducted by the City that provides solid waste collection services or its designated entity, Food Recovery Services and Food Recovery Organizations operating in the City shall provide information and consultation to the City, upon request, regarding existing, or proposed new or expanded, Food Recovery capacity that could be accessed by the City and its Commercial Edible Food Generators. A Food Recovery Service or Food Recovery Organization contacted by the City shall respond to such request for information within 60 days, unless a shorter timeframe is otherwise specified by the City.

(e) Commencing no later than January 1, 2022, Food Recovery Services and Organization shall provide a quarterly report to the City which includes the information required in 14 California Code of Regulations, Section 18991.5 "Food Recovery Services and Organizations.

8.22.070 Requirements for Haulers and Facility Operators and Community Compositing Operations

(a) Requirements for Haulers

- (1) The franchise hauler providing residential, Commercial, or Industrial Organic Waste collection services to generators within the City's boundaries shall meet the following requirements and standards as a condition of approval of a contract, agreement, or other authorization with the City to collect Organic Waste:
  - (A) Through written notice to the City annually on or before January 1<sup>st</sup>, identify the facilities to which they will transport Organic Waste including the facilities for Source Separated Recyclable Materials and Source Separated Green Container Organic Waste, as applicable.
  - (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 California Code of Regulations, 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 California Code of Regulations.
  - (D) Section 18989.1 and the Huntington Beach Municipal Code.
  - (E) The franchise hauler shall comply with education, equipment, signage, container labelling, container color, contamination monitoring, reporting, and other requirements contained within its Franchise Agreement, as may be amended from time to time.
  - (F) Notwithstanding any the foregoing, nothing in this Chapter shall restrict or otherwise prohibit the franchise hauler from meeting its compliance requirements by any alternative methods or procedures, provided it complies with SB 1383, the SB 1383 Regulations, and/or any other applicable law, as may be amended from time to time.

(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 the City's

request, provide information regarding available and potential new or expanded capacity at their facilities, operations, and activities, including information about throughput and permitted capacity necessary for planning purposes. Entities contacted by the City shall respond within 60 days.

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

#### 8.22.080 Procurement Requirements for City Departments, Direct Service Providers, and Vendors

Procurement Requirements for City departments, direct service providers, and vendors shall be as set forth in Section 3.02.165 and all other applicable City procurement policies.

#### 8.22.090 Compliance with CALGreen Recycling Requirements

Persons applying for a permit from the City for new construction and building additions and alternations shall also comply with the requirements of Section 17.52.020.

#### 8.22.100 Model Water Efficient Landscaping Ordinance Requirements

"As applicable, all persons and/or entities subject to the MWELo shall comply with Sections 492.6(a)(3)(B), (C), (D), and (G), as amended September 15, 2015. The MWELo compliance items listed herein are not an inclusive list of MWELo requirements; therefore, property owners or their building or landscape designers that meet the threshold for MWELo compliance outlined herein shall consult the full MWELo for all requirements.

If after the adoption of this Chapter, the California Department of Water Resources, or its successor agency, amends 23 California Code of Regulations Sections 492.6(a)(3)(B), (C), (D), and (G) in a manner that requires the City to incorporate the requirements of an updated MWELo in a local ordinance, and the amended requirements are more stringent than those required in this section, the revised requirements shall be enforced.

#### 8.22.110 Inspections and Investigations by the City

(a) City representatives and/or its designated entity, including Designees, are authorized to conduct Inspections and investigations, at random or otherwise, of any collection container, collection vehicle loads, or transfer, processing, or disposal facility for materials collected from generators, or Source Separated materials to confirm compliance with this Chapter, subject to applicable laws. This Section does not allow City to enter the interior of a private residential property for Inspection. For the purposes of inspecting Commercial Business containers for compliance for this Chapter, the City may conduct container Inspections for

Prohibited Container Contaminants using Remote Monitoring and Commercial Businesses shall accommodate and cooperate with the Remote Monitoring where applicable.

(b) Regulated entity shall provide or arrange for access during all Inspections (with the exception of residential property interiors) and shall cooperate with City's employees or its designated entity/Designee during such Inspections and investigations. Such Inspections and investigations may include confirmation of proper placement of materials in containers, Edible Food Recovery activities, records, or any other requirement of this Chapter described herein. Failure to provide or arrange for: (i) access to an entity's premises; or (ii) access to records for any Inspection or investigation is a violation of this Chapter and may result in penalties described.

(c) Any records obtained by a City during its Inspections, Remote Monitoring, and other reviews shall be subject to the requirements and applicable disclosure exemptions of the Public Records Act as set forth in Government Code Section 6250 et seq.

(d) City representatives, its designated entity, and/or Designee are authorized to conduct any Inspections, Remote Monitoring, or other investigations as reasonably necessary to further the goals of this Chapter, subject to applicable laws.

(e) The City shall receive written complaints from persons regarding an entity that may be potentially non-compliant with SB 1383 Regulations, including receipt of anonymous complaints.

#### 8.22.120 Rules and Regulations

The Director shall make such rules and regulations as may be necessary and proper to enforce the provisions of this Chapter. A copy of any rule or regulation promulgated by the Director shall be provided to the City Council.

#### 8.22.130 Enforcement

(a) Violation of any provision of this Chapter shall constitute grounds for issuance of a Notice of Violation and assessment of a fine by a City Enforcement Official or representative. Enforcement Actions under this Chapter are issuance of an administrative citation and assessment of a fine. The City's procedures on imposition of administrative fines are hereby incorporated in their entirety, as modified from time to time, and shall govern the imposition, enforcement, collection, and review of administrative citations issued to enforce this Chapter and any rule or regulation adopted pursuant to this Chapter, except as otherwise indicated in this Chapter.

(b) Other remedies allowed by law may be used, including civil action or prosecution as misdemeanor or infraction. 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

Official, which may be the city manager or their designated entity, legal counsel, or combination thereof.

(d) Process for Enforcement

(1) Enforcement Officials and/or their Designee will monitor compliance with this Chapter randomly and through Compliance Reviews, Route Reviews, investigation of complaints, and an Inspection program, which may include Remote Monitoring.

(2) The City may issue an official notification to notify regulated entities of its obligations under this Chapter.

(3) For incidences of Prohibited Container Contaminants found in containers, the City will issue a Notice of Violation to any generator found to have Prohibited Container Contaminants in a container. Such notice will be provided via a cart tag or other communication immediately upon identification of the Prohibited Container contaminants or within five days after determining that a violation has occurred. If the City or its authorized Designee observes Prohibited Container Contaminants in a generator's containers on three consecutive occasions within a six-month time period, the City may assess contamination processing fees or contamination penalties on the generator.

(4) With the exception of violations of generator contamination of container contents, the City shall issue a Notice of Violation requiring compliance within 60 days of issuance of the notice.

(5) Absent compliance by the respondent within the deadline set forth in the Notice of Violation, the City shall commence an action to impose penalties, via an administrative citation and fine, pursuant to Chapter 1.18 of the Huntington Beach Municipal Code.

Notices shall 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.

(e) Penalty Amounts for Types of Violations

(1) For a first violation, the amount of the penalty shall be \$100 per violation.

(2) For a second violation, the amount of the penalty shall be \$200 per violation.

(3) For a third or subsequent violation, the amount of the penalty shall be \$500 per violation.

(f) Compliance Deadline Extension Considerations

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

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

(g) 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 for appeals of administrative citations. Evidence may be presented at the hearing. The City will appoint a hearing officer who shall conduct the hearing and issue a final written order.

(h) Education Period for Non-Compliance

Beginning January 1, 2022 and through December 31, 2023, 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 City determines that Organic Waste Generator, hauler, Tier One Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance, it shall provide educational materials to the entity describing its obligations under this Chapter and a notice that compliance is required by January 1, 2022, and that violations may be subject to administrative civil penalties starting on January 1, 2024.

(i) Civil Penalties for Non-Compliance

Beginning January 1, 2024, or an extended date set by CalRecycle if the City determines that an Organic Waste Generator, hauler, Tier One or Tier Two Commercial Edible Food Generator, hauler, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance with this Chapter, it shall document the noncompliance or violation, issue a Notice of Violation, and take Enforcement Action pursuant to this Chapter and state law, as needed."

SECTION 5. CEQA. SB 1383 Regulations were the subject of a program environmental impact report (EIR) prepared pursuant to the California Environmental Quality Act (CEQA). The proposed amendments to Chapter 8.21 of the HBMC are consistent with the SB 1383 Regulations and the Program EIR. No mitigation measures identified in the Program EIR are applicable to the City's enactment of the proposed ordinance amendments. Moreover, none of



the conditions requiring a subsequent or supplemental EIR, as described in Public Resources Code Section 21166 and California Environmental Quality Act (CEQA) Guidelines Sections 15162 and 15163, have occurred. Additionally, the proposed ordinance is exempt from CEQA pursuant to Section 15308, Class 8 of the CEQA Guidelines as an action that will not have a significant impact on the environment and as an action taken by a regulatory agency for the protection of the environment, specifically, for the protection of the climate. No unusual circumstances exist that would cause the proposed ordinance to have a significant effect on the environment.

SECTION 6. This ordinance shall become effective 30 days after its adoption.

PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
City Attorney *m*

REVIEWED AND APPROVED:

INITIATED AND APPROVED:

\_\_\_\_\_  
City Manager

*[Signature]*  
\_\_\_\_\_  
Director of Public Works

## LEGISLATIVE DRAFT

### HBMC CHAPTER 8.21

#### 8.21.010 Definitions

**“Adequate service”** means the combination of the number of collections, the number of containers, and the size of containers necessary so as not to cause the accumulation of refuse outside containers or in excess of level full.

**“Automated residential collection service”** means the residential collection service by the City refuse collector, whereby refuse, recyclable waste materials, and yard waste are generally sorted into separate residential carts by the person discarding such items.

**“Basic level of service”** means, with respect to residential collection service and automated residential collection service, one collection of each residential cart per week, or that level of collection and disposal service necessary to provide adequate service for the collection of refuse generated by each single-family residence, and each dwelling unit within a duplex, a triplex, or a fourplex, as specifically provided in any given contract between the City and any person for collection of such refuse, or as provided by resolution of the City Council. Basic level of service does not include refuse or substances excluded from collection by regulation of the Director or by contract, as hereinafter provided, refuse capable thereof which has not been placed in residential carts within the weight and size limits hereinafter set forth for residential carts. Basic level of service, with respect to commercial collection service, means that level of collection and disposal service necessary to provide adequate service.

**“Business”** means any commercial or public entity, that generates four cubic yards or more of refuse per week, including, but not limited to, a firm, partnership, proprietorship, joint-stock company, corporation, or association that is organized as a for-profit or nonprofit entity, strip mall (e.g. property complex containing two or more commercial entities), industrial facility, school, school district, California State University, community colleges, University of California, special district or a federal, state, local, regional agency or facility. For purposes of the chapter, “business” also includes a multi-family residential dwelling of five units or more, regardless of the amount of refuse generated.

**“City refuse collector”** means any person either employed by or under contract with the City to provide removal, transportation, processing, and disposition of refuse from residents and users of premises within the City.

**“Collection”** means the pickup, removal, and transportation of refuse by any person authorized to do so by the City.

**“Commercial collection service”** means the collection of refuse from all property within the City excluded from residential collection service, or properties subject to residential collection service which choose to utilize commercial collection service.

**“Commercial container”** means any vessel, tank, receptacle, dumpster, box or bin used or intended to be used for the purpose of holding any refuse, recyclable material, and recyclable waste material. Commercial containers utilized in commercial collection service include all types of containers, including dumpsters or bins.

**“Corporation”** means corporations, partnerships, and all business enterprises, associations or organizations, however designed.

**“Director”** means the Huntington Beach Director of Public Works or his/her authorized representative.

**“Hazardous waste”** means a waste, or combination of wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may: (1) cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or (2) pose a substantial present or potential hazard to human health or environment when improperly treated, stored, transported, or disposed of, or otherwise managed.

**“Level full”** means the amount of refuse deposited in a residential cart or commercial container so that it shall not exceed the lowest top edge thereof and still allow the lid thereof to be completely closed.

**“Noncombustible refuse”** means ashes, bottles, broken crockery, glass, tin cans and metallic substances or any other substances that will not incinerate through contact with flames of ordinary temperature.

**“Organic waste”** means food waste, green waste, landscaping and pruning waste, nonhazardous wood waste, and food-soiled paper waste that is mixed in with food waste.

**“Person”** means any individual, firm, governmental unit, organization, partnership, corporation, company or other entity.

**“Processing”** means reduction, separation, recovery, conversion or recycling of refuse.

**“Recyclable material”** means materials which are segregated at the source from other refuse for the purpose of recycling and includes, but is not limited to, paper, glass, metals, wood, plastics, wastes, bulky goods, waste oil, and construction and demolition materials and which is sold or donated by the owner thereof to a third party.

**“Recyclable material collection”** means the collection, transportation, storage, transfer, or processing of recyclable materials.

**“Recyclable waste material”** means discarded materials such as, but not limited to, newspapers, glass and metal cans, which are separated from other refuse for the purpose of recycling and which are not sold or donated to a third party.

**“Recyclable waste material collecting”** means the collection, transportation, storage, transfer, or processing of recyclable waste material.

**“Recycling”** means the process of collecting, sorting, cleansing, treating, and reconstituting materials that would otherwise be disposed of by landfilling or transformation, and returning materials to the economic mainstream in the form of raw material for new, reused, or reconstituted products.

**“Refuse”** means all putrescible and non-putrescible solid, and semisolid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, organic waste, demolition and construction 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 or semi-solid wastes, and other discarded solid or semisolid wastes, but not including hazardous waste, radioactive waste regulated pursuant to the State Radiation Control Law, untreated medical waste regulated pursuant to the State Medical Waste Management Act, and liquid waste. Recyclable waste material is considered refuse for purposes of this Chapter. ~~Materials that are sold or donated by the owner thereof to a third party, or thereafter recycled, are not considered refuse for~~



~~purposes of this chapter.~~ The term “refuse” shall be synonymous with the term “solid waste” as used in Section 8.22.010 in the the Integrated Waste Management Act, [Public Resources Code](#) Section 40000, et seq.

“**Refuse collection**” means the collection, transportation, storage, transfer, disposal, or processing of refuse.

“**Residential collection service**” means the collection of refuse from each single-family residence, and each dwelling unit within a duplex, a triplex or a fourplex receiving noncommercial refuse collection service. It shall not include any hotel, motel, lodge, hall, club, tourist camp, trailer camp, mobile home park, church, guard shack, pool house, community room, business or industrial establishment, or any lot containing more than four dwelling units.

“**Residential cart**” means a container having a capacity not to exceed ~~95~~ 100 gallons and furnished or supplied by the City refuse collector for use in the ~~automated~~ residential collection service. Residential carts shall be colored as described in Section 8.22.020(b). ~~brown for refuse, blue for recyclable waste material, and green for yard waste.~~

“**Yard waste**” means those constituents of solid waste comprised of non-soil landscape or plant materials such as tree trimmings, grass cuttings, plants, weeds, leaves, branches, trees, or similar materials.

#### **8.21.130 Container—Removal**

After a container has once been removed by the City pursuant to this Chapter, the owner thereof shall be deemed to have actual notice of the provisions of this Chapter, including prohibition against the placement of unauthorized containers. In the event of a subsequent placement of a container by the same owner, or an affiliate of the owner, that is in violation of this Chapter, the Director may immediately, without the posting of a notice to remove pursuant to subsection A of this section, direct the removal and storage of the unauthorized container and shall, in such case, give notice to the owner to claim the container pursuant to subsections B and C of this section.

~~A.— The Director may cause to be posted a notice on any container illegally placed on public or private property. The notice shall specify the nature of the violation and shall state that the container must be removed within 24 hours or it may be removed and stored by the City, and the contents disposed of, at the expense of the owner thereof. The posting of a notice to remove shall constitute constructive notice to the owner and user of the requirement to remove the container.~~

~~B.— If the container is not removed within 24 hours after the notice to remove is posted, the Director may order the removal and storage of the container and the disposal of its contents. The owner of the container shall be responsible to the City for the actual cost of removal, storage, and disposal. All amounts due to the City for the cost of removal, storage and disposal shall be paid before the container is returned to the owner. Such amounts shall constitute a debt owed by the owner to the City, and the owner shall be liable to the City in an action brought by the City for the recovery of such amounts.~~

~~C.— If the identity of the owner of a container that has been removed by the City is known to the Director, the Director shall promptly cause notice to be mailed to the owner to claim the stored property. If the container is not claimed within 90 days after removal and notice to the owner, or 90~~

days after removal if the identity of the owner is unknown to the Director, the container and its contents shall be deemed abandoned property and may be disposed of accordingly.

D.—After a container has once been removed by the City pursuant to this article, the owner thereof shall be deemed to have actual notice of the provisions of this article, including prohibition against the placement of unauthorized containers. In the event of a subsequent placement of a container by the same owner, or an affiliate of the owner, that is in violation of this chapter, the Director may immediately, without the posting of a notice to remove pursuant to subsection A of this section, direct the removal and storage of the unauthorized container and shall, in such case, give notice to the owner to claim the container pursuant to subsections B and C of this section.

### **8.21.190 Containers and Transportation of Refuse**

No person other than the City refuse collector shall transport refuse or recyclable waste material in the City of Huntington Beach on behalf of another person in exchange for compensation. All vehicles and containers used in collecting and transporting refuse or recyclable material shall be provided with metal or plastic bodies so constructed as to be leakproof and to prevent the escape of offensive odors and loss, spillage or blowing away of any contents collected or transported within the City. Such vehicles and containers shall be thoroughly cleaned to eliminate odors and decayed materials.

The City refuse collector shall dispose of refuse in a manner approved by the Director and consistent with the provisions of Chapters 8.21 and 8.22.

## **8.22 Mandatory Organic Waste Disposal Reduction**

### **8.22.010 Definitions**

**Blue Container** means the same as provided in 14 California Code of Regulations Section 18982(a)(5) and shall be used for the purpose of storage and collection of Source Separated Recyclable Materials or Source Separated Blue Container Organic Waste.

**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. A Multi-Family Residential Dwelling that consists of fewer than five (5) units is not a Commercial Business for purposes of implementing this Chapter.

**Commercial Edible Food Generator** includes a Tier One or a Tier Two Commercial Edible Food Generator. For the purposes of this definition, Food Recovery Organizations and Food Recovery Services are not Commercial Edible Food Generators.

**Compliance Review** means a review of records by the City to determine compliance with this Chapter.

**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 California Code of Regulations Section 18982(a)(8).

**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, as may be amended from time to time.

**Container Contamination or Contaminated Container** means a container, regardless of color, that contains Prohibited Container Contaminants.

**C&D** means construction and demolition debris.

**Designee** means an entity that the City contracts with or otherwise arranges to carry out any of the City's responsibilities of this Chapter as authorized in 14 California Code of Regulations Section 18981.2. A Designee may be a government entity, a hauler, a private entity, or a combination of those entities.

**Edible Food** means food intended for human consumption. For the purposes of this Chapter, "Edible Food" is not Solid Waste if it is recovered and not discarded. Nothing in this Chapter or in 14 California Code of Regulations, 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.

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

**Excluded Waste** means hazardous substance, hazardous waste, infectious waste, designated waste, volatile, corrosive, medical waste, infectious, regulated radioactive waste, and toxic substances or material that facility operator(s), which receive materials from the City and its generators, reasonably believe(s) would, as a result of or upon acceptance, transfer, processing, or disposal, be a violation of local, State, or Federal law, regulation, or ordinance, including: land use restrictions or conditions, waste that cannot be disposed of in Class III landfills or accepted at the facility by permit conditions, waste that in City's, or its Designee's reasonable opinion would present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose the City, or its Designee, to potential liability; but not including de minimis volumes or concentrations of waste of a type and amount normally found in Single-Family or Multi-Family Solid Waste after implementation of programs for the safe collection, processing, recycling, treatment, and disposal of batteries and paint in compliance with Sections 41500 and 41802 of the California Public Resources Code.

**Food Distributor** means a company that distributes food to entities including, but not limited to, Supermarkets and Grocery Stores.

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

**Food Recovery** means actions to collect and distribute food for human consumption that otherwise would be disposed.



**Food Recovery Organization** means an entity that engages in the collection or receipt of Edible Food from Commercial Edible Food Generators and distributes that Edible Food to the public for Food Recovery either directly or through other entities, including, but not limited to:

- (1) A food bank as defined in Section 113783 of the Health and Safety Code;
- (2) A nonprofit charitable organization as defined in Section 113841 of the Health and Safety code;
- (3) A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code; and
- (4) A Food Recovery Organization is not a Commercial Edible Food Generator for the purposes of this Chapter and implementation of 14 California Code of Regulations, Division 7, Chapter 12.

**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. A Food Recovery Service is not a Commercial Edible Food Generator for the purposes of this Chapter and implementation of 14 California Code of Regulations, Division 7, Chapter 12.

**Food Service Provider** means an entity primarily engaged in providing food services to institutional, governmental, Commercial, or industrial locations of others based on contractual arrangements with these types of organizations.

**Gray Container** means the same as provided in 14 California Code of Regulations Section 18982(a)(28) and shall be used for the purpose of storage and collection of Gray Container Waste.

**Gray Container Waste** means Solid Waste that is collected in a Gray Container as specified in 14 California Code of Regulations Sections 18984.1(a) and (b), or as otherwise defined in 14 California Code of Regulations Section 17402(a)(6.5). Gray Container Waste may specifically include carpet, Non-Compostable Paper, and textiles.

**Green Container** means the same as provided in 14 California Code of Regulations Section 18982(a)(29) and shall be used for the purpose of storage and collection of Source Separated Green Container Organic Waste.

**Grocery Store** means a store primarily engaged in the retail sale of canned food; dry goods; fresh fruits and vegetables; fresh meats, fish, and poultry; and any area that is not separately owned within the store where the food is prepared and served, including a bakery, deli, and meat and seafood departments.

**Hauler Route** means the designated itinerary or sequence of stops for each segment of the City's

collection service area.

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

**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 Chapter.

**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.

**Large Venue** means a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility. For purposes of this Chapter and implementation of 14 California Code of Regulations, Division 7, Chapter 12, a venue facility includes, but is not limited to, a public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts center, fairground, museum, theater, or other public attraction facility. For purposes of this Chapter and implementation of 14 California Code of Regulations, Division 7, Chapter 12, a site under common ownership or control that includes more than one Large Venue that is contiguous with other Large Venues in the site, is a single Large Venue.

**Local Education Agency** means a school district, charter school, or county office of education that is not subject to the control of city or county regulations related to Solid Waste.

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

**MWEO** refers to the Model Water Efficient Landscape Ordinance (MWEO), 23 California Code of Regulations, Division 2, Chapter 2.7.

**Non-Compostable Paper** includes but is not limited to paper that is coated in a plastic material that will not breakdown in the composting process.

**Non-Local Entity** include, but are not limited to the following entities that are not subject to the



City's enforcement authority, as described in 14 California Code of Regulations, Section 18982(a)(42).

**Non-Organic Recyclables** means non-putrescible and non-hazardous recyclable wastes including but not limited to bottles, cans, metals, plastics and glass.

**Organic Waste** means Solid Wastes 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. Biosolids and digestate are as defined by 14 California Code of Regulations, Section 18982(a).

**Organic Waste Generator** means a person or entity that is responsible for the initial creation of Organic Waste.

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

**Recovered Organic Waste Products** means products made from California, landfill-diverted recovered Organic Waste processed in a permitted or otherwise authorized facility.

**Recovery** means any activity or process described in 14 California Code of Regulations, Section 18983.1(b).

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

**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.

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

**Solid Waste** has the same meaning as defined in State Public Resources Code Section 40191, which defines Solid Waste as all putrescible and nonputrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction 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 semisolid wastes, with the exception that Solid Waste does not include any of the following wastes:

- (1) Hazardous waste, as defined in the State Public Resources Code Section 40141.
- (2) Radioactive waste regulated pursuant to the State Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the State Health and Safety Code).
- (3) Medical waste regulated pursuant to the State Medical Waste Management Act (Part 14 (commencing with Section 117600) of Division 104 of the State Health and Safety Code). Untreated medical waste shall not be disposed of in a Solid Waste landfill, as defined in State Public Resources Code Section 40195.1. Medical waste that has been treated and deemed to be Solid Waste shall be regulated pursuant to Division 30 of the State Public Resources Code.

**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. For the purposes of this Chapter, 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.

**Source Separated Blue Container Organic Waste** means Source Separated Organic Wastes that can be placed in a Blue Container that is limited to the collection of those Organic Wastes and Non-Organic Recyclables as defined in Section 18982(a)(43).

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

**Source Separated Recyclable Materials** means Source Separated Non-Organic Recyclables and Source Separated Blue Container Organic Waste.

**Supermarket** means a full-line, self-service retail store with gross annual sales of two million dollars (\$2,000,000), or more, and which sells a line of dry grocery, canned goods, or nonfood items and some perishable items.

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

- (1) Supermarket.
- (2) Grocery Store with a total facility size equal to or greater than 10,000 square feet.
- (3) Food Service Provider.
- (4) Food Distributor.
- (5) Wholesale Food Vendor.

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

- (1) Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.
- (2) Hotel with an on-site Food Facility and 200 or more rooms.
- (3) Health facility with an on-site Food Facility and 100 or more beds.
- (4) Large Venue.
- (5) Large Event.
- (6) A State agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet.
- (7) A Local Education Agency facility with an on-site Food Facility.

**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.

#### **8.22.020—Requirements for Single-Family Generators**

Single-Family Organic Waste Generators shall:

(a) Subscribe to the City's three-container Organic Waste collection services. The City shall have the right to review the number, size, and location 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 generator shall adjust its service level for its collection services as requested by the City.

(b) Participate in the City's three-container system for Source Separated Recyclable Materials, Source Separated Green Container organic materials, and Gray Container Waste collection services. Generator shall place Source Separated Green Container Organic Waste in the Green Container; Source Separated Recyclable Materials in the Blue Container; and Mixed Waste, including Food Waste, in the Gray Container. Generators shall not place materials designated for the Gray Container into the Green Container or Blue Container.



Notwithstanding the above, the City is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the color requirements of this Chapter and the Regulations, prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first. Labels will be placed by the franchise hauler on the containers indicating the primary materials accepted and the primary materials prohibited in the containers. Until compliant colored containers are provided, (Blue Container, Green Container, and Gray Container), Single-Family Waste Generators shall comply with the container label requirements.

Nothing in this Section prohibits a generator from preventing or reducing waste generation, managing Organic waste on site, and/or using a Community Composting site pursuant to 14 California Code of Regulations, Section 18984.9(c).

#### **8.22.030—Requirements for Commercial Businesses**

Commercial Businesses, which includes Multi-Family Residential Dwellings shall:

(a) Subscribe to the City's three-container Organic waste collection services. The City shall have the right to review the number, size, and location of a generator's containers and frequency of collection to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and, Commercial Businesses shall adjust their service level for their collection services as requested by the City.

(b) Participate in and comply with the City's three-container (Blue Container, Green Container, and Gray Container) collection service by placing designated materials in designated containers. Generator shall place Source Separated Green Container Organic Waste, including Food Waste, in the Green Container; Source Separated Recyclable Materials in the Blue Container; and Gray Container Waste in the Gray Container. Generator shall not place materials designated for the Gray Container into the Green Container or Blue Container.

Notwithstanding the above, the City is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the color requirements of this Chapter and the Regulations, prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first. Labels will be placed by the franchise hauler on the containers indicating the primary materials accepted and the primary materials prohibited in the containers. Until compliant colored containers are provided, (Blue Container, Green Container, and Gray Container), Single-Family Waste Generators shall comply with the container label requirements.

(c) Supply and allow access to adequate number, size and location of collection containers with sufficient labels or colors (conforming with Sections 8.30.030(d)(1) and 8.30.030(d)(2) below) for employees, contractors, tenants, and customers, consistent with City's Blue Container, Green Container, and Gray Container collection service or, if self-hauling, per the Commercial Businesses' instructions to support its compliance with its self-haul program.

(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 California Code of Regulations Section 18984.9(b), the containers provided by the business shall have either:

(1) A body or lid that conforms with the container colors provided through the collection service provided by the City, with either lids conforming to the color requirements or bodies conforming to the color requirements or both lids and bodies conforming to color requirements. A Commercial Business is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the requirements of 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 California Code of Regulations Section 18984.8, the container labels are required on new containers commencing January 1, 2022.

(e) Multi-Family Residential Dwellings are not required to comply with container placement requirements or labeling requirement pursuant to 14 California Code of Regulations 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 or, if self-hauling, per the Commercial Businesses' instructions to support its compliance with its self-haul program, in accordance with Section 8.22.080.

(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 California Code of Regulations, 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 the City or its agent to their properties during all Inspections conducted in accordance with this Chapter to confirm compliance with the requirements of this Chapter.

(k) If implemented, accommodate and cooperate with the City's Remote Monitoring program for Inspection of the contents of containers for Prohibited Container Contaminants, to evaluate generator's compliance with this Chapter. The Remote Monitoring program shall involve installation of Remote Monitoring equipment on or in the Blue Containers, Green Containers, and/or Gray Containers.

(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 California Code of Regulations Section 18984.9(c).

(m) Commercial Businesses that are Tier One or Tier Two Commercial Edible Food Generators shall comply with Food Recovery requirements of this Chapter.

#### **8.22.040—Waivers for Generators**

(a) De Minimis Waivers. The City may, at its discretion, waive a Commercial Business' requirement (including Multi-Family Residential Dwellings) to comply with some or all of the Organic Waste requirements of this Chapter if the Commercial Business:

- (1) Submits an application specifying the services that they are requesting a waiver from.
- (2) Provides documentation that either:
  - (A) The Commercial Business' total Solid Waste collection service is two cubic yards or more per week and Organic Waste subject to collection in a Blue Container or Green Container comprises less than 20 gallons per week per applicable container of the business' total waste; or,
  - (B) The Commercial Business' total Solid Waste collection service is less than two cubic yards per week and Organic Waste subject to collection in a Blue Container or Green Container comprises less than 10 gallons per week per applicable container of the business' total waste; and
- (3) Notifies the City if circumstances change such that Commercial Business's Organic Waste exceeds the threshold required for waiver, in which case waiver will be rescinded; and
- (4) Provides written verification of eligibility for de minimis waiver every 5 years, if the City has approved de minimis waiver.



(b) Physical Space Waivers. City may, at its discretion, waive a Commercial Business' or property owner's obligations (including Multi-Family Residential Dwellings) to comply with some or all of the recyclable materials and/or Organic Waste collection service requirements if the City has evidence from its own staff, a hauler, licensed architect, or licensed engineer demonstrating that the premises lack adequate space for the collection containers required for compliance with the Organic Waste collection requirements of this Chapter.

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

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

(c) Collection Frequency Waiver. The City, at its discretion and in accordance with 14 California Code of Regulations, Section 18984.11(a)(3), may allow the owner or tenant of any residence, premises, business establishment or industry that subscribes to the City's three-container Organic Waste collection service to arrange for the collection of their Blue Container, Gray Container, or both once every fourteen days, rather than once a week.

#### **8.22.050—Requirements for Commercial Edible Food Generators**

(a) Tier One Commercial Edible Food Generators must comply with the requirements of this Section commencing January 1, 2022, and Tier Two Commercial Edible Food Generators must comply commencing January 1, 2024, pursuant to 14 California Code of Regulations Section 18991.3.

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

(c) Commercial Edible Food Generators shall comply with the following requirements:

- (1) Arrange to recover the maximum amount of Edible Food that would otherwise be disposed.
- (2) Contract with, or enter into a written agreement with, Food Recovery

Organizations or Food Recovery Services for: (i) the collection of Edible Food for Food Recovery; or, (ii) acceptance of the Edible Food that the Commercial Edible Food Generator self-hauls to the Food Recovery Organization for Food Recovery.

(3) Shall not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery Organization or a Food Recovery Service.

(4) Allow City's designated enforcement entity or designated third party enforcement entity to access the premises and review records pursuant to 14 California Code of Regulations Section 18991.4.

(5) Keep records that include the following information, or as otherwise specified in 14 California Code of Regulations Section 18991.4:

(A) A list of each Food Recovery Service or organization that collects or receives its Edible Food pursuant to a contract or written agreement established under 14 California Code of Regulations Section 18991.3(b).

(B) A copy of all contracts or written agreements established under 14 California Code of Regulations, Section 18991.3(b).

(C) A record of the following information for each of those Food Recovery Services or Food Recovery Organizations:

(i) The name, address and contact information of the Food Recovery Service or Food Recovery Organization.

(ii) The types of food that will be collected by or self-hauled to the Food Recovery Service or Food Recovery Organization.

(iii) The established frequency that food will be collected or self-hauled.

(iv) The quantity of food, measured in pounds recovered per month, collected or self-hauled to a Food Recovery Service or Food Recovery Organization for Food Recovery.

(6) Commencing no later than February 1, 2022 for Tier One Commercial Edible Food Generators and February 1, 2024 for Tier Two Commercial Edible Food Generators, Commercial Edible Food Generators shall provide a quarterly Food Recovery report to the City that includes the information required in 14 California Code of Regulations Section 18991.4 "Record Keeping Requirements for Commercial Edible Food Generators."

(d) Nothing in this section shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share table and school food donation guidance pursuant to Senate Bill 557 of 2017.



### **8.22.060—Requirements for Food and Recovery Organizations and Services**

(a) Food Recovery Services collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 California Code of Regulations Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 California Code of Regulations Section 18991.5(a)(1):

- (1) The name, address, and contact information for each Commercial Edible Food Generator from which the service collects Edible Food.
- (2) The quantity in pounds of Edible Food collected from each Commercial Edible Food Generator per month.
- (3) The quantity in pounds of Edible Food transported to each Food Recovery Organization per month.
- (4) The name, address, and contact information for each Food Recovery Organization that the Food Recovery Service transports Edible Food to for Food Recovery.

(b) Food Recovery Organizations collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 California Code of Regulations Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 California Code of Regulations Section 18991.5(a)(2):

- (1) The name, address, and contact information for each Commercial Edible Food Generator from which the organization receives Edible Food.
- (2) The quantity in pounds of Edible Food received from each Commercial Edible Food Generator per month.
- (3) The name, address, and contact information for each Food Recovery Service that the organization receives Edible Food from for Food Recovery.

(c) Commencing January 1, 2022, 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 California Code of Regulations Section 18991.3(b) shall report to the City the total pounds of Edible Food recovered in the previous calendar year from the Tier One and Tier Two Commercial Edible Food Generators they have established a contract or written agreement with pursuant to 14 California Code of Regulations Section 18991.3(b), as applicable.

(d) In order to support Edible Food Recovery capacity planning assessments or other studies conducted by the City that provides solid waste collection services or its designated entity, Food Recovery Services and Food Recovery Organizations operating in the City shall provide

information and consultation to the City, upon request, regarding existing, or proposed new or expanded, Food Recovery capacity that could be accessed by the City and its Commercial Edible Food Generators. A Food Recovery Service or Food Recovery Organization contacted by the City shall respond to such request for information within 60 days, unless a shorter timeframe is otherwise specified by the City.

(e) Commencing no later than January 1, 2022, Food Recovery Services and Organization shall provide a quarterly report to the City which includes the information required in 14 California Code of Regulations, Section 18991.5 "Food Recovery Services and Organizations.

#### **8.22.070—Requirements for Haulers and Facility Operators and Community Composting Operations**

(a) Requirements for Haulers

(1) The franchise hauler providing residential, Commercial, or Industrial Organic Waste collection services to generators within the City's boundaries shall meet the following requirements and standards as a condition of approval of a contract, agreement, or other authorization with the City to collect Organic Waste:

(A) Through written notice to the City annually on or before January 1<sup>st</sup>, identify the facilities to which they will transport Organic Waste including the facilities for Source Separated Recyclable Materials and Source Separated Green Container Organic Waste, as applicable.

(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 California Code of Regulations, 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 California Code of Regulations.

(D) Section 18989.1 and the Huntington Beach Municipal Code.

(E) The franchise hauler shall comply with education, equipment, signage, container labelling, container color, contamination monitoring, reporting, and other requirements contained within its Franchise Agreement, as may be amended from time to time.

(F) Notwithstanding any the foregoing, nothing in this Chapter shall



restrict or otherwise prohibit the franchise hauler from meeting its compliance requirements by any alternative methods or procedures, provided it complies with SB 1383, the SB 1383 Regulations, and/or any other applicable law, as may be amended from time to time.

(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 the City's request, provide information regarding available and potential new or expanded capacity at their facilities, operations, and activities, including information about throughput and permitted capacity necessary for planning purposes. Entities contacted by the City shall respond within 60 days.
- (2) Community Composting operators, upon the City's request, shall provide information to the City to support Organic Waste capacity planning, including, but not limited to, an estimate of the amount of Organic Waste anticipated to be handled at the Community Composting operation. Entities contacted by the City shall respond within 60 days.

**8.22.080—Requirements for City Departments, Direct Service Providers, and Vendors**

Procurement Requirements for City departments, direct service providers, and vendors shall be as set forth in Section 3.02.165 and all other applicable City procurement policies.

**8.22.090—Compliance with CALGreen Recycling Requirements**

Persons applying for a permit from the City for new construction and building additions and alternations shall also comply with the requirements of Section 17.52.020.

**8.22.100—Model Water Efficient Landscaping Ordinance Requirements**

As applicable, all persons and/or entities subject to the MWELO shall comply with Sections 492.6(a)(3)(B), (C), (D), and (G), as amended September 15, 2015. The MWELO compliance items listed herein are not an inclusive list of MWELO requirements; therefore, property owners or their building or landscape designers that meet the threshold for MWELO compliance outlined herein shall consult the full MWELO for all requirements.

If after the adoption of this Chapter, the California Department of Water Resources, or its successor agency, amends 23 California Code of Regulations Sections 492.6(a)(3)(B), (C), (D), and (G) in a manner that requires the City to incorporate the requirements of an updated

MWELo in a local ordinance, and the amended requirements are more stringent than those required in this section, the revised requirements shall be enforced

#### **8.22.110—Inspections and Investigations by the City**

(a) City representatives and/or its designated entity, including Designees, are authorized to conduct Inspections and investigations, at random or otherwise, of any collection container, collection vehicle loads, or transfer, processing, or disposal facility for materials collected from generators, or Source Separated materials to confirm compliance with this Chapter, subject to applicable laws. This Section does not allow City to enter the interior of a private residential property for Inspection. For the purposes of inspecting Commercial Business containers for compliance for this Chapter, the City may conduct container Inspections for Prohibited Container Contaminants using Remote Monitoring and Commercial Businesses shall accommodate and cooperate with the Remote Monitoring where applicable.

(b) Regulated entity shall provide or arrange for access during all Inspections (with the exception of residential property interiors) and shall cooperate with City's employees or its designated entity/Designee during such Inspections and investigations. Such Inspections and investigations may include confirmation of proper placement of materials in containers, Edible Food Recovery activities, records, or any other requirement of this Chapter described herein. Failure to provide or arrange for: (i) access to an entity's premises; or (ii) access to records for any Inspection or investigation is a violation of this Chapter and may result in penalties described.

(c) Any records obtained by a City during its Inspections, Remote Monitoring, and other reviews shall be subject to the requirements and applicable disclosure exemptions of the Public Records Act as set forth in Government Code Section 6250 et seq.

(d) City representatives, its designated entity, and/or Designee are authorized to conduct any Inspections, Remote Monitoring, or other investigations as reasonably necessary to further the goals of this Chapter, subject to applicable laws.

The City shall receive written complaints from persons regarding an entity that may be potentially non-compliant with SB 1383 Regulations, including receipt of anonymous complaints.

#### **8.22.120—Rules and Regulations**

The Director shall make such rules and regulations as may be necessary and proper to enforce the provisions of this Chapter. A copy of any rule or regulation promulgated by the Director shall be provided to the City Council.

#### **8.22.130—Enforcement**

(a) Violation of any provision of this Chapter shall constitute grounds for issuance of a Notice of Violation and assessment of a fine by a City Enforcement Official or representative. Enforcement Actions under this Chapter are issuance of an administrative citation and assessment of a fine. The City's procedures on imposition of administrative fines are hereby incorporated in their entirety, as modified from time to time, and shall govern the imposition, enforcement, collection, and review of administrative citations issued to enforce this Chapter and any rule or regulation adopted pursuant to this Chapter, except as otherwise indicated in this Chapter.

(b) Other remedies allowed by law may be used, including civil action or prosecution as misdemeanor or infraction. 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 Official, which may be the city manager or their designated entity, legal counsel, or combination thereof.

(d) Process for Enforcement

(1) Enforcement Officials and/or their Designee will monitor compliance with this Chapter randomly and through Compliance Reviews, Route Reviews, investigation of complaints, and an Inspection program, which may include Remote Monitoring.

(2) The City may issue an official notification to notify regulated entities of its obligations under this Chapter.

(3) For incidences of Prohibited Container Contaminants found in containers, the City will issue a Notice of Violation to any generator found to have Prohibited Container Contaminants in a container. Such notice will be provided via a cart tag or other communication immediately upon identification of the Prohibited Container contaminants or within five days after determining that a violation has occurred. If the City or its authorized Designee observes Prohibited Container Contaminants in a generator's containers on three consecutive occasions within a six-month time period, the City may assess contamination processing fees or contamination penalties on the generator.

(4) With the exception of violations of generator contamination of container contents, the City shall issue a Notice of Violation requiring compliance within 60 days of issuance of the notice.

(5) Absent compliance by the respondent within the deadline set forth in the Notice of Violation, the City shall commence an action to impose penalties, via an administrative citation and fine, pursuant to Chapter 1.18 of the Huntington Beach Municipal Code.

Notices shall 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.



(e) Penalty Amounts for Types of Violations

- (1) For a first violation, the amount of the penalty shall be \$100 per violation.
- (2) For a second violation, the amount of the penalty shall be \$200 per violation.
- (3) For a third or subsequent violation, the amount of the penalty shall be \$500 per violation.

(f) Compliance Deadline Extension Considerations

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

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

(g) 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 for appeals of administrative citations. Evidence may be presented at the hearing. The City will appoint a hearing officer who shall conduct the hearing and issue a final written order.

(h) Education Period for Non-Compliance

Beginning January 1, 2022 and through December 31, 2023, 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 City determines that Organic Waste Generator, hauler, Tier One Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance, it shall provide educational materials to the entity describing its obligations under this Chapter and a notice that compliance is required by January 1, 2022, and that violations may be subject to administrative civil penalties starting on January 1, 2024.

(i) Civil Penalties for Non-Compliance

Beginning January 1, 2024, or an extended date set by CalRecycle if the City determines that an Organic Waste Generator, hauler, Tier One or Tier Two Commercial Edible Food

Generator, hauler, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance with this Chapter, it shall document the noncompliance or violation, issue a Notice of Violation, and take Enforcement Action pursuant to this Chapter and state law, as needed