



City Council Meeting
07-12-21

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Item

4.C.

Council Agenda Report

To: Mayor Grisanti and the Honorable Members of the City Council

Prepared by: Christine Shen, Environmental Sustainability Analyst

Reviewed by: Yolanda Bundy, Environmental Sustainability Director

Approved by: Steve McClary, Interim City Manager

Date prepared: June 19, 2021 Meeting date: July 12, 2021

Subject: Solid Waste Ordinance

RECOMMENDED ACTION: 1) After the City Attorney reads the title of the ordinance, introduce on first reading Ordinance No. 489 amending Chapter 8.32, Solid Waste and Recyclable Materials, and determining the project is categorically exempt from the California Environmental Quality Act; and 2) Direct staff to schedule a second reading and adoption of Ordinance No. 489 for the August 9, 2021 Regular City Council meeting.

FISCAL IMPACT: There is no fiscal impact associated with the recommended action.

WORK PLAN: This item was included as item 5.h. in the Adopted Work Plan for Fiscal Year 2021-2022.

DISCUSSION: On March 25, 2021, staff provided a presentation to the Environmental Sustainability Subcommittee (ESS) detailing the City's current environmental program activities. The presentation included tasks that are ongoing and part of general City operations. While preparing for the ESS meeting, staff thoroughly reviewed Malibu Municipal Code (MMC) Chapter 8.32, Solid Waste and Recyclable Materials. As a result of this review, and due to several new Citywide solid waste regulations, such as the locking lid ordinance and California State Senate Bill (SB) 1383 (Lara, Chapter 395, Statutes of 2016), staff became aware that Chapter 8.32 had not been significantly updated since it was codified on March 8, 1993. Staff has determined that parts of the Code no longer apply or are inconsistent with current City practices.

To ensure compliance, staff developed Ordinance No. 489. In this ordinance, staff has updated the general definitions of Chapter 8.32 and combined them with the new necessary definitions for the City's compliance with SB 1383. Several sections of the Code

have been rearranged so it is organized by regulated parties, such as the haulers that collect solid waste/recyclable materials and the residents and businesses that must follow pre-collection practices. Staff has consolidated related sections. For example, the previously standalone sections relating to trespass, transfer of loads on public streets, and tampering with containers were combined and moved to section 8.32.710 Prohibited Activities. Finally, staff has removed outdated sections, such as manual collection of residential solid waste containers and detailed language relating to franchise proposals, transfers, extensions, and revocation.

Ordinance No. 489, if approved, will amend Chapter 8.32 to reflect current practices, make it more coherent, and will reorganize and consolidate the Code to improve interpretation.

ALTERNATIVES: Do not adopt Ordinance No. 489, upholding the requirements of existing MMC Chapter 8.32, Solid Waste and Recyclable Materials as previously adopted.

ATTACHMENTS: Ordinance No. 489

ORDINANCE NO. 489

AN ORDINANCE OF THE CITY OF MALIBU DETERMINING THE PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND AMENDING CHAPTER 8.32 (SOLID WASTE AND RECYCLABLE MATERIALS) OF TITLE 8 (HEALTH AND SAFETY) OF THE MALIBU MUNICIPAL CODE

The City Council of the City of Malibu does ordain as follows:

SECTION 1. Chapter 8.32 of the Malibu Municipal Code is hereby amended to read as follows:

CHAPTER 8.32 SOLID WASTE AND RECYCLABLE MATERIALS

8.32.010 Findings and intent.

- A. The City Council finds and determines as follows:
1. In order to meet the requirements of the California Integrated Waste Management Act of 1989 [Public Resources Code Sections 40000, et seq.], including source reduction of the solid waste stream, diversion of solid waste from landfills, and conservation of natural resources, it is necessary to regulate the collection of solid waste from commercial/industrial and residential premises, and to encourage recycling of solid waste materials.
 2. The mandates of the Environmental Protection Agency, the Southern California Air Quality Management District, and other regulatory agencies, concerning air pollution and traffic congestion management, require the regulation and, where possible, reduction in the number, of waste collection vehicles and vehicle trips which cause the discharge of air contaminants and create air pollution.
 3. A reduction in the number of waste collection vehicles using the city streets daily will reduce traffic hazards and congestion and promote safety.
 4. The storage, accumulation, collection and disposal of solid waste, including without limitation garbage, trash, debris and other discarded materials is a matter of substantial public concern in that improper control of these matters may create a public nuisance, air pollution, fire hazard, rat and insect infestation and other problems adversely affecting the public health, safety and welfare.
 5. Regulation of the collection of solid waste, garbage, refuse and other discarded materials from all residential, commercial and industrial properties within the city will provide the most orderly and efficient solution to these problems and will promote the public health, safety and welfare.
 6. The regulation of solid waste handling services in the city will also promote the public health, safety and welfare by requiring the use of newer and safer vehicles,

the regular maintenance of those vehicles, and the reduction of spillage and litter on the public streets, by establishing responsibility for the cleaning of refuse bins and containers, and by providing for accountability to the public.

B. This chapter is enacted by the city council pursuant to the following statutory authorization and in order to accomplish the objectives set forth in this section:

1. Public Resources Code Section 40059 authorizes the city to determine (i) all aspects of solid waste handling which are of local concern, including, but not limited to, frequency of collection, means of collection and transportation, level of services, charges and fees, and nature, location and extent of providing solid waste handling services; and (ii) whether the services are to be provided by means of nonexclusive franchise, contract, license, permit, or otherwise, either with or without competitive bidding, or if, in the opinion of its governing body, the public health, safety and well-being so require, by partially exclusive or wholly exclusive franchise, contract, license, permit, or otherwise, either with or without competitive bidding.
2. Public Resources Code Section 49300 provides that the city may, pursuant to terms and conditions as may be prescribed by its legislative body, contract for the collection or disposal, or both, of garbage, waste, refuse, offal, trimmings, or other refuse matter.
3. Public Resources Code Section 49501 provides that the city may take action, whether by franchise, contract, license, permit, or otherwise, whereby the city itself, or one or more other local agencies or solid waste enterprises is authorized or permitted to have the exclusive right to provide solid waste handling services of any class or type within all or any part of the territory of the city.
4. It is the intent of this chapter to set forth terms and conditions pursuant to which authorization may be granted by the city council to provide solid waste handling services, and to promote the public health, welfare and safety of the community by establishing reasonable regulations relating to the storage, accumulation, collection and disposal of solid waste, trash, debris and other discarded matter, goods, and material.
5. This chapter shall be construed in a manner consistent with all applicable federal and state laws. If any federal or state agency shall hereafter exercise any paramount jurisdiction over any specific provisions of this chapter, that paramount jurisdiction shall preempt or preclude the exercise of like jurisdiction by the city. Modification of a federal or state law or regulation shall, to the extent applicable to the city, be deemed a part of this chapter as of the effective date of the modification.

8.32.020 Definitions.

The following words and phrases, whenever used in this chapter and Chapter 8.34, shall be defined as follows:

“Bin” means a medium sized solid waste container between 1 cubic yards and 6 cubic yards.

“Blue Container” has the same meaning as in 14 CCR 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.

“CalRecycle” means California's Department of Resources Recycling and Recovery, which is the Department designated with responsibility for developing, implementing, and enforcing SB 1383 regulations on the city (and others).

“City” means the City of Malibu.

“City Employee” means an employee or authorized agent of the City of Malibu.

“City Enforcement Official” means the city manager or their authorized designee(s) who is/are partially or wholly responsible for enforcing Chapter 8.34.

“Collection” means the operation of gathering together and/or transporting by means of a motor vehicle any classification of solid waste, including green container, blue container, and gray container wastes, within the City of Malibu.

“Collector” means any person who has been issued a franchise to provide solid waste and/or recyclable collection services in the city or who has been given the notice provided for in Public Resources Code Sections 49520 and 49521 and who has been issued a permit by the city to operate for the unexpired period of time set forth in such notice or any other extension thereof approved by the city. Collector shall include both commercial and residential collectors.

“Commercial Business” or “Commercial” means a firm, partnership, proprietorship, joint stock company, corporation, or association, whether for-profit or nonprofit, strip mall, industrial facility, or a multifamily residential dwelling, or as otherwise defined in 14 CCR Section 18982(a)(6). A multi-family residential dwelling that consists of fewer than five (5) units is not a commercial business for purposes of implementing Chapter 8.34.

“Commercial/Industrial Business Owner” means any person, firm, corporation or other enterprise or organization holding or occupying, alone or with others, commercial/industrial premises, whether or not it is the holder of the title or the owner of record of the commercial/industrial premises.

“Commercial Edible Food Generator” includes a tier one or a tier two commercial edible food generator as defined herein or as otherwise defined in 14 CCR Section 18982(a)(73) and (a)(74). For the purposes of this definition, food recovery organizations and food recovery services are not commercial edible food generators pursuant to 14 CCR Section 18982(a)(7).

“Compliance Review” means a review of records by the city to determine compliance with Chapter 8.34.

“Community Composting” means any activity that composts green material, agricultural material, food material, and vegetative food material, alone or in combination, and the total amount of feedstock and compost on-site at any one time does not exceed 100 cubic yards and 750 square feet, as specified in 14 CCR Section 17855(a)(4); or, as otherwise defined by 14 CCR Section 18982(a)(8).

“Compost” has the same meaning as in 14 CCR Section 17896.2(a)(4), which stated, as of the effective date of this definition, that “compost” means the product resulting from the controlled biological decomposition of organic solid wastes that are source separated from the municipal solid waste stream, or which are separated at a centralized facility.

“Container” means any vessel, tank, receptacle, dumpster, box or bin used or intended to be used for the purpose of holding solid waste for collection.

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

“Construction and Demolition Waste” or “C&D” means any debris resulting from the construction, modification or demolition of any structure, roadway or property. “Construction and Demolition Waste” includes but is not limited to asphalt, concrete, drywall, metals, roofing materials, soils and wood.

“Designee” means an entity that the city contracts with or otherwise arranges to carry out any of the city’s responsibilities of this chapter or Chapter 8.34 as authorized in 14 CCR Section 18981.2. A designee may be a government entity, a hauler, a private entity, or a combination of those entities.

“Disposal” means the complete operation of treating and/or disposing of solid waste, including organic waste and recyclable materials, after the collection thereof.

“Disposal Form” means the document adopted by the city council which is used to determine the net amount of solid waste and/or recyclable materials disposed of in a permitted or certified facility.

“Disposal Report” includes a disposal form or a copy of such form prepared by the collector or an officer or agent of the collector. Disposal reports shall also include necessary information to verify the report or supplied information.

“Edible Food” means food intended for human consumption, or as otherwise defined in 14 CCR Section 18982(a)(18). For the purposes of Chapter 8.34 or as otherwise defined in 14 CCR Section 18982(a)(18), “Edible Food” is not solid waste if it is recovered and not discarded. Nothing in this chapter, Chapter 8.34 or in 14 CCR, Division 7, Chapter 12 requires or authorizes the recovery of edible food that does not meet the food safety requirements of the California Retail Food Code.

“Enforcement Action” means an action of the city to address non-compliance with Chapter 8.34 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 the city’s, or its designee’s reasonable opinion would present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose 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. Excluded waste does not include used motor oil and filters, household batteries, universal wastes, and/or latex paint when such materials are defined as allowable materials for collection through the city’s collection programs and the generator or customer has properly placed the materials for collection pursuant to instructions provided by the city or its designee for collection services.

“Food Distributor” means a company that distributes food to entities including, but not limited to, supermarkets and grocery stores, or as otherwise defined in 14 CCR Section 18982(a)(22).

“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, or as otherwise defined in 14 CCR Section 18982(a)(24).

“Food Recovery Organization” means an entity that engages in the collection or receipt of edible food from commercial edible food generators and distributes that edible food to the public for food recovery either directly or through other entities or as otherwise defined in 14 CCR Section 18982(a)(25), including, but not limited to:

- i. A food bank as defined in Section 113783 of the Health and Safety Code;
- ii. A nonprofit charitable organization as defined in Section 113841 of the Health and Safety code; and
- iii. A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.

A food recovery organization is not a commercial edible food generator for the purposes of this chapter or Chapter 8.34 and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7).

If the definition in 14 CCR Section 18982(a)(25) for food recovery organization differs from this definition, the definition in 14 CCR Section 18982(a)(25) shall apply to this chapter and Chapter 8.34.

“Food Recovery Service” means a person or entity that collects and transports edible food from a commercial edible food generator to a food recovery organization or other entities for food recovery, or as otherwise defined in 14 CCR Section 18982(a)(26). A food recovery service is not a commercial edible food generator for the purposes of this chapter and Chapter 8.34 and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7).

“Food Scraps” means all food such as, but not limited to, fruits, vegetables, meat, poultry, seafood, shellfish, bones, rice, beans, pasta, bread, cheese, and eggshells. Food scraps excludes fats, oils, and grease when such materials are source separated from other food scraps.

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

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

“Food Waste” means food scraps and food-soiled paper.

“Gray Container” has the same meaning as in 14 CCR 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 that is part of a three-container organic waste collection service that prohibits the placement of organic waste in the gray container as specified in 14 CCR Sections 18984.1(a) and (b), or as otherwise defined in 14 CCR Section 17402(a)(6.5).

“Green Container” has the same meaning as in 14 CCR 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, or as otherwise defined in 14 CCR Section 18982(a)(30).

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

“Hazardous Waste” means and includes waste defined as hazardous by Public Resources Code Section 40141 as it now exists or may subsequently be amended, namely, a waste or combination of wastes, which because of its quantity, concentration, toxicity, or physical, chemical or infectious characteristics, may do either of the following: (i) cause or significantly contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; (ii) pose a substantial present or potential hazard to human health or environment when improperly treated, stored, transported, or disposed of, or otherwise managed. “Hazardous Waste” includes extremely hazardous waste and acutely hazardous waste, and any other waste as may hereafter from time to time be designated as hazardous by the Environmental Protection Agency (“EPA”) or other agency of the United States Government, or by the California Legislature or any agency of the state of California empowered by law to classify or designate waste as hazardous, extremely hazardous or acutely hazardous.

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

“Industrial Premises” means any property occupied or used for any purpose (other than residential or commercial uses) authorized or permitted in the industrial zones under the provisions of the Malibu zoning ordinance.

“Inspection” means a site visit where the city reviews records, containers, and an entity’s collection, handling, recycling, or landfill disposal of organic waste or edible food handling to determine if the entity is complying with requirements set forth in this chapter and Chapter 8.34, or as otherwise defined in 14 CCR Section 18982(a)(35).

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

“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 Chapter 8.34 and implementation of 14 CCR, Division 7, Chapter 12, a venue facility includes, but is not limited to, a public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts center, fairground, museum, theater, or other public attraction facility. For purposes of this chapter and Chapter 8.34 and implementation

of 14 CCR, Division 7, Chapter 12, a site under common ownership or control that includes more than one large venue that is contiguous with other large venues in the site, is a single large venue. If the definition in 14 CCR Section 18982(a)(39) differs from this definition, the definition in 14 CCR Section 18982(a)(39) shall control.

“Local Education Agency” means a school district, charter school, or county office of education that is not subject to the control of city or county regulations related to solid waste, or as otherwise defined in 14 CCR Section 18982(a)(40).

“Lock Bar” means a metal bar that can be installed on a Bin that allows the lid to be locked to the Bin with the use of a Padlock.

“Manager” or “City Manager” means the city manager or his or her designee of the city.

“Manure” means the waste droppings from any animal not disposed of through sewers or on-site wastewater systems.

“Multi-Family Residential Dwelling” or “Multi-Family” means, for purposes of implementing the SB 1383 regulations in Chapter 8.34, 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.

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

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

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

“Officer” means the president, vice-president, treasurer or other duly designated representative of a collector.

“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 or as otherwise defined in 14 CCR Section 18982(a)(46). Biosolids and digestate are as defined by 14 CCR Section 18982(a).

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

“Padlock” means a lock that can be locked and unlocked with a combination code or control key.

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

“Permittee” means a solid waste collector who has obtained a permit to collect, transport and remove solid waste, organic waste and/or recyclable materials from the boundaries of the City of Malibu.

“Person” includes, without limitation any individual, firm, co-partnership, general partnership, limited partnership, joint venture, association, entity, corporation, or any other group or combination thereof acting as a unit.

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

“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.

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

“Recycling” means the process of collecting, sorting, cleansing, treating, and reconstituting materials that would otherwise become solid waste, and returning 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. “Recycling” does not include transformation as defined in Public Resources Code Section 40201.

“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.

“Residential Householder” means any person holding and occupying residential premises, whether or not the owner, singly or with his or her family, within the territorial limits of the city.

“Residential Owner” means the owner of any residential premises in the city.

“Residential Premises” means any residential property in the city, except any multiple dwelling containing five or more dwelling units.

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

“Route Review” means a visual inspection of containers along a hauler route for the purpose of determining container contamination, and may include mechanical inspection methods such as the use of cameras, or as otherwise defined in 14 CCR Section 18982(a)(65).

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

“SB 1383 Regulations” or “SB 1383 Regulatory” means or refers to, for the purposes of this chapter and Chapter 8.34, the Short-Lived Climate Pollutants: Organic Waste Reduction regulations developed by CalRecycle and adopted in 2020 that created 14 CCR, Division 7, Chapter 12 and amended portions of regulations of 14 CCR and 27 CCR.

“Self-Hauler” means a person, who hauls solid waste, organic waste or recyclable material he or she has generated to another person. Self-hauler also includes a person who back-hauls waste, or as otherwise defined in 14 CCR Section 18982(a)(66). Back-haul means generating and transporting organic waste to a destination owned and operated by the generator using the generator’s own employees and equipment, or as otherwise defined in 14 CCR Section 18982(a)(66)(A).

“Single-Family” means, for purposes of implementing the SB 1383 regulations in Chapter 8.34, 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 non-putrescible 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:

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

- ii. 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).
- iii. 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.

“Solid Waste Enterprise” means any individual, partnership, joint venture, unincorporated private organization, or private corporation regularly engaged in the business of providing solid waste handling services.

“Source Separated” means materials, including commingled recyclable materials, that have been separated or kept separate from the solid waste stream, at the point of generation, for the purpose of additional sorting or processing those materials for recycling or reuse in order to return them to the economic mainstream in the form of raw material for new, reused, or reconstituted products, which meet the quality standards necessary to be used in the marketplace, or as otherwise defined in 14 CCR Section 17402.5(b)(4). For the purposes of this chapter and Chapter 8.34, 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), or as otherwise defined by Section 17402(a)(18.7).

“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” or “Recyclable Materials” means source separated non-organic recyclables and source separated blue container organic waste.

“State” means the State of California.

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

“Temporary Bin/Roll-Off Drop Box” means a container provided by a collector and used for a temporary period of time for the disposal of solid waste or construction/demolition waste or other waste not generated on a regular or continuing basis.

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

- i. Supermarket.
- ii. Grocery store with a total facility size equal to or greater than 10,000 square feet.
- iii. Food service provider.
- iv. Food distributor.
- v. Wholesale food vendor.

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

- i. Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.
- ii. Hotel with an on-site food facility and 200 or more rooms.
- iii. Health facility with an on-site food facility and 100 or more beds.
- iv. Large venue.
- v. Large event.
- vi. 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.
- vii. A local education agency facility with an on-site food facility.

“Transportation” means the process of moving solid waste through the city by means of a motor vehicle.

“Uncontainerized Green Waste and Yard Waste Collection Service” or “Uncontainerized Service” means a collection service that collects green waste and yard waste that is placed in a pile or bagged for collection on the street in front of a generator’s house or place of business for collection and transport to a facility that recovers source separated organic waste, or as otherwise defined in 14 CCR Section 18982(a)(75).

“Weight Tickets/Invoices” means receipts provided by a solid waste or recycling facility reflecting the net amount of solid waste disposed of by a collector at the correlating 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, or as otherwise defined in 14 CCR Section 18982(a)(76).

8.32.030 Hauler permit required.

No person shall collect and/or dispose of solid waste, organic waste or recyclable materials in the city without having first been issued an annual solid waste hauler permit or a franchise. Such permit shall be in addition to any business license or permit otherwise required by the city. No permit issued by any other local governmental agency authorizing collection of solid waste or recyclable materials shall be valid in the city.

8.32.035 Temporary bin/roll-off drop box service; permit required.

- A. Every collector who offers temporary bin/roll-off drop box service within the city shall obtain a hauler permit and an encroachment permit (including site specific conditions) from the city. This encroachment permit allows the collector to place the temporary bin/roll-off drop box on city right-of-way for the purpose of collection.
- B. All temporary bin/roll-off drop boxes shall display the name and telephone number of the collector. The letters shall be not less than two inches in height and one inch in width. The bins shall have reflective tape affixed for nighttime safety on the corners of all four sides.
- C. The collector shall at all times keep temporary bin/roll-off drop box in good, clean (graffiti-free), and sanitary condition to the satisfaction of the city, and shall remove it from the area when cleaning and repairing.
- D. The collector shall be responsible for any damage to the city's driving surfaces, whether or not the roadway surface is paved, resulting from the weight of, or any leakage or spillage of oils, fluids or solids by vehicles providing discards collection and transportation services.

8.32.040 Hauler permit requirements.

- A. Applications. Applications shall include, but not be limited to the following:
 1. Name of applicant;
 2. Business address, and addresses where all vehicles will be stored;
 3. A description of each vehicle and other equipment that the applicant owns or has under its control, including the age and mechanical condition of each vehicle, a statement as to whether the vehicle is self-loading, leak proof, meets the requirements set forth in the California Highway Patrol Basic Inspection of Terminal (BIT) Program, copies of valid California Department of Motor Vehicles (DMV) vehicle registrations for fleet, CA / MCP number or US DOT (or copy of DMV Motor Carrier Permit);

4. A statement of applicant's experience and a list of other jurisdictions where applicant operates;
 5. A copy of applicant's current financial statement;
 6. A list of clients which the collector will regularly and routinely service in the city;
 7. Proposed collection rates to be charged by applicant;
 8. A statement as to whether the applicant has been convicted of any felony or misdemeanor, the nature of the offense, and the punishment or penalty assessed therefor, exclusive of traffic violations not constituting a felony;
 9. Detailed information regarding recycling services offered to clients; if applicable, a list of the facilities where organic waste will be transported;
 10. Requested tipping receipts, weight tickets/invoices and supporting documentation;
 11. Any other information requested by the manager.
 12. Permit Fees. Each permittee shall pay a yearly fee in an amount determined by the city council.
- B. Insurance Requirements.
1. Collector's liability insurance. Each collector shall furnish the city a policy or certificate of comprehensive general and automobile liability insurance acceptable to the city attorney insuring the collector against bodily injury, property damage and automobile liability in the sum of one million dollars (\$1,000,000.00) combined single limit. These limits shall be subject to annual review by the city for the purpose of reasonably adjusting to current insurance conditions and requirements. Such insurance shall be primary and any insurance maintained by the city shall be excess insurance, shall be procured from an insurer authorized to do business in the state of California, shall name the city of Malibu and its officers, employees and agents as additional insureds, and shall not be canceled or modified without first giving to city thirty (30) days' prior written notice.
 2. Worker's compensation insurance. Each collector shall at all times provide, at its own expense, workers' compensation insurance coverage for all of its employees. Each collector shall file and maintain certificates with the manager showing said insurance to be in full force and effect at all times the collector shall have a permit issued by the city.

8.32.060 Permit terms.

Any permit issued under this chapter shall be for a term of not more than one year and shall expire June 30th of each year. Permitted haulers are required to submit quarterly disposal reports.

- A. Each collector shall provide the city within thirty (30) days following the end of every quarter, and within ten (10) business days following the end of the last quarter (April-June), separate monthly disposal reports for each collection route which include the following:
 1. Total amount of solid waste removed from the city for the reporting three (3) month period;
 2. The name, address and telephone number of each solid waste disposal and/or recycling facility used by the collector during the reporting period;
 3. All information required by the city's recycling and resource recovery program, including any information necessary for the city to comply with applicable SB 1383 Regulations.
- B. Each report shall be signed by an officer of the collector.

8.32.070 Transfer of permit.

A permit issued under this chapter shall not be transferred, delegated or assigned. No permittee shall sell, assign, hypothecate, relinquish, surrender or transfer its interest in a permit to any person or collector or allow another person or entity to use its permit in any act for which a permit is required without the prior written consent of the city council. The restriction includes the transfer of ownership or the majority of ownership or control of the permittee, or a transfer of a majority of the permittee's stock to another person.

8.32.080 Denial of permit.

After review of the permit application, the manager may deny the issuance of an annual hauler permit based on information disclosed in the permit application. Denial of an annual permit may be based on an incomplete application, failure to demonstrate qualifications or financial responsibility necessary to comply with the requirements of this chapter, failure to supply required reports, or previous violations of any provision of this chapter.

8.32.090 Revocation of permit.

The city may suspend or revoke a permit based on non-compliance with this chapter, the Code or other applicable law. The city shall provide written notice prior to any suspension or revocation which shall include notice of the opportunity to request a hearing within ten days. Upon timely receipt of a hearing request, the manager shall consider the appeal and his/her decision shall be final.

8.32.100 - 8.32.150 Reserved.

8.32.160 Franchise requirement.

The city council may authorize, by franchise, a solid waste enterprise to provide solid waste handling services for residential, commercial/industrial users or customers. In the sole discretion of the city council, the solid waste handling services may be authorized on an exclusive or nonexclusive basis, and with or without competitive bidding, and may relate to any class or type of solid waste within all or any part of the territory of the city. Except for permitted haulers authorized as provided in Sections 8.32.030 through 8.32.090, no person shall collect and/or dispose of solid waste, organic waste or recyclable materials in the city without having first been awarded a solid waste collector franchise and entered into a franchise agreement with the city. Such franchise shall be in addition to any business license or permit otherwise required by the city. Except for the provisions of Sections 8.32.030 through 8.32.090 relating to annual permits, all such franchisees shall comply with all of the requirements of this chapter.

The city council may, by resolution, establish rates to be charged to residential owners and commercial/industrial business owners by the franchised collector for the collection of solid waste, including organic waste and recyclable materials. The city council may, by resolution, establish or adjust the rates to be charged by other collectors who are qualified and permitted to provide solid waste collection services under Public Resources Code Sections 49520 and 49521. No collector shall charge any rate or fee or any other charge which is greater than the rate established by the city council, unless otherwise authorized in this chapter. Every commercial/industrial business owner and residential owner shall pay the rates established from time to time by the city council for collection services rendered pursuant to this chapter in the manner set forth in Section 8.32.370. The city council shall establish rate categories as may be appropriate for collection services provided by the commercial/industrial collectors.

8.32.170 - 87.32.330 Reserved.**8.32.340 Office for inquiries and complaints.**

- A. **Franchised and Permitted Collectors.** Any collector shall maintain an office at some fixed location and shall maintain a telephone at the office, listed in the current telephone directory in the firm name by which it conducts business in the city, and shall at all times during the hours between seven a.m. and six p.m. of each weekday, have an employee or agent at the office to answer inquiries and receive complaints.
- B. The collector shall maintain at the office a written log of all complaints/inquiries received. Such log shall contain the date of inquiry/complaint, the caller's name, address and telephone number, the nature of the complaint/inquiry, the action taken or the reason for nonaction, and the date such action was taken. All inquiries and complaints shall be responded to and/or dealt with within 24 hours of receiving the call. Such log of complaints and other records pertaining to solid waste, organic waste and recyclable materials collection and disposal shall be open to the inspection of the city at all reasonable times and shall be maintained for a period of

one year. Compliance with the requirements of this section are conditions to any permit or franchise which is awarded by the city.

8.32.350—8.32.360 Reserved.

8.32.370 Collection of charges.

- A. The billing and collection of the rates, fees and charges authorized by the city council for solid waste collection services, including the collection of organic waste and recyclable materials, shall be the responsibility of the collector, and the city shall have no liability or responsibility therefor.
- B. In the alternative, the city may in its discretion and in connection with a franchise entered into pursuant to this chapter collect fees for solid waste, organic waste or recyclable materials collection services by causing fees to be placed on the Los Angeles County tax rolls through procedures established by the Los Angeles County tax collector.

8.32.380—8.32.400 Reserved.

8.32.410 Vehicle standards.

Any vehicle utilized for the collection, transportation or disposal of solid waste, organic waste or recyclable materials in or from the city shall comply with the following standards:

- A. Each vehicle shall at all times be kept clean and sanitary, in good repair and well and uniformly painted, and be maintained and/or operated in such a manner to ensure that no solid waste, oil, grease, or other substance will blow, fall out, escape or leak out of the vehicle.
- B. Routine inspections by the California Highway Patrol will be required annually and certificates for the inspection shall be filed along with the permit application required under Section 8.32.040.
- C. The collector's name or firm name and its telephone number shall be printed or painted in legible letters not less than five inches in height on both sides of all of collector's vehicles used in the city.
- D. Each vehicle shall comply with Title 10 of the Malibu Municipal Code and all equipment shall comply with Chapter 8.24 to prevent unnecessary noise during its operation.
- E. The use of a vehicle which fails to comply with each of the standards set forth in this section is prohibited. A collector shall immediately remove any vehicle from collection service which fails, at any time, to conform to any of the standards recited in this section and shall not use that vehicle until it is repaired.

- F. Should the manager give notification at any time to a collector that any of the collector's vehicles is not in compliance with the standards of this chapter, the vehicle shall be immediately removed from service; and shall not again be utilized in the city until it has been inspected by the California Highway Patrol and approved for safe operation through the BIT Program. The collector shall maintain its regular collection schedule regardless of the repair of any vehicle.

8.32.420 Reserved.

8.32.430 Operation of equipment.

- A. All collectors shall operate all equipment in compliance with all federal, state and local laws. Collection vehicles shall not be operated in a manner which results in undue interference with normal traffic flows or violation of any traffic laws and loaded collection vehicles shall not be parked or left unattended on the public streets. No collection vehicle shall be parked on a public street or thoroughfare in the city. All collection vehicles shall comply with and be operated in accordance with applicable law.
- B. Litter. Any collector who releases or permits or causes the release of any solid waste, including organic waste or recyclable materials, on public or private property in the city at any time shall forthwith clean up, contain, collect and remove same.
- C. Noise. A collector shall so conduct its operations as to offer the least possible obstruction and inconvenience to public traffic or disruption to the existing noise levels of the area within which collections are made. Noise emitting from any collection vehicle shall not exceed the standards set forth in Section 8.24.

8.32.440 Reserved.

8.32.450 Mandatory services.

- A. Every collector shall, at all times, offer all required services and otherwise comply with city policies and programs regarding solid waste recovery, reduction of solid waste and recycling of solid waste, including the city's source reduction and recycling element, Chapter 8.34 and applicable SB 1383 Regulations. Such policies and programs may be established by resolution of the city council. Compliance with such policies and programs shall be a condition of any permit issued pursuant to this chapter.
- B. All solid waste collected from residential or commercial/industrial premises for a fee, service charge, or other consideration, shall be collected by a solid waste enterprise under the provisions of a franchise awarded by the city council or pursuant to an annual permit.
- C. Each residential property owner and householder and commercial/industrial business owner in the city shall, at all times utilize the services of a franchisee or a

permitted collector and pay the fees approved by the city council for the collection of solid waste, organic waste, and recyclable material.

- D. Nothing in this chapter shall prevent a commercial/industrial business which has its own recycling or resource recovery program for recyclable materials or organic waste generated by such business and not utilizing a solid waste enterprise which provides collection services for a fee, service charge, or other consideration, from continuing such recycling or resource recovery program, and the recyclable materials or organic waste included in such program are excepted from the provisions of this chapter. Notwithstanding the foregoing, such commercial/industrial business shall comply in all respects with any applicable federal, state, or local laws, including but not limited to any applicable SB 1383 Regulations.

8.32.460 Collection practices.

- A. Each collector shall collect and dispose of all solid waste, including organic waste and recyclable materials, placed for collection from each customer at least once during each calendar week. Routes of collection shall be so arranged that collection from any premises will be made on the same day of each week. Collection from commercial and industrial premises shall occur as often as necessary to avoid an accumulation of solid waste in violation of this chapter, provided that collection from such premises occurs at least weekly.
- B. The collector shall return all containers in an upright position to the approximate location where found by the collector and without any unnecessary noise or wear and tear or damage to the containers.
- C. Ownership. At such time as the solid waste, including organic waste and recyclable materials, is collected by the collector, such solid waste is the property of the collector.
- D. No collection within the city shall be made between the hours of six p.m. and six a.m. Monday through Saturday or at any time on Sunday.
- E. No delivery or removal of containers by a collector may be made between the hours of six p.m. and seven a.m. the next day.
- F. The manager may waive the requirements of this section when necessitated by conditions beyond the control of the collector.

8.32.470—8.32.630 Reserved.

8.32.640 Pre-collection practices.

- A. Generally.

1. Any container to be placed for collection containing solid waste, recyclable materials or organic waste shall have a tightly fitting lid. The lid shall remain closed at all times.
2. Only the provided containers shall be used as containers for solid waste collection. No cardboard box or paper bag may be used as a container for any solid waste.
3. All source separated recyclable materials set out for collection shall be emptied prior to placement in the blue container.

B. Residential.

1. Placement of Containers at Residential Premises. In the case of residential premises, each container shall be kept in the side-yard or rear-yard prior to the time designated for collection. On the appropriate day the containers shall be placed for collection on the curb in front of the premises or on the curb at the side of the premises where the premises are adjacent to more than one street as close to the curb line or edge of roadway as practicable.
2. Time of Placement. No residential householder shall place or permit to be placed solid waste containers at the place of collection at the residential premises before five-thirty p.m. of the day preceding the scheduled collection. No container may be left at the place of collection after eight p.m. on the day of collection.
3. Uncontainerized Green Waste and Yard Waste Collection Service. If uncontainerized green waste and yard waste collection service is offered by the hauler, such uncontainerized waste shall be handled in the manner prescribed by the hauler.

C. Commercial and Industrial.

1. Every collector who rents, owns or controls any container or other equipment used for the storage of commercial or industrial solid waste, recyclable material or organic waste shall, at all times:
 - a. Place and maintain on the outside of such container or other equipment, in legible letters and numerals not less than one inch in height, the collector's name or firm name and telephone number in a color contrasting to the background of the container;
 - b. Keep Containers and lids in a good, clean and sanitary condition to the satisfaction of the manager;
 - c. Provide containers on casters for all industrial business owners;

- d. Provide containers, for all commercial business owners, that are of sufficient size and are constructed to prevent the release of any amount of solid waste, recyclable materials and organic waste; and
 - e. Offer for rent, ownership, or control bins with double-walled plastic lids, lock bars, and padlocks to be used for solid waste, recyclable materials and organic waste.
2. All commercial/industrial business owners and property owners using containers and other equipment for the storage of commercial or industrial solid waste, recyclable materials or organic waste shall, at all times:
 - a. Maintain all containers and trash enclosure areas in a clean and sanitary condition to the satisfaction of the manager;
 - b. Use bins with double-walled plastic lids, lock bars, and padlocks for solid waste, recyclable materials and organic waste;
 - c. Keep the lids of bins closed and locked at all times except when disposing, removing or inspecting solid waste, recyclable materials and organic waste.

8.32.650—8.32.670 Reserved.**8.32.680 Exclusions.**

- A. No provision of this chapter shall apply to any self-hauler operating in compliance with Chapter 8.34.
- B. No provision of this chapter shall prevent a contractor from collecting and disposing construction debris resulting from the contractor's own work; provided, however, that no contractor shall employ or engage the services of any solid waste enterprise, other than a franchised or permitted collector, to collect, transport or dispose of such debris.
- C. Public Officials Exempted. The provisions of this chapter shall not prohibit any of the officers or employees of the city, or any employees of a contractor for the city, or any employees of any governmental subdivision of the state, from collecting, removing and disposing of such rubbish in the regular course of their respective duties as such employees.
- D. Occasional Self-hauling Permitted. Householders hauling occasional loads of solid waste, from their own premises to a legal point of disposal shall be exempted from the provisions of this section.
- E. Commercial Industrial Exclusions for Source Separated Recyclable Materials.

1. No provision of this chapter shall prevent a commercial/industrial business owner from selling to a buyer, for a monetary or other valuable consideration, any source separated recyclable materials, including without limitation, any saleable scrap, discard, reject, by-product, ferrous or nonferrous metal, worn-out or defective part, junk, pallet, packaging material, paper or other similar item generated in, on or by a commercial/industrial premises or business but having market value, whether such buyer is a recycler, junk dealer, or other enterprise engaged in the business of buying and marketing such materials in the stream of commerce; provided however, that such buyer is not engaged in the business of collecting solid waste for a fee or other charge or consideration and that no such materials are transported to a landfill or transfer station (as defined in Public Resource Code Section 40200) for disposition.
 2. No provision of this chapter shall prevent a recycler, junk dealer or other enterprise engaged in the business of buying and marketing such materials in the stream of commerce and who is not engaged in the business of collecting solid waste or providing solid waste collection services for a fee or other charge, or consideration, from buying any materials mentioned in this subsection for a monetary or other valuable consideration and who buys such materials for marketing and not for disposition in a landfill or transfer station (as defined in Public Resources Code Section 40200); nor shall any provision of this chapter prevent such recycler, junk dealer or enterprise who buys such materials from removing and transporting such materials to a destination for marketing in the stream of commerce.
- F. Commercial Industrial Exclusions for Renovation, Rebuilding and Repairs. No provision of this chapter shall prevent a commercial/industrial business owner from arranging for any worn, spent, defective or other part or equipment used in such commercial/industrial business and requiring renovation, rebuilding, recharging, regeneration or repair, to be picked up, renovated, rebuilt, recharged, regenerated or otherwise restored and repaired and returned to such commercial/industrial business owner; nor shall any provision of this chapter prevent any person engaged in the business or renovating, rebuilding, recharging, regenerating, or otherwise restoring or repairing such part or equipment from transporting the same from or returning it to the commercial/industrial business or from removing, transporting or disposing of any such part or equipment replaced as a part of a repair or equipment service contract.

8.32.690 - 8.32.700 Reserved.

8.32.710 Prohibited activities.

- A. Authorized Collection and Removal. Except as otherwise herein provided, it shall be unlawful for any person other than a franchised or permitted collector or the city to gather, collect, or remove any solid waste, recyclable materials or organic waste from any premises within the city. No collector may operate any vehicle for the collection of solid waste, recyclable materials or organic waste in the city unless the owner of the vehicle is a franchisee or a permittee as defined in Section 8.32.020.
- B. Private Contracts Prohibited. It shall be unlawful for the property owner or legal occupant of property in the city to contract for or to use the services of a person collecting solid waste, recyclable materials or organic waste, unless such company/contractor is franchised or permitted by the city.
- C. Trespass. No person authorized to collect or transport solid waste, organic waste or recyclable materials shall enter on private property beyond the extent necessary to collect such solid waste properly placed for collection.
- D. It is unlawful at any time for any person, including collectors, to burn any solid waste, organic waste or recyclable materials within the city.
- E. It is unlawful at any time for any person, including collectors, to bury or dump any solid waste, organic waste or recyclable materials within the city.
- F. Transfer of Loads on Public Streets. No person shall transfer solid waste, organic waste or recyclable materials from one collection vehicle to another on any public street or road unless such transfer is essential to the method of operation and is approved by the city manager, or is necessary owing to mechanical failure or accidental damage to a vehicle.
- G. No person other than the collector who provides collection services at the premises, or the owner or employee of the owner of the container, or the person upon whose premises such container is located, or a city employee, shall remove any material from a solid waste, organic waste or recyclable materials container.
- H. No person other than the owner or occupant of the premises where a container is located, or the collector who provides collection services at the premises where the container is located, or a city employee shall tamper with, or remove any container or other equipment used for the storage of solid waste, organic waste or recyclable materials.
- I. Unauthorized Setting Out of Containers. No person occupying, using, or in charge of any premises shall set out or cause to be set out for collection during any week any solid waste or recyclable materials not originating on the premises.
- J. Unlawfully-placed Solid Waste Containers.

1. Unauthorized Solid Waste Containers. Subject to the exceptions under this section, it shall be unlawful for any person to place or leave standing a solid waste, organic waste or recyclable materials container on any public or private property within the city except for collection and disposal of such solid waste by the city or permitted contractor as specifically authorized in this section and as defined in their active solid waste hauling permit.
 2. Removal of Unlawfully-placed Solid Waste Containers. The city manager or designee may cause the posting of a notice to remove in a conspicuous place on any solid waste container placed on any public or private property within the city in violation of this section. If any solid waste container is deemed by the city to be a public safety hazard, said container shall be immediately removed.
- K. Accumulation of Solid Waste Prohibited. It is unlawful for any person owning, managing, or having the control of any premises or vacant lot or any person occupying a dwelling within the city to permit an accumulation of solid waste, organic waste and/or recyclable materials to become or remain offensive, unsightly, or unsafe to the public health or safety or hazardous from fire, or to deposit, keep, or accumulate, or permit or cause any such solid waste to be deposited, kept, or accumulated, upon any property, lot or parcel of land, or any public or private place, street, lane, alley, or driveway, except as provided in this chapter. No person occupying, owning, or in control of any premises shall permit solid waste, organic waste and/or recyclable materials to accumulate or create a health hazard. It is unlawful for any person to dispose of their solid waste into containers at locations other than those that may be located upon property which they own, lease, rent, or at their own place of business.

8.32.720 Violation—Penalty.

- A. The manager shall have primary responsibility for enforcement of this chapter. The manager is authorized to take any and all other actions reasonable and necessary to enforce this chapter, including, but not limited to, inspecting any commercial or industrial premises to verify compliance.
- B. In addition to any other remedies that may be provided for by the terms of a collection permit or franchise agreement, and in addition to any criminal, civil or other legal remedy established by law that may be pursued to address violations of the municipal code, violations of the provisions of this chapter are subject to the administrative penalty provisions of Chapter 1.10.
- C. The city attorney may seek legal, injunctive, or other equitable relief to enforce this chapter.

D. The remedies and penalties provided in this section are cumulative and not exclusive of one another.

SECTION 2. Environmental Review.

This Ordinance was assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines (the Guidelines), and the environmental regulations of the City. The City Council hereby finds that under Section 15061(b)(3) of the State CEQA Guidelines, this Ordinance is exempt from the requirements of CEQA because it can be seen with certainty that the provisions contained herein would not have the potential for causing a significant effect on the environment. It also finds the Ordinance is exempt from the requirements of CEQA pursuant to CEQA Guidelines Sections 15307 and 15308 as an action by a regulatory agency taken to protect the environment and natural resources.

SECTION 3. Repeal.

Any prior ordinance of the City Council which is in conflict or inconsistent with this Ordinance is repealed to the extent of such conflict or inconsistency.

SECTION 4. Severability.

If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, the remainder of this Ordinance shall remain in full force and effect.

The City Council hereby declares that it would have passed this Ordinance and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrases, or clauses be declared unconstitutional.

SECTION 5. Effective Date.

This Ordinance shall take effect on 30 days after its final adoption.

SECTION 6. Certification.

The City Clerk shall certify the passage and adoption of this Ordinance and enter it into the book of original ordinances.

PASSED, APPROVED AND ADOPTED this ____ day of August 2021.

PAUL GRISANTI, Mayor

ATTEST:

KELSEY PETTIJOHN, Acting City Clerk

Date: _____

APPROVED AS TO FORM:

THIS DOCUMENT HAS BEEN REVIEWED
BY THE CITY ATTORNEY'S OFFICE

JOHN COTTI, Interim City Attorney