

ORDINANCE NO. 3642 C.S.

AN ORDINANCE OF THE COUNCIL OF THE CITY OF MONTEREY

AMENDING ARTICLE 1 OF CHAPTER 14 OF THE MONTEREY CITY CODE REGULATING SOLID WASTE DISPOSAL AND RECYCLING SERVICES FOR RESIDENTIAL AND COMMERCIAL PREMISES IN ORDER TO COMPLY WITH STATE LAW AND TO IMPLEMENT MANDATORY ORGANIC WASTE DISPOSAL REDUCTION REQUIREMENTS.

THE COUNCIL OF THE CITY OF MONTEREY DOES ORDAIN, as follows:

SECTION 1:

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.), requires cities and counties to reduce, reuse, and recycle (including composting) solid waste generated in their City 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 commercial businesses and multi-family premises that generate a specified threshold amount of solid waste to arrange for recycling services and requires jurisdictions to implement a mandatory commercial recycling program; and

WHEREAS, State Organics Materials recycling law, Assembly Bill 1826 of 2014, which added Chapter 12.9 (commencing with Section 42649.8) to Part 3 of Division 30 of the Public Resources Code, relating to solid waste, requires commercial businesses and multi-family premises that generate a specified threshold amount of solid waste, recyclable materials, and organic materials per week to arrange for recycling services for that waste, requires jurisdictions to implement a recycling program to divert organic materials from commercial businesses and multi-family premises subject to the law, and requires jurisdictions to implement a mandatory commercial organic materials recycling program; and

WHEREAS, SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016, required CalRecycle to develop regulations to reduce organic waste in landfills as a source of methane. The regulations place requirements on multiple entities including the City, residential households, multi-family premises, commercial businesses, commercial edible food generators, haulers, self-haulers, food recovery organizations, and food recovery services to support achievement of the SB 1383 statewide organic waste disposal reduction targets; and

WHEREAS, SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016, requires jurisdictions to adopt and enforce an ordinance or enforceable mechanism to implement relevant provisions of SB 1383 Regulations. This ordinance will also help reduce food insecurity by requiring commercial edible food generators to arrange to have the maximum amount of their edible food, that would otherwise be disposed, be recovered for human consumption; and

WHEREAS, the City of Monterey determined that the proposed action is not a project as defined by the California Environmental Quality Act (CEQA)(CCR, Title 14, Chapter 3 (“CEQA Guidelines), Article 20, Section 15378). In addition, CEQA Guidelines Section 15061 includes the general rule that CEQA applies only to activities which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Because the proposed action and this matter have no potential to cause any effect on the environment, or because it falls within a category of activities excluded as projects pursuant to CEQA Guidelines section 15378, this matter is not a project. Because the matter does not cause a direct or any reasonably foreseeable indirect physical change on or in the environment, this matter is not a project. Any subsequent discretionary projects resulting from this action will be assessed for CEQA applicability.

NOW THEREFORE, the Monterey City Council declares as follows:

SECTION 2: Monterey City Code, Chapter 14, Article 1, Sections 0 through 8 are hereby repealed in their entirety and replaced as follows:

“ARTICLE 1. WASTE DISPOSAL.

Sec. 14-1. Definitions.

For the purpose of this Article, the following words and phrases shall have the meanings respectively ascribed to them below.

1. “Alternative Daily Cover (ADC)”, has the same meaning as in Section 20690 of Title 27 of the California Code of Regulations (“CCR”), as may be amended.
2. “Alternative Intermediate Cover (AIC)” shall have the same meaning as in Section 20700 of Title 27 of the California Code of Regulations, as may be amended.
3. “CalRecycle” means California’s Department of Resources Recycling and Recovery.
4. “City Enforcement Official” means the Community Development Director, or designee, who is responsible for enforcing this Article.
5. “Commercial Business” or “Commercial” means a firm, partnership, proprietorship, joint-stock company, corporation, or association, whether for-profit or nonprofit, strip mall, or industrial facility.
6. “Commercial Edible Food Generator” includes a Tier One or a Tier Two Commercial Edible Food Generator as defined in this Section or as otherwise defined in 14 CCR Section 18982(a)(73) and (a)(74), as may be amended. 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).
7. “Compliance Review” means a review of records by the City to determine compliance with this ordinance.

8. “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), as may be amended.

9. “Compost” has the same meaning as in 14 CCR Section 17896.2(a)(4), as may be amended, which stated, as of the adoption of this Chapter, 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.

10. “Compostable” means that all the materials in the product or package will break down, or otherwise become part of usable compost (e.g., soil-conditioning material, mulch) in a safe and timely manner. Compostable material must meet ASTM standards for compostability and any compostable product containing a bioplastic or plastic-like material must be clearly labeled as compostable in accordance with California Public Resources Code Section 42357 et seq. and all State and Federal labeling laws pertaining to the identification of compostable products.

11. “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).

12. “C&D” means construction and demolition materials, including waste building materials, packaging and rubble resulting from construction, remodeling, repair and demolition operations on pavements, houses, commercial buildings, and other structures.

13. “Designated Waste” means non-Hazardous Waste which may pose special Disposal problems because of its potential to contaminate the environment, and which may be Disposed of only in Class II Disposal sites or Class III Disposal sites pursuant to a variance issued by the California Department of Health Services. Designated Waste consists of those substances classified as Designated Waste by the State, in California Code of Regulations Title 23, Section 2522 as may be amended from time to time.

14. “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 CCR Section 18981.2. A Designee may be a government entity, a hauler, a private entity, or a combination of those entities.

15. “Discarded Materials” means Recyclable Materials, Organic Materials, C & D, and Solid Waste placed by a Generator in a collection container and/or at a location for the purposes of collection excluding Excluded Waste.

16. “Edible Food” means food intended for human consumption, or as otherwise defined in 14 CCR Section 18982(a)(18), as may be amended. For the purposes of this Chapter, “Edible Food” is not Solid Waste if it is recovered and not discarded. Nothing in this Chapter requires or authorizes the Recovery of Edible Food that does not meet the food safety requirements of the California Retail Food Code.

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

18. "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, or its Designee's reasonable opinion would present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose City, or its Designee, to potential liability; but not including de minimis volumes or concentrations of waste of a type and amount normally found in Single-Family or 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, 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 City or its Designee for collection services.

19. "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), as may be amended.

20. "Food Facility" has the same meaning as in Section 113789 of the Health and Safety Code, as may be amended.

21. "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), as may be amended.

22. "Food Recovery Organization" means an entity that engages in the collection or receipt of Edible Food from Commercial Edible Food Generators and distributes that Edible Food to the public for Food Recovery either directly or through other entities or as otherwise defined in 14 CCR Section 18982(a)(25), including, but not limited to:

- a. A food bank as defined in Section 113783 of the Health and Safety Code;
- b. A nonprofit charitable organization as defined in Section 113841 of the Health and Safety code; and,
- c. A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.

A Food Recovery Organization is not a Commercial Edible Food Generator for the purposes of this ordinance and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7).

If the definition in 14 CCR Section 18982(a)(25) for Food Recovery Organization differs from this definition, the definition in 14 CCR Section 18982(a)(25) shall apply to this Chapter.

23. "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.

24. "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, and liquid wastes including but not limited to soups or sauces.

25. "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).

26. "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.

27. "Food Waste" means Food Scraps, Food-Soiled Paper, and Compostable plastics.

28. "Food Waste Self-Hauler" means a Self-Hauler who generates and hauls, utilizing their own employees and equipment, an average of one cubic yard or more per week, or 6,500 pounds or more per quarter of their own Food Waste to a location or facility that is not owned and operated by that Self-Hauler. Food Waste Self-Haulers are a subset of Self-Haulers.

29. "Franchisee" means the person, firm, corporation, or other entity, or their authorized agents and employees, that is a party to a franchise agreement with the City of Monterey for the collection of solid waste and recyclable materials.

30. "Generator" means a person or entity that is responsible for the initial creation of one or more types of Discarded Materials.

31. "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), as may be amended.

32. "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), as may be amended.

33. "Hazardous Substance" means any of the following: (a) any substances defined, regulated or listed (directly or by reference) as "Hazardous Substances", "hazardous materials", "Hazardous Wastes", "toxic waste", "pollutant", or "toxic substances", or similarly identified as hazardous to human health or the environment, in or pursuant to: (i) the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, 42 USC §9601 et seq. (CERCLA); (ii) the Hazardous Materials Transportation Act, 49 USC §1802, et seq.; (iii) the Resource Conservation and Recovery Act, 42 USC §6901 et seq.; (iv) the Clean Water Act, 33 USC §1251 et seq.; (v) California Health and Safety Code §§25115-25117, 25249.8, 25281, and 25316; (vi) the Clean Air Act, 42 USC §7901 et seq.; and, (vii) California Water Code §13050; (b) any amendments, rules or regulations promulgated thereunder to such enumerated statutes or acts currently existing or hereafter enacted; and, (c) any other hazardous or toxic substance, material, chemical, waste or pollutant identified as hazardous or toxic or regulated under any other applicable law currently existing or hereinafter enacted, including, without limitation, friable asbestos, polychlorinated biphenyl's (PCBs), petroleum, natural gas, and synthetic fuel products, and by-products.

34. "Hazardous Waste" means all substances defined as Hazardous Waste, acutely Hazardous Waste, or extremely Hazardous Waste by the State in Health and Safety Code §25110.02, §25115, and §25117, or in the future amendments to or recodifications of such statutes, solar panels from residential premises, and Hazardous Waste by the U.S. Environmental Protection Agency (EPA), pursuant to the Federal Resource Conservation and Recovery Act (42 USC §6901 et seq.), all future amendments thereto, and all rules and regulations promulgated thereunder.

35. "Infectious Waste" means (a) equipment, instruments, utensils and other fomites of a disposable nature from the rooms of patients who are suspected to have or have been diagnosed as having a communicable disease and must, therefore, be isolated as required by public health agencies; (b) laboratory wastes, including pathological specimens (i.e., all tissues, specimens of blood elements, excreta and secretions obtained from patients or laboratory animals) and disposable fomites (any substance that may harbor or transmit pathogenic organisms) attendant thereto; and/or (c) surgical operating room pathologic specimens - including recognizable anatomical parts, human tissue, anatomical human remains and disposable materials from hospitals, clinics, outpatient areas and emergency rooms, as defined in 14 CCR Section 17225.36.

36. "Inspection" means a site visit where the City reviews records, containers, and an entity's collection, handling, recycling, or landfill disposal of Recyclable Materials, Organic Waste, Solid Waste or Edible Food handling to determine if the entity is complying with requirements set forth in this Chapter, or as otherwise defined in 14 CCR Section 18982(a)(35), as may be amended.

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

38. "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 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 implementation of 14 CCR, Division 7, Chapter 12, a site under common ownership or control that includes more than one Large Venue that is contiguous with other Large Venues in the site, is a single Large Venue. If the definition in 14 CCR Section 18982(a)(39) differs from this definition, the definition in 14 CCR Section 18982(a)(39) shall apply to this Article.

39. "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).

40. "Multi-Family Residential Dwelling" 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.

41. "Non-Local Entity" means the following entities that are not subject to the City's enforcement authority, or as otherwise defined in 14 CCR Section 18982(a)(42):

- a. Special district(s) located within the boundaries of the City, including the Monterey Peninsula Airport District.
- b. Federal facilities, including military installations, located within the boundaries of the City, including the Presidio of Monterey and Naval Support Activity Monterey.
- c. Facilities operated by the State park system located within the boundaries of the City, including Monterey State Historic Park.
- d. Public universities (including community colleges) located within the boundaries of the City, including Monterey Peninsula College.
- e. County fairgrounds located within the boundaries of the City, including the Monterey County Fairgrounds.

42. "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.

43. "Occupant" means any person occupying residential or commercial premises located within the territorial limits of the City of Monterey, or within the limits of an area where the City and/or its franchisee has agreed to provide solid waste disposal services, whether or not the person owns the Premises that they occupy.

44. "Organic Materials" means Yard Trimmings, Food Scraps, and Food-Soiled Papers that are set aside, handled, packaged, or offered for collection in a manner different from Solid Waste for the purpose of processing.

45. "Organic Materials Container" shall be used for the purpose of storage and collection of Source Separated Organic Materials.

46. "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).

47. "Owner" means the Person(s) holding legal title to real property and/or any improvements thereon and shall include the Person(s) listed on the latest equalized assessment roll of the County Assessor.

48. "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).

49. "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).

50. "Premises" means and includes any land, building and/or structure, or portion thereof, in the City where Discarded Materials are produced, generated, or accumulated. All structures on the same legal parcel, which are owned by the same person shall be considered as one Premises.

51. "Prohibited Container Contaminants" means the following: (i) Discarded Materials placed in the Recyclable Materials Container that are not identified as acceptable Source Separated Recyclable Materials for the City's Recyclable Materials Container; (ii) Discarded Materials placed in the Organic Materials Container that are not identified as acceptable Source Separated Organic Materials for the City's Organic Materials Container; (iii) Discarded Materials placed in the Solid Waste Container that are acceptable Source Separated Recyclable Materials and/or Source Separated Organic Materials to be placed in City's Organic Materials Container and/or Recyclable Materials Container; and, (iv) Excluded Waste placed in any container.

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

53. "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).

54. "Recyclable Materials" means Discarded Materials set aside, handled, packaged, or offered for collection in a manner different from Solid Waste for the purpose of recycling. No Discarded Materials shall be considered Recyclable Materials unless such material is separated from Organic Materials and Solid Waste. Recyclable Materials shall include, but not be limited to, newspaper (including inserts, coupons, and store advertisements), mixed paper (including office paper, computer paper, magazines, junk mail, catalogs, brown paper bags, colored paper legal pad backings, shoe boxes, cereal, and other similar food boxes), chipboard, corrugated cardboard, glass containers of any color (including brown, clear, and green), aluminum (including beverage containers and small pieces of scrap metal), steel, tin, or bi-metal cans, rigid plastics with a neck, and those materials added by the City or its franchisee from time to time.

55. "Recyclable Materials Container" shall be used for the purpose of storage and collection of Source Separated Recyclable Materials.

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

57. "Regional or County Agency Enforcement Official" means a regional or county agency enforcement official, designated by the City with responsibility for enforcing this Chapter in conjunction or consultation with City Enforcement Official.

58. "Remote Monitoring" means the use of the internet of things (IoT) and/or wireless electronic devices to visualize the contents of Recyclable Materials Containers, Organic Materials Containers, and Solid Waste Containers for purposes of identifying the quantity of materials in containers (level of fill) and/or presence of Prohibited Container Contaminants.

59. "Renewable Gas" means gas derived from Organic Waste that has been diverted from a California landfill and processed at an in-vessel digestion facility that is permitted or otherwise authorized by 14 CCR to recycle Organic Waste, or as otherwise defined in 14 CCR Section 18982(a)(62).

60. "Residential" shall mean of, from, or pertaining to a Single-Family Premises or Multi-Family Premises, including apartments, condominiums, townhouse complexes, mobile home parks, and cooperative apartments.

61. "Responsible Party" means the owner, property manager, tenant, lessee, occupant, or other designee that subscribes to and pays for Recyclable Materials, Organic Materials, and/or Solid Waste collection services for a Premises in the City, or, if there is no such subscriber, the Owner or property manager of a Single-Family Premises, Multi-Family Premises, or Commercial Premises. In instances of dispute or uncertainty regarding who is the Responsible Party for a Premises, Responsible Party shall mean the Owner of a Single-Family Premises, Multi-Family Premises, or Commercial Premises.

62. "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).

63. "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).

64. "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.

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

66. "Self-Haul" means to act as a Self-Hauler.

67. "Self-Hauler" means a person, who hauls Solid Waste, Organic Waste or Recyclable Material they have generated to another person. Self-hauler also includes a landscaper, or a person who back-hauls waste. Back-haul means generating and transporting Recyclable Materials or Organic Waste to a destination owned and operated by the Generator or Responsible Party using the Generator's or Responsible Party's own employees and equipment, or as otherwise defined in 14 CCR Section 18982(a)(66)(A).

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

69. "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:

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

- d. Recyclable Materials, Organic Waste, and Construction and Demolition Debris when such materials are Source Separated.

70. "Solid Waste Container" shall be used for the purpose of storage and collection of Solid Waste.

71. "Source Separated" means materials, including commingled Recyclable Materials and Organic Materials, that have been separated or kept separate from the Solid Waste stream, at the point of generation, for the purpose of additional sorting or processing those materials for recycling or reuse in order to return them to the economic mainstream in the form of raw material for new, reused, or reconstituted products, which meet the quality standards necessary to be used in the marketplace, or as otherwise defined in 14 CCR Section 17402.5(b)(4). For the purposes of the ordinance, Source Separated shall include separation of materials by the Generator, Responsible Party, or Responsible Party's employee, into different containers for the purpose of collection such that Source-Separated materials are separated from Solid Waste for the purposes of collection and processing.

72. "Source Separated Organic Materials" means Organic Materials that are Source Separated and placed in an Organic Materials Container.

73. "Source Separated Recyclable Materials" means Recyclable Materials that are Source Separated and placed in a Recyclable Materials Container.

74. "Special Event" means any special event, regardless of size, specifically including but not limited to Large Events, sponsored by any commercial or nonprofit organization, group, or individual, which is held within the City of Monterey, and at which food and/or drinks are being provided for public consumption. This definition shall apply whether such food and/or drinks are prepared within or outside of the Monterey City limits.

75. "State" means the State of California.

76. "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).

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

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

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

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

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

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

79. "Wholesale Food Vendor" means a business or establishment engaged in the merchant wholesale distribution of food, where food (including fruits and vegetables) is received, shipped, stored, prepared for distribution to a retailer, warehouse, distributor, or other destination, or as otherwise defined in 14 CCR Section 189852(a)(76).

80. "Yard Waste" or "Yard Trimmings" means types of Organic Waste resulting from normal yard and landscaping installation, maintenance, or removal.

Sec. 14-2. Service Requirements.

1. Requirements for Single Family Premises. Responsible Parties of Single-Family Premises shall comply with the following requirements:

- a. Subscribe to and pay for City's three-container collection services for weekly collection of Recyclable Materials, Organic Materials, and Solid Waste generated by the Single-Family Premises and comply with requirements of those services as described below in subsection (b). City, or its Designee, shall have the right to review the number and size of a Generator's containers to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials. Following such review, the Responsible Parties for Single-Family Premises shall adjust their service level for their collection services as requested by the City or its Designee. If a tenant,

lessee, or other occupant fails to subscribe to and pay for the City's three-container collection services, it shall be the responsibility of the Owner to subscribe to and pay for such services.

b. Participate in the City's three-container collection service(s) in the manner described below.

- i. Place and/or direct its Generators to place Source Separated Organic Materials, including Food Waste, in the Organic Materials Container; Source Separated Recyclable Materials in the Recyclable Materials Container; and Solid Waste in the Solid Waste Container.
- ii. Not place and/or direct its Generators to not place Prohibited Container Contaminants in collection containers and not place materials designated for the Organic Materials Containers or Recyclable Materials Containers in the Solid Waste Containers.
- iii. Collection containers shall be placed for collection adjacent to the street in a manner that is safe and accessible to collection personnel prior to the scheduled time for pickup. Except when authorized by the City Manager upon a showing of reasonable necessity, no person shall leave any residential container or containers, or any other items for collection on specially designated collection dates, at the street curb or in any other place on the property visible from the street before 6:00 p.m. on the day prior to the day of pickup, or beyond 7:00 p.m. the day of collection.
- iv. Collection containers must be maintained in a sanitary condition. Collection container lids must be closed fully at all times, including when containers are placed out for collection.

c. Nothing in this Section prohibits a Responsible Party or Generator of a Single-Family Premises from preventing or reducing Discarded Materials generation, managing Organic Waste on site, and/or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).

2. Requirements for Multi-Family Premises. Responsible Parties of Multi-Family Premises shall:

a. Subscribe to and pay for City's three-container collection services and comply with requirements of those services for all Recyclable Materials, Organic Materials, and Solid Waste generated at the Multi-Family Premises as further described below in this Section 14-2(2). City, or its Designee, shall have the right to review the number and size of the Multi-Family Premises' collection 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. Following such review, the Responsible Party of a Multi-Family Premises shall adjust their service level for their collection services as requested by the City or its Designee.

b. Participate in the City's three-container collection service(s) for at least weekly collection of Recyclable Materials, Organic Materials, and Solid Waste in the manner described below.

- i. Place and/or direct its Generators to place Source Separated Organic Materials, including Food Waste, in the Organic Materials Container; Source Separated Recyclable Materials in the Recyclable Materials Container; and Solid Waste in the Solid Waste Container.
- ii. Not place and/or direct its Generators to not place Prohibited Container Contaminants in collection containers and to not place materials designated for the Organic Materials Containers or Recyclable Materials Containers in the Solid Waste Containers.
- iii. Collection containers shall not be stored on any public right-of-way or property, and shall be screened from public from public view, except for the day of pickup, and shall be returned to their stored location within two hours of pickup. On the day of pickup, collection containers shall be placed in such a manner as to be safe and accessible to collection personnel.
- iv. Collection containers must be maintained in a sanitary condition. Collection container lids must be closed fully at all times, including when containers are placed out for collection.

c. Supply and allow access to adequate number, size and location of collection containers with sufficient labels or colors for employees, contractors, tenants, and customers, consistent with City's Recyclable Materials Container, Organic Materials Container, and Solid Waste Container collection service or, if Self-Hauling, consistent with the Multi-Family Premises' approach to complying with Self-Hauler requirements in Section 14-6 of this Article.

d. Annually provide information to employees, contractors, tenants, and customers about Recyclable Materials and Organic Waste Recovery requirements and about proper sorting of Recyclable Materials, Organic Materials, and Solid Waste.

e. Provide education information before or within fourteen (14) days of occupation of the Premises to new tenants that describes requirements to Source Separate Recyclable Materials and Organic Materials and to keep Source Separated Organic Materials and Source Separated Recyclable Materials separate from each other and from Solid Waste (when applicable) and the location of containers and the rules governing their use at each property.

f. Provide or arrange access for City or its Designee to their properties during all Inspections conducted in accordance with this Article to confirm compliance with the requirements of this Article.

g. If the Responsible Party of a Multi-Family Premises wants to Self-Haul, meet the Self-Hauler requirements in Section 14-6 of this Article.

h. Multi-family Premises that generate two (2) cubic yards or more of total Solid Waste, Recyclable Materials, and Organic Materials per week (or other threshold defined by the State) that arrange for gardening or landscaping services shall require that the contract or work agreement between the owner, occupant, or operator of a Multi-Family Premises and a gardening or landscaping service specifies that the designated organic materials generated by those services be managed in compliance with this Chapter.

i. Nothing in this Section prohibits a Responsible Party or Generator of a Multi-Family Premises from preventing or reducing Discarded Materials generation, managing Organic Waste on site, or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).

3. Requirements for Commercial Businesses. Responsible Parties of Commercial Businesses shall:

a. Subscribe to and pay for City's three-container collection services and comply with requirements of those services for all Recyclable Materials, Organic Materials, and Solid Waste generated at the Commercial Premises as further described below in this Section 14-2(3). City, or its Designee, shall have the right to review the number and size of a Commercial Premises' 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. Following such review, the Responsible Party of the Commercial Business shall adjust their service level for their collection services as requested by the City or its Designee.

b. Participate in the City's three-container collection service(s) for at least weekly collection of Recyclable Materials, Organic Materials, and Solid Waste in the manner described below.

i. Place and/or direct its Generators to place Source Separated Organic Materials, including Food Waste, in the Organic Materials Container; Source Separated Recyclable Materials in the Recyclable Materials Container; and Solid Waste in the Solid Waste Container.

ii. Not place and/or direct its Generators to not place Prohibited Container Contaminants in collection containers and to not place materials designated for the Organic Materials Containers or Recyclable Materials Containers in the Solid Waste Containers.

iii. Collection containers shall not be stored on any public right-of-way or property, and shall be screened from public from public view, except for the day of pickup, and shall be returned to their stored location within two hours of pickup. On the day of pickup, collection containers shall be placed in such a manner as to be safe and accessible to collection personnel.

iv. Collection containers must be maintained in a sanitary condition. Collection container lids must be closed fully at all times, including

when containers are placed out for collection.

- c. Supply and allow access to adequate number, size and location of collection containers with sufficient labels or colors (conforming with subsection (d) below) for employees, contractors, tenants, and customers, consistent with City's Recyclable Materials Container, Organic Materials Container, and Solid Waste Container collection service or, if Self-Hauling, consistent with the Commercial Premises' approach to complying with Self-Hauler requirements in Section 14-6 of this Article.
- d. Provide containers for the collection of Source Separated Recyclable Materials and Source Separated Organic Materials in all indoor and outdoor areas where Solid Waste containers are provided for customers, for materials generated by that Commercial Business. Such containers shall be visible and easily accessible. 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 Responsible Party of the Commercial Business does not have to provide that particular container in all areas where Solid Waste containers are provided for customers. Pursuant to 14 CCR Section 18984.9(b), the containers provided by the Responsible Party of the Commercial Business shall have either:
 - i. A body and lid that conforms with the container colors provided by the City or its franchisee, with either lids conforming to the color requirements or bodies conforming to the color requirements or both lids and bodies conforming to color requirements. The Responsible Party of the 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.
 - ii. Container labels that include language or graphic images, or both, indicating the primary material accepted and the primary materials prohibited in that container, or containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the container. Pursuant 14 CCR Section 18984.8, the container labeling requirements are required on new containers commencing January 1, 2022.
- e. To the extent practical through education, training, Inspection, and/or other measures, prohibit employees from placing materials in a container not designated for those materials per the City's Recyclable Materials Container, Organic Materials Container, and Solid Waste collection service or, if Self-Hauling, per the instructions of the Commercial Business's Responsible Party to support its compliance with Self-Hauler requirements in Section 14-6 of this Article.
- f. At least on a quarterly basis, inspect Recyclable Materials Containers, Organic Materials Containers, and Solid Waste Containers for contamination

and inform employees if containers are contaminated and of the requirements to keep contaminants out of those containers.

- g. Annually provide information to employees, contractors, tenants, and customers about Recyclable Materials and Organic Waste Recovery requirements and about proper sorting of Recyclable Materials, Organic Materials, and Solid Waste.
- h. Provide education information before or within fourteen (14) days of occupation of the Premises to new tenants that describes requirements to Source Separate Recyclable Materials and Organic Materials and to keep Source Separated Organic Materials and Source Separated Recyclable Materials separate from each other and from other Solid Waste and the location of containers and the rules governing their use at each property.
- i. Provide or arrange access for City or its Designee to their properties during all Inspections conducted in accordance with this Article to confirm compliance with the requirements of this Article.
- j. If the Responsible Party of a Commercial Business wants to Self-Haul, meet the Self-Hauler requirements in Section 14-6 of this Chapter.
- k. Nothing in this Section prohibits a Responsible Party or a Generator of a Commercial Business from preventing or reducing Discarded Materials generation, managing Organic Waste on site, or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).
- l. Responsible Parties of Commercial Businesses that are Tier One or Tier Two Commercial Edible Food Generators shall comply with Food Recovery requirements, pursuant to Section 14-5.

4. De Minimis Waivers for Multi-Family Premises and Commercial Premises. The City may waive a Responsible Party's obligation to comply with some or all Recyclable Materials and/or Organic Waste requirements of this Article if the Responsible Party of the Commercial Business or Multi-Family Premises provides documentation that the Commercial Business or Multi-Family Premises meets one of the criteria in subsections (a) and (b) below. For the purposes of subsections (a) and (b), the total Solid Waste shall be the sum of weekly container capacity measured in cubic yards for Solid Waste, Recyclable Materials, and Organic Materials collection service.

- a. The Commercial Business's or Multi-Family Premises' total Solid Waste collection service is two (2) cubic yards or more per week and Recyclable Materials and Organic Materials subject to collection in Recyclable Materials Container(s) or Organic Materials Container(s) comprises less than twenty (20) gallons per week per applicable material stream of the Multi-family Premises' or Commercial Business's total waste (i.e., Recyclable Materials in the Recyclable Materials stream are less than twenty (20) gallons per week or Organic Materials in the Organic Materials stream are less than twenty (20) gallons per week); or,

- b. The Commercial Business's or Multi-Family Premises' total Solid Waste collection service is less than two (2) cubic yards per week and Recyclable Materials and Organic Materials subject to collection in a Recyclable Materials Container(s) or Organic Materials Container(s) comprises less than ten (10) gallons per week per applicable material stream of the Multi-family Premises' or Commercial Business's total waste (i.e., Recyclable Materials in the Recyclable Materials stream are less than ten (10) gallons per week or Organic Materials in the Organic Materials stream are less than ten (10) gallons per week).

5. Physical Space Waivers. The City may waive a Commercial Business's or Multi-Family Premises' obligation 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, its franchisee, a licensed architect, or licensed engineer demonstrating that the Premises lacks adequate space for Recyclable Materials Containers and/or Organic Materials Containers required for compliance with the Recyclable Materials and Organic Materials collection requirements of Section 14-2(2) or 14-2(3) as applicable.

6. Review and Approval of Waivers by City. Waivers shall be granted to Responsible Parties by City according to the following process:

- a. Responsible Parties of Premises seeking waivers shall submit a completed application form and any required fees to City or its designee for a waiver specifying the waiver type requested, type(s) of collection services for which they are requesting a waiver, the reason(s) for such waiver, and documentation supporting such request. Failure to submit a completed application shall equate to an automatic denial of said application.
- b. Upon waiver approval, City shall specify that the waiver is valid for five (5) years.
- c. Waiver holder shall notify City if circumstances change such that Commercial Business's or Multi-Family Premises' may no longer qualify for the waiver granted, in which case waiver will be rescinded.
- d. Any waiver holder must cooperate with the City for compliance Inspections and enforcement as stated in Sections 14-7 and 14-8.
- e. Waiver holder shall reapply to the City or its designee for a waiver upon the expiration of the waiver period and shall submit any required documentation, and/or fees as required by the City. Failure to submit a completed application shall equate to an automatic denial of said application.
- f. City may revoke a waiver upon a determination that any of the circumstances justifying a waiver are no longer applicable.

Sec. 14-3. Collections Regulations.

1. No person shall place any waste into a collection container without permission of the Owner or tenant of the Premises on which the container sits.

2. It shall be unlawful for any person to place, keep or deposit any solid waste, or other items for collection, on any street, alley, sidewalk, public way or any public or private property or Premises except in a suitable container for collection, except for those items set out for collection on specially designated collection dates established by franchisee.

3. Small amounts of Yard Waste may, however, be kept in a small pile or as a compost heap out of general public view.

4. Solid Waste must be maintained in such a manner that it does not create odor, vector, or litter impacts to the community or create a public or private nuisance.

5. The Planning Commission shall adopt standards for the construction or renovation of waste enclosures for Commercial Businesses and Multi-Family Premises, which standards shall be required as a condition of any building permit issued by the City.

6. It shall be unlawful for any person, other than the Generator, the Premises Owner, the City, or its franchisee, to remove or take any items placed in collections containers.

Sec. 14-3.5. Collection Charges.

Rates for collection of solid waste shall be established by resolution of the City Council.

If an Occupant and/or Owner of any Premises fail to procure the services required pursuant to this Chapter or fail to pay for the required services, the City may initiate collection services at the Premises and the cost thereof shall constitute a charge against the Owner. If the charge or debt for said services has not been satisfied in full within 90 days, the City Manager shall recommend adoption of a resolution by the City Council imposing the debt, including the City's administrative costs, as a lien or special assessment against the property in accordance with the procedures set forth in Article 3 of Chapter 1 of this Code.

Sec. 14-4. Requirements for Haulers and Facility Operators.

1. Requirements for Haulers.

a. Franchise hauler(s) providing Recyclable Materials, Organic Waste, and/or Solid Waste collection services to Generators within the City's boundaries shall meet the following requirements and standards as a condition of approval of its contract, agreement, permit, license, or other authorization with the City to collect Recyclable Materials, Organic Materials, and/or Solid Waste:

i. Through written notice to the City annually on or before July 1st of each year, identify the facilities to which they will transport Discarded Materials, including facilities for Source Separated Recyclable Materials, Source Separated Organic Materials, and Solid Waste unless otherwise stated in the franchise agreement or other authorization with the City.

ii. Transport Source Separated Recyclable Materials to a facility that recovers those materials; transport Source Separated Organic Materials to a facility, operation, activity, or property that recovers Organic Waste

as defined in 14 CCR, Division 7, Chapter 12, Article 2; transport Solid Waste to a disposal facility or transfer facility or operation that processes or disposes of Solid Waste; and transport manure to a facility that manages manure in conformance with 14 CCR Article 12 and such that the manure is not landfilled, used as Alternative Daily Cover (ADC), or used as Alternative Intermediate Cover (AIC).

iii. No collection shall be made or commence in residential zones by the City, its agents, or franchisee, before the hour of 6:00 a.m. or after the hour of 5:00 p.m., except on order of the City Manager.

iv. Obtain approval from the City to haul Organic Waste, unless it is transporting Source Separated Organic Waste to a Community Composting site or lawfully transporting C&D in a manner that complies with 14 CCR Section 18989.1, and Monterey City Code Chapter 9.

b. Franchise hauler(s) authorized to collect Recyclable Materials, Organic Materials, and/or Solid Waste shall comply with education, equipment, signage, container labeling, container color, contamination monitoring, reporting, and other requirements contained within its franchise agreement, permit, license, or other agreement entered into with City.

2. Requirements for Facility Operators and Community Composting Operations.

a. Owners of facilities, operations, and activities located in the City's boundaries that recover Organic Waste, including, but not limited to, Compost facilities, in-vessel digestion facilities, and publicly-owned treatment works shall, upon City request, provide information regarding available and potential new or expanded capacity at their facilities, operations, and activities, including information about throughput and permitted capacity necessary for planning purposes. Entities contacted by the City shall respond within 60 days.

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

c. Owners of facilities, operations, and activities located in the City's boundaries that receive Recyclable Materials, Organic Materials, and/or Solid Waste shall provide to the City on a quarterly basis copies of all reports they are required to report to CalRecycle, including at minimum, those required by AB 901 and SB 1383.

Sec. 14-5. Requirements for Commercial Edible Food Generators and Special Events.

1. 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 CCR Section

18991.3.

2. 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.

3. Commercial Edible Food Generators shall comply with the following requirements:

a. Arrange to recover the maximum amount of Edible Food that would otherwise be disposed.

b. 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.

c. Not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery Organization or a Food Recovery Service.

d. Allow City's designated enforcement entity or designated third party enforcement entity to access the Premises and review records pursuant to 14 CCR Section 18991.4.

e. Keep records that include the following information, or as otherwise specified in 14 CCR Section 18991.4:

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

ii. A copy of all contracts or written agreements established under 14 CCR Section 18991.3(b).

iii. A record of the following information for each of those Food Recovery Services or Food Recovery Organizations: (1) The name, address and contact information of the Food Recovery Service or Food Recovery Organization; (2) the types of food that will be collected by or Self-Hauled to the Food Recovery Service or Food Recovery Organization; (3) the established frequency that food will be collected or Self-Hauled; and (4) 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.

f. Maintain records required by this section for five (5) years.

g. No later than December 31st of each year commencing no later than December 31, 2022, for Tier One Commercial Edible Food Generators and December 31, 2024, for Tier Two Commercial Edible Food Generators, provide

an annual Food Recovery report to the City that includes the following information:

- i. The amount, in pounds, of edible food donated to a Food Recovery Service or Food Recovery Organization annually; and,
 - ii. The amount, in pounds of edible food rejected by a Food Recovery Service or Food Recovery Organization annually.
 - iii. Any additional information required by the City or its designee.
 - h. Nothing in this Chapter 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 (which added Article 13 [commencing with Section 49580] to Chapter 9 of Part 27 of Division 4 of Title 2 of the Education Code, and to amend Section 114079 of the Health and Safety Code, relating to food safety, as amended, supplemented, superseded and replaced from time to time).
4. In addition to the other requirements of this section, as applicable, Special Events, including but not limited to Large Events, that are expected to host more than 100 persons (including employees) must:
- a. Supply adequate containers to allow employees, contractors, customers and guests of the Special Event to dispose of Source Separated Organic Materials, including Food Waste, in an Organic Materials Container; Source Separated Recyclable Materials in a Recyclable Materials Container; and Solid Waste in a Solid Waste Container. The containers must:
 - i. Be of adequate size and number based on the quantities reasonably anticipated to be generated at the Special Event. Containers shall be placed in groups of at least three – one of each type of container - to provide equally convenient access to users.
 - ii. Bear the appropriate signage and be color coded to identify the type of Discarded Material to be deposited, and meet any additional design criteria as determined by the City.
 - b. Provide information or training for employees and contractors on how to source separate Discarded Materials.
 - c. Comply with the environmentally acceptable food packaging (Article 3 of this Chapter) and retail bag regulations (Article 4 of this Chapter) of this Code.

Sec. 14-5.5 Requirements for Food Recovery Organizations and Services.

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

CCR Section 18991.5(a)(1):

- a. The name, address, and contact information for each Commercial Edible Food Generator from which the service collects Edible Food.
- b. The quantity in pounds of Edible Food collected from each Commercial Edible Food Generator per month.
- c. The quantity in pounds of Edible Food transported to each Food Recovery Organization per month.
- d. The name, address, and contact information for each Food Recovery Organization that the Food Recovery Service transports Edible Food to for Food Recovery.

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

- a. The name, address, and contact information for each Commercial Edible Food Generator from which the organization receives Edible Food.
- b. The quantity in pounds of Edible Food received from each Commercial Edible Food Generator per month.
- c. The name, address, and contact information for each Food Recovery Service that the organization receives Edible Food from for Food Recovery.

3. Maintain records required by this section for five years.

4. Food Recovery Organizations and Food Recovery Services that have their primary address physically located in the City and contract with or have written agreements with one or more Commercial Edible Food Generators pursuant to 14 CCR Section 18991.3(b) shall report to the City the total pounds of Edible Food recovered in the previous calendar year from the Tier One and Tier Two Commercial Edible Food Generators they have established a contract or written agreement with pursuant to 14 CCR Section 18991.3(b). The annual report shall be submitted to the City no later than December 31st of each year.

Sec. 14-6. Self-Haul.

1. It shall be unlawful to hire any other person to haul Solid Waste, Organic Waste or Recyclable Material they have generated besides the City's franchisee except in the following circumstances:

- a. Residents and businesses may Self Haul to a Solid Waste, Organic Waste, Recycling, or donation facility.
- b. A Commercial Business may Self Haul as an ancillary service to the

primary work provided by the business, including but not limited to landscaping, gardening, construction, and demolition companies.

c. Persons engaged in the business of destroying or disposing of secret, confidential or sensitive documents may transport and dispose of said documents as part of their services.

d. Donations of material, if the collecting agency does not receive monetary compensation.

2. Self-Hauler Requirements:

a. Every Self-Hauler shall Source Separate its Recyclable Materials and Organic Materials (materials that City otherwise requires Generators or Responsible Parties to separate for collection in the City's Recyclable Materials and Organic Materials collection program) generated on-site from Solid Waste in a manner consistent with 14 CCR Section 18984.1 and the City's collection program. Self-Haulers shall deliver their materials to facilities described in subsection (b) below. Alternatively, Self-Haulers that choose not to Source Separate Recyclable Materials and Organic Materials, shall haul their Solid Waste (include Recyclable Materials and Organic Materials) to a High Diversion Organic Waste Processing Facility that is approved by the City.

b. Self-Haulers that Source Separate their Recyclable Materials and Organic Materials shall haul their Source Separated Recyclable Materials to a facility that recovers those materials; haul their Source Separated Organic Waste to a facility, operation, activity, or property that processes or recovers Source Separated Organic Waste; and, haul their Solid Waste to a disposal facility or transfer facility or operation that processes or disposes of Solid Waste; and, transport manure to a facility that manages manure in conformance with 14 CCR Article 12 and such that the manure is not landfilled, used as Alternative Daily Cover (ADC), or used as Alternative Intermediate Cover (AIC).

c. Self-Haulers that are Responsible Parties of Commercial Businesses or Multi-Family Premises shall keep records of the amount of Recyclable Materials, Organic Waste, and Solid Waste delivered to each facility, operation, activity, or property that processes or recovers Recyclable Materials and Organic Waste and processes or disposes of Solid Waste or shall keep records of Solid Waste delivered to High Diversion Organic Waste Processing Facilities. These records shall be subject to Inspection by the City or its designee. The records shall include the following information:

i. Delivery receipts and weight tickets from the entity accepting the Recyclable Materials, Organic Materials, and Solid Waste.

ii. The amount of material in cubic yards or tons transported by the Generator or Responsible Party to each entity.

iii. If the material is transported to an entity that does not have scales on-site or employs scales incapable of weighing the Self-Hauler's vehicle in

a manner that allows it to determine the weight of materials received, the Self-Hauler is not required to record the weight of material but shall keep a record of the entities that received the Recyclable Materials, Organic Materials, and Solid Waste.

d. Self-Haulers shall retain all records and data required to be maintained by this Section for no less than five (5) years after the Recyclable Materials, Organic Materials, and/or Solid Waste was first delivered to the facility accepting the material.

e. Self-Haulers that are Commercial Businesses or Multi-Family Premises shall provide copies of records required by this Section to City if requested by the City and shall provide the records at the frequency requested by the City.

f. A Single-Family Generator or Single-Family Responsible Party that Self-Hauls Recyclable Materials, Organic Waste, or Solid Waste is not required to record or report information in Section 14-3(2)(c) and (d).

g. Pursuant to 14 CCR Section 18815.9, Food Waste Self-Haulers are required to maintain records and report to CalRecycle information on the tons of Food Waste Self-Hauled and the facilities or each use of such material. Food Waste Self-Haulers shall provide to the City on a quarterly basis copies of all reports they are required to report to CalRecycle.

Sec. 14-7. Inspections and Investigations by City.

1. 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 by Generators, Responsible Parties of Commercial Businesses, Responsible Parties of Multi-Family Premises, Commercial Edible Food Generators, haulers, Self-Haulers, Food Recovery Services, and Food Recovery Organizations, subject to applicable laws. This Section does not allow City to enter the interior of a private residential property for Inspection.

2. Regulated entities, including but not limited to Commercial Businesses, shall provide or arrange for access during all Inspections (with the exception of residential property interiors) and shall cooperate with the City's representative or its Designee during such Inspections and investigations. Such Inspections and investigations may include confirmation of proper placement of materials in containers, inspection of Edible Food Recovery activities, review of required records, or other verification or Inspection to confirm compliance with any other requirement of this Chapter. Failure of a Responsible Party to provide or arrange for: (i) access to an entity's Premises; (ii) installation and operation of Remote Monitoring equipment (optional); or (iii) access to records for any Inspection or investigation is a violation of this Article and may result in penalties described in Section 14-8.

3. Any records obtained by 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.

4. 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.

5. City shall receive written complaints from persons regarding a Responsible Party or other entity that may be potentially non-compliant with SB 1383 Regulations, including receipt of anonymous complaints.

Sec. 14-8. Enforcement.

1. Violation of any provision of this Article shall constitute grounds for issuance of a Notice of Violation and issuance of an administrative citation and assessment of a fine. The City's procedures for administrative citations in Monterey City Code Chapter 1, Article 2, Division 1 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 Article and any rule or regulation adopted pursuant to this Article, except as otherwise indicated in this Article.

2. Other remedies allowed by law may be used, including civil actions or injunctions. City may pursue civil actions in the California courts to seek recovery of unpaid administrative citations. City may choose to delay court action until such time as a sufficiently large number of violations, or cumulative size of violations exist such that court action is a reasonable use of City staff and resources.

3. Enforcement pursuant to this Article may be undertaken by the City Enforcement Official, which may be the City Manager or their designated entity, legal counsel, or combination thereof. Enforcement may also be undertaken by a Regional or County Agency Enforcement Official, designated by the City, in consultation with the City Enforcement Official.

4. Process for Enforcement.

a. City Enforcement Officials and/or their designee will monitor compliance with the ordinance randomly and through Compliance Reviews, Route Reviews, investigation of complaints, and an Inspection program (that may include Remote Monitoring). Section 14-7 establishes City's right to conduct Inspections and investigations.

b. For incidences of Prohibited Container Contaminants found in containers, City will issue a notice of contamination to any Generator or Responsible Party 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 3 days after determining that a violation has occurred. If the City observes Prohibited Container Contaminants in a Responsible Party's containers on more than 2 consecutive occasion(s), the City may assess contamination processing fees or contamination penalties on the Generator.

c. With the exception of violations of contamination of container contents addressed under Section 14-8(4)(b), City shall issue a Notice of Violation requiring compliance within a maximum of 60 days of issuance of the notice.

The Notice of Violation shall include (i) the name(s) or account name(s), if different, of each person or entity to whom it is directed; (ii) a factual description of the violations of this Article and the specific sections being violated; (iii) a compliance date by which specific actions must be taken; and (iv) the penalty for not complying within the specified compliance date.

d. Absent compliance by the respondent within the deadline set forth in the Notice of Violation, City shall commence an action to impose penalties, via an administrative citation and fine, pursuant to the City's administrative remedies ordinance contained in Monterey City Code Chapter 1, Article 2, Division 1.

e. Notices shall be sent to Owner at the address of the Owner as it appears on the last equalized assessment roll of the County Assessor or if no such address is available, to the Owner at the address of the Multi-Family Premises or Commercial Premises or to the Responsible Party for the collection services, depending upon available information.

5. Penalty Amounts for Types of Violations. The penalty levels are as follows:

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

b. For a second violation, the amount of the base penalty shall be \$200 per violation.

c. For a third or subsequent violation, the amount of the base penalty shall be \$400 per violation.

6. Compliance Deadline Extension Considerations. City may extend the compliance deadlines set forth in a Notice of Violation issued in accordance with this Section if it finds that there are extenuating circumstances beyond the control of the respondent that make compliance within the deadlines impracticable, including the following:

a. Acts of God such as earthquakes, wildfires, flooding, and other emergencies or natural disasters;

b. Delays in obtaining discretionary permits or other government agency approvals; or,

c. Deficiencies in Organic Waste recycling infrastructure or Edible Food Recovery capacity and the City/County/District is under a corrective action plan with CalRecycle pursuant to 14 CCR Section 18996.2 due to those deficiencies.

7. Appeals Process. Persons receiving an administrative citation containing a penalty for an uncorrected violation may request a hearing to appeal the citation pursuant to Monterey City Code section 1-9.5.

8. Education Period for Non-Compliance. Beginning January 1, 2022 and through December 31, 2023, 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 Generator, Responsible Party, Self-Hauler, 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 ordinance 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.

9. Civil Penalties for Non-Compliance. Beginning January 1, 2024, if the City determines that a Generator, Responsible Party, Self-Hauler, hauler, Tier One or Tier Two Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance with this ordinance, it shall document the noncompliance or violation, issue a Notice of Violation, and take Enforcement Action pursuant to this Section, as needed.”

SECTION 3: All ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION 4: This ordinance shall be in full force and effect commencing on January 1, 2022.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF MONTEREY this 16th day of November, 2021, by the following vote:

AYES:	4	COUNCILMEMBERS:	Albert, Haffa, Williamson, Roberson
NOES:	0	COUNCILMEMBERS:	None
ABSENT:	1	COUNCILMEMBERS:	Smith
ABSTAIN:	0	COUNCILMEMBERS:	None

APPROVED:

ATTEST:

DocuSigned by:

 FA1981217DEE4FB...

Mayor of said City

DocuSigned by:

 ED8453A4F62C4AA...

City Clerk thereof