

**ORDINANCE NO.**

**ORDINANCE REPEALING AND REPLACING IN ITS ENTIRETY MENDOCINO COUNTY CODE TITLE 9A – SOLID WASTE, AND AMENDING MENDOCINO COUNTY CODE CHAPTER 18.25– REGULATIONS FOR COLLECTING AND LOADING RECYCLABLE MATERIALS IN DEVELOPMENT PROJECTS, AND CHAPTER 18.35 – CONSTRUCTION AND DEMOLITION RECYCLING AND REUSE**

**WHEREAS**, Assembly Bill 939 of 1989, the California Integrated Waste Management Act of 1989 (California Public Resources Code Section 40000, et seq., as amended, supplemented, superseded, and replaced from time to time), requires cities and counties to reduce, reuse, and recycle (including composting) solid waste generated in their jurisdictions to the maximum extent feasible before any incineration or landfill disposal of waste, to conserve water, energy, and other natural resources, and to protect the environment; and

**WHEREAS**, Assembly Bill 341 of 2011 places requirements on businesses and multi-family property owners that generate a specified threshold amount of solid waste to arrange for recycling services and requires the County to implement a mandatory commercial recycling program; and

**WHEREAS**, Assembly Bill 1826 of 2014 requires businesses and multi-family property owners that generate a specified threshold amount of solid waste, recycling, and organic waste per week to arrange for recycling services for that waste, requires the County to implement a recycling program to divert organic waste from businesses subject to the law, and requires the County to implement a mandatory commercial organics recycling program; and

**WHEREAS**, Senate Bill (SB) 1383, the Short-lived Climate Pollutant Reduction Act of 2016, requires the California Department of Resources Recycling and Recovery (CalRecycle) to develop regulations to reduce organics in landfills as a source of methane. As adopted by CalRecycle, these SB 1383 regulations (SB 1383 Regulations) place requirements on multiple entities including the County, residential households, commercial businesses and business owners, commercial edible food generators, haulers, self-haulers, food recovery organizations, and food recovery services to support achievement of statewide organic waste disposal reduction targets, and

**WHEREAS**, the SB 1383 Regulations require the County to adopt and enforce an ordinance or other enforceable mechanism to implement relevant provisions of the SB 1383 Regulations, and

**WHEREAS**, this Ordinance implements the requirements of Assembly Bill 341, Assembly Bill 1826, and the SB 1383 Regulations.

Now therefore, the Board of Supervisors of the County of Mendocino ordains as follows:

**Section 1.** Title 9A of Mendocino County Code is repealed and replaced in its entirety as follows:

**Title 9A Solid Waste**

**CHAPTER 9A.040 - GENERAL PROVISIONS**

### **Sec. 9A.04.010 - Name.**

This Title shall be known as the "Solid Waste Ordinance of Mendocino County."

### **Sec. 9A.04.020 - Declaration of Intent and Findings.**

- (A) The storage, accumulation, collection and disposal of refuse, trash, rubbish, solid waste, debris, and other discarded material is a matter of great public concern, in that improper control of such matters creates a public nuisance, which may lead to air pollution, fire hazards, illegal dumping, insect breeding, infestation by vermin, and other problems affecting the health, welfare and safety of the residents of Mendocino County. The regulations contained in this Title are designed to eliminate or alleviate the above identified problems. It is the policy of the Board that the choice of whether a person hauls his/her own solid waste, or hires a franchised ~~or permitted~~-hauler to pick up and transport said person's solid waste, is at the sole discretion of that person.
- (B) It is also the policy of the Board to provide for the efficient use of resources through waste reduction and waste diversion programs including those in the County's approved Source Reduction and Recycling Element required under AB 939. ~~How a person utilizes the services that are provided by such programs is at the sole discretion of that person.~~
- (C) Notwithstanding that sewage sludge and septage may under certain circumstances be defined as a solid waste or recyclable, this Title is not intended to regulate the collection of sewage sludge or septage, nor to alter the County's permit requirements or procedures for said collection. Nor is this Title intended to regulate the storage, collection, transportation and disposal of hazardous waste.

### **Sec. 9A.04.030 - Definitions.**

The definitions stated in Title 14, California Code of Regulations, Division 7, Chapter 3.2 (Section 17896.1 et seq. "Composting Definitions"), and Chapter 12 (Section 18981.1 et seq.; "SB 1383 Definitions"), shall apply to this Title, unless amended by this section.

For the purposes of this Title, the following terms are defined:

"Act" means the California Integrated Waste Management Act, California Public Resources Code section 40000 et seq., as amended.

**(A)** "Authorized recycling entity" means that person, partnership, joint venture or corporation authorized by a franchise agreement ~~or permit or other agreement~~ with the County to collect discarded and/or nondiscarded recyclable materials pursuant to this Title. An authorized recycling entity may be a municipal collection service, private refuse hauler, private recycling enterprise, or private nonprofit corporation or association.

**(B)** "Bin" means a container designed for mechanical emptying with a close-fitting cover and of a design approved by the Department.

**(C)** "Board" means the Board of Supervisors of Mendocino County.

**(D)** "Bulky waste" means and includes, but not by way of limitation, discarded white goods (i.e., major household appliances), furniture, tires, carpets, mattresses and similar large items which cannot be placed in a covered container.

**(E)** "Collection services area" means a portion of the County designated for refuse or recyclable material collection which is served by a franchised ~~or permitted~~-hauler.

"Commercial Business" or "Commercial" means a firm, partnership, proprietorship, joint-stock company, corporation, or association, whether for-profit or nonprofit, strip mall, industrial facility, or a multifamily residential dwelling. A Multi-Family Residential Dwelling that consists of fewer than two (2) units is not a Commercial Business for purposes of implementing this ordinance. Such definition excludes nonprofit activities such as churches, synagogues, charitable and service organizations, fraternal, and social clubs.

(F)"Commercial premises" means any building or site in the County within one of the franchise areas, other than residential premises, from which any business, service, non-profit, governmental, institutional, commercial or industrial activity is conducted, including without limitation motels, hotels, recreational vehicle parks, restaurants, professional offices, clubhouses, places of entertainment, manufacturing plants, and private schools. Commercial premises shall also include large multi-unit dwellings containing two or more dwelling units.

"Commercial entity" means any business, retail, office, professional or industrial facility including but not limited to motels, hotels and automobile courts. Such definition excludes nonprofit activities such as churches, synagogues, charitable and service organizations, fraternal, and social clubs.

(G) "Commercial location" means the premises or site of a commercial entity.

"Container" means a plastic or metallic cart, bin, can, or other container expressly approved by the Department to store solid waste, recyclable materials, and/or organic waste.

(H)"Composting" means a method of solid waste management whereby the organic component of the solid waste stream is biologically decomposed under controlled conditions to a state in which it can be handled, stored, and/or applied to the land without adversely affecting the environment.

(I)"County" means the County of Mendocino, State of California.

"County Designee" means an entity that the County contracts with or otherwise arranges to carry out any of the County's responsibilities of this ordinance as authorized in 14 CCR Section 18981.2. A County Designee may be a government entity, a hauler, a private entity, or a combination of those entities.

(J)"Customer" means any person receiving refuse and/or recycling service under the provisions of this Title.

(K)"Department" means the Division of Solid Waste in the Department of Transportation.

(L)"Designated collection location" means the place where a franchised waste hauler or an authorized recycling entity is to pick up solid waste or segregated, recyclable materials. The location is identified by a franchise agreement between the franchised waste hauler and the County, ~~or the permit issued to the authorized recycling entity~~, and will customarily be the curbside of a residential neighborhood or the service alley of a commercial or institutional entity.

"Direct Service Provider" means a person, company, agency, district, or other entity that provides a service or services to the County pursuant to a contract or other written agreement.

(M)"Discarded recyclable materials" means any recyclable materials, as defined in this Title, which the owner disposes of without selling or donating the materials.

(N) "Disposal site" means a site as defined has the same definition as provided in Public Resources Code Section 401.22.

(O) "Drop box" means a container designed for mechanical emptying by a vehicle used for transportation to the disposal site with a minimum capacity of ten (10) cubic yards and of a design approved by the Department.

"Enforcement Officer" means any officer or employee authorized by ordinance or by resolution of the Board of Supervisors to enforce the Mendocino County Code, or such officer's or employee's designee.

"Excluded waste" means hazardous substance, hazardous waste, infectious waste, designated waste, volatile, corrosive, biomedical, infectious, biohazardous, and toxic substances or material. It also includes waste that a franchisee or other authorized collection enterprise reasonably believes would, as a result of or upon 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, waste that in the opinion of the franchisee or other authorized collection enterprise would present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose such enterprise or County to potential liability. It does not, however, include de minimis volumes or concentrations of waste of a type and amount normally found in residential solid waste after implementation of programs for the safe collection, recycling, treatment and disposal of batteries and paint in compliance with Sections 41500 and 41802 of the California Public Resources Code.

"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-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.

(P) "Franchise area" means that territory designated by the County for refuse collection, by a franchised solid waste collector, and shown on a certain map entitled "Mendocino County Solid Waste Refuse Collection Areas" including all amendments and changes thereto, which map is incorporated in this Title as Appendix "A" attached to the ordinance amending this Title in its entirety codified in this Title and on file in the Office of the Clerk of the Board.

(Q) "Garbage" means and includes kitchen and table refuse, offal, swill and also every accumulation of animal and vegetable refuse, and other matter that attends the preparation, consumption, decay, or dealing in or storage of meats, fish, fowl, birds, fruits or vegetables. It also includes crockery, ashes and all refuse, save and excepting as defined as rubbish.

"Generator" means any "person" as defined by the Public Resources Code, whose act or process produces solid waste, recyclable materials, yard trimmings, construction and demolition ("C&D") debris, or bulky waste as defined herein, or whose act first causes any such material to become subject to regulation.

"Generators subject to SB 1383" means any person not in an area of the County granted a waiver from compliance with SB 1383 requirements from CalRecycle. The Department shall keep a map showing areas of the County that have received waivers from SB 1383 requirements.

"Gray Container Waste" has the same definition as provided in 14 CCR Section 17402(a)(6.5). This term is only applicable to generators subject to SB 1383.

~~(R)"Green waste" means all forms of biodegradable plant materials which can be placed in a covered container, such as tree trimmings, grass clippings, etc. Tree stumps and logs are not to be considered "green waste" unless they are reduced to a chipped form; they shall be considered bulky waste. Biodegradable plant material which is mixed with other kinds of refuse shall not be considered "green waste."~~

~~(S)"Group container" means a bin placed in a location, agreeable to the County, and assigned for the use of specified land owners or tenants.~~

~~(T)"Hard-to-handle waste" includes the following wastes that will not fit in a refuse container: household furniture, appliances, tree stumps and large limbs, telephone poles and timbers, styrofoam, transit pipe, large metal objects, cable, wire, concrete over one thousand pound (1,000 lb.) piece weight, and reinforced concrete.~~

~~(U)"Hazardous waste or materials" means any waste materials or mixture of wastes defined as such pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq., or the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. Section 9601 et seq., and all future amendments to either of them, or as defined by the California Environmental Protection Agency or the California Integrated Waste Management Board, or either of them. Where there is a conflict in the definitions employed by two or more agencies having jurisdiction over hazardous or solid waste, the term "hazardous waste" shall be construed to have the broader, more encompassing definition.~~

~~(V)"Industrial refuse" means refuse in an amount exceeding an average of five hundred pounds (500 lbs.) per operating day produced by any person principally engaged in the business of processing or manufacturing agricultural, animal or other products or materials whose principal outlet for such products is wholesale rather than retail, and by any person engaged in the business of building construction or demolition.~~

~~(W)"Inert wastes" means waste which includes, but is not limited to, rock, earth, construction rubble and asphalt chunks, and which contains insignificant amounts of decomposable wastes and no soluble pollutants, as approved by the Department.~~

~~(X)"Institutional entity" means any facility operated by a governmental entity, including City, County, State and/or Federal buildings, public schools, colleges, and public recreational sites.~~

~~(Y)"Institutional location" means the premises or site of an institutional entity.~~

"Mulch" means organic material that must meet or exceed the physical contamination, maximum metal concentration, and pathogen density standards for land application specified in 14 CCR Section 17852(a)(24.5)(A)(1) through (3) and must be produced at one of the following facilities:

- (A) A permitted or authorized compostable material handling operation or facility as defined in 14 CCR Section 17852(a)(12), that is permitted or authorized under 14 CCR Division 7, other than a chipping and grinding operation or facility as defined in 14 CCR Section 17852(a)(10); or
- (B) A permitted or authorized transfer/processing facility or transfer/processing operation as defined in 14 CCR Section 17402(a)(30) and (31) or that is permitted and authorized under 14 CCR Division 7; or
- (C) A permitted solid waste landfill as defined in Public Resources Code Section 40195.1 that is permitted under 27 CCR Division 2.

**(Z)** "Multiresidential complex" "Multi-Family Residential Dwelling" means any residential building, boardinghouse, apartment building, condominium complex, stock cooperative complex consisting of two (2) or more independent dwelling units. "Multi-Family Residential Dwelling Multiresidential complex" does not include motel, hotel or automobile court.

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

**(AA)**

"Nondiscarded recyclable materials" means any recyclable materials, as defined in this Title, the owner sells or donates.

**(BB)** "Occupant" means the person in possession or control of the premises, including but not limited to persons such as tenant, lessee, licensee, manager, custodian or caretaker.

**(CC)** "Owner" means the person having dominion of or title to premises.

**(DD)** "Person" has the same definition provided in Public Resources Code section 40170 means any individual, tenant, lessee, occupant or owner of real property, firm, corporation, partnership, joint venture, association, special district, school districts, group or combination thereof, and includes the plural as well as the singular.

**(EE)** "Premises" means a parcel of real property to the center of any alley adjacent thereto, located in the unincorporated area of the County, upon which is situated any dwelling house or other place of human habitation, including each unit of a multiple dwelling building, or of a mobile home park; or upon which is conducted any business, occupation, or activity which results in the production or accumulation of refuse.

"Prohibited Container Contaminants" means any of the following:

- (A) Non-organic waste placed in a green container that is part of an organic waste collection service provided pursuant to Section 18984.1 or 18984.2;
- (B) Organic wastes that are carpet, hazardous wood waste, or non-compostable paper placed in the green container that is part of an organic waste collection service provided pursuant to Section 18984.1 or 18984.2;

(C) Organic wastes placed in a gray container that pursuant to Section 18984.1 or 18984.2 were intended to be collected separately in the green container or blue container;

(D) Organic wastes placed in the blue container shall be considered prohibited container contaminants when those wastes were specifically identified in Title 14, California Code of Regulations, Division 7, Chapter 12 or this ordinance for collection in the green container for recovery. Paper products, printing and writing paper, wood and dry lumber may be considered acceptable and not considered prohibited container contaminants if they are placed in the blue container.

"Recyclable materials" includes materials which are reused or processed or are in the future reused or processed into a form suitable for reuse through reprocessing or remanufacture, consistent with the requirements of the California Integrated Waste Management Act. The term "recyclables or recyclable material" includes but is not limited to paper, newsprint, printed matter, pasteboard, paper containers, cardboard, glass, aluminum, tin cans, PET (Polyethylene Terephthalate), HDPE (High Density Polyethylene), and other plastics, beverage containers, compostable materials, used motor oil, automotive batteries, antifreeze, latex paint, brick and stone in reusable size and condition, and such other materials designated by County's AB 939 Coordinator, or designated as recyclables by the California Integrated Waste Management Board, or other agency with jurisdiction.

(GG)"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 market place. "Recycling" does not include transformation, as defined in Public Resources Code Section 40201.

(HH)"Recycling industry" means a properly zoned and licensed business that receives recyclable material for the purpose of converting or reprocessing said material into a new product.

(II)"Refuse" means and includes all bulky waste, solid waste and recyclable materials that have not been segregated as defined in this Chapter.

(JJ)"Residential unit" means any single-family dwelling, duplex, triplex, apartment house or condominium complex. For the purpose of this Title, each apartment, flat, or dwelling unit of a duplex, triplex, apartment house or condominium complex shall be considered as a separate residential unit.

(KK)"Rubbish" means nonputrescible waste, discarded or abandoned material, including but not limited to, tires, paper, cardboard, rugs, plastic and construction debris.

"SB 1383" means Senate Bill 1383 of 2016 (Chapter 395), 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.

**(LL)** "Segregated recyclable materials" means those recyclable materials which:

- (A) Have been source separated by the person from whom they are being collected; or
- (B) Are physically separated from other waste material following collection.

**(MM)** "Single-Family Dwelling" or "Single-Family Residential Dwelling" means a dwelling unit which is the sole residential unit on a parcel, notwithstanding any contrary definition in the County code and for the purposes of this Title only, any detached or attached house or residence designed or used for occupancy by one family, provided that collection service feasibly can be provided to such premises as an independent unit, and the owner or occupant of such independent unit is billed directly for the collection service. Single-family also includes Residential units of a duplex or tri-plex residential structure.

**(NN)** "Solid waste" means Solid Waste as defined in California Public Resources Code Section 40191.

~~and include all putrescible and nonputrescible solid and semisolid wastes (including semi-liquid or wet wastes with insufficient moisture so as not to be free flowing) garbage, rubbish, ashes, recyclable materials that have not been source separated, demolition and construction wastes and other discarded materials resulting from domestic, institutional, commercial, industrial, agricultural and community operations and activities. Solid waste shall be expressly deemed to include bulky wastes as defined herein. Solid waste does not include hazardous wastes.~~

**(OO)** "Solid waste collector" means a person who collects or transports refuse under authority granted by the County including his/her agents and employees.

**(PP)** "Standard container" means a plastic or metallic can, or other container expressly approved by the Department, with close fitting cover, cover handle and/or side handles, of not less than ten (10) nor more than thirty-three (33) gallons capacity and not exceeding forty (40) pounds, in weight when filled.

"State" means the state of California.

## CHAPTER 9A.08 - PUBLIC HEALTH AND SAFETY REGULATIONS

### Sec. 9A.08.010 - Provisions Declared Minimum Standards.

The provisions of this Chapter shall be the minimum requirements for the protection of the public health, safety, convenience and general welfare.

### Sec. 9A.08.020 - Refuse Deposition—Private Property.

No owner or occupant shall throw, drop, leave, dump, bury, burn, place or otherwise dispose of any refuse upon his/her premises, or allow any other person to dispose of refuse upon his/her premises except in a disposal site, container site, materials recovery facility (MRF), transfer station, recycling industry or authorized recycling entity approved by or acceptable to the County or as provided in this Title and other County ordinances. Wood may be kept piled upon premises for household and/or agricultural use. Composting may be done provided it is done in a healthful manner and in conformance with guidelines as may be published by the County.

### Sec. 9A.08.030 - Refuse Deposition—Land Reclamation—Public Property

No person shall throw or deposit or cause to be thrown or deposited, any refuse or abandon any material whatsoever, in or upon any public property, public right-of-way, watercourse, or banks of any watercourse, or upon the premises of any other person except at a disposal site, container site, materials recovery facility (MRF), transfer station, recycling industry or authorized recycling entity approved by or acceptable to the County or as provided in this and other County ordinances. ~~However, a temporary permit for a land reclamation operation which utilizes inert wastes approved by the Department and which is designated for land reclamation may be issued by the County provided the intended use is authorized by the basic zoning ordinance of the County. The permit shall be for a limited land area and subject to conditions set forth by the County.~~

#### **Sec. 9A.08.040 - General Refuse Removal Requirement.**

The owner or tenant of any premises, business establishment, or industry shall be responsible for the satisfactory removal of all refuse accumulated by him/her on his/her property or premises in accordance with State requirements. The County may require removals as it deems necessary. The owner or tenant shall effect the removal of solid waste by one of the following means:

- (A) **Collection Service.** A person may elect to use the waste hauling services provided by a franchised ~~or permitted~~ collector in his/her collection area.
- (B) **Self-Haul Refuse Removal.** A person may remove and dispose of refuse created, produced or accumulated without the necessity of a permit for that purpose; provided, however, that such removal and disposal is effected without compensation.

#### **Sec. 9A.08.050 - Refuse Removal Requirements for Generators Subject to SB 1383**

- (A) **Single-Family Dwelling Organic Waste Generators Requirements:**
  - (1) Single-Family Dwelling Organic Waste Generators shall subscribe to the County's three-container collection services and comply with the requirements of those services as described below, except Single-Family Dwelling Organic Waste Generators that meet the Self-Hauler requirements stated in paragraph (C) below or have been granted a waiver pursuant to Section 9A.24.040. Single-Family Organic Waste Generators shall adjust their level for their collection services as requested by the County.
  - (2) Single-Family Dwelling Organic Waste Generators shall place Source Separated Green Container Organic Waste, including Food Waste, in the Green Container; Source Separated Recyclable Materials in the Blue Container; and Gray Container Waste in the Gray Container. Generators shall not place materials designated for the Gray Container into the Green Container or Blue Container.
  - (3) Generators subject to SB 1383 may additionally manage their Organic Waste by preventing or reducing their Organic Waste, managing Organic Waste on-site, and/or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).

(4) Generators shall not place Prohibited Container Contaminants in the collection containers.

(B) Commercial Businesses, including Multi-Family Residential Dwellings Requirements:

(1) Commercial Businesses shall subscribe to the County's three-container collection services and comply with the requirements of those services as described below, except Commercial Businesses that meet the Self-Hauler requirements stated in subsection (C) below or have been granted a waiver pursuant to Section 9A.24.040. Commercial Businesses shall adjust their level for their collection services as requested by the County.

(2) Generators subject to SB 1383 shall place Source Separated Green Container Organic Waste, including Food Waste, in the Green Container; Source Separated Recyclable Materials in the Blue Container; and Gray Container Waste in the Gray Container. Generators shall not place materials designated for the Gray Container into the Green Container or Blue Container.

(C) Self-Hauler Requirements

(1) The Generator who is a Self-Hauler of Organic Waste shall comply with the following:

(a) The Generator shall source separate all organic waste generated on site in a manner consistent with 14 CCR Sections 18984.1 and 18984.2, or haul organic waste to a high diversion organic waste processing facility as specified in Section 18984.3.

(b) The Generator shall haul source separated organic waste to a solid waste facility operation, activity, or property that processes or recovers source separated organic waste.

(c) The Generator shall keep a record of the amount of organic waste delivered to each solid waste facility, operation, activity, or property that processes or recovers organic waste; this record shall be subject to inspection by the County and shall be provided to the County if requested.

(i) The records shall include delivery receipts and weight tickets from the entity accepting the waste.

(ii) The record shall indicate the amount of material in cubic yards or tons transported by the Generator 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 waste received, the Self-Hauler is not required to record the weight of material but shall keep a record of the entities that received the Organic Waste.

- (d) A Single-Family Dwelling Organic Waste Generator that self-hauls Organic Waste is not required to record or report the information identified in clause (c) above.
- (2) A Generator that is located in a jurisdiction or area that received a waiver under 14 CCR Section 18984.12 and is not a business subject to the requirements of Section 42649.81 of the Public Resources Code is not required to comply with the requirements of this section.

#### **Sec. 9A.08.060 - Mandatory Commercial Organics Recycling**

- (A) A Commercial Business that is not subject to SB 1383 but that generates two (2) cubic yards or more of commercial solid waste, as defined in Public Resources Code Section 42649.1, per week or is a Multi-Family Residential Dwelling of five (5) units or more shall:
  - (1) Take at least one of the following actions:
    - (a) Source separate Organic Waste from other Solid Waste and subscribe to Organic Waste collection service provided by the County's franchised hauler.
    - (b) Source separate its own Organic Waste and self-haul to a solid waste facility operation, activity, or property that processes or recovers source separated Organic Waste.
    - (c) Compost its Organic Waste onsite and/or use a Community Composting site.
    - (d) If separate Organic Waste collection services are not offered through the County's franchised hauler, arrange for separate Organic Waste collection services, until the County's franchised hauler offers Organic Waste collection services.
  - (2) When arranging for gardening or landscaping services, require in the contract or work agreement that the Organic Waste generated by those services be managed in compliance with this chapter.
- (B) A property owner may require a lessee or tenant of that property to source separate their Organic Waste to aid in compliance with this section.
- (C) Exemptions – The County may approve exemptions from the requirements of this section on a case-by-case basis for any of the following reasons:
  - (1) Lack of sufficient space in Multi-Family Residential Dwellings or Commercial Businesses to provide additional Containers for Organic Waste.
  - (2) The current implementation by a Commercial Business of actions that result in the Recycling of a significant portion of its Organic Waste.
  - (3) The Commercial Business does not generate at least one-half of a cubic yard of Organic Waste per week.

(4) Limited-term exemptions for extraordinary and unforeseen events.

**Sec. 9A.08.070 - Mandatory Commercial Recycling**

(A) A Commercial Business that is not subject to SB 1383 but that generates four (4) cubic yards or more of commercial solid waste, as defined in Public Resources Code Section 42649.1, per week or is a Multi-Family Residential Dwelling of five (5) units or more shall take at least one of the following actions:

- (1) Source separate Recyclable Materials from Solid Waste and subscribe to Recyclable Materials collection service provided by the County's franchised hauler.
- (2) Source separate its own Recyclable Materials and self-haul to a facility that processes or recovers source separated Recyclable Materials.

(B) A property owner of a Multi-Family Residential Dwelling may require tenants to source separate their Recyclable Materials to aid in compliance with this section.

**Sec. 9A.08.05080 - Hazardous Materials.**

No person shall deposit in any container used for refuse any explosive, volatile, radioactive, toxic or other hazardous waste or materials. The disposal of hazardous materials shall be made in accordance with State and Federal law.

**Sec. 9A.08.06090 - Tires and/or Hard-to-Handle Waste.**

No person shall deposit in any container used for refuse any tires and/or hard-to-handle waste or substance without having first made special arrangements for the disposal thereof with the solid waste collector. No person shall knowingly deposit any tires and/or hard-to-handle waste or substance in or at any disposal site without having first made special arrangements with the site operator.

**Sec. 9A.08.070100 - Use of Refuse.**

Notwithstanding the provisions of Sections 9A.08.020 and 9A.08.030, refuse may be used for animal feed, soil improvement, recycling or other beneficial purpose, provided such use complies with this Title and all other laws and does not create a health menace or nuisance. ~~The County may require a person who collects refuse for a beneficial purpose and receives compensation for such collection to obtain a permit for that purpose if the Department determines the public health and safety necessitates the need to obtain a permit. The County shall issue or amend a permit upon such terms and conditions as are determined to be necessary to insure that the use or the proposed use complies with existing laws and regulations, existing franchises or permits, and does not create a health menace or a nuisance. Home and business maintenance services including landscape services are hereby excluded from this provision.~~

**Sec. 9A.08.080110 - Recyclable Material Disposal Requirements.**

It is unlawful for any person performing recyclable materials collection service as established herein to deposit, bury or dispose of any recyclable materials, except as in this Title provided.

## CHAPTER 9A.12 - COLLECTION FRANCHISES ~~AND PERMITS~~

### **Sec. 9A.12.010 - Franchise ~~or Permit~~—Required.**

No person shall collect, transport or use refuse or recyclables in the unincorporated area of the County without first receiving a franchise ~~or permit~~ to engage in such activity. However, the provisions of this Section shall not apply to any person or a cooperative of persons transporting refuse or recyclables without compensation from his/her/their own premises as provided in this Title. A person(s) engaged in collecting and transporting segregated industrial refuse which is not being disposed of at a disposal site, and home and business maintenance services including landscape services are excluded from this provision.

### **Sec. 9A.12.015 - Assignment of Franchise Agreement.**

- (A) A franchise hauler shall not assign, subcontract or otherwise delegate authority to perform any portion of the franchise agreement, unless to a subsidiary wholly owned by the franchise hauler, without the express written consent of the County, which shall not be unreasonably withheld.

In the event of any assignment duly authorized by the County, the assignee shall assume responsibility and liability of the franchise hauler.

- (B) No sale, gift or transfer of stock of a franchise hauler which shall result in change in control of franchise hauler during the term of a franchise agreement shall be made without prior written approval of the Board, which shall not be unreasonably withheld.
- (C) A violation of the provisions of this Section shall be a material breach of a franchise agreement and grounds for termination by County.

### **Sec. 9A.12.020 - Collection Service Provided.**

Through the issuance of franchise agreements ~~or permits~~, the Board shall provide for refuse collection services to be available in all unincorporated areas of the County.

### **Sec. 9A.12.030 - Means of Collection.**

The Board shall provide for the collection of refuse by any means authorized by Public Resources Code Sections 40057 through 40059.

### **Sec. 9A.12.040 - Solid Waste and Discarded Recyclables Collection Franchises ~~or Permits~~.**

The Board may, with or without having invited bids therefor, enter into, exclusive or nonexclusive, franchise agreements ~~or permits~~ to provide for the collection of solid waste and/or discarded recyclables in the unincorporated areas of the County. The term of agreement for franchises for the collection of solid waste shall be no longer than twenty-five (25) years. The County reserves the right to invite competitive bids for one or more franchises, provided that the franchisee(s) is notified pursuant to the terms of the franchise agreement(s). When considering the granting of a franchise ~~or permit~~, the Board shall take into consideration, at a minimum, the following information supplied by the franchisee ~~or permit applicant~~: ability to perform the requirements of the franchise agreement ~~permit~~; legal status, within the last three (3) years, with respect to

convictions, pleas of nolo contendere, permit revocations, fines, and noncompliance with court orders; and/or other legal issues.

#### **Sec. 9A.12.050 - Special Arrangements for Refuse Removal.**

Owner(s) within a collection service area may request the County to approve a plan whereby special arrangements are made for effective and efficient refuse removal, which shall be incorporated into the applicable franchise agreement. ~~The proposed plan shall include a statement of expected charges and such other comments as the solid waste collector whose services will be utilized considers appropriate.~~ The County is authorized to grant variances to any provision of this Title and to approve ~~the proposed plan or an~~ alternative plan with such conditions as are deemed necessary.

#### **Sec. 9A.12.060 - Nondiscarded Recyclables Collection ~~Permits~~.**

The Board may, with or without having invited bids therefore, enter into a nonexclusive franchise agreement ~~or permit~~ with any responsible individual, association, firm, organization or other business entity, whether or not said entity is operated for profit, for the collection of nondiscarded recyclable materials within the County. Where such a franchise agreement ~~or permit~~ has been entered into between the County and a franchisee(s) ~~or permittee(s)~~ for the collection of nondiscarded recyclable materials as herein provided, said franchisee(s) ~~or permittee(s)~~ shall be an authorized recycling entity for the County as to those recyclable materials covered by the franchise agreement ~~or permit~~, for the franchise agreement ~~or permit~~ term.

#### **Sec. 9A.12.070 - Recyclables Collection Service.**

- (A) The Board may, through issuance of franchise agreements ~~and/or recyclables collection permits~~, establish recyclable materials collection programs available to persons, residences, businesses and institutions in the County for the purpose of providing for the orderly and regular collection of recyclable materials. Creation and operation of a recyclables collection program does not preclude the operation of certified recycling centers created pursuant to Division 12.1 of the Public Resources Code, commencing with Section 14500, or other provisions of State law.
- (B) Recyclable materials for donation, sale, or collection by or to any person or entity other than the authorized recycling entity, may not be stored or transferred by use of the recycling containers described in this Title, or any other containers used for recycling provided by the authorized recycling entity. Storage of recyclable materials at the designated collection location other than for pick-up by the authorized recycling entity as defined herein, is prohibited.

#### **Sec. 9A.12.080 - Authorized Recycling Entity—Duties.**

The County authorized recycling entity/entities must offer recyclable materials collection service to persons, residences, businesses and institutions with-in the franchise area ~~or permit area~~ requiring such services pursuant to the terms and conditions of any franchise agreement ~~or permit~~ for such service. The Board may establish standards and regulations for the method and manner of collection of recyclable materials, collection service charges, and frequency of pick-up.

#### **Sec. 9A.12.090 - Recycling Entity—Rights.**

The granting of any franchise agreement ~~or permit~~ to collect recyclable materials, shall confer upon the entity or entities to whom the franchise agreement ~~or permit~~ is granted the right as an official authorized recycling entity of the County hereunder, during the term of the franchise agreement ~~or permit~~, to collect, transport, process and sell specified recyclable materials collected within the designated franchise ~~or permit~~ area, as provided herein, and all provisions of this Title applicable to the authorized recycling entity shall constitute and be part of any franchise agreement ~~or permit~~ awarded thereunder.

#### **Sec. 9A.12.100 - Disposition of Recyclable Materials.**

- (A) Except as provided in Subsection (B) of this Section, any person, business or other entity transferring ownership of segregated recyclable materials without utilizing the official authorized recycling entity/entities, shall transfer the recyclable materials to a recyclable materials collection site or station, or end-use market.
- (B) Any person, business or other entity may elect to transfer ownership of segregated recyclable materials, through donation or sale.
- (C) The use of containers provided by the authorized recycling entity/entities or the pick-up of such recyclable materials from any designated collection location is prohibited by anyone other than the authorized recycling entity/entities.
- (D) Nothing contained in this Title shall inhibit, regulate or restrict any recycling center, nonprofit drop-off program or recycling processor, or licensed individual, as permitted by the California Integrated Waste Management Act of 1989 or the California Beverage Container Acts 1986.
- (E) Franchised haulers providing Residential, Commercial, or Industrial Organic Waste Collection Services to Generators subject to SB 1383 within the County's boundaries shall meet the following requirements and standards as a condition of approval of a contract, agreement, or other authorization with the County to collect Organic Waste:
  - (1) Identify the facilities to which they will transport Organic Waste unless otherwise designated by the County.
  - (2) Transport Source Separated Green Container Organic Waste to a facility, operation, or activity that recovers Organic Waste as defined in 14 CCR, Division 7, Chapter 12, Article 2 unless otherwise designated by the County.
  - (3) Obtain approval from the County to haul Organic Waste, unless they are transporting Source Separated Organic Waste to a Community Composting site or lawfully transporting C&D.

#### **Sec. 9A.12.110 - Ownership of Recyclable Materials.**

- (A) It is unlawful for any person, business or other entity, not otherwise excepted by the provisions of this Title, or by State or Federal law, to collect recyclable materials in the County.
- (B) From the time of placement of recyclable materials in any container used for recycling provided by the authorized recycling entity/entities and placement of the

container at curbside, or other appropriate designated collection locations, said recyclable materials shall be and become the property of the authorized recycling entity/entities. Upon being legally transferred to a processing facility or end-use market, all recyclable materials shall become the property of the operator of the processing facility or the purchaser at the end-use market.

(C) It shall be a violation of this Title for any person unauthorized by the Board to collect or pick-up or cause to be collected or picked up any recyclable material, except to the extent such matter has been discarded as litter on the public streets within the County. Any and each such collection in violation hereof from one or more locations shall constitute a separate and distinct offense punishable as hereinafter provided.

#### **Sec. 9A.12.120 - Additional Requirements for Organic Waste Facilities and Commercial Businesses**

(A) Owners of facilities, operations, and activities that recover Organic Waste from Generators subject to SB 1383, including, but not limited to Compost facilities, in-vessel digestion facilities, and publicly-owned treatment works shall, upon County 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 County shall respond within 60 days.

(B) Community Composting operators, upon County request, shall provide an estimate of the amount of Organic Waste collected from Generators subject to SB 1383 anticipated to be handled at the Community Composting operation.

(C) Commercial Businesses, including Multi-Family Residential Dwellings subject to SB 1383 shall:

- (1) Annually provide information to employees, contractors, tenants, and customers about Organic Waste Recovery requirements and about proper sorting.
- (2) Provide education information before or within fourteen (14) days of occupation of the premises to new tenants that describes requirements to keep Source Separated Green Container Organic Waste and Source Separated Recyclable Materials separate from Gray Container Waste and the location of containers and the rules governing their use at each property.
- (3) Provide or arrange access for County or its agent to their properties during all inspections.
- (4) Nothing in this Section prohibits a generator from preventing or reducing waste generation, managing Organic Waste on site, or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).

#### **Sec. 9A.12.120130 - Industrial Refuse PermitsFranchise.**

The Board may, with or without having invited bids therefore, enter into exclusive or nonexclusive, franchise agreements or permits to provide for the collection of industrial refuse in the

unincorporated areas of the County. The term of a franchise agreement ~~or permit~~ for the collection of industrial refuse shall be as specified in Section 9A.12.~~140150~~. ~~The County reserves the right to invite competitive bids for one or more franchise after the five year term provided that the franchisee(s) is notified pursuant to the terms of the franchise agreement(s).~~ When considering the granting of a franchise ~~or permit~~, the Board shall take into consideration, at a minimum, the following information supplied by the franchisee ~~or permit applicant~~: ability to perform the requirements of the ~~permit~~franchise, legal status, within the last three years, with respect to convictions, pleas of nolo contendere, permit revocations, fines, and noncompliance with court orders; and/or legal issues.

### **Sec. 9A.12.~~130140~~ - Wastestream Control.**

- (A) The County has the right, at its option, to control the collection, disposal and diversion of all waste, Organic Waste, and certain recyclables, generated within the unincorporated areas of the County, upon release of custody of ownership of the waste or recyclables by generator as follows:
  - (1) The County has the right to direct the wastestream to be disposed of at any solid waste facility or in any manner, respectively, the County may designate;
  - (2) The County has the right to direct the wastestream to be diverted to any transfer or processing station the County may designate; ~~and~~
  - (3) The County has the right to direct discarded recyclables collected by a franchise hauler to be processed at, or marketed to, a specific facility when in the best interest of the County and provided the collector would receive a reasonable, competitive market value for the recyclables; ~~and-~~
  - (4) The County has the right to direct the wastestream to be diverted to any Designated Source Separated Organic Waste Facility the County may designate.
- (B) ~~Unless the County dictates wastestream direction as provided for in this Title, all refuse or recyclable collectors have the responsibility and duty to collect, transport, dispose, or use refuse or recyclables at a destination at his/her discretion in a safe manner and in compliance with all Federal, State and local laws and regulations.~~

### **Sec. 9A.12.~~140150~~ - Franchise ~~and~~ Permit Terms.**

- (A) All terms and conditions of the franchise agreement, including the length of the contract and the conditions for contract renewal shall be included within the franchise agreement. The term of a franchise agreement shall be no longer than twenty-five (25) years. The County retains the right to require disclosure ~~of~~ information from the franchisee as specified in the franchise agreement.
- (B) ~~Permits may be granted for any period not to exceed one (1) year unless specified otherwise within the permit. Permits may be renewed upon expiration thereof for a similar term provided the County finds that the permit holder is capable of continuing operation in conformity with the provisions of this Title and the rules and regulations of the County.~~

(GB) Annual financial statements will be provided to the Department as required by and described in the franchise agreement.

**Sec. 9A.12.150160-- Permit Franchise Agreement** **Contents.**

Every ~~franchise~~permit granted by the County shall be subject to the provisions of this Title and the rules and regulations of the Board. The ~~permit~~franchise shall state:

- (A) The name and address of the person to whom the ~~franchise~~permit is issued;
- (B) The activity authorized;
- (C) The term for which the ~~permit~~franchise is granted;
- (D) The area in which the ~~permittee~~franchisee is authorized to provide services;
- (E) Such other conditions as the County may provide.

**Sec. 9A.12.160 - Permit Application** **Contents.**

~~Applicants for a permit or for the renewal of a permit to collect, transport or use refuse or recyclables shall file with the County a verified application in writing which shall give the following information:~~

- (A) ~~Name and description of the applicant;~~
- (B) ~~Permanent home and business address and full local address of the applicant;~~
- (C) ~~Trade and firm name;~~
- (D) ~~If a joint venture, a partnership or limited partnership, the names of all partners and their percentage of participation and the permanent addresses of all the stockholders and the officers and the percentage of participation of each;~~
- (E) ~~A detailed explanation of the manner in which the applicant will conduct the activity for which the permit is requested;~~
- (F) ~~The applicant's arrangements for the disposal of all refuse collected or transported by him/her at an approved disposal site or his/her arrangements for other authorized disposal;~~
- (G) ~~Facts showing that the applicant is able to render efficient refuse service;~~
- (H) ~~That the applicant owns or has under his/her control, in good mechanical condition, sufficient equipment adequate to conduct the business for which a permit is requested;~~
- (I) ~~That his/her vehicles and equipment conform to all applicable provisions of this Title;~~
- (J) ~~Such other facts or information as the County may require.~~

## CHAPTER 9A.16 - CONTAINERS

### Sec. 9A.16.010 - Requirements.

- (A) All owners or occupants who have contracted with a franchised hauler ~~or permitted collection service~~ shall be provided with ~~carts or bins~~Containers for receiving and holding, without leakage or escape of odors, all refuse produced, created, deposited, or accumulated upon their premises, and all such refuse shall be deposited in such containers. ~~Carts or bins~~Containers shall be at all times kept in good, useful and sanitary condition and shall be kept continuously closed except when ~~material~~refuse is being placed therein or removed therefrom, and shall at all times be closed against the access of flies, rodents and other animals. ~~Green waste may be deposited in containers that are provided by or acceptable to the franchise hauler.~~
- (B) ~~Refuse, green waste and recycling carts~~Containers shall not be placed at the point of collection earlier than twelve (12) hours prior to the date and time of scheduled collection, nor left there longer than twelve (12) hours following collection, regardless of whether the point of collection lies on public or private property. When not set out for collection, the ~~Container~~carts shall be removed not less than ten (10) feet away from the vehicular right-of-way. Under no circumstances may the ~~carts~~Containers be left continuously at the point of collection where the point of collection is at the edge of the vehicular right-of-way.
- (C) A ~~cart~~Container left in place by a customer in violation of the requirement for removal following collection may be tagged with a notice of violation. In case of repeated violation, the ~~Director~~Enforcement Officer may instruct the franchised collector to cancel service and remove the ~~Container~~cart.
- (D) The restriction set forth in subsection (B) above shall not apply to those customers who subscribe to special service whereby the franchised collection enters their property, brings the ~~cart~~Container to the road where it can be emptied, and then returns it to its original location.
- (E) The ~~Director~~County and/or County Designee may allow modifications on a case-by-case basis to the ~~cart~~Container restrictions in subsection (B) upon finding that all feasible measures to comply have been taken.

### Sec. 9A.16.020 - Number.

- (A) ~~Except where provided by a collector, all~~All premises ~~receiving collection services for which a hauler has been contracted~~ shall have sufficient ~~standard~~eContainers or equivalent bin capacity to hold all refuse created, produced or accumulated on the premises between removals. ~~County 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; and a generator shall adjust its service level for its collection services as requested by the County. In determining the sufficiency of the number of containers required, the following minimum standards shall apply:~~

- (1) ~~Single family residential units: one (1) standard container, or equivalent, per dwelling unit;~~

(2) ~~Multiple dwelling buildings: one (1) standard container per dwelling unit or one (1) bin of adequate size to serve each building;~~

(3) ~~Motels, hotels and trailer or mobile home parks: one (1) standard container per unit or space or one bin of adequate size to serve the facility;~~

(4) ~~Businesses: not less than one (1) standard container per business or one (1) bin of adequate size to serve the business or businesses;~~

~~Reduced service arrangements or other variances from these minimum standards may be authorized by the County.~~

(B) ~~Owners may arrange for the use of bins instead of standard containers for refuse and may arrange for drop boxes instead of standard containers for rubbish. These arrangements shall be made with a solid waste collector on the basis of charges established by the terms of the franchise agreement or permit.~~

#### **Sec. 9A.16.030 - Green Waste.**

~~Green waste which is not containerized in carts provided by the collector shall be secured in bundles which will remain intact without separation while being removed by one (1) person. Bundles may not exceed three (3) feet in length, two (2) feet in diameter or forty (40) pounds in weight. The maximum diameter of any limb shall not exceed four (4) inches. Garbage and rubbish shall not be deposited in any such green waste container.~~

#### **Sec. 9A.16.0430 - Location.**

~~Refuse carts or bins, segregated recyclables or green waste bundles~~Containers shall be placed for collection as follows:

(A) Single-Family Dwelling residential units:

(1) Where alleys exist with well-maintained, all-weather surfaces, immediately adjacent to and accessible from the alley; or

(2) Where alleys do not exist or do not meet the criteria in Subsection (A)(1) of this section, immediately adjacent to the nearest County or State maintained road, and accessible to the franchised collector ~~or permittee~~ without the necessity of entering a fenced yard; and further provided, that the County may approve an agreement between the customer and the franchised collector ~~or permittee~~ as to an alternate location for ~~refuse, separated recyclables and green waste collection~~Containers.

(B) Multi-Family Residential Dwellings~~Multiple dwelling buildings~~, businesses, motels, hotels and trailer and/or mobile home parks: ~~Carts~~Containers for service to multiple dwelling buildings, businesses, motels, hotels, and trailer and/or mobile home parks shall be placed immediately adjacent to and accessible from the nearest County or State maintained road, or in locations that are mutually agreed upon by the property owner and the franchised collector ~~or permittee~~. Drop boxes and bins shall be located at an easily accessible location as agreed upon between the customer and the franchised collector ~~or permittee~~. In case of dispute, the location shall be determined by the County.

(C) Exceptions: ~~Carts or bins~~Containers for required service may be placed on premises at a location other than as provided in Subsections (A) and (B) of this Section if the customer and ~~franchised~~ hauler concur, and the customer agrees to pay an additional charge, if applicable, as set forth in the schedule of charges established in the waste collector's franchise agreement ~~or permit~~.

(D) Generators subject to SB 1383. In addition to the above requirements, Generators subject to SB 1383 shall be subject to the following:

(1) Commercial Businesses, including Multi-Family Residential Dwellings shall 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 the County's Blue Container, Green Container, and Gray Container collection service, or, if self-hauling, per the Commercial Businesses' instructions to support its compliance with its self-haul program, in accordance with this ordinance.

(2) Commercial Businesses, excluding Multi-Family Residential Dwellings, shall provide Containers for the collection of Source Separated Green Container Organic Waste and Source Separated Recyclable Materials in all areas where disposal containers are provided for customers. Such containers do not need to be provided in restrooms. If a Commercial Business does not generate any of the materials that would be collected in one type of container, then the business does not have to provide that particular container in all areas where disposal containers are provided for customers.

**Sec. 9A.16.05040 - Label.**

(A) General Requirements: Standard~~Ce~~Containers for refuse ~~which the owner thereof desires to have~~ left on the premises by the solid waste collector shall have printed or marked thereon ~~an agreed to~~ symbol of designation of the premises to which the container belongs. The solid waste collector may collect and remove any container which does not have the ~~agreed to~~ symbol plainly marked thereon.

(B) Generators subject to SB 1383. In addition to the above requirements, Generators subject to SB 1383 shall be subject to the following: Pursuant to 14 CCR Section 18984.9(b), Commercial Businesses, excluding Multi-Family Residential Dwellings shall provide containers that comply with either of the following:

(1) A body or lid that conforms with the container colors provided through the collection service provided by the County.

(2) Container labels that include language or graphic images, or both, indicating the primary material accepted and the primary materials prohibited in that container, or containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the container.

**Sec. 9A.16.050 - Mandatory Commercial Organics Recycling Customer Containers**

(A) A Commercial Business that is not a generator subject to SB 1383 but that generates two (2) cubic yards or more of commercial solid waste, as defined in Public Resources Code Section 42649.1, per week and provides customers access to the business shall provide customers with a Container for Organic Waste to collect material purchased on the premises for immediate consumption and that fulfills all of the following requirements:

- (1) Is in the same area as a Container for Solid Waste other than Organic Waste, except in restrooms.
- (2) Is visible and easily accessible.
- (3) Is clearly marked with educational signage indicating what is appropriate to place in the Container for Organic Waste in accordance with state law and the County's solid waste ordinances and practices.

(B) Full-service restaurants (as defined in Public Resources Code section 42649.8) are exempt from the requirements of this section if the full-service restaurant provides its employees a Container for Organic Waste to collect material purchased on the premises for immediate consumption and implements a program to collect Source Separated Organic Waste.

(C) Exemptions: The County may approve exemptions from the requirements of this section on a case-by-case basis for any of the following reasons:

- (1) Lack of sufficient space in Multi-Family Residential Dwellings or Commercial Businesses to provide additional Containers for Organic Waste.
- (2) The current implementation by a Commercial Business of actions that result in the Recycling of a significant portion of its Organic Waste.
- (3) The Commercial Business does not generate at least one-half of a cubic yard of Organic Waste per week.
- (4) Limited-term exemptions for extraordinary and unforeseen events.

#### **Sec. 9A.16.060 - Mandatory Commercial Recycling Customer Containers**

(A) A Commercial Business that is not subject to SB 1383 but that generates four (4) cubic yards or more of commercial solid waste, as defined in Public Resources Code Section 42649.1, per week and provides customers access to the business shall provide customers with a Container to collect Recyclable Materials purchased on the premises and that fulfills all of the following requirements:

- (1) Is in the same area as a Container for Solid Waste other than Recyclable Materials, except in restrooms.
- (2) Is visible and easily accessible.
- (3) Is clearly marked with educational signage indicating what is appropriate to place in the Container for Recyclable Materials in accordance with state law and the County's solid waste ordinances and practices.

(B) Full-service restaurants are exempt from the requirements of this section if the full-service restaurant provides its employees a Container for Recyclable Materials to collect Recyclable Materials purchased on the premises and implements a program to collect Recyclable Materials.

**Sec. 9A.16.06070 - Recyclables.**

(A) Pursuant to the terms and conditions of any franchise agreement ~~or permit~~ between the County and any authorized recycling entity, each residential unit subscribing to the service shall be provided with suitable and sufficient containers ~~carts~~ to store segregated recyclable materials, including Organic Waste as applicable, to be made available for pick-up. ~~The color, style and markings of such containers shall be mutually agreed upon between the Department and the authorized recycling entity/entities.~~

(B) All such residential containers ~~carts~~ shall be and remain the property of the authorized recycling entity, and shall not be used for any purpose other than the segregation and curbside placement of recyclable materials.

(C) It is the duty of the occupant to maintain ~~carts~~ containers in a reasonably safe, clean and secure manner.

(D) Carts Containers that have become unusable ~~through normal wear and tear~~ shall be replaced by the authorized recycling entity ~~at no cost to the customer in accordance with the approved fee schedule of the applicable franchise agreement.~~

(E) Generators subject to SB 1383. In addition to the above requirements, Generators subject to SB 1383 shall be subject to the following: Commercial Businesses, excluding Multi-Family Residential Dwellings, shall: (1) to the extent practical, prohibit employees from placing materials in a container not designated for those materials; and (2) periodically inspect containers for contamination and inform employees if containers are contaminated and the requirements to keep contaminants out of those containers pursuant to 14 CCR Section 18984.9(b)(3).

**Sec. 9A.16.07080 - Recyclables Separation.**

All persons who subscribe or voluntarily participate in the recyclable material collection program established by this Title, shall prepare and separate those recyclable materials that the County has contracted/~~permitted~~ for pick-up by the authorized recycling entity from other garbage, rubbish and refuse as required by this Title or any collection franchise agreement ~~or permit~~ entered into by the Board and thereafter have the segregated recyclable materials placed within containers as required by this Title, or within the designated collection location, which shall be collected by the authorized recycling entity.

**Sec. 9A.16.08090 - Inspection.**

The County may inspect or cause to be inspected, at regular intervals, refuse containers and shall be the sole judge of the condition of such containers as to their fitness for use.

**CHAPTER 9A.20 - COLLECTION CHARGES**

### **Sec. 9A.20.010 - Charges—Franchise Holder.**

A franchise waste hauler may not charge industrial, residential and commercial customers at rates other than those specified in their franchise agreement, except that the County may authorize a customer to receive reduced service for a reduced charge and may approve an agreement between the customer and the franchise waste hauler to provide additional service for an additional charge. These authorized charges may be revised by the Board from time to time. The methods for revising authorized charges shall be specified in their franchise agreement.

### **Sec. 9A.20.020 - Industrial Refuse Franchise Holder.**

The holder of the franchise, for engaging in the business of collecting industrial refuse, shall pay quarterly to the County, a percentage of the gross receipts derived from the furnishing of such industrial refuse collection services within the County. The percentage amount of the fee and payment requirements shall be specified in the franchise.

### **Sec. 9A.20.030 - Charges—Authorized Recycling Entity.**

A charge may be collected by the County's authorized recycling entity/entities from the tenant, lessee, owner or occupant of each residential unit, as well as for each Multi-Family Residential Dwelling, commercial and/or institutional entity situated within the County that subscribes to said service at rates which may be established by the Board and specified in the franchise agreement ~~or permit~~.

### **Sec. 9A.20.040 - Fee—Franchise Refuse Collector.**

The holder of a franchise agreement for collection of refuse shall pay quarterly to the County a franchise fee based on gross revenues. The percentage amount of the franchise fee and payment requirements shall be specified in the franchise agreement.

### **Sec. 9A.20.060 - Fee—Other Activity.**

The fees for any other activity involving refuse or recyclable materials shall be determined by the Board.

### **Sec. 9A.20.070 - Fee—Deposit.**

Fees shall be paid to the County which shall deposit them to the General Fund ~~and Landfill Closure Fund as determined by the Board.~~

## **CHAPTER 9A.24 - ADMINISTRATION AND ENFORCEMENT**

### **Sec. 9A.24.010 - Administration and Enforcement Responsibility.**

The administration and enforcement of this Title shall be the responsibility of the County ~~and enforcement may be undertaken by the Director of the Department of Transportation or his or her designee.~~

### **Sec. 9A.24.020 - Inspections.**

(A) The Director, or his or her designee, is 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 Title by Organic Waste Generators, Commercial Businesses (including Multi-Family Residential Dwellings), property owners, Commercial Edible Food Generators, haulers, Self-Haulers, Food Recovery Services, and Food Recovery Organizations, subject to applicable laws. This section does not allow the County to enter the interior of a private residential property for Inspection. If entry for an inspection is refused by an owner, occupant or agent, the County may still inspect the property after obtaining an inspection warrant.

- (B) An entity regulated under this Title shall provide or arrange for access during all Inspections (with the exception of private residential property interiors) and shall cooperate with the Director or designee during such Inspections and investigations. Such Inspections and investigations may include confirmation of proper placement of materials in containers, Edible Food Recovery activities, records, or any other requirement of this Title described herein. Failure to provide or arrange for access to an entity's premises or access to records for any Inspection or investigation is a violation of this ordinance and may result in penalties as described herein.
- (C) Any records obtained by the County during its Inspections and other reviews shall be subject to the requirements and applicable disclosure exemptions of the Public Records Act as set forth in Government Code section 6250 et seq.
- (D) The Director or designee are authorized to conduct any Inspections or other investigations as reasonably necessary to further the goals of this Title, subject to applicable laws.
- (E) Compliance Reviews. At least annually, the County and/or County Designee shall complete a compliance review of all solid waste collection accounts for commercial businesses that are subject to its authority and that generate two cubic yards or more per week of solid waste, including organic waste. The County and/or County Designee shall annually either conduct route reviews or waste evaluations consistent with Section 18984.5(c). The County and/or County Designee shall also determine compliance with organic waste generator requirements set forth in Section 18984.9(a) and self-haul requirements set forth in Section 18988.3.
- (F) At least every five years from the date of issuance of a waiver pursuant to Section 9A.24.040, the County shall verify through inspection that commercial businesses are meeting de minimis and physical space waivers for compliance consistent with the requirements of Section 18984.11.

#### **Sec. 9A.24.02030 - Establishment of Regulations Process for Enforcement.**

~~The Board may establish, by resolution, regulations for the administration and implementation of this Title. Such regulations, when adopted, shall become and thereafter be a part of this Title. A copy of the regulations established by resolution of the Board shall be filed with the Clerk of the Board.~~

- ~~(A) The Director or designee will monitor compliance with the ordinance through Compliance Reviews, Route Reviews, investigation of complaints, and Inspections. Section 9A.24.020 establishes the County's right to conduct~~

Inspections and investigations. Complaints regarding non-compliance with this Title may be submitted to the County anonymously.

- (B) Upon discovery of a violation of this Title, the Director or designee shall first provide reasonable notice of and an opportunity to correct prior to imposing penalties. Notices may be provided via cart tag or other posting on the property in a conspicuous place.
- (C) After notice and opportunity to correct, the Director or designee may issue citations and penalties pursuant to the provisions of Mendocino County Code Chapter 1.08 for uncorrected violations.
- (D) For incidences of Prohibited Container Contaminants found in containers, the Director or designee, including a County Designee, may issue a warning or notice to any generators 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 one day after determining that a violation has occurred, and pursuant to any additional applicable requirements of a franchise agreement. If the Director or designee observes Prohibited Container Contaminants in a generator's containers on more than one (1) occasion, the Director or designee may assess contamination processing fees or contamination penalties on the generator.
- (E) With the exception of violations of generator contamination of container contents addressed in Subsection (C) above, the Director or designee shall issue a Notice of Violation requiring compliance within 60 days of issuance of the notice. The Director or designee may extend the compliance deadline if it finds that there are extenuating circumstances beyond the control of the respondent that make compliance within the deadlines impracticable, including but not limited to the following:
  - (1) Acts of God such as earthquakes, wildfires, flooding, and other emergencies or natural disasters;
  - (2) Delays in obtaining discretionary permits or other government agency approvals; or,
  - (3) Deficiencies in Organic Waste recycling infrastructure or Edible Food Recovery capacity and the County is under a corrective action plan with CalRecycle pursuant to 14 CCR Section 18996.2 due to those deficiencies.
- (F) Absent compliance by the respondent within the deadline set forth in the Notice of Violation, County may commence an action to impose penalties, via an administrative citation and fine, pursuant to Mendocino County Code Chapter 1.08 and the penalty amounts stated therein. The County's procedures on imposition of administrative fines are hereby incorporated in their entirety, as modified from time to time, and shall govern the imposition, enforcement, collection, and review of administrative citations issued to enforce this ordinance and any rule or regulation adopted pursuant to this ordinance, except as otherwise indicated in this ordinance. Notices shall be sent to the party responsible for paying the collection services, or, if no address is available, to the owner at the address of the dwelling

or Commercial property or to the mailing address as shown in the County's last equalized property tax assessment roll, depending upon available information.

(G) Starting on the effective date of the ordinance amending this Title in its entirety and through December 31, 2023, the Director or designee shall provide educational material describing the applicable requirements of this chapter in response to violations and stating that compliance is required and that violations may be subject to administrative civil penalties starting on January 1, 2024.

(H) In addition to the remedies provided above, any person violating any provision of this Title is guilty of an infraction and subject to the penalties provided for by law for infractions unless declared to be a misdemeanor or felony under State law. In addition to the remedy available herein, the County may exercise any and all powers authorized by any other provision of law to enforce this Title including, but not limited to, the declaration of a public nuisance and the abatement thereof and injunctive remedies. The full costs of enforcement of this Title shall be recoverable by the County against persons who are in violation of provisions of this Title. County may pursue civil actions in the California courts to seek recovery of unpaid administrative citations. County 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 County staff and resources.

**Sec. 9A.24.030 – Penalty for Violation.**

Any person violating any provision of this Title is guilty of an infraction and subject to the penalties provided for by law for infractions unless declared to be a misdemeanor or felony under State law. In addition to the remedy available herein, the County may exercise any and all powers authorized by any other provision of law to enforce this Title including, but not limited to, the declaration of a public nuisance and the abatement thereof and injunctive remedies and the imposition of treble damages. The full costs of enforcement of this Title shall be recoverable by the County against persons who are in violation of provisions of this Title.

**Sec. 9A.24.040 – Exceptions, Exemptions, and Waivers.**

(A) General Exceptions and/or Exemptions. Exceptions and/or exemptions from the regulations noted herein may be granted by the Board. A request for such exception and/or exemption must be in writing and submitted to the Board, in form and content as determined by the Board and is based upon a finding that such exception or exemption is in the public interest.

(A)(B) Waivers for Generators subject to SB 1383.

- (1) Nothing in this section allows the County to exempt a business subject to the requirements of Section 42649.81 of the Public Resources Code from compliance with that section.
- (2) At least every five years from the date of issuance, the Director or designee shall verify through inspection that commercial businesses that are meeting de minimis and physical space waivers for compliance consistent with the requirements of 14 CCR Section 18984.11.
- (3) Nothing in this section precludes the County from charging a fee for reviewing and issuing waivers as described in this section.

(4) De Minimis Waiver. Pursuant to 14 CCR Section 18984.11(a)(1), the County may waive a Commercial Business' obligation (including Multi-Family Residential Dwellings) to comply with some of all of the organic waste requirements of this Title if the commercial business provides documentation or the County has evidence demonstrating that:

(a) The commercial business' total solid waste collection service is two cubic yards or more per week and organic waste subject to collection in a blue container or green container as specified in Section 18984.1(a) comprises less than 20 gallons per week per applicable container of the business' total waste.

(b) The commercial business' total solid waste collection service is less than two cubic yards per week and organic waste subject to collection in blue container or a green container as specified in Section 18984.1(a) comprises less than 10 gallons per week per applicable container of the business' total waste.

(5) Physical Space Waiver. Pursuant to 14 CCR Section 18984.11(a)(2), the County may waive a Commercial Business' or property owner's obligation to comply with some or all of the organic waste collection service requirements of this Title if the Commercial Business or property owners provides documentation, or the County has evidence from its staff, a hauler, licensed architect, or licensed engineer demonstrating that the premises lack adequate space for any of the organic waste container configurations allowed under this ordinance.

(6) Collection Frequency Waiver. Pursuant to 14 CCR Section 18984.11(a)(3), the County may allow the owner or tenant of any residence, premises, business establishment or industry that subscribes to a three-container organic waste collection service to arrange for the collection of solid waste once every fourteen days provided that:

(a) The County, or its authorized hauler, demonstrates to the enforcement agency, as defined in Public Resources Code 40130 that less frequent collection than required by 14 CCR Section 17331 will not cause receiving solid waste facilities, operations, or both to be in violation of applicable state minimum standards described in 14 CCR Section 20510 et seq. or Title 14 CCR, Section 17200 et seq.

**Sec. 9A.24.050 – Solid Waste Officials' Authority.**

(A) Pursuant to California Penal Code Section 836.5, any person holding a position in the Mendocino County Solid Waste Department as Director or Operations Manager, or that person's designated County employee, is authorized to cite and fine any person when there is reasonable cause to believe that person has committed a misdemeanor or infraction in the official's presence, which is a

~~violation of any statute, ordinance or code relating to the enforcement of solid waste regulations.~~

- ~~(B) Those officials granted cite and fine authority pursuant to this Section may sign and certify proof of correction on a citation issued for violations of Mendocino County Solid Waste Regulations that have been corrected prior to the court appearance date.~~
- ~~(C) Those officials granted cite and fine authority pursuant to this Section shall have that authority only in the performance of their duties during their regular work hours.~~
- ~~(D) This Section is notwithstanding other violations which may also be redressed by civil action through the Office of County Counsel.~~

#### **Sec. 9A.24.06050 - Refuse Cleanup.**

The County is authorized and empowered to require the owner of any private property within the County to remove and to properly dispose of refuse located on such property, having determined that the accumulation of such refuse or improper disposal of such refuse is dangerous or injurious to public health and safety. The County is authorized and empowered to utilize all the provisions contained in the Mendocino County Code and State law to enforce the provisions of this Title.

#### **Sec. 9A.24.07060 - Interfering with Container Prohibited.**

No person other than the owner, the owner's agent, an employee of the County or an employee of the franchised collector ~~or permittee~~ shall tamper with any refuse or recyclable container or the contents thereof.

#### **Sec. 9A.24.07570 - Unauthorized Person Placing Refuse in Container.**

No person other than the owner may place any refuse in a refuse container, bin or drop box without expressed permission of the owner.

#### **Sec. 9A.24.080 - Interfering with Removal Prohibited.**

No person shall by any means hinder, obstruct or interfere with the removal or transportation of refuse or recyclables by a franchised collector ~~or permittee~~.

#### **Sec. 9A.24.08590 - Placing Residential and Commercial Solid Waste in Street Side Litter Container Prohibited.**

No person shall place refuse generated in a residential unit or commercial ~~entity premises~~ in a street side litter container. Street side litter container means a container placed near or in the right-of-way for the public's convenient disposal of incidental refuse.

#### **Sec. 9A.24.090100 - Franchise Termination.**

- (A) Franchise—Revocation—Equipment Use By County. In the event of suspension or revocation of a franchise, the County shall have the right forthwith to take possession of all trucks and other equipment of the franchisee for the purpose of collecting and disposing of the refuse and performing all other duties which the franchisee is obligated to perform. The County shall have the right to retain

possession of such trucks and equipment until other suitable trucks and equipment can be purchased or otherwise acquired by the County for such purpose. The County shall pay the franchisee a reasonable rental for the use of such trucks and equipment.

(B) **Franchise Revocation—Grounds.** The County may suspend, amend or revoke any franchise granted by the Board if it finds that the franchisee has demonstrated an inability to properly perform the franchised activity, failed to comply with one or more of the terms or conditions of the franchise agreement, failed to comply with any material Federal, State or local laws, ordinances, rules or regulations pertaining to the franchised activity, or when the franchised activity has become a nuisance or is detrimental to the public health, safety or welfare. If franchisee does not perform franchise services for a period in excess of ninety (90) days, the franchise may be revoked by the County.

Prior to suspending, amending or revoking a franchise granted by the Board, the County shall provide the franchisee with written notice of the proposed action and the reasons for it. The notice shall state that prior to the suspension, amendment or revocation, the franchisee is entitled to a hearing before the County if the franchisee requests such a hearing in writing and the request is received by the County not more than ten (10) days after notice of the proposed action has been mailed to the franchisee.

If the County does not receive a written request for a hearing within the time period prescribed above, the franchisee is deemed to have waived the right to a hearing and the County may immediately suspend, amend or revoke the franchise on the terms specified in the notice.

In the event of a serious violation, as determined by the Department, or in the event of repeated violations of this Chapter, a franchise shall be revoked by the Board.

(C) **Disclosure Statement.** A responsible party who currently holds or applies for a franchise from the County shall file a Disclosure Statement which contains the following information:

- (1) A listing of all responsible parties to the franchise agreement. (If a responsible party is a natural person, the disclosure statement shall include the name, address, and social security or tax identification number (optional) of the responsible party);
- (2) A listing of all felony convictions or pleas of nolo contendere of the responsible party by final judgement in any State or Federal court within the preceding three years;
- (3) A listing of any instances in which a permit or contract held by the responsible party was revoked by a final judgement in any State or Federal court within the preceding three years;
- (4) A listing of all final adjudications finding any responsible party in contempt of any State or Federal court order enforcing any State and Federal law within the preceding three years;
- (5) A listing of all final convictions or pleas of nolo contendere of the responsible party, under State or local laws governing safety of operations,

compliance with environmental and other franchise requirements in the County, whether misdemeanors or infractions.

If a responsible party is a chartered lending institution or a publicly held company or a wholly-owned subsidiary of such a company required to file annual or quarterly reports under the Securities Exchange Act of 1934 or the chartering body, as may be the case, an applicant/grantee may provide the above required information by submitting quarterly or annual reports for the preceding three (3) years. If these reports are incomplete or if they fail to contain the information requested in Subsection (C)(1) through (5) of this Section, the applicant/grantee shall make such information available to County. The County may also require, at applicant/grantees' expense, preparation and submittal of a Dunn and Bradstreet report.

A responsible party who holds a current franchise from the County for which a disclosure statement was submitted, shall file a supplemental disclosure statement only to the extent that the responsible parties or the status or events differ from those covered by the original disclosure statement.

(D) General Standards of Responsibility.

- (1) The Board may refuse to issue or renew a franchise, or refuse to approve the transfer of such a franchise, if the Board finds by a preponderance of evidence that the responsible party has:
  - (a) Intentionally misrepresented or concealed any material fact in the disclosure statement;
  - (b) Obtained a license, permit, contract or franchise from the County by intentional misrepresentation or concealment of a material fact;
  - (c) Been convicted of a felony or pleaded guilty or nolo contendere to a felony involving the laws of any State or the Federal government within the three (3) years preceding the issuance of the license or permit, or execution of the contract or franchise agreement;
  - (d) Been adjudicated in contempt of an order of any court enforcing laws of this State or the Federal government within three (3) years preceding the issuance of the license or permit, or execution of the contract or franchise agreement; or
  - (e) Disregarded the public safety, as evidenced by convictions or pleas of nolo contendere to the violation of State and local law governing safety of operations, compliance with environmental and other franchise requirements within the County.
- (2) In deciding whether to issue, renew or allow transfer of a franchise, the Board shall consider the facts and mitigating factors surrounding the foregoing including:
  - (a) The relevance of the offense to the business for which the license, permit, contract or franchise is issued;
  - (b) The nature and seriousness of the offense;

- (c) The circumstances under which the offense occurred;
- (d) The date of the offense; and
- (e) The ownership and management structure in place at the time of the offense.

The Department shall recommend to the Board whether the responsible party is fit to obtain the franchise from the County within sixty (60) days following the responsible party's submittal of the disclosure form, in the case of transfer or renewal of a franchise, thirty (30) days prior to the expiration of an existing franchise agreement, whichever is earlier. Failure by the Department to make a recommendation regarding responsible party's fitness for renewal or transfer, within the time frame indicated above, shall in no case result in the revocation of the franchise, an order to cease operations, or a termination of the franchise agreement.

(D) Opportunity to Demonstrate Rehabilitation. In determining whether to recommend approval to the Board of a franchise or allow a renewal or transfer of a franchise agreement, the Department shall first allow the responsible party to submit evidence of rehabilitation and shall consider the responsible party's efforts to prevent recurrence of unlawful activity. Items to be considered by the Department shall include:

- (1) The responsible party's record and history of implementing successful corrective actions undertaken to prevent or minimize the likelihood of recurrence of the offense;
- (2) Whether the offense was an isolated incident or a series of related incidents;
- (3) Whether the responsible party cooperated with government bodies during investigations;
- (4) The number and types of permits, contracts or franchises held by the responsible party;
- (5) Implementation by the responsible party of formal policies, training programs and management controls to substantially minimize or prevent the occurrence of future violations or unlawful activities;
- (6) Implementation by the responsible party of an environmental compliance auditing program to assess and monitor the adequacy of the internal systems to ensure compliance with environmental laws, regulations and conditions set forth in the franchise agreement;
- (7) The responsible party's discharge of individuals, or severance of the interest of or affiliation with responsible parties, which would otherwise cause the County to deny the renewal, transfer or refuse to enter into the franchise agreement; and
- (8) Consideration of the need for the franchise agreement in advancing the County's welfare, health and prosperity.

Where the Department determines that pursuant to the above, mitigating factors exist, or, pursuant to this Section, that the responsible party has demonstrated rehabilitation, the Department shall recommend to the Board issuance, renewal or transfer of the franchise agreement.

**Sec. 9A.24.100 - Permit Revocation.**

~~Any permit issued pursuant to this Chapter may be suspended by the Department for a maximum of ten (10) days upon the permittee's violation of this Chapter. In the event of a serious violation as determined by the Department, or in the event of repeated violations of this Chapter such permit shall be revoked by the Board. Notice of hearing for suspension and revocation of the permit shall be given in writing by the Department to the permittee and shall state the grounds of the complaint and the time and place of hearing. Such notice shall be mailed to the permittee by first class mail at least five (5) days prior to the date set for hearing. Said hearing shall be conducted by the Director of the Solid Waste Division or the Director's designee. The permittee shall have the right to present evidence, cross-examine witnesses and to be represented by counsel.~~

**Sec. 9A.24.110 - Appeals.**

Unless otherwise provided for by law, aAny person who is dissatisfied with any decision or ruling of the Department on or with the directives or decisions of the Department may appeal to the Board, which shall have the power to hear and determine such appeal. Said appeal shall be taken by filing with the Clerk of the Board a Notice of Appeal within ten (10) days after the date of such decision or ruling. The notice shall be signed by the appellant or his/her attorney and shall be sufficient if it states in substance that the appellant appeals from a specified decision or ruling. A notice of appeal shall be liberally construed in favor of its sufficiency. No later than thirty (30) days after receipt of said notice of appeal, the Board shall set the matter for public hearing and shall cause public notice of such public hearing to be published once in a newspaper of general circulation in the County at least ten (10) days before the date of said hearing stating the time and place of hearing, the decision or ruling appealed from and the name of the appellant or appellants. At said hearing the appellant shall present a statement of the grounds for appeal and evidence in support of the appeal in such form as the Board may require. Appeals filed pursuant to this Section shall be accomplished by a fee in the amount set by resolution of the Board.

**Sec. 9A.24.120 - Preemption—Severability.**

- (A) This Title is not intended to preempt any provisions of State or Federal law governing the same subject. It is the intent of the Board to harmonize these requirements with State or Federal law.
- (B) If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Title or any part thereof is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Title or any part thereof. The Board declares that it would have passed each section, subsection, subdivision, paragraph, sentences, clauses or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional.

## **CHAPTER 9A.28 EDIBLE FOOD GENERATORS**

### **Sec. 9A.28.010 - Requirements for Commercial Edible Food Generators**

(A) Tier One Commercial Edible Food Generators must comply with the requirements of this section as of the effective date of the ordinance establishing this Chapter, and Tier Two Commercial Edible Food Generators must comply commencing January 1, 2024, pursuant to 14 CCR Section 18991.3.

(B) Large Venue or Large Event operators not providing food services, but that allow for food to be provided by others, shall require Food Facilities operating at the Large Venue or Event to comply with the requirements of this section.

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

- (1) Arrange to recover the maximum amount of Edible Food that would otherwise be disposed.
- (2) Contract with, or enter into a written agreement with Food Recovery Organizations or Food Recovery Services for:
  - (a) The collection of Edible Food for Food Recovery; or
  - (b) Acceptance of the Edible Food that the Commercial Edible Food Generator self-hauls to the Food Recovery Organization for Food Recovery.
- (3) Shall not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery Organization or a Food Recovery Service.
- (4) Pursuant to 14 CCR Section 18995.1(a)(2), Shall Allow County's Enforcement Officer or Designee to access the premises to ensure compliance with this Title and to review records kept pursuant to 14 CCR Section 18991.4.
- (5) Keep records that include the following information, or as otherwise specified in 14 CCR Section 18991.4:
  - (a) A list of each Food Recovery Organization or Service that receives or collects its Edible Food pursuant to a contract or written agreement established under 14 CCR Section 18991.3(b).
  - (b) A copy of all contracts or written agreements established under 14 CCR Section 18991.3(b).
  - (c) A record of the following information for each of those Food Recovery Services or Food Recovery Organizations that the Commercial Edible Food Generator has a contract or written agreement with:
    - (i) The name, address and contact information of the Food Recovery Service or Food Recovery Organization.

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

(6) Shall provide County with a written annual Food Recovery report that includes the information described in Subsection (C)(5) above, as follows:

- (a) No later than August 1, 2022, Tier One Commercial Edible Food Generators must provide an initial annual report for the period of January 1, 2022 through June 30, 2022. Beginning in year 2023, and every year thereafter, Tier One Commercial Edible Food Generators must provide annual reports no later than May 1 for the period covering the entire previous calendar year.
- (b) Beginning in year 2025, and every year thereafter, Tier Two Commercial Edible Food Generators must provide annual reports no later than May 1 for the period covering the entire previous calendar year.

(D) Nothing in this Section shall be construed to limit or conflict with the protection 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 (Chapter 285).

#### **Sec. 9A.28.020 - Requirements for Food Recovery Organizations, Services, and Jurisdictions**

(A) Food Recovery Services collecting or receiving Edible Food directly from Commercial Edible Food Generators through a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records:

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

(B) Food Recovery Organizations collecting or receiving Edible Food directly from Commercial Edible Food Generators through a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records:

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

(C) Food Recovery Organizations and Food Recovery Services that have their primary address physically located in the County and contract with or have written agreements with Commercial Edible Food Generators shall annually report to County or its designated entity the total pounds of Edible Food they recovered from Commercial Edible Food Generators, as follows:

- (1) No later than August 1, 2022, Food Recovery Organizations and Food Recovery Services must provide a written initial annual report for the period of January 1, 2022 through June 30, 2022.
- (2) Beginning in year 2023, and every year thereafter, Food Recovery Organizations and Food Recovery Services must provide written annual reports by May 1 for the period covering the entire previous calendar year.

(D) Food Recovery Capacity Planning

- (1) Food Recovery Services and Food Recovery Organizations operating in the County shall provide information and consultation to the County or its designated entity, upon request, regarding existing, or proposed new or expanded, Food Recovery capacity that could be accessed by the County and its Commercial Edible Food Generators. A Food Recovery Service or Food Recovery Organization contacted by the County shall respond to such request for information within 60 days, unless a shorter timeframe is otherwise specified by the County.
- (2) Pursuant to 14 CCR 18992.1 et seq., cities located within the County shall conduct Edible Food Recovery capacity planning, in coordination with the County.
  - (a) If the County identifies that new or expanded capacity to recover Edible Food is needed, then each city within the County that lacks capacity shall:
    - (i) Submit an implementation schedule to CalRecycle and the County that demonstrates how it will ensure there is enough new or expanded capacity to recover the Edible Food currently disposed by Commercial Edible Food Generators within its Jurisdiction by the end of the reporting period set

forth in 14 CCR Section 18992.3. The implementation schedule shall include the information specified in 14 CCR Section 18992.2(c)(1)(A).

- (ii) Consult with Food Recovery Organizations and Food Recovery Services regarding existing, or proposed new and expanded capacity that could be accessed by the City and its Commercial Edible Food Generators.
- (b) If the County finds that new or expanded capacity is needed, the County shall notify the City(ies) that lack sufficient capacity.
- (c) A City contacted by the County pursuant to this Section shall respond to the County's request for information within 120 days of receiving the request from the County, unless a shorter timeframe is otherwise specified by the County.

## **CHAPTER 9A.32 - MODEL WATER EFFICIENT LANDSCAPING REQUIREMENTS – COMPOST AND MULCH USE**

### **Sec. 9A.32.010 - Compost and Mulch Use Requirements for Landscaping**

- (A) Property owners or their building or landscape designers, including anyone requiring a building or planning permit, plan check, or landscape design review from the County, who are constructing a new Single-Family, Multi-Family, public, institutional, or Commercial project with a landscape area greater than 500 square feet, or rehabilitating an existing landscape with a total landscape area greater than 2,500 square feet, shall comply with Sections 492.6(a)(3)(B), (C), (D), and (G) of the Model Water Efficient Landscaping Ordinance ("MWELO," 23 CCR 490 *et seq.*), including sections related to use of Compost and mulch as delineated in this Section.
- (B) The following Compost and mulch use requirements of the MWELO are also requirements of this Chapter. Other requirements of the MWELO can be found in 23 CCR, Division 2, Chapter 2.7.
- (C) Property owners or their building or landscape designers that meet the threshold for MWELO compliance outlined in Subsection (A) above shall:
  - (1) Comply with Sections 492.6(a)(3)(B), (C), (D), and (G) of the MWELO, which requires the submittal of a landscape design plan with a soil preparation, mulch, and amendments section to include the following:
    - (a) For landscape installations, Compost at a rate of a minimum of four cubic yards per 1,000 square feet of permeable area shall be incorporated to a depth of six (6) inches into the soil. Soils with greater than six percent (6%) organic matter in the top six (6) inches of soil are exempt from adding Compost and tilling.
    - (b) For landscape installations, a minimum three (3) inch layer of mulch shall be applied on all exposed soil surfaces or planting areas except in turf areas, creeping or rooting groundcovers, or direct

seeding applications where mulch is contraindicated. To provide habitat for beneficial insects and other wildlife up to five percent (5%) of the landscape area may be left without mulch. Designated insect habitat must be included in the landscape design plan as such.

(c) Organic mulch materials made from recycled or post-consumer materials shall take precedence over inorganic materials or virgin forest products unless the recycled post-consumer organic products are not locally available. Organic mulches are not required where prohibited by local fuel modification plan guidelines or other applicable local ordinances.

(2) The MWELO compliance items listed in this Section are not a comprehensive list of MWELO requirements; therefore, property owners or their building or landscape designers that meet the threshold for MWELO compliance outlined in this Section shall consult the full MWELO for all requirements.

(D) If, after the adoption of this Chapter, the California Department of Water Resources, or its successor agency, amends 23 CCR, Division 2, Chapter 2.7, Sections 492.6(a)(3)(B), (C), (D), and (G) of the MWELO September 15, 2015 requirements in a manner that requires the County to incorporate the requirements of an updated MWELO in a local ordinance, and the amended requirements include provisions more stringent than those required in this Chapter, the revised requirements or 23 CCR, Division 2, Chapter 2.7 shall be enforced.

**Section 2.** Chapter 18.25 is hereby retitled as "Regulations for Storage and Collection of Recyclable Materials and Organic Waste in Development Projects."

**Section 3.** Section 18.25.020 – "Definitions" is hereby amended to read as follows:

**Sec. 18.25.020 - Definitions.**

- (A) "Blue Container" means a container or bin used for the purpose of storage and collection of source separated recyclable materials.
- (B) "Commercial" means a firm, partnership, proprietorship, joint-stock company, corporation, or association, whether for-profit or nonprofit, strip mall, industrial facility, or a Multi-Family Residential Dwelling.
- (C) "Development project" means any of the following:
  - (1) A project for which a building permit is required for a commercial, industrial or institutional building, marina or residential building having five (5) or more living units, where solid waste is collected and loaded and any residential project where solid waste is collected and loaded in a location serving five (5) or more living units;
  - (2) Any new public facility where solid waste is collected and loaded and any improvements for areas of a public facility used for collecting and loading solid waste.

- (3) The definition of development project only includes subdivisions or tracts of single-family detached homes if, within such subdivisions or tracts there is an area where solid waste is collected and loaded in a location which serves five (5) or more living units. In such instances, recycling areas as specified in this Chapter are only required to serve the needs of the living units which utilize the solid waste collection and loading area.
- (D) "Floor area of a marina" means the space dedicated to the docking or mooring of marine vessels.
- (E) "Green Container" means a container or bin used for the purpose of storage and collection of source separated organic waste.
- (F) "Improvement" adds to the value of a facility, prolongs its useful life or adapts it to new uses. Improvements should be distinguished from repairs. Repairs keep facilities in good operating condition, do not materially add to the value of the facility and do not substantially extend the life of the facility.
- (G) "Multi-Family Residential Dwelling" or "Multi-Family" means a building or portion thereof used exclusively for residential purposes with five (5) or more dwelling units. Multi-Family Residential Dwelling does not include hotels, motels, or other transient occupancy facilities, which are considered Commercial Businesses.
- (H) "Public facility" includes, but is not limited to, buildings, structures, marinas and outdoor recreation areas owned by a local agency.
- (I) "Recycling area" or "areas for recycling" means space allocated for collecting and loading of recyclable materials. Such areas shall have the ability to accommodate receptacles for recyclable materials. Recycling areas shall be accessible and convenient for those who deposit as well as those who collect and load any recyclable materials placed therein.

**Section 4.** Section 18.25.065 – “Compliance with CALGreen Recycling Requirements” is hereby added to read as follows:

**Sec. 18.25.065 - Compliance with CALGreen Recycling Requirements**

- (A) Persons applying for a permit from the County for new construction and building additions and alterations shall comply with the requirements of this Section and all required components of the California Green Building Standards Code, 24 CCR, Part 11 ("CALGreen", as it may be amended from time to time), if its project is subject to CALGreen. If the requirements of CALGreen are more stringent than the requirements of this Section, the CALGreen requirements shall apply.
- (B) For projects covered by CALGreen, the applicants must, as a condition of the County's permit approval, comply with the following:
  - (1) Where five (5) or more Multi-Family dwelling units are constructed on a building site, provide readily accessible areas that serve occupants of all buildings on the site and are identified for the storage and collection of Blue Container and Green Container materials, consistent with the three-container collection service offered by the County, or comply with the

provision of adequate space for recycling for Multi-Family and Commercial premises pursuant to Section 4.410.2 of the California Green Building Standards Code, 24 CCR, Part 11, as amended provided amended requirements are more stringent than the CALGreen requirements for adequate recycling space effective January 1, 2020.

(2) New Commercial construction or additions resulting in more than 30% of the floor area shall provide readily accessible areas identified for the storage and collection of Blue Container and Green Container materials, consistent with the three-container service offered by the County, or shall comply with provision of adequate space for recycling for Multi-Family and Commercial premises pursuant to Section 5.410.1 of the California Green Building Standards Code, 24 CCR, Part 11, as amended provided amended requirements are more stringent than the CALGreen requirements for adequate recycling space effective January 1, 2020.

**Section 5.** Section 18.35.010 – “Purpose” is hereby amended to read as follows:

**Sec. 18.35.010 - Purpose.**

~~The California Waste Management Act (California Public Resources Code Sections 40000 et seq.) requires the County to prepare, adopt and implement source reduction and recycling elements to divert fifty percent (50%) of all solid waste from disposal within its jurisdiction. Debris and solid waste from demolition and construction of buildings represent a significant portion of the solid waste presently coming from unincorporated areas of the County of Mendocino. Much of such debris is particularly suitable for recycling. Mendocino County is committed to the reduction of waste, and to compliance with State law requiring the establishment of programs for recycling and salvaging construction and demolition materials. It is the intent of the Board of Supervisors of the County of Mendocino, in enacting this Chapter, to encourage and require recycling and responsible reductions in the amount of material that is disposed in landfills.~~

**Section 6.** Section 18.35.020 – “Construction and Demolition Waste Diversion Requirements” is hereby amended to read as follows:

**Sec. 18.35.020 - Construction and Demolition Waste Diversion Requirements.**

~~The construction and demolition waste diversion requirements in the 2010 California Green Building Code for a Construction Waste Management Plan and specified diversion of waste shall be applicable to all construction permits of two thousand (2,000) square feet or more and all demolition permits issued by the County.~~

(A) Persons applying for a permit from the County for new construction, building additions or alterations, or demolition shall comply with the requirements of this Section and all required components of the California Green Building Standards Code, 24 CCR, Part 11, known as CALGreen, as amended, if its project is covered by the scope of CALGreen. If the requirements of CALGreen are more stringent than the requirements of this Section, the CALGreen requirements shall apply.

(B) For projects covered by CALGreen, the applicants must, as a condition of the County's permit approval, comply with CALGreen requirements and applicable law related to management of construction and demolition waste, including diversion of Organic Waste in construction and demolition waste from disposal, comply with this Chapter, and all written and published Mendocino County policies and/or

administrative guidelines regarding the collection, recycling, diversion, tracking, and/or reporting of construction and demolition waste.

**Section 7. CEQA.** The Board of Supervisors hereby finds that this ordinance is categorically exempt from CEQA pursuant to CEQA Guidelines Sections 15307 and 15308 as an action by a regulatory agency taken to protect the environment and natural resources, respectively. This finding is based on and supported by the evidence in the record, including the agenda summary accompanying this ordinance.

**Section 8. Severability.** If any section, subsection, sentence, clause phrase or portion of this ordinance is for any reason held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

**PASSED AND ADOPTED** by the Board of Supervisors of the County of Mendocino, State of California, on this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by the following roll call vote:

AYES:

NOES:

ABSENT:

**WHEREUPON**, the Chair declared the Ordinance passed and adopted and **SO ORDERED**.

ATTEST: DARCIE ANTLE  
Clerk of the Board

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Deputy

APPROVED AS TO FORM:  
CHRISTIAN M. CURTIS,  
County Counsel

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TED WILLIAMS, Chair  
Mendocino County Board of Supervisors

I hereby certify that according to the provisions of Government Code section 25103, delivery of this document has been made.

BY: DARCIE ANTLE  
Clerk of the Board

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Deputy