

ORDINANCE NO. 950

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PLEASANT HILL  
AMENDING CHAPTER 13.10 OF THE PLEASANT HILL MUNICIPAL CODE RELATING  
TO SOLID WASTE MANAGEMENT

WHEREAS, SB 1383 (Chapter 395, Statutes of 2016) directed the California Department of Resources Recycling and Recovery (“CalRecycle”) to adopt regulations to reduce organic waste by 50 percent from its 2014 baseline level by 2020 and 75 percent by 2025; and

WHEREAS, SB 1383 also requires the regulations to recover, for human consumption, at least 20 percent of edible food that is currently thrown away; and

WHEREAS, CalRecycle promulgated regulations as directed in SB 1383 in Chapter 12 (Short-Lived Climate Pollutants) of Division 7 of Title 14 of the California Code of Regulations (“SB 1383 Regulations”); and

WHEREAS, the SB 1383 Regulations take effect January 1, 2022, and requires the City of Pleasant Hill to adopt an ordinance to enforce the SB 1383 Regulations by said date, and;

WHEREAS, the City Council desires to amend its Solid Waste Management Ordinance to comply with the SB 1383 Regulations.

**NOW, THEREFORE, the City Council of the City of Pleasant Hill does ordain as follows:**

**Section 1.** Chapter 13.10 is hereby amended in its entirety as set forth in Exhibit 1, incorporated by this reference.

**Section 2.** If any section, subsection, clause or phrase in this Ordinance or the application thereof to any person or circumstances is for any reason held invalid, the validity of the remainder of this Ordinance or the application of such provisions to other persons or circumstances shall not be affected thereby. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases or the application thereof to any person or circumstance be held invalid.

**Section 3.** This Ordinance shall be effective 30 days following its adoption by the City Council.

**Section 4.** Within fifteen days after the passage of this Ordinance, the City Clerk shall cause it to be posted in the three places designated by resolution of the City Council.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Pleasant Hill on the 15th day of November 2021.

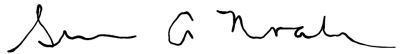
ADOPTED and ordered posted at a meeting of the City Council of the City of Pleasant Hill, held on the 6th day of December, 2021, by the following vote:

AYES:	Carlson, Flaherty, Harris, Rinn, Noack
NOES:	None
ABSENT:	None
ABSTAIN:	None

ATTEST:

DANIELLE K. HABER, City Clerk



  
SUSAN A. NOACK, Mayor

## **Chapter 13.10**

### **SOLID WASTE MANAGEMENT**

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#### **Article II. General Regulations**

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- 13.10.035** Collection –Containers, participation and separation required.
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#### **Article I. Purpose – Definitions**

##### **13.10.010 Purpose.**

The City Council finds that the storage, accumulation, collection, transportation and disposal of Solid Waste is a matter of great public concern. Improper control of such matters creates a public nuisance, can lead to air and water pollution, fire hazards, illegal dumping, insect breeding, rodent infestation, and other problems affecting the health, safety and welfare of the residents of this and surrounding cities.

The City Council also finds that Recycling and Organic Waste programs are necessary for the city to achieve the landfill diversion goals mandated by the state. (Integrated Waste Management

B. Recyclable Materials and its transportation to a Processing or Materials Recovery Facility; and

C. Organic Waste and its transportation to a Processing Facility.

*Commercial or Commercial Business* 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 of five (5) or more units, or as otherwise defined in 14 (CCR) Section 18982(a)(6).

*Compost* means the product resulting from the managed and controlled decomposition of Organic Waste that is Source Separated from the municipal Solid Waste stream, or which is separated at a centralized facility.

*Commercial Edible Food Generator* includes a Tier One or a Tier Two Commercial Edible Food Generator as defined in 14 CCR Sections 18982(a)(73) and 18982(a)(74).

*Construction and Demolition Debris or C&D Debris* means used or discarded materials resulting from construction, renovation, remodeling, repair, demolition, excavation or construction clean-up operations on any pavement or structure. (See PHMC Chapter 14.40 for regulations.)

*Container* means an approved container used for the disposal and storage until collection of Solid Waste, including Garbage, Organic Waste or Recyclable Materials. It includes a cart, bin, or drop box (or roll-off box, debris box).

*Edible Food* means food intended for human consumption, or as otherwise defined in 14 CCR Section 18982(a)(18). For the purposes of this chapter or as otherwise defined in 14 CCR Section 18982(a)(18), "Edible Food" is not Solid Waste if it is recovered and not discarded. Nothing in this chapter or in the SB 1383 Regulations require or authorize the recovery of Edible Food that does not meet the food safety requirements of the California Retail Food Code.

*Enforcement Agency* means an entity with the authority to enforce part or all of this chapter as specified herein. Employees and agents of an Enforcement Agency may carry out inspections and enforcement activities pursuant to this chapter. Nothing in this chapter authorizing an entity to enforce its terms shall require that entity to undertake such enforcement except as agreed to by that entity and the City. The City is an Enforcement Agency for all Sections of this chapter. The City may choose to additionally delegate enforcement responsibility for certain sections, to other public entities, including County of Contra Costa.

*Enforcement Officer* means the City Manager, county administrative official, chief operating officer, executive director, public works director or other executive in charge or their authorized Designee(s) who is/are partially or whole responsible for enforcing this chapter.

*Environmental Laws* means all federal statutes, state statutes, local ordinances and regulations concerning public health, safety and the environment, including amendments to them. These include (by way of example and not limitation):

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

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

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

*Food Recovery Service* means a person or entity that collects and transports Edible Food from a Commercial Edible Food Generator to a Food Recovery Organization or other entities for Food Recovery, or as otherwise defined in 14 CCR Section 18982(a)(26). A Food Recovery Service is not a Commercial Edible Food Generator.

*Food Scraps* means all edible or inedible food such as, but not limited to, fruits, vegetables, meat, poultry, seafood, shellfish, bones, rice, beans, pasta, bread, cheese, coffee grounds, and eggshells. Food Scraps excludes fats, oils, and grease when such materials are Source Separated.

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

*Food Waste* means Food Scraps and food soiled paper.

*Franchisee* means a company that has entered into a contractual franchise arrangement with the city for the collection of Garbage, Organic Waste and/or Recyclable Materials, under a Franchise Agreement.

*Franchise Agreement* means the Agreement for Collection Services between the City and Franchisee granting the exclusive or non-exclusive franchise for the collection of Solid Waste, including Solid Waste, Organic Waste and/or Recyclable Materials in the City.

*Garbage* means those elements of the Solid Waste stream designated for the Landfill, and excludes hazardous waste, universal waste, excluded waste, materials designated for the “Organic Waste Container” or “Recycling Container” or materials which have been separated for reuse.

*Garbage Container* has the same meaning as “Gray Container” in 14 CCR Section 18982(a)(28) and shall be used for the purpose of storage and collection of Garbage.

*Medical Waste or Infectious Waste* means waste which may cause disease or reasonably be suspected of harboring pathogenic organisms, including waste resulting from medical clinics, dental offices, research laboratories, pharmaceutical industries, blood banks, mortuaries, veterinary facilities, hospitals, and similar facilities processing wastes which may include human or animal parts, contaminated bandages, pathological specimens, hypodermic needles, sharps, contaminated clothing and surgical gloves. (Reference: 17 Cal. Adm. Code 314(d); Health and Saf. Code § 117690.)

*Multi-Family Residential Dwelling or Multi-Family* means of, from, or pertaining to residential premises, including apartments, with five (5) or more dwelling units. Multi-Family premises are considered a distinct type of Commercial Business for the purposes of implementing SB 1383 Regulations. Consistent with SB 1383 Regulations, residential premises that consist of fewer than five units are not “Multi-Family” and instead are “Single-Family” for the purposes of implementing this chapter. Multi-Family premises do not include hotels, motels, or other transient occupancy facilities, which are considered Commercial Businesses.

*Organic Waste* means Solid Waste containing material originated from living organisms and their metabolic waste products, including but not limited to Food Waste, Green Waste, landscape and pruning waste, organic textiles and organic carpets, lumber, wood, paper products, printing and writing paper, manure, biosolids, digestate, and sludges or as otherwise defined in 14 CCR Section 18982(a)(46).

*Organic Waste Container* has the same meaning as “Green Container” in 14 CCR Section 18982(a)(29) and shall be used for the purpose of storage and collection of Source Separated Organic Waste designated for the Organic Waste Container, including Food Waste and landscape and pruning waste accepted in the City’s curbside Organic Waste Collection program, and other organic materials as determined by the City.

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

*Prohibited Container Contaminants* means the following: (i) materials placed in the Recycling Container that are not identified as acceptable Source Separated Recyclable Materials for the City’s Recycling Container; (ii) materials placed in the Organic Waste Container that are not identified as acceptable Source Separated Organic Waste for the City’s Organic Waste Container; (iii) materials placed in the Garbage Container that are Recyclable Materials and/or Organic Waste; and, (iv) Excluded Waste placed in any Container.

*Processing facility* means a facility to which Organic Waste, including Green Waste and Food Waste, or Recyclable Materials is brought to be processed (into compost, mulch, or soil amendment), separated, or recycled into other products.

*Recyclable Materials or Recyclables* means material that can be separated from waste for the purpose of reusing or returning these materials in the form of raw materials for new, used or reconstituted products that meet the quality standard necessary to be used in the marketplace, or

(3) Medical Waste regulated pursuant to the State Medical Waste Management Act (Part 14 (commencing with Section 117600) of Division 104 of the Health and Safety Code). Untreated medical waste shall not be disposed of in a Solid Waste landfill, as defined in Public Resources Code Section 40195.1. Medical waste that has been treated and deemed to be Solid Waste shall be regulated pursuant to Division 30 of the Public Resources Code.

*Source Separated Organic Waste* means those organics that can be placed in an Organic Waste Container including Food Scraps, food soiled paper, and Green Waste if accepted by the City's Organic Waste Collection program. Compostable plastics are not Source Separated Organic Waste unless otherwise accepted by the Franchisee.

*Source Separated Recyclable Materials or Recyclable Materials* means for the purposes of this Chapter, materials capable of being recycled and placed in a Recycling Container, including but not limited to, glass and plastic bottles, aluminum, tin and steel cans, metals, unsoiled paper products and printing and writing paper and cardboard, and any other items as determined by the City. Compostable plastics are not Source Separated Recyclable Materials unless otherwise accepted by the Franchisee.

*Tier 1 Commercial Edible Food Generator* means a Commercial Edible Food Generator that is one of the following:

- (1) Supermarkets with gross annual sales of \$2,000,000 or more, or as defined in 14 CCR Section 18982(a)(71).
- (2) Grocery store with a total facility size equal to or greater than 10,000 square feet, as defined in 14 CCR Section 18982(a)(30).
- (3) Food Service Provider.
- (4) Wholesale Food Vendor.
- (5) Food Distributor.

*Tier 2 Commercial Edible Food Generator* means a Commercial Edible Food Generator that is one of the following:

- (1) Restaurant which has 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.
- (2) Hotel with an on-site food facility and 200 or more rooms or as otherwise defined in 14 CCR Section 18982(a)(74)(B).
- (3) Health facility with an on-site food facility and 100 or more beds, or as otherwise defined in 14 CCR Section 18982(a)(73)(C).
- (4) Large Venue.
- (5) Large Event.
- (6) A state agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet.
- (7) Local Education Agency.

### **13.10.035 Collection-- Containers, participation and separation required.**

- A. Types of Containers. Each Franchisee shall provide Containers, including Recycling Containers, Organic Waste Containers and Garbage Containers. The Containers shall meet the standards set forth in the Franchise Agreement and the standards contained in the SB 1383 Regulations. Each Franchisee shall make available appropriate-sized Containers for Generators based on the amount of waste generated.
- B. Weekly Collection. Generators shall place Garbage, Recyclable Materials and Organic Waste in designated Recycling Containers, Organic Waste Containers and Garbage Containers and each Franchisee shall Collect Containers at least once a week, or less often as provided in a Franchise Agreement, or more often as requested for a Commercial or Multi-Family premise. The Contra Costa County health department may require a greater number of Collections per week for certain Commercial premises.

#### **Generators shall:**

- C. Maintain for such Residence or Commercial premise separate Containers, supplied by the Franchisee, for the Collection and disposal of Garbage, Recyclable Materials, and Organic Waste. Generators shall arrange for a sufficient number of such Containers or pickups to adequately store all Garbage, Recyclable Materials and Organic Waste generated in connection with the Residence or Commercial business between the times designated for Collection. The City shall have the right to review the number and size of Containers and the frequency of Collection for adequacy. Generators shall adjust service levels for their Collection services as requested by the City in order to meet the standards set forth in this chapter. Generators may manage their Organic Waste by preventing or reducing their Organic Waste, managing Organic Waste on site, and/or using a community composting site pursuant to 14 CCR Section 18984.9(c) to the extent permitted by other applicable laws.
- D. Participate in the Collection services provided by the City's Franchisee, by placing designated materials in designated Containers as described below, and not placing Prohibited Container Contaminants in Collection Containers. Generators shall place Organic Waste, including Food Waste, in the Organic Waste Container Recyclable Materials in the Recycling Container; and Garbage in the Garbage Container. Generators shall not place materials designated for the Garbage Container in the Organic Waste Container or the Recycling Container.
- E. Maintain Garbage Containers, Recycling Containers and Organic Waste Containers in a sanitary condition at all times. No Generator shall fill any Container above the top so as to permit the contents to be blown or otherwise strewn about. Standard Containers shall not exceed the weight limit established by each Franchisee.
- F. Maintain the Containers on their premises, and the area in which they are located, in a good, usable, clean and sanitary condition. The Generator shall ensure that the lid or cover is kept closed, that the materials are not placed outside the Container, and that Containers do not leak or spill.

### **13.10.036 Collection and disposal of Garbage, Organic Waste, and Recyclable Materials.**



- (1) A body or lid that conforms with the following Container colors, with either lids conforming to these color requirements or bodies conforming to these color requirements, or both lids and bodies conforming to these color requirements: gray or black Containers for Garbage, blue Containers for Source Separated Recyclable Materials, and green Containers for Source Separated Organic Waste. Notwithstanding the foregoing, a Commercial Business is not required to replace functional Containers, including Containers purchased prior to January 1, 2022, that do not comply with the color requirements of this Section prior to the end of the useful life of those Containers, or prior to January 1, 2036, whichever comes first; or
- (2) Container labels that include language or graphic images, or both, indicating the primary materials accepted and the primary materials prohibited in that Container, or Containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the Container. The Container labeling requirements are required on new containers commencing January 1, 2022.

#### **13.10.036 Education & Outreach Requirements for Commercial Businesses**

- A. Excluding Multi-Family Residential Dwellings, to the extent practical through education, training, inspection, and/or other measures, Commercial Businesses shall prohibit employees from placing materials in a Container not designated for those materials.
- B. Excluding Multi-Family Residential Dwellings, Commercial Businesses shall periodically inspect Containers for Prohibited Container Contaminants and inform employees (for Commercial Businesses) if Containers are contaminated and of the requirements to keep Prohibited Container Contaminants out of those Containers pursuant to 14 CCR Section 18984.9(b)(3).
- C. Commercial Businesses shall annually provide information to employees, contractors, tenants, building residents, and customers about Organic Waste recovery requirements and about proper sorting of Container materials. A copy of such instructions shall be provided to the City Manager, and/or his or her designee, upon request.
- D. Commercial Businesses shall provide information before or within fourteen days of new occupation of the premises to new tenants that describes requirements to source separate materials in the Container.

#### **13.10.037 Waivers for Commercial Business Owners.**

- A. De Minimis Waivers for Organic Waste Containers.

The City Manager or his or her Enforcement Agency may waive a Commercial Business' obligation to comply with some or all of the Organic Waste Collection service requirements of this chapter if documentation is provided demonstrating that the Commercial Business generates a de minimis amount of Organic Waste as described below. A Commercial Business requesting a de minimis waiver shall:

Agency if the physical space configurations or amounts of Organic Waste generated changes, in which case the waiver may be rescinded.

- (2) If a Physical Space waiver is granted, provide written verification to the City Manager or Enforcement Agency of continued eligibility for a Physical Space Waiver every five years.
- (3) Commercial Businesses or Property Owners must provide the City's written approval of the waiver when requesting that the Franchisee terminate Container Collection services or when the City Manager or Enforcement Agency requests verification.

### **13.10.038 Commercial Edible Food Generator requirements.**

Tier One Commercial Edible Food Generators must comply with the requirements of this Section commencing January 1, 2022, and Tier Two Commercial Edible Food Generators must comply commencing January 1, 2024, pursuant to 14 CCR Section 18991.3.

Large Venue or Large Event operators not providing food services, but allowing for food to be provided by others, shall require Food Facilities, as defined in Section 113789 of the Health and Safety Code, operating at the Large Venue or Large Event to comply with the requirements of this Section.

Commercial Edible Food Generators shall comply with the following requirements:

- A. Arrange to safely recover for human consumption the maximum amount of Edible Food that would otherwise be disposed.
- B. Enter into a contract or other written agreement with : (i) Food Recovery Organizations or Food Recovery Services for the collection for Food Recovery of Edible Food that would otherwise be disposed of; or, (ii) Food Recovery Organizations for the acceptance of Edible Food that the Commercial Edible Food Generator Self-Hauls to the Food Recovery Organization for Food Recovery.
- D. Not intentionally donate food that has not been prepared, packaged, handled, stored and/or transported in accordance with the safety requirements of the California Retail Food Code.
- E. Not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery Organization or a Food Recovery Service.
- F. Allow the City to review the Commercial Edible Food Generator's records, including contracts, upon request, by providing electronic copies or allowing access to the premises, pursuant to 14 CCR Section 18991.4.

- (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 food collected from each Commercial Edible Food Generator per month.
  - (3) The quantity in pounds of Edible Food transported to each Food Recovery Organization per month.
  - (4) The name, address, and contact information for each Food Recovery Organization that the Food Recovery Service transports Edible Food to for Food Recovery.
- B. Food Recovery Organizations collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(2):
- (1) The name, address, and contact information for each Commercial Edible Food Generator from which the Food Recovery Organization receives Edible Food.
  - (2) The quantity in pounds of 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 City of Pleasant Hill and contract with or have written agreements with one or more Commercial Edible Food Generators pursuant to 14 CCR Section 18991.3(b) shall report to the City, or its designated Enforcement Agency, the total pounds of Edible Food recovered from the Tier One and Tier Two Commercial Edible Food Generators they have established a contract or written agreement with (regardless of whether those Generators are located in the City of Pleasant Hill) pursuant to 14 CCR Section 18991.3(b) according to the following schedule: (i) no later than August 15, 2022, submit an initial report covering the period of January 1, 2022 to June 30, 2022; and (ii) no later than March 31, 2023, and no later than every March 31 thereafter, submit a report covering the period of January 1 to December 31 of the previous calendar year.
- D. In order to support Edible Food Recovery capacity planning assessments and similar studies, Food Recovery Services and Food Recovery Organizations operating in the City of Pleasant Hill shall provide, upon request, information and consultation to the County or City, regarding existing, or proposed new or expanded, Food Recovery capacity in a form that can be provided to or that can be accessed by the City. A Food Recovery Service or Food Recovery Organization contacted by an Enforcement Agency designated by the City, shall respond to such request for information within 60 days, unless a shorter timeframe is otherwise specified by the Enforcement Agency.

#### **13.10.040 Self-Hauler requirements.**

- E. Landscapers, who are providing service to their customer and desire to self-haul Organic Waste generated by the Landscaper's services at a customer's site, must also meet the requirements in this section. They must haul Source Separated Organic Waste to a facility that recovers Source Separated Organics.
- F. A Single-Family Organic Waste Generator that Self-Hauls Organic Waste is not required to record or report this information.

#### **13.10.041 Ownership of Garbage, Organic Waste, Recyclable Materials – Disposal by owner.**

- A. Ownership. The waste Generator owns the Garbage, Recyclable Materials and Organic Waste until it is placed in a Container for Collection. Once the Garbage, Recyclable Materials or Organic Waste is placed in the Collection Container at the curbside or other authorized location, it becomes the property of the Franchisee. The City reserves the right to assert ownership or right to possession of Garbage, Recyclable Materials or Organic Waste placed for collection, if it determines the Franchisee is in breach of a Franchise Agreement.

#### **13.10.050 Unlawful collection, scavenging, tampering, littering.**

##### **A. Handling of containers and unlawful collection.**

- (1) No person other than the City and Franchisee may place a Recycling, Organic Waste or Garbage Container within the city, except as expressly authorized by this chapter.
- (2) No person shall move, remove or interfere with a Recycling, Organic Waste or Garbage Container or its contents, other than the Generator or a Franchisee. No person shall get into or be inside a Container.
- (3) No person may tamper with, modify, scavenge from or deposit Garbage, Recyclable Materials or Organic Waste in a Container that has not been provided by a Franchisee for his or her use, without the permission of the occupant of the premises where the Container is located.
- (4) No person may collect the Recyclable Materials or Organic Waste from Residential or Commercial premises or posted Recycling Centers in the city, except as allowed under PHMC § 13.10.060.B.
- (5) It is unlawful for any person to hinder, threaten, impede or obstruct a Franchisee in the performance of its duties under this chapter.

##### **B. Littering and unlawful disposal.**

- (1) No person may deposit Garbage, Recyclable Materials or Organic Waste upon any street, lot or vacant area, or other public place other than as provided in this chapter.

transportation service), and transported in the contractor's own vehicle. (See management plan requirements at PHMC Chapter 14.40.)

- (10) Excavated soil.
- (11) Byproducts of state-permitted (a) sewage treatment, including sludge, grit and screenings, and (b) stormwater treatment, including screenings, sediment, litter and soluble hazardous materials.
- (12) Hazardous Waste (other than de minimis quantities of Household Hazardous Waste, liquid and dry caustics, acids, medical waste, flammable materials, explosive materials, insecticides and similar substances).
- (13) Medical Waste, which is regulated under the Medical Waste Management Act (California Health and Saf. Code § 117600 et seq.).
- (14) Automobiles, auto parts, boats and boat parts.
- (15) Universal Waste, as defined in PHMC § 13.10.020.

#### **13.10.070 Regulation of Franchisee**

A Franchisee providing Single-Family, Commercial, or industrial Organic Waste collection service to Generators within the city shall meet the following requirements and standards in connection with the SB 1383 Regulations and the collection of Organic Waste:

- A. Through written notice to the city annually identify the facilities to which they will transport Organic Waste including facilities for Source Separated Recyclable Materials and Source Separated Organic Waste.
- B. Transport Source Separated Recyclable Materials to a facility that recycles those materials and transport Source Separated Organic Waste to a facility, operation, activity, or property that recovers Organic Waste as defined in 14 CCR, Division 7, Chapter 12, Article 2.
- C. Obtain approval from the city to haul Organic Waste, unless it is transporting Source Separated Organic Waste to a Community Composting site or lawfully transporting C&D in a manner that complies with 14 CCR Section 18989.1.

#### **13.10.080 Inspections and Investigations**

- A. The City Manager, designated Enforcement Agency, or Franchisee is authorized to conduct any Inspections, remote monitoring, or other investigations as reasonably necessary to further the goals of this chapter, subject to applicable laws. This may include inspections and investigations, at random or otherwise, of any Collection Container, Collection vehicle load, or Transfer, Processing, or disposal facility to confirm compliance with this chapter, subject to applicable laws. This Section does not allow entry in a private Residential Dwelling Unit for Inspection. For the purposes of inspecting Commercial Business

- D. The City Manager or designated Enforcement Agency may issue a Notice of Violation requiring compliance within 60 days of the notice.
- E. Absent compliance by the respondent within the deadline set forth in the Notice of Violation, the City Manager or designated Enforcement Agency shall commence an action to impose penalties, via an administrative citation and fine, pursuant to the city's standard procedures or the standard procedures of its designed Enforcement Agency.
- F. Other remedies allowed by law may be used, including civil action or prosecution as a misdemeanor or infraction.

### **Article III. Franchise Agreement**

#### **13.10.100 Granting franchise agreement – Rates.**

The City Council may enter into exclusive or nonexclusive Franchise Agreements for the Collection of Garbage, Recyclable Materials and Organic Waste in the city. Franchise Agreements may be entered into without competitive bidding. (Pub. Resources Code § 40059.) In a Franchise Agreement, the City Council shall establish the method(s) for setting the maximum amount of collection rates, which may include rate changes after holding a public hearing, automatic cost of living rate increases, and provisions for extraordinary circumstance rate changes.

It is unlawful for any person to collect or transport Garbage, Recyclable Materials or Organic Waste within the city unless the person is a Franchisee, or the Garbage, Recyclable Materials or Organic Waste is exempt under PHMC § 13.10.060. .

#### **13.10.110 Terms and standards of service – Programs – Essential provisions and Franchisee Requirements.**

In addition to the requirements under PHMC § 13.10.070, each Franchise Agreement shall address in detail obligations set forth in the Franchise Agreement and all of the following:

- A. Terms and standards of service, standards of performance and other requirements and conditions regarding the collection and disposal of Garbage, Recyclable Materials and Organic Waste. This shall include limits on operations including days and hours of operation, curbside service, use of streets/clean-up, disabled occupant service (at no cost to the customer and in compliance with the ADA), on-property service, and any other type of service standards, requirements and limitations, consistent with Public Resources Code section 40059.1.
- B. Special collection events and programs, such as Christmas tree collection, periodic collection of Bulky Waste and White Goods, educational and promotional services, E-waste, used motor oil, household hazardous waste, Construction and Demolition Debris, and special events authorized by the City (such as concerts and parades).

protest with the City Manager. Within 30 days, the City Manager shall notify the customer of the findings and adjudication and adjustment in the matter. Anyone may appeal the decision of the City Manager to the City Council, upon submittal of an appeal fee in an amount established by the City Council. The City Council shall conduct a hearing on the matter at a regular council meeting. The City Council's decision is final. The City shall refund the appeal fee to the customer if the City Council finds in favor of the protest.

- C. Failure to pay. If there is no payment of a bill after 60 days or more, Franchisee shall undertake collection of the bill (including penalties and expenses of collection) for a period of 120 days from the original invoice date. Franchisee shall make reasonable efforts to obtain payment through issuing late-payment notices, telephone requests for payment, assistance from collection agencies (who shall make at least two attempts at collection), and bringing an action in small claims court. If Franchisee's collection efforts for a 120-day period fail, and Franchisee can demonstrate to the city that it attempted on at least five occasions to solicit the monies due, then that franchisee, with the City's consent, may discontinue service.