

ORDINANCE NO. 13-21

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ORANGE AMENDING TITLE 8 OF THE ORANGE MUNICIPAL CODE (HEALTH AND SAFETY) TO DELETE CHAPTERS 8.28 AND 8.29 AND ADD NEW CHAPTERS 8.28, 8.29, 8.30 AND 8.31 RELATING TO SOLID, ORGANIC, AND CONSTRUCTION AND DEMOLITION DEBRIS WASTE DISPOSAL REDUCTION.

THE CITY COUNCIL OF THE CITY OF ORANGE DOES HEREBY ORDAIN AS FOLLOWS:

SECTION I:

This Ordinance is not a project under the California Environmental Quality Act (CEQA) per State CEQA Guidelines Section 15378, because it involves general City policy and procedure making actions.

SECTION II:

Chapter 8.28 of the Orange Municipal Code, “Garbage,” is hereby deleted in its entirety and replaced with new Chapter 8.28 to read as follows:

Chapter 8.28 – SOLID WASTE, ORGANIC WASTE AND CONSTRUCTION AND DEMOLITION DEBRIS DISPOSAL REDUCTION – DEFINITIONS, ENFORCEMENT, APPEALS

8.28.010. Definitions

For the purpose of Chapters 8.29, 8.30 and 8.31 of this title, certain words and phrases shall be construed as set forth herein unless it is apparent from the context that a different meaning is intended:

- (1) “AB 341” (“Assembly Bill 341”) means the state law adopted in 2011 that requires Commercial Businesses that meet specified waste generation thresholds to arrange for recycling services.
- (2) “AB 827” means the state law adopted in 2019 that requires that businesses that are required to subscribe to recycling services under AB 341, or composting services under AB 1826, and that provides the business must provide customers with a recycling bin or container for that waste stream that is visible, easily accessible, adjacent to each bin or container for trash other than that recyclable waste stream, except in restrooms, and clearly marked with educational signage, as specified. Full-service restaurants, as defined in this section are exempt.

- (3) “AB 939” means the California Integrated Waste Management Act of 1989 (California Public Resources Code Section 40000 et seq.) as it may be amended from time to time.
- (4) “AB 1826” means the state law adopted in 2015 that requires Commercial Businesses that meet specified waste generation thresholds to arrange for recycling services for organic waste, and requires local cities to adopt an organic waste recycling program.
- (5) “AB 1826 Green Waste and/or Wood Waste Dirty Materials Recovery Facility” or “AB 1826 Dirty MRF” means a facility, or that certain portion of a facility, that processes municipal solid waste to separate green waste and/or wood waste.
- (6) “Applicant” means any individual, firm, limited liability company, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever who applies to the City for a permit, for purposes of organizing, hosting, and/or managing a large event or large venue, as defined in this chapter.
- (7) “Bin” means a metal Container with hinged lids and wheels and a capacity of less than ten (10) cubic yards.
- (8) “Blue Container” has the same meaning as in 14 CCR 18982(a)(5) and shall be used for the purpose of storage and collection of Source Separated Recyclable Materials or Source Separated Blue Container Organic Waste.
- (9) “Building Official” means the chief building official of the City.
- (10) “CALGreen” means California's mandatory green building standards code. The California Building Standards Commission (CBSC) has the authority to impose CALGreen standards for nonresidential structures
- (11) “California Code of Regulations” or “CCR” means the State of California Code of Regulations. “14 CCR” refers to Title 14, Natural Resources.
- (12) “Cart” means a plastic container with a hinged lid and wheels serviced by an automated or semi-automated truck with a capacity of no less than 32- and no greater than 101-cubic gallons.
- (13) “City” means the City of Orange, California, a municipal corporation, or its designee, and all of the territory lying within the municipal boundaries of City as presently existing or as such boundaries may be modified.
- (14) “City Solid Waste Enforcement Official” or “Enforcement Official” means that City employee designated by the City to handle solid, organic, and construction and demolition waste issues as provided in this title.
- (15) “Collect/collection” means to take physical possession, transport, and removal of solid waste within and from the City.

- (16) “Commercial Business” or “Commercial” means a firm, partnership, proprietorship, joint-stock company, corporation, or association, whether for-profit or nonprofit, strip mall, industrial facility, or a multifamily residential dwelling, or as otherwise defined in 14 CCR 18982(a)(6). A Multi-Family Residential Dwelling that consists of fewer than five (5) units is not a Commercial Business for purposes of implementing Chapters 8.29 and 8.30 of this title.
- (17) “Commercial Edible Food Generator” includes a Tier One or a Tier Two Commercial Edible Food Generator as defined herein or as otherwise defined in 14 CCR 18982(a)(73) and (a)(74). For the purposes of this definition, Food Recovery Organizations and Food Recovery Services are not Commercial Edible Food Generators pursuant to 14 CCR 18982(a)(7).
- (18) “Compliance Review” means a review of records by the City to determine compliance with Chapters 8.29, 8.30 and 8.31 of this title.
- (19) “Community Composting” means any activity that composts green material, agricultural material, food material, and vegetative food material, alone or in combination, and the total amount of feedstock and Compost on-site at any one time does not exceed 100 cubic yards and 750 square feet, as specified in 14 CCR 17855(a)(4); or, as otherwise defined by 14 CCR 18982(a)(8).
- (20) “Compost” means the product resulting from the controlled biological decomposition of organic Solid Wastes that are Source Separated from the municipal Solid Waste stream, or which are separated at a centralized facility.
- (21) “Compostable Plastics” or “Compostable Plastic” means plastic materials that meet the ASTM D6400 standard for compostability, or as otherwise described in 14 CCR 18984.1(a)(1)(A) or 18984.2(a)(1)(C).
- (22) “Construction” means the building of any facility or structure or any portion thereof including any tenant improvements to an existing facility or structure.
- (23) “Construction and Demolition Debris” (“C&D debris”) means any solid waste generated at a premises that is directly related to construction or demolition activities occurring thereon. Applicable activities include but are not limited to, construction, demolition, remodeling, grading, land clearing or renovation on any residential, commercial, institutional or industrial building, road, driveway, walkway or other structure. Solid waste generated during C&D includes but is not limited to, concrete, asphalt paving, asphalt roofing, lumber, gypsum board, rock, soil and metal.
- (24) “Construction Site or Demolition Site” means any real property in the City in, on or from which a building or structure is being fabricated, assembled, erected or demolished, and which produces C&D debris which must be removed from the property, and requires the use of commercial refuse containers.
- (25) “Container” means any and all types of solid waste receptacles, including carts, bins and rolloff boxes; effective no later than January 1, 2036, with the exception of rolloff boxes,

cart and bin colors shall comply with the requirements of SB 1383: In a three-bin/cart system, green bins shall be utilized/provided for the collection of organic waste, blue bins shall be utilized/provided for the collection of nonorganic recyclables, and black bins shall be utilized/provided for non-organic waste; in a two-bin/container system, green bins shall be utilized/provided for the collection of organic waste, and blue bins shall be utilized/provided for the collection of nonorganic recyclables; in a one-bin/container system, black bins shall be utilized/provided for the collection of all materials.(Any shade of black or grey bin is acceptable.

- (26) “Contractor” for purposes of solid waste handling services within and to the City of Orange means the Franchisee(s) under contract to the City, with said Franchisee being a corporation organized and operating under the laws of the State of California and its officers, directors, employees, agents, companies and subcontractors, or any corporation providing solid waste handling services within and to the City of Orange through a franchise system contract.
- (27) “Conversion Rate” means the rate set forth in the standardized conversion rate table approved by the City pursuant to this chapter for use in estimating the weight of materials identified in a waste management plan.
- (28) “Covered Project” means any new construction, or addition, alteration, demolition, or renovation project within the City requiring a demolition and/or building permit, except projects specifically exempted in this title and any City project subject to the California Public Contract Code.
- (29) “Deconstruction” means to disassemble any facility, structure, or building, whether in whole or in part, whether interior or exterior, piece-by-piece in order to salvage the parts.
- (30) “Demolition” means the destruction, razing, ruining, tearing down or wrecking of any facility, structure, pavement or building, whether in whole or in part, whether interior or exterior.
- (31) “Designee” means an entity that the City contracts with or otherwise arranges to carry out any of the City’s responsibilities of this
- (32) “Disposal” means the ultimate disposal of solid waste collected by Contractor at a landfill or otherwise in full regulatory compliance.
- (33) “Diversion” means any combination of waste prevention (source reduction), recycling, reuse and composting activities that reduces waste disposed at landfills, provided such activities are recognized by CalRecycle as Diversion in its determination of a City’s Diversion rate and compliance with AB 939.
- (34) “Diversion Requirement” means the diversion of at least sixty-five (65) percent of the total construction and demolition debris generated by a project via reuse or recycling, or such percentage as may be required by state law, unless the applicant has been granted an exemption, in which case the diversion requirement shall be the maximum feasible

diversion rate established by the City or the designated City Solid Waste Coordinator for the project.

- (35) “Divert” means to use material for any purpose other than disposal in a landfill or transformation facility. “Edible Food” means food intended for human consumption, or as otherwise defined in 14 CCR 18982(a)(18). For the purposes of Chapters 8.29 and 8.30 of this title or as otherwise defined in 14 CCR 18982(a)(18), “Edible Food” is not Solid Waste if it is recovered and not discarded. Nothing in Chapters 8.29 and 8.30 of this title or in 14 CCR, Division 7, Chapter 12 requires or authorizes the Recovery of Edible Food that does not meet the food safety requirements of the California Retail Food Code.
- (36) “Enforcement Action” means an action of the City to address non-compliance with Chapters 8.29, 8.30 and 8.31 of this title including, but not limited to, issuing administrative citations, fines, penalties, or using other remedies.
- (37) “Enforcement Official” or “City Enforcement Official” means the City Manager or his/her designee(s) who is/are partially or wholly responsible for enforcing Chapters 8.29, 8.30 and 8.31 of this title.
- (38) “Facility” means a permitted facility used to process, transfer, or dispose of solid waste or recyclable materials.
- (39) “Fire Marshal” means the Fire Marshal of the City of Orange Fire Department or his/her designee.
- (40) “Food Recovery” means actions to collect and distribute food for human consumption that otherwise would be disposed, or as otherwise defined in 14 CCR 18982(a)(24).
- (41) “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 18982(a)(25), including, but not limited to:
 - (1) A food bank as defined in Section 113783 of the Health and Safety Code;
 - (2) A nonprofit charitable organization as defined in Section 113841 of the Health and Safety Code; and,
 - (3) A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.

A Food Recovery Organization is not a Commercial Edible Food Generator for the purposes of Chapters 8.29 and 8.30 of this title and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR 18982(a)(7).

If the definition in 14 CCR 18982(a)(25) for Food Recovery Organization differs from this definition, the definition in 14 CCR 18982(a)(25) shall apply to Chapters 8.29 and 8.30 of this title.

- (42) “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 18982(a)(26). A Food Recovery Service is not a Commercial Edible Food Generator for the purposes of Chapters 8.29 and 8.30 of this title and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR 18982(a)(7).
- (43) “Food Scraps” means all food such as, but not limited to, fruits, vegetables, meat, poultry, seafood, rice, beans, pasta, bread, cheese, and eggshells. Food Scraps excludes fats, oils, and grease when such materials are Source Separated from other Food Scraps.
- (44) “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.
- (45) “Food Waste” means waste that will decompose and/or putrefy and is segregated for collection and recycling. Food waste includes: (i) kitchen preparation scrap, also called “back of the house scrap”; (ii) table food waste, also called “front of the house waste” and “plate waste”; (iii) animal or vegetable waste including fats, oil and grease that is generated during or results from the storage, preparation, cooking or handling of food stuffs; (iv) discarded paper that is contaminated with food waste, also called “food soiled paper,” (which includes but is not limited to paper towels, tissue products, paper napkins, paper plates cups, coffee filters, tea bags, waxed paper, butcher paper, paper take-out boxes and containers, greasy pizza boxes, paper bags, cardboard and wax-coated cardboard produce boxes); and (v) fruit waste, grain waste, dairy waste, meat, and fish waste.
- (46) “Franchise” means the right or license granted to an individual, group or business to market/offer a company’s goods or services in a particular territory; a franchise may be exclusive or non-exclusive.
- (47) “Franchisee” means the individual, group, or business authorized by the City to provide any or all aspects of solid waste handling services.
- (48) “Full-service Restaurant” means an establishment with the primary business purpose of serving food, where food may be consumed on the premises, and where all of the following actions are taken by an employee of the establishment: (1) the consumer is escorted or assigned to an assigned eating area. The employee may choose the assigned eating area or may seat the consumer according to the consumer’s need for accommodation or other request; (2) the consumer’s food and beverage orders are taken after the consumer has been seated at the assigned seating area; (3) the food and beverage orders are delivered directly to the consumer; (4) any requested items associated with the consumer’s food or beverage order are brought to the consumer; (5) the check is delivered directly to the consumer at the assigned eating area; and (6) the consumer does not deliver the consumer’s waste and used dishes etc. to another location or otherwise clean the consumer’s own table.
- (49) “Gray Container” has the same meaning as in 14 CCR 18982(a)(28) and shall be used for the purpose of storage and collection of Mixed Waste.

- (50) “Green Container” has the same meaning as in 14 CCR 18982(a)(29) and shall be used for the purpose of storage and collection of Source Separated Green Container Organic Waste.
- (51) “Green Waste” means tree trimmings, brush, wood stumps, small pieces of wood, grass cuttings, dead plants, leaves, branches, flowers, plant stocks, and dead trees (not more than six (6) inches in diameter or 48 inches in length) and similar materials.
- (52) “High Diversion Organic Waste Processing Facility” means a facility that is in compliance with the reporting requirements of 14 CCR 18815.5(d) and meets or exceeds an annual average Mixed Waste organic content Recovery rate of 50 percent between January 1, 2022 and December 31, 2024, and 75 percent after January 1, 2025, as calculated pursuant to 14 CCR 18815.5(e) for Organic Waste received from the “Mixed waste organic collection stream” as defined in 14 CCR 17402(a)(11.5); or, as otherwise defined in 14 CCR 18982(a)(33).
- (53) “Household Hazardous Waste” means hazardous waste generated at residential premises.
- (54) “Inspection” means a site visit where a City reviews records, containers, and an entity’s collection, handling, recycling, or landfill disposal of Organic Waste or Edible Food handling, or any other waste reduction requirement, to determine if the entity is complying with requirements set forth in Chapters 8.29, 8.30 and 8.31 of this title, or as otherwise defined in 14 CCR 18982(a)(35).
- (55) “Large Event” means an event, including, but not limited to, a sporting event or a flea market, that charges an admission price, or is operated by a local agency, and serves an average of more than 2,000 individuals per day of operation of the event, at a location that includes, but is not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for an event. If the definition in 14 CCR 18982(a)(38) differs from this definition, the definition in 14 CCR 18982(a)(38) shall apply to Chapters 8.29 and 8.30 of this title.
- (56) “Large Venue” means a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility. For purposes of Chapters 8.29 and 8.30 of this title and implementation of 14 CCR, Division 7, Chapter 12, a venue facility includes, but is not limited to, a public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts center, fairground, museum, theater, or other public attraction facility. For purposes of Chapters 8.29 and 8.30 of this title and implementation of 14 CCR, Division 7, Chapter 12, a site under common ownership or control that includes more than one Large Venue that is contiguous with other Large Venues in the site, is a single Large Venue. If the definition in 14 CCR 18982(a)(39) differs from this definition, the definition in 14 CCR 18982(a)(39) shall apply to Chapters 8.29 and 8.30 of this title.
- (57) “Limited Service Charitable Feeding Operation” means an operation for food service to a consumer solely for providing charity, that is conducted by a nonprofit charitable organization operating pursuant to California Health and Safety Code Section 114333 et

seq., and whose food service is limited to any of the following functions: (1) Storage and distribution of whole, uncut produce, or of prepackaged, non-potentially hazardous foods in their original manufacturer's packaging. (2) Heating, portioning, or assembly of a small volume of commercially prepared foods or ingredients that are not prepackaged. (3) Reheating or portioning of only commercially prepared foods with no further processing, for purposes of hot holding and no longer than same-day food service to the consumer. (4) Storage or distribution of commercially prepared and commercially packaged potentially hazardous cold or frozen foods for distribution to the consumer, according to the Comprehensive Resource for Food Recovery Programs, as most recently updated by the Conference for Food Protection, or according to another nationally recognized guidance resource as approved by the local enforcement agency. "Limited Service Charitable Feeding Operation" does not include a nonprofit charitable temporary food facility operating pursuant to Section 114332 et seq., or a temporary food facility operating pursuant to Section 114335 et seq. A limited service charitable feeding operation shall operate pursuant to Section 114332 et seq., or Section 114335 et seq., if it operates a nonprofit charitable temporary food facility or a temporary food facility, respectively.

- (58) "Local Education Agency" means a school district, charter school, or county office of education located in the City that is not subject to the control of city or county regulations related to Solid Waste, or as otherwise defined in 14 CCR 18982(a)(40).
- (59) "Mixed Waste Organic Collection Stream" or "Mixed Waste" means Organic Waste collected in a container that is required by 14 CCRs 18984.1, 18984.2 or 18984.3 to be taken to a High Diversion Organic Waste Processing Facility or as otherwise defined in 14 CCR 17402(a)(11.5).
- (60) "Multi-Family Residential Dwelling" or "Multi-Family" means of, from, or pertaining to residential premises with five (5) or more dwelling units. Multi-Family premises do not include hotels, motels, or other transient occupancy facilities, which are considered Commercial Businesses. Multi-Family Premises generally receive collection service through the use of bins but may use carts with City approval.
- (61) "Non-Covered Project" means any construction, demolition, or renovation project within the City that is not a covered project, e.g., a residential roofing project that does not remove the roof.
- (62) "Non-Local Entity" means the following entities that are not subject to the City's enforcement authority, or as otherwise defined in 14 CCR 18982(a)(42):
 - (1) Special district(s) located in the City.
 - (2) Jail(s) located in the City, including Theo Lacey Facility.
 - (3) Facilities operated by the State park system located in the City.
 - (4) Public universities (including community colleges) located in the City, including Santiago Canyon College.

- (5) State agencies located in the City.
- (6) Local Education Agency.
- (63) “Non-Organic Recyclables” means non-putrescible and non-hazardous recyclable wastes including but not limited to bottles, cans, metals, plastics and glass, or as otherwise defined in 14 CCR 18982(a)(43).
- (64) “Notice of Violation (NOV)” means a notice that a violation has occurred that includes a compliance date to avoid an action to seek penalties, or as otherwise defined in 14 CCR 18982(a)(45) or further explained in 14 CCR 18995.4.
- (65) “Organic Waste” means Solid Wastes containing material originated from living organisms and their metabolic waste products, including but not limited to non-edible food, green material, landscape and pruning waste, organic textiles and carpets, lumber, wood, Paper Products, Printing and Writing Paper, manure, biosolids, digestate, and sludges or as otherwise defined in 14 CCR 18982(a)(46). Biosolids and digestate are as defined by 14 CCR 18982(a).
- (66) “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 18982(a)(48).
- (67) “Organics Recycling” means the processing of organic waste or organics for the purpose of returning them to the economy in the form of raw materials for new, reused, or reconstituted products, or for conversion to energy.
- (68) “Premises” means any land, or building in City where solid waste is generated or accumulated.
- (69) “Recovery” means any activity or process described in 14 CCR 18983.1(b), or as otherwise defined in 14 CCR 18982(a)(49).
- (70) “Recyclable Materials” or “Recyclables” means solid waste that may be source separated, has some potential economic value, and is set aside, handled, packaged, or offered for collection in a manner different from refuse in order to allow it to be processed for recycling. Recyclable Materials do not include hazardous waste.
- (71) “Recycling” means the processing of recyclable materials for the purpose of returning them to the economy in the form of raw materials for new, reused, or reconstituted products. The collection, transportation or disposal of solid waste not intended for, or capable of, reuse is not recycling. Recycling does not include use of solid waste for conversion to energy.
- (72) “Recycling Areas” mean space allocated for collecting and loading of recyclable materials.
- (73) “Refuse” means putrescible and non-putrescible solid waste.
- (74) “Residential” refers to services performed at and for residential premises, which include both single-family and multi-family homes.

- (75) “Residential Premises” means premises upon which dwelling units exist, including, without limitation, single-family and multi-family premises, apartments, boarding or rooming houses, condominiums, mobile homes, efficiency apartments, and second units. Premises upon which the following uses are occurring shall not be deemed to be residential premises, and rather shall be deemed to be commercial premises: assisted living facilities, convalescent homes, dormitories, extended stay motels, group residential facilities, group care facilities, hotels, motels, and any other businesses not specifically listed at which residency is transient in nature and hence should be classified as commercial premises as determined by City on a case by case bases.
- (76) “Restaurant” means an establishment primarily engaged in the retail sale of food and drinks for on-premises or immediate consumption, or as otherwise defined in 14 CCR 18982(a)(64).
- (77) “Rolloff Box” means a solid waste collection containers of 10 cubic yards or larger capable of being loaded via winch onto a rolloff vehicle equipped with rails.
- (78) “Route Review” means a visual Inspection of containers along a Hauler Route for the purpose of determining Container Contamination, and may include mechanical Inspection methods such as the use of cameras, or as otherwise defined in 14 CCR 18982(a)(65).
- (79) “SB 1383” means the state law adopted in 2016 which added Sections 39730.5, 39730.6, 39730.7, and 39730.8 to the Health and Safety Code, and added Chapter 13.1 (commencing with Section 42652) to Part 3 of Division 30 of the Public Resources Code, establishing methane emissions reduction targets in a statewide effort to reduce emissions of short-lived climate pollutants as amended, supplemented, superseded, and replaced from time to time.
- (80) “SB 1383 Regulations” or “SB 1383 Regulatory” means or refers to, for the purposes of Chapters 8.29 and 8.30 of this title, the Short-Lived Climate Pollutants: Organic Waste Reduction regulations developed by CalRecycle and adopted in 2020 that created 14 CCR, Division 7, Chapter 12 and amended portions of regulations of 14 CCR and 27 CCR.
- (81) “Self-Hauler” (or “Self-Haul”) means a person or entity who hauls, or the act of hauling, Solid Waste, Organic Waste or recyclable material he or she has generated to another person. Self-hauler also includes a person or entity who back-hauls waste, or as otherwise defined in 14 CCR 18982(a)(66). Back-haul means generating and transporting Organic Waste to a destination owned and operated by the generator using the generator’s own employees and equipment, or as otherwise defined in 14 CCR 18982(a)(66)(A).
- (82) “Single-Family” means of, from, or pertaining to any residential premises with fewer than five (5) units.
- (83) “Solid Waste” has the same meaning as defined in Public Resources Code Section 40191, which defines Solid Waste as all putrescible and nonputrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semi-solid wastes, and other

discarded solid and semisolid wastes, with the exception that Solid Waste does not include any of the following wastes:

- (1) Hazardous waste, as defined in Public Resources Code Section 40141.
- (2) Radioactive waste regulated pursuant to the State Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the Health and Safety Code).
- (3) Medical waste regulated pursuant to the State Medical Waste Management Act (Part 14 (commencing with Section 117600) of Division 104 of the 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.
- (84) “Solid Waste Handling Services” means the collection, transfer, transport, recycling, processing, diversion and disposal of solid waste.
- (85) “Source Separated” means materials, including commingled recyclable materials, that have been separated or kept separate from the Solid Waste stream, at the point of generation, for the purpose of additional sorting or processing those materials for recycling or reuse in order to return them to the economic mainstream in the form of raw material for new, reused, or reconstituted products, which meet the quality standards necessary to be used in the marketplace, or as otherwise defined in 14 CCR 17402.5(b)(4). For the purposes of the ordinance, Source Separated shall include separation of materials by the generator, property owner, property owner’s employee, property manager, or property manager’s employee into different containers for the purpose of collection such that Source Separated materials are separated from Mixed Waste or other Solid Waste for the purposes of collection and processing.
- (86) “Source Separated Blue Container Organic Waste” means Source Separated Organic Wastes that can be placed in a Blue Container that is limited to the collection of those Organic Wastes and Non-Organic Recyclables as defined in Section 18982(a)(43), or as otherwise defined by Section 17402(a)(18.7).
- (87) “Source Separated Green Container Organic Waste” means Source Separated Organic Waste that can be placed in a Green Container that is specifically intended for the separate collection of Organic Waste by the generator, excluding Source Separated Blue Container Organic Waste, carpets, Non-Compostable Paper, and textiles.
- (88) “Source Separated Recyclable Materials” means Source Separated Non-Organic Recyclables and Source Separated Blue Container Organic Waste.
- (89) “State” means the State of California.
- (90) “Tier One Commercial Edible Food Generator” means a Commercial Edible Food Generator that is one of the following:

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

If the definition in 14 CCR 18982(a)(73) of Tier One Commercial Edible Food Generator differs from this definition, the definition in 14 CCR 18982(a)(73) shall apply to Chapters 8.29 and 8.30 of this title.

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

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

If the definition in 14 CCR 18982(a)(74) of Tier Two Commercial Edible Food Generator differs from this definition, the definition in 14 CCR 18982(a)(74) shall apply to Chapters 8.29 and 8.30 of this title.

- (92) “Waste Generator” means any person as defined by the California Public Resources Code, whose act or process produces solid waste as defined in the Public Resources Code, or whose act first causes solid waste to become subject to regulation.

8.28.020 City’s Authority to Enforce Compliance and Inspect

- A. The City may make and enforce within its boundaries all sanitary and other ordinances and regulations not in conflict with general laws regarding all aspects of solid and organic waste handling which are of local concern, including, but not limited to:

- (1) Frequency of collection, means of collection and transportation, level of services, charges and fees, and nature, location, and extent of providing solid waste handling services.

- (2) Whether the services are to be provided by means of nonexclusive franchise, contract, license, permit, or otherwise, either with or without competitive bidding, or if, in the opinion of the City Council, the public health, safety, and well-being so require, by partially exclusive or wholly exclusive franchise, contract, license, permit, or otherwise, either with or without competitive bidding. The authority to provide solid waste handling services may be granted under terms and conditions prescribed by the City Council.
 - (3) Nothing in this chapter modifies or abrogates in any manner any franchise or permit previously granted or extended by the City, or by any other local governmental agency.
- B. To the extent permitted by law, the City may inspect any collection container at a commercial facility, multifamily dwelling, or large event or large venue and any solid waste collector's load for garbage, recyclable materials, or organic materials. To the extent permitted by law, the City may also inspect the premises of any commercial facility, multifamily dwelling, or large event or large venue to determine compliance with the provisions of this chapter, or applicable laws.

8.28.030 Enforcement and Penalties

- A. Businesses that do not comply with the mandatory recycling, waste disposal, reporting and other requirements of Chapters 8.29, 8.30 and 8.31 of this title shall be subject to enforcement by the City. In addition to being subject to the general penalty provisions set forth in Chapter 1.08 of this code, violation of any provision of this chapter shall constitute grounds for issuance of a Notice of Violation and assessment of a fine by a City Enforcement Official. The City's enforcement protocol shall be educational and progressive, with the goal of bringing the business into compliance.
- B. Process for Enforcement. The following procedures are generally applicable to violations of Chapters 8.29, 8.30, and 8.31:
 - (1) The City Enforcement Official will monitor compliance with Chapters 8.29, 8.30 and 8.31 randomly and through Compliance Reviews, Route Reviews, investigation of complaints, and/or an Inspection program. Section 8.28.020 establishes City's right to conduct Inspections and investigations.
 - (2) For a first violation, the City will send a written courtesy notice including information about the legal requirement to recycle recyclable materials or organics, provide recycling containers and/or other pertinent provisions of this title.
 - (3) If the violation is not corrected within ten business days, the City will send a written warning notice to the violator to inform it of the non-compliance, list the specific violations, and give a 60-day deadline to comply. This warning notice will inform the violator that it could be fined if it does not comply.
 - (4) Failure to correct a violation within the timeframe stated in the warning notice will subject the violator to fines on a graduated scale, in an amount set by separate resolution of the City Council.

- (5) All warning and violation notices shall be sent to the owner or the property or business, as applicable, at the official address maintained by the tax collector for the City, to the owner at the address of the dwelling or commercial property and/or to the party responsible for paying for the collection services, depending upon available information.
 - (6) In addition to the enforcement procedures contained herein, the City may prosecute violations pursuant to Chapter 1.08 of this code.
- C. Compliance Deadline Extension Considerations. The City may extend the compliance deadlines set forth in a warning notice issued in accordance with Subsection B(3) above, if it finds that there are extenuating circumstances beyond the control of the violator that make compliance within the deadlines impracticable, including the following:
- (1) Acts of God such as earthquakes, wildfires, flooding, and other emergencies or natural disasters;
 - (2) Delays in obtaining discretionary permits or other government agency approvals; or,
 - (3) Deficiencies in Organic Waste recycling infrastructure or Edible Food Recovery capacity and the City is under a corrective action plan with CalRecycle pursuant to 14 CCR 18996.2 due to those deficiencies.
- D. Education Period for Non-Compliance. Beginning January 1, 2022 and through December 31, 2023, City will conduct Inspections, Route Reviews or waste evaluations, and Compliance Reviews, depending upon the type of regulated entity, to determine compliance, and if City determines that Organic Waste Generator, Self-Hauler, hauler, Tier One or Tier Two Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance, it shall provide educational materials to the entity describing its obligations under this chapter, a notice that compliance is required effective January 1, 2022, and that violations will be subject to penalties beginning January 1, 2024.
- E. Civil Penalties for Non-Compliance. Beginning January 1, 2024, if the City determines that an Organic Waste Generator, Self-Hauler, hauler, Tier One or Tier Two Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance with this chapter, it shall document the noncompliance or violation, issue a Notice of Violation, and take Enforcement Action pursuant to Subsection C(3) above, as needed, or per any applicable agreement.

8.28.040 Appeal Procedures

Any decision made by the City, including a fine, may be appealed to the City Manager. Such appeal must be submitted in writing within ten (10) days of the decision and filed with the City Clerk's Office. The Notice of Appeal shall state briefly the grounds of appeal and be signed by the appealing party. Said appeal shall be heard by the City Manager or Designee within fifteen

(15) days. Evidence may be presented at the hearing. The decision by the City Manager or Designee shall be in writing and shall be final.

SECTION III:

Chapter 8.29 of the Orange Municipal Code, “Trash Bins and Drop Off Boxes,” is hereby deleted in its entirety and replaced with new Chapter 8.29 to read as follows:

Chapter 8.29 – SOLID WASTE DISPOSAL REDUCTION

8.29.010 Title of Ordinance

This chapter is entitled “Solid Waste Disposal Reduction Ordinance.”

8.29.020 Granting of Franchise; Services Exempt from Franchise

The City Council may, by resolution, grant one or more Franchise(s) for Solid Waste Handling Services. Franchises may be exclusive or non-exclusive. The following services and activities are exempt from the scope of Solid Waste Handling Services franchised by the City:

- A. The sale or donation of Source Separated Recyclables by the Waste Generator to any individual, group, or business other than Franchisee; provided, however, to the extent permitted by law, if the Waste Generator is required to pay monetary or non-monetary consideration for the collection, transportation, transfer, or processing of Recyclables, the fact that the Waste Generator receives a reduction or discount in price (or in other terms of the consideration the Waste Generator is required to pay) shall not be considered a sale or donation;
- B. Solid Waste, including Recyclable Materials and Green Waste, which is removed from any Premises by the Waste Generator, and which is transported personally by such Waste Generator (or by its full-time employees) to a processing or Disposal Facility in a manner consistent with all applicable laws and regulations;
- C. Green Waste removed from a Premises by a gardening, landscaping, or tree trimming contractor, utilizing its own equipment, as an incidental part of a total service offered by that contractor rather than as a hauling service;
- D. The collection, transfer, transport, Recycling, processing, and Disposal of animal remains from slaughterhouse or butcher shops for use as tallow;
- E. The collection, transfer, transport, Recycling, processing, and Disposal of by-products of sewage treatment, including sludge, sludge ash, grit and screenings;
- F. The collection, transfer, transport, Recycling, processing, and Disposal of hazardous substances, hazardous waste, Household Hazardous Waste and radioactive waste regardless of its source;

- G. C&D Debris which is removed by a duly licensed Construction or Demolition company or as part of a total service offered by said licensed company, where the licensed company uses its own equipment;
- H. The collection, transfer, transport, Recycling, processing, and Disposal of Solid Waste by City through City officers or employees in the normal course of their City employment;
- I. Solid Waste Handling Services for governmental agencies other than City, which may have facilities in City, but over which City has no jurisdiction in connection with the regulation of Solid Waste;
- J. A person that obtains a Self-Hauler permit in accordance with this chapter; and
- K. Containers delivered for redemption and Recycling under the California Beverage Container Recycling Litter Reduction Act.

8.29.030 Mandatory Subscription to Collection Services or Self-Haul

- A. Arrangement for the removal of Solid Waste is mandatory. Except as otherwise provided in this chapter, the owner, property manager, tenant and/or person in charge or control or each Residential Premises, including Single-Family and Multi-Family Premises, and each Commercial Premises in the City, shall either (i) subscribe to Solid Waste collection services with a Franchisee for that Premises; or (ii) register with the City as a Self-Hauler annually or as determined by the City, and obtain a Self-Hauler permit as set forth in this chapter in connection with that Premises.
- B. Exception; Vacant properties. The above requirement to arrange for Solid Waste collection services shall not apply to any Residential Premises in which all dwelling units are vacant for a period of forty-five (45) days or more, or Commercial Premises that are vacant for a period of forty-five (45) days or more, provided this exception shall apply only during the period of vacancy. Any person seeking to avail himself/herself of the exception provided in this chapter shall bear the burden of providing reasonable evidence to the City, pursuant to such regulations or guidelines as the City is authorized to develop, demonstrating vacancy of the Premises for the period in question.

8.29.040 Self-Haulers/Self-Hauling

- A. Self-Haulers holding a Self-Hauler permit and operating in accordance with this chapter are only permitted to collect, transport and dispose of Solid Waste generated by and upon the Self-Hauler's own Premises. Under no circumstances may a Self-Hauler collect, transport or dispose of Solid Waste generated upon Premises that are not owned, operated or controlled by the Self-Hauler. Notwithstanding any other provision of this chapter, Self-Haulers shall not be permitted to share, place Solid Waste in, or to otherwise use the Bin, Cart, Rolloff Box, or other Container of another person or business.
- B. All Self-Haulers shall adhere to the following requirements: each Self-Hauler shall obtain a permit from the City Enforcement Official. Self-Haulers must renew their permit at the commencement of each fiscal year, or as determined by the City.

- C. The City Enforcement Official shall approve the application for a Self-Hauler permit if it meets the requirements of this section, and the equipment, Containers, Diversion plan and Disposal plan are to his/her reasonable satisfaction; and if there is evidence of past Diversion and Disposal requirements that demonstrates the Applicant has complied with the Diversion requirements as may be imposed by applicable laws; and if the Applicant has otherwise complied with all laws related to collection, transportation and Disposal of Solid Waste.
- D. Containers, Collection and Transport Equipment. Containers (including, but not limited to, Bins, Carts and Rolloff Boxes) and collection and transport equipment (including, but not limited to, transport trucks and vehicles) utilized by a Self-Hauler must be approved by the City Enforcement Official in writing prior to issuance of a Self-Hauler permit, and must be appropriate for their intended purpose. In addition, any Containers utilized by a Self-Hauler shall comply with the following requirements:
- (1) All Containers shall be maintained in good repair, and any question as to the meaning of this standard shall be resolved by the City Enforcement Official;
 - (2) All Containers shall be maintained in a sealed, watertight condition;
 - (3) Self-Haulers shall remove any graffiti that appears on Containers within 24 hours after becoming aware of it; and
 - (4) All Containers shall be labeled with owner's contact information and properly labeled as to the acceptable and nonacceptable contents.
- E. Non-Commercial Venture. Self-Haulers must obtain all equipment, including Containers and collection and transportation equipment, at a fair market value that does not include any hauling services, "free" or otherwise. A Self-Hauler may not pay a Solid Waste enterprise an amount that exceeds fair market value for equipment, and then claim to receive collection, transportation and Disposal services at no cost from such Solid Waste enterprise. A Self-Hauler may use its own employees to undertake Self-Hauling activities, but under no circumstance may a Self-Hauler use an independent contractor or any other person or entity for Solid Waste collection services (other than a Franchisee).
- F. Other Recycling Obligations. Self-Haulers shall recycle all Recyclable Materials not otherwise addressed by this section to a degree and in a manner consistent with standards generally applicable to the Solid Waste industry and as required by state law.
- G. Collection Frequency. Unless otherwise specifically provided in this chapter, Self-Haulers shall remove Solid Waste from their Premises at least once per week, or as determined by the City.
- H. Hazardous and Special Wastes. Unless lawfully and currently licensed under state, federal and local laws, no Self-Hauler shall engage in the collection, transport or Disposal of hazardous waste or special wastes.

- I. Suspension and Revocation. The City may immediately and temporarily suspend a Self-Hauler permit if the permittee: (i) fails to divert at least fifty percent (50%) of all Solid Waste collected from its Premises from landfills in a manner that complies with the requirements of AB 939, AB 341 and all other applicable laws; (ii) fails to divert at least fifty percent (50%) of all organics materials collected; (iii) fails to divert at least sixty-five percent (65%) of all C&D Debris collected from its Premises from landfills in a manner that complies with the requirements of CALGreen; (iv) fails to deliver Solid Waste collected from its Premises to appropriate Disposal or Recycling facilities at least as frequently as collection is required for such Self-Hauler by the City; or (v) fails to comply with any section in this code or other applicable law regarding the collection, hauling, transportation, or Disposal of Solid Waste. Upon issuance of the temporary suspension, the City shall give the Self-Hauler written notice of the following: (aa) the permit has been temporarily suspended and no Self-Hauling is permitted pursuant to suspended permit; (bb) a brief statement of the grounds for the suspension; (cc) on a date and time certain, which date shall be at least five (5) calendar days after the date of the issuance of the notice, the City shall determine whether the permit should be revoked or reinstated; and (iv) the Self-Hauler has the right to submit information to the City before that date to demonstrate that the suspension was in error and the permit should be reinstated.

8.29.050 Self-Hauling Violations

- A. Unauthorized Containers. In addition to any other penalties and/or remedies as set forth in this chapter or provided for by law, any container placed within the City right-of-way for the collection of Solid Waste in violation of Section 8.29.160 (“unauthorized container(s)”) may be impounded as set forth in this chapter.
- B. The City may cause a Notice of Violation to be placed in a conspicuous place on any unauthorized container directing that it be removed. The notice shall specify the nature of the violation and shall state that the container must be removed within 24 hours or it may be removed and stored by the City or authorized Designee, and the contents disposed of, at the expense of the owner thereof. The notice shall indicate the time that it was posted and shall include the name and phone number of a person designated by the City to hear any appeal or challenge to the requirement that the container be removed; and, further, shall indicate that any appeal of the order for removal must occur within 24 hours of the posting of the notice. The posting of a notice to remove shall constitute constructive notice to the owner and user of the requirement to remove the unauthorized container. If the identity of the owner of an unauthorized container is known to the City, the City shall also promptly cause a copy of the notice to remove to be mailed or emailed to the owner.
- C. If within 24 hours after a notice to remove is posted on an unauthorized container a request for an appeal has not been received and the container is not removed, the City may direct the removal and storage of the unauthorized container. In addition, if the contents of the container are either comprised of a substantial amount of putrescible Solid Waste, or determined by the City to create a threat to health and safety if not disposed of immediately, the City may direct the Disposal of the contents of the container. The owner of the unauthorized container shall be responsible to reimburse the City for the actual cost of removal, storage and Disposal, including any administrative costs incurred by the City. All

amounts due to the City for the cost of removal, storage and Disposal must be paid before the unauthorized container may be returned to the owner. Such amounts shall constitute a debt owed by the owner to the City, and the owner shall be liable to the City in an Enforcement Action brought by the City for the Recovery of such amounts.

- D. If the unauthorized container is not claimed within 30 days after removal, the unauthorized container and its contents shall be deemed abandoned property and may be disposed of as determined by the City.
- E. Within five (5) business days following retrieval of an unauthorized container from the City by the owner, the owner may request a hearing to appeal the City's determination that the container is an unauthorized container as provided in Section 8.28.040.

8.29.060 Transporting Uncovered Waste Prohibited

It is unlawful to drive or move any vehicle loaded with Solid Waste or Recyclables on any City street or highway unless the load is covered in a manner that will prevent the load or any part of the load from spilling, falling or blowing upon the street or highway.

8.29.070 Illegal Dumping

It is unlawful to deposit, dump or cause to be deposited or dumped any Solid Waste or Recyclables upon or in the following places:

- A. Any public or private highway or road, including any portion of the right-of-way;
- B. Any private property into or upon which the public is admitted by easement or license;
- C. Any private property without the consent of the owner; or
- D. Any public park or other public property without the consent of the state or local agency having jurisdiction over the property.

The court may require a person convicted under this section, as a condition of probation, to remove or pay the cost of removing all waste which the convicted person dumped or caused to be dumped upon private or public property.

8.29.080 Abandoned Personal Property

- A. It is unlawful for any person to abandon personal property on private or public Premises. Any personal property located on public property that is unattended and whose owner cannot be readily identified is presumed to be abandoned and may be removed by the City. If the abandoned property is not claimed within 30 days after removal, it may be disposed of as determined by the City
- B. Unattended personal property that is unsanitary, soiled, verminous, in disrepair, or otherwise present a nuisance, may be summarily abated and disposed by the City without any waiting period. At the direction of the City, unattended personal property or

possessions that are reusable or Recyclable may be recovered and transported by a non-profit agency for reuse.

8.29.090 Duty of Owner to Remove Accumulated Solid Waste

It shall be the duty of every owner or occupant of any lot or Premises in the City to promptly remove any Solid Waste that constitutes or contributes to any public nuisance.

8.29.100 Circumstances Constituting a Public Nuisance

- A. It is unlawful for any person to occupy or inhabit any Premises within the City for which arrangements have not been made and kept in full force and effect for Solid Waste collection services in a manner consistent with the provisions of this chapter.
- B. It is unlawful to throw, place, scatter, allow to accumulate or bury any garbage, waste, combustible or noncombustible rubbish, or contaminated dirt, in, upon or below the surface of any Premises, highway, public street, public place, storm drain, or catch basin in the City, or on the Premises of another person. Small amounts of organics treated in processes such as backyard composting, and “bokashi” (a method for fermenting small amounts of Residential-generated Food Waste), are exempt from the prohibition on burying.
- C. It is unlawful to allow to accumulate upon any Premises Solid Waste that is offensive, obnoxious unsanitary, or uncontained, or that may endanger, injure, or diminish neighboring property, or the health or welfare of the City’s residents or businesses.

8.29.110 Prohibited Acts

- A. It is unlawful for any person, other than the owner, occupant or person in possession, charge or control or any Residential or Commercial Premises, or a person authorized by law (such as a Franchisee), to remove any Bin, Cart, Rolloff Box or other Container from any such Premises or from any location where it was lawfully placed for collection, without the prior written approval or the owner, occupant or person in possession, charge or control of such Premises.
- B. No person shall place Solid Waste adjacent to a street or public-right-of-way for collection by a Franchisee without having first subscribed for Solid Waste collection services with such Franchisee.
- C. No person shall burn or process any Solid Waste within the City, except in an approved incinerator, digester or other device for which a permit has been issued by the Building Official and Fire Marshal, and which complies with all applicable local, state and/or federal permit requirements, laws, rules and regulations.
- D. It is unlawful for any person, other than a Franchisee or the City, to take, remove or appropriate for their own use any Solid Waste, including Recyclable Materials, which has been placed in any street or alley for collection or removal by a Franchisee, regardless of whether the Solid Waste is placed in a Bin, Cart, Rolloff Box or other Container.

8.29.120 Containers

- A. Every owner, occupant, or person in possession, charge or control of any Premises within the City shall deposit or cause to be deposited all Solid Waste generated or accumulated on such Premises, and intended for collection and Disposal, in sealed, watertight Bins, Carts, Rolloff Boxes or other Containers that are either (i) provided by, or acceptable to, a Franchisee; or (ii) approved by the City for Self-Hauling purposes pursuant to this chapter. No owner, occupant or person in possession, charge or control of any Premises shall use a bin, cart, Rolloff Box or other container not in conformance with the requirements in this chapter for the collection, accumulation or storage of Solid Waste.
- B. Containers used solely for (dedicated to) the collection of Food Waste and Food-Soiled Paper shall have leakproof, plastic liners that can be rinsed clean and that are equipped with drainage holes that can be sealed/plugged.
- C. It is unlawful, to keep Solid Waste in containers other than those prescribed by this chapter.

8.29.130 Frequency of Collection

- A. Residential Premises: With the exception of vacant Premises, every owner, occupant or person in possession, charge or control of any Residential Premises within the City shall remove or cause to be removed by subscription to weekly services provided by a Franchisee all Solid Waste generated, stored, collected or accumulated on such Premises. Such services for Residential Premises shall be provided solely by a Franchisee with an exclusive Franchise, and if no exclusive Franchise has been issued, then such service shall be provided by the same party that provides Solid Waste collection services to Residential parcels owned by the City or by another franchised hauler approved by the City.
- B. Commercial Premises: With the exception of vacant Premises, every owner, occupant or person in possession, charge or control of any Commercial Premises within the City shall remove by Self-Hauling (as provided in this chapter), or cause to be removed by subscription to services provided by a Franchisee, all Solid Waste generated, stored, collected or accumulated on such Premises.
- C. Modification to Collection Frequency: The City may provide written notice to the owner of any Premises that the above minimum removal requirements are not sufficient to avoid the creation of a public nuisance due to unique circumstances at such Premises. The City may direct that Solid Waste be removed by the owner of any Premises so notified on a more frequent schedule and/or that additional or larger Containers be used, at the owner's sole expense.

8.29.140 Container Collection Times

- A. Except as otherwise permitted by the City Enforcement Official, to preserve peace and quiet, Solid Waste shall only be collected from Residential areas, and Commercial areas adjacent to Residential areas, between 7:00 A.M. and 7:00 P.M., or as approved by the City Enforcement Official. "Adjacent" in this context means the nearest Residential premises is located within three-hundred (300) feet or less of the nearest Commercial structure.

- B. Except as otherwise permitted by the City Enforcement Official, Solid Waste shall only be collected from other Commercial areas between 6:30 A.M. and 8:00 P.M.

8.29.150 Container Collection Days

Collection is only permitted Monday through Saturday for Residential areas and Commercial areas adjacent to Residential areas. Collection is permitted Monday through Sunday for Commercial areas, or as approved by the City Enforcement Official.

8.29.160 Container Placement

- A. No Bin, Cart, Rolloff Box or other Container shall be placed adjacent to or in a street or public right-of-way for collection service prior to 4:00 P.M. on the day preceding the normal collection time.
- B. All Containers placed adjacent to or in a street or public right-of-way for collection service shall be removed from the street or public-right-of-way by 7:00 A.M. on the day after collection.
- C. Containers shall be placed on top of the curb when street sweeping days align with Solid Waste collection days.
- D. Containers shall be placed only within the public right-of-way aligning with associated property's frontage.

8.29.170 Filling of Containers for Collection

Containers shall be filled only to the actual capacity of the Container. Container lids shall remain closed at all times that the Container is unattended. If the Solid Waste contained within a Bin, Cart, Rolloff Box or other Container exceeds the actual capacity of the Container, then a larger Container or multiple Containers shall be utilized.

8.29.180 Sharing of Containers

- A. It is unlawful for any person to share, place Solid Waste in, or to otherwise use the Bin, Cart, Rolloff Box or other Container of another person or business without the approval of the City or a Franchisee. Occupants of single family Premises (1-4 dwelling units) shall not share Carts with other Single-Family Premises.
- B. The sharing of Bins may be permitted under either of the following conditions:
 - (1) The owner, property manager or person in charge or control of a Premises upon which four (4) or more Residential dwelling units exist may arrange for one or more Bins (but not Carts) to be shared by the occupants, tenants or persons in possession of the dwelling units on that Premises.
 - (2) The owner, property manager or person in charge or control of a Commercial Premises with several sub-tenants may arrange for one or more Bins or Rolloff Box

(but not Carts) to be shared by the occupants, tenants or persons in possession of the units on that Premises.

8.29.190 Improper Use of Containers

It is unlawful to use any Bin, Cart, Rolloff Box or other Container furnished by a Franchisee for any purpose other than the collection, accumulation and storage of Solid Waste; or to convert or alter such Containers for other uses; or to intentionally damage or deface such Containers.

8.29.200 Container Storage

- A. Residential Containers: All Containers used for the collection of Solid Waste at Residential Premises shall be stored out of public view in a side or rear yard or an enclosed garage, except on collection day, or when Containers are placed adjacent to or in a street or public-right-of-way for collection service as provided in this chapter.
- B. Commercial Containers: Except when Containers are placed adjacent to or in a street or public-right-of-way for collection service on the evening preceding the normal collection time, or the period prior to Containers being removed from the street or public-right-of-way after collection, all Containers used for the collection of Solid Waste at Commercial Premises shall be stored out of public view in an enclosure in accordance with the requirements of Title 17 of this code. The trash enclosure shall be maintained in a clean condition and graffiti shall be removed within 24 hours of discovery. Recycling Areas shall be secured to prevent the theft of Recyclable Materials by unauthorized persons, while allowing authorized persons access for collection and loading of materials and the Recycling Areas or the Bins or Containers placed therein must provide protection against adverse environmental conditions which might render the collected materials unmarketable. A sign clearly identifying all Recycling and Solid Waste collection and loading areas and the materials accepted therein shall be posted and maintained adjacent to or near all Containers.

8.29.210 Container Safety

Egress from stored Commercial Containers shall not be blocked at any time. Containers including compactors that have electrical/hydraulic systems shall have emergency shut-off controls that are clearly labeled and easily accessible at all times. Shut-off controls shall be maintained in good operating condition.

8.29.220 Mandatory Recycling

It shall be mandatory for all generators of Multi-Family Residential, Commercial, and industrial Recyclables in the City that generate the minimum volume of Refuse specified in any existing or future state laws or regulations (including, but not limited to, AB 341, SB 1383) to separate from Refuse, for Recycling purposes, all designated Recyclables, to arrange for Recycling services, or otherwise participate in Recycling as described by this chapter.

8.29.230 Acceptable Commercial Recycling Arrangements

The following are acceptable arrangements to fulfill the City's mandatory Recycling requirements:

- A. Franchised hauler collection of Source Separated Recyclables – the business arranges with a Franchisee to regularly collect Source Separated Recyclables.
- B. Mixed Waste processing – the business arranges with a Franchisee that subjects the businesses waste to Mixed Waste processing that yields Diversion results comparable to source separation.
- C. Third-party Recycling – the business arranges with an independent recycler to collect Source Separated Recyclables and arranges for the pickup of Recyclable Materials by a third-party recycler.
- D. Self-Haul – the business owner or employees regularly gather and transport Recyclable Materials to a permitted Recycling processing center.

8.29.240 Exemptions from Mandatory Recycling

The City, in its sole discretion, and only under exceptional circumstances, may deem a business exempt from mandatory Recycling. Any exemption granted to a business must be renewed annually. The circumstances under which a business may be granted an exemption include, but are not limited to, the following:

- A. The business lacks sufficient space. If this exemption applies, the business shall nevertheless demonstrate efforts toward improving its property in order to include Recycling Container space;
- B. The business implements other actions to recycle significant portion of Recyclables; or
- C. There are extraordinary circumstances that preclude the business from Recycling its waste.

8.29.250 Self-certification and Audit

Upon written request from the City, all Multi-Family Residential, Commercial, and industrial businesses in the City shall confirm and self-certify in writing that they are in compliance with the provisions of this chapter. Furthermore, upon written request from the City, business may be required to report what types of materials the business generates, and the materials that are being recycled or otherwise diverted from Disposal. City representatives shall have the right to periodically visit businesses and conduct Compliance Review.

8.29.260 Businesses Required to Provide Customers Recycling Containers

All businesses in the City (except Full-Service Restaurants) that are subject to the requirements of AB 341, AB 827 and AB 1826, and that allow customers access to their business, are required to provide customers with Solid Waste Recycling and organics collection Bins or Containers to collect material generated from products purchased on the Premises. The Bins or Containers must

be visible and easily accessible to customers. The Bins or Containers must be clearly marked with labeling indicating which materials are appropriate for each Container. Placement of the Bins or Containers must be adjacent to each trash can (restroom waste bins are excluded).

8.29.270 Waste Management and Recycling for Large Events and Large Venues

All Large Events and Large Venues as defined in this title are subject to the following requirements:

- A. **Venue Requirements.** All Large Venues shall develop and submit to the City on or before January 1 of each year, or as soon as possible after learning of an event, a list of all events scheduled for each venue for that calendar year utilizing a report form or template provided by the City, that includes event details as determined by the City. A waste management plan shall also be submitted to include the following: (i) the existing Solid Waste reduction, reuse and Recycling programs to be utilized; (ii) an estimate of the tonnage and type of Solid Waste, Recyclables and Organic Waste generated by each event to be held at the venue; (iii) proposed actions to reduce, reuse and recycle the amount of Solid Waste generated from the event and surplus edible food that may be donated to a food rescue organization/group; and (iv) arrangements for the separation, collection and Diversion from landfills of reusable and Recyclable Materials.
- B. **Event Requirements.** All Large Events shall submit to the City, utilizing a report form or template provided by the City, details of the event as determined by the City. A waste management plan shall also be submitted to include the following: (i) the existing Solid Waste reduction, reuse and Recycling programs to be utilized; (ii) an estimate of the tonnage and type of Solid Waste, Recyclables and Organic Waste generated by the event; (iii) proposed actions to reduce, reuse and recycle the amount of Solid Waste generated from the event; and (iv) arrangements for the separation, collection and Diversion from landfills of organics, reusable and Recyclable Materials.
- C. **Waste Management Plan.** A waste management plan shall be approved or rejected no later than 20 business days after a complete application is submitted for a Large Event or a waste management plan is submitted for a Large Venue.
- D. **The City may approve the plan subject to conditions reasonably necessary to meet the standards of this chapter and may consult with the City's Franchisee or Solid Waste hauler concerning the viability of the waste management plan and compliance by Large Events and Large Venues with Diversion requirements.**
- E. **If the City rejects the waste management plan, the grounds for rejection shall be clearly stated in writing.**
- F. **Waste Management Compliance Reporting.** Within 30 days after the close of an event held at a Large Venue or a Large Event, the Large Event organizer/manager or Large Venue operator shall provide a written report to the City containing the following documentation: a listing of Solid Waste reduction, reuse, Recycling and Diversion programs implemented for the event or venue, and the type and weight of materials diverted and disposed at the event or venue.

- G. Actions by the City. When issuing a permit to an operator of a Large Event or Large Venue, the City shall provide information to the operator regarding reduction, reuse and Recycling of Solid Waste materials generated at the event or venue and shall provide contact information about where Solid Waste materials may be donated, recycled or composted.
- H. Food Recovery Fees. The City, in its sole discretion, may charge and collect a food rescue fee from an operator of a Large Venue in an amount to be established by resolution of the City Council to cover costs associated with the rescue of surplus edible food generated at the Large Venue. All food rescue fees are to be deposited into a food rescue escrow account to be established and managed by the City and distributed at the City's discretion to food rescue organizations/food rescue groups operating within the City.
- I. Event or Venue Operator Fees. The City, in its sole discretion, may charge and collect a fee from an operator of a Large Event or Large Venue in an amount to be established by resolution of the City Council to recover the City's estimated costs incurred in complying with this chapter.
- J. Penalty. In addition to any other available penalties and/or remedies, any Large Event or Large Venue not complying with the waste management plan approved by the City may be subject to Compliance Review by the City or its designated representatives or Contractors at the expense of the operator of the Large Event or Large Venue. Based on such Compliance Review, the City may require additional processing of Solid Waste generated by the event or venue, at an additional cost to the operator, to meet the Diversion goals of the City.

8.29.280 Commercial and Nonprofit Registration/Reporting Requirements

All entities operating in City, including nonprofits, informal organizations involved in any type of reuse and/or Food Recovery activities, and Limited Service Charitable Feeding Operations, must:

- A. Register with the City on an annual basis.
- B. Submit to the City annual reports that provide information required by, but not limited to, AB 939 and SB 1383, utilizing a standardized report template provided by the City. At minimum, the reports will include tonnage of materials collected/accepted, tons reused/sold/donated, and tons disposed, including tons of rescued food disposed of due to spoilage.
- C. Complete an annual City survey regarding their infrastructure (including but not limited to, facilities, equipment) and reuse/rescue capacity.

8.29.290 Enforcement

Enforcement of this chapter shall be as provided in Section 8.28.030 of this title.

SECTION IV:

Chapter 8.30 of the Orange Municipal Code, “Organic Waste Disposal Reduction,” is hereby added to read as follows:

Chapter 8.30 – ORGANIC WASTE DISPOSAL REDUCTION

8.30.010. Title of Ordinance

This chapter is entitled “Organic Waste Disposal Reduction Ordinance.”

8.30.020. Requirements for Single-Family Generators

Single-Family Organic Waste Generators, except Single-Family generators that meet the Self-Hauler requirements in Section 8.29.040 of this title, shall comply with the following requirements:

- A. Shall subscribe to City’s Organic Waste collection services for all Organic Waste generated as described in Subsection B below. City 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, Single-Family generators shall adjust its service level for its collection services as requested by the City. Generators 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 18984.9(c).
- B. Shall participate in the City’s Organic Waste collection service(s) by placing designated materials in designated Containers as described herein, and shall not place Prohibited Container Contaminants in collection Containers. On or before the earlier of January 1, 2036 or the replacement of the applicable Container, Generator shall place Source Separated Green Container Organic Waste, including Food Waste, in the Green Container; Source Separated Recyclable Materials in the Blue Container; and Gray Container Waste in the Gray Container. Generators shall not place materials designated for the Gray Container into the Green Container or Blue Container.

8.30.030. Requirements for Commercial Businesses

Generators that are Commercial Businesses shall:

- A. Excluding Commercial Businesses that meet the Self-Hauler requirements in Section 8.29.040 of this title, subscribe to the City’s three-container collection services and comply with requirements of those services as described in Subsection B below. City shall have the right to review the number and size of a generator’s Containers and frequency of collection to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and, Commercial Businesses shall adjust their service level for their collection services as requested by the City.

- B. Excluding Commercial Businesses that meet the Self-Hauler requirements in Section 8.29.040 of this title, participate in the City's Organic Waste collection service(s) by placing designated materials in designated Containers as described herein. On or before the earlier of January 1, 2036 or the replacement of the applicable Container, Generator shall place Source Separated Green Container Organic Waste, including Food Waste, in the Green Container; Source Separated Recyclable Materials in the Blue Container; and Gray Container Waste in the Gray Container. Generator shall not place materials designated for the Gray Container into the Green Container or Blue Container.
- C. Supply and allow access to adequate number, size and location of collection Containers with sufficient labels or colors (conforming with Subsections D(1) and D(2) below) for employees, contractors, tenants, and customers, consistent with City's Blue Container, Green Container, and Gray Container collection service or, if Self-Hauling, per the Commercial Business' instructions to support its compliance with its Self-Haul program, in accordance with Section 8.29.040 of this title.
- D. Excluding Multi-Family Residential Dwellings, provide Containers for the collection of Source Separated Green Container Organic Waste and Source Separated Recyclable Materials in all indoor and outdoor areas where disposal Containers are provided for customers, for materials generated by that business. Such Containers do not need to be provided in restrooms. If a Commercial Business does not generate any of the materials that would be collected in one type of Container, then the business does not have to provide that particular Container in all areas where disposal Containers are provided for customers. Pursuant to 14 CCR 18984.9(b), the Containers provided by the business shall have either:
 - (1) A body or lid that conforms with the Container colors provided through the collection service provided by City, with either lids conforming to the color requirements or bodies conforming to the color requirements or both lids and bodies conforming to color requirements..
 - (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.
 - (3) Pursuant to 14 CCR 18984.7, a Commercial Business is not required to replace functional Containers that do not comply with the requirements of this subsection prior to the end of the useful life of those Containers, or prior to January 1, 2036, whichever comes first. Pursuant 14 CCR 18984.8, the Container labeling requirements are required on new Containers commencing January 1, 2022, with all Containers to be labelled by January 1, 2036.
- E. Multi-Family Residential Dwellings are not required to comply with Container placement requirements or labeling requirement in Subsection D above, pursuant to 14 CCR 18984.9(b).

- F. Excluding Multi-Family Residential Dwellings, to the extent practical through education, training, Inspection, and/or other measures, prohibit employees from placing materials in a Container not designated for those materials per the City's Blue Container, Green Container, and Gray Container collection service or, if Self-Hauling, per the Commercial Businesses' instructions to support its compliance with its Self-Haul program, in accordance with Section 8.29.040.
- G. Excluding Multi-Family Residential Dwellings, periodically inspect Blue Containers, Green Containers, and Gray Containers for contamination and inform employees if Containers are contaminated and of the requirements to keep contaminants out of those Containers pursuant to 14 CCR 18984.9(b)(3).
- H. Annually provide information to employees, contractors, tenants, and customers about Organic Waste Recovery requirements and about proper sorting of Source Separated Green Container Organic Waste and Source Separated Recyclable Materials.
- I. Provide education information to new tenants within fourteen (14) days of occupation of the Premises that describes requirements to keep Source Separated Green Container Organic Waste and Source Separated Recyclable Materials separate from Gray Container Waste (when applicable) and the location of Containers and the rules governing their use at each property.
- J. Provide or arrange access for City or its agent to their properties during all Inspections conducted in accordance with Section 8.30.090 of this chapter to confirm compliance with the requirements of this chapter.
- K. If a Commercial Business wants to Self-Haul, meet the Self-Hauler requirements in Section 8.30.080 of this chapter.
- L. Nothing in this Section prohibits an Organic Waste Generator from preventing or reducing waste generation, managing Organic Waste on site, or using a Community Composting site pursuant to 14 CCR 18984.9(c).
- M. Commercial Businesses that are Tier One or Tier Two Commercial Edible Food Generators shall comply with Food Recovery requirements, pursuant to Section 8.30.050.

8.30.040. Waivers for Organic Waste Generators

- A. De Minimis Waivers. A City may waive a Commercial Business' obligation (including Multi-Family Residential Dwellings) to comply with some or all of the Organic Waste requirements of this chapter if the Commercial Business provides documentation that the business generates below a certain amount of Organic Waste material as described in Subsection A(2) below. Commercial Businesses requesting a de minimis waiver shall:
 - (1) Submit an application specifying the services that they are requesting a waiver from and provide documentation as noted in Subection A(2) below.
 - (2) Provide documentation that either:

- (a) The Commercial Business' total Solid Waste collection service is two cubic yards or more per week and Organic Waste subject to collection in a Blue Container or Green Container comprises less than 20 gallons per week per applicable Container of the business' total waste; or,
 - (b) The Commercial Business' total Solid Waste collection service is less than two cubic yards per week and Organic Waste subject to collection in a Blue Container or Green Container comprises less than 10 gallons per week per applicable Container of the business' total waste.
 - (3) Notify City if circumstances change such that Commercial Business' Organic Waste exceeds threshold required for waiver, in which case waiver will be rescinded.
 - (4) Provide written verification of eligibility for de minimis waiver every five years.
- B. Physical Space Waivers. City may waive a Commercial Business' or property owner's obligations (including Multi-Family Residential Dwellings) to comply with some or all of the Recyclable Materials and/or Organic Waste collection service requirements if the City has evidence from its own staff, a hauler, licensed architect, or licensed engineer demonstrating that the Premises lacks adequate space for the collection Containers required for compliance with the Organic Waste collection requirements of this chapter.
- A Commercial Business or property owner requesting a physical space waiver shall:
- (1) Submit an application specifying the services that they are requesting a waiver from and provide documentation as noted in Subsection B(2) below.
 - (2) Provide documentation that the Premises lacks adequate space for Blue Containers and/or Green Containers including documentation from its hauler, licensed architect, or licensed engineer.
 - (3) Provide written verification of eligibility for physical space waiver every five years.
- C. Review and Approval of Waivers by City. Review and approval of waivers will be performed by the City Enforcement Official.

8.30.050. Requirements for Commercial Edible Food Generators

- A. Tier One Commercial Edible Food Generators must comply with the requirements of this Section commencing January 1, 2022, and Tier Two Commercial Edible Food Generators must comply commencing January 1, 2024, pursuant to 14 CCR 18991.3.
- B. Large Venue or Large Event operators not providing food services, but allowing for food to be provided by others, shall require Food Facilities operating at the Large Venue or Large Event to comply with the requirements of this Section, commencing January 1, 2024.
- C. Commercial Edible Food Generators shall comply with the following requirements:

- (1) Arrange to recover the maximum amount of Edible Food that would otherwise be disposed of.
 - (2) Contract with, or enter into a written agreement with Food Recovery Organizations or Food Recovery Services for: (i) the collection of Edible Food for Food Recovery; or, (ii) acceptance of the Edible Food that the Commercial Edible Food Generator Self-Hauls to the Food Recovery Organization for Food Recovery.
 - (3) Shall not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery Organization or a Food Recovery Service.
 - (4) Allow City's designated enforcement entity or designated third party enforcement entity to access the Premises and review records pursuant to 14 CCR 18991.4.
 - (5) Keep records that include the following information, or as otherwise specified in 14 CCR 18991.4:
 - (a) A list of each Food Recovery Service or organization that collects or receives its Edible Food pursuant to a contract or written agreement established under 14 CCR 18991.3(b).
 - (b) A copy of all contracts or written agreements established under 14 CCR 18991.3(b).
 - (c) A record of the following information for each of those Food Recovery Services or Food Recovery Organizations:
 - i. The name, address and contact information.
 - 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. A reasonable estimate of the food collected or Self-Hauled to a Food Recovery Service or Food Recovery Organization for Food Recovery, measured in pounds recovered per month or other identifiable means of quantification.
- D. Nothing in this chapter shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017, the federal Good Samaritan Act, the California Retail Food Code, or share table and school food donation guidance pursuant to Senate Bill 557 of 2017.

8.30.060. Requirements for Food Recovery Organizations and Services

- A. Food Recovery Services collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR 18991.5(a)(1):
 - (1) The name, address, and contact information for each Commercial Edible Food Generator from which the service collects Edible Food.
 - (2) A reasonable estimate of the food collected from each Commercial Edible Food Generator per month, measured in pounds recovered or other identifiable means of quantification.
 - (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 receiving Edible Food from the Food Recovery Service.
- 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 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR 18991.5(a)(2):
 - (1) The name, address, and contact information for each Commercial Edible Food Generator from which the organization receives Edible Food.
 - (2) A reasonable estimate of the Edible Food received from each Commercial Edible Food Generator per month, measured in pounds received or other identifiable means of quantification.
- C. Food Recovery Organizations collecting or receiving Edible Food directly from a Food Recovery Service shall maintain a record of the name, address, and contact information for each such Food Recovery Service.
- D. Food Recovery Organizations and Food Recovery Services with a primary address in the City, that have contracts or written agreements with one or more Commercial Edible Food Generators pursuant to 14 CCR 18991.3(b), shall report to the City no later than March 31 the total pounds of Edible Food recovered in the previous calendar year from the Tier One and Tier Two Commercial Edible Food Generators they have a contract or written agreement with pursuant to 14 CCR 18991.3(b).
- E. Food Recovery Capacity Planning. Food Recovery Services and Food Recovery Organizations operating in the City shall provide information and consultation to the City, within 60 days after request, regarding existing, or proposed new or expanded Food Recovery capacity that could be accessed by the City and its Commercial Edible Food Generators.

8.30.070. Requirements for Haulers and Facility Operators

A. Requirements for Hauler(s)

- (1) City's franchised waste hauler providing Residential, Commercial, or industrial Organic Waste collection services to generators within the City's boundaries shall meet the following requirements and standards as a condition of approval of a contract, agreement, or other authorization with the City to collect Organic Waste:
 - (a) Provide written report to the City annually, identifying the facilities to which it will transport Organic Waste including facilities for Source Separated Recyclable Materials and Source Separated Green Container Organic Waste.
 - (b) Transport Source Separated Recyclable Materials and Source Separated Green Container Organic Waste to a Facility, operation, activity, or property that recovers Organic Waste as defined in 14 CCR, Division 7, Chapter 12, Article 2.
- (2) City's franchised waste hauler's obligation to collect Organic Waste shall comply with education, equipment, signage, Container labeling, Container color, contamination monitoring, reporting, and other requirements contained within its franchise agreement, permit, license, or other agreement entered into with City as defined by state law or the franchise agreement, whichever is more stringent.

B. Requirements for Facility Operators and Community Composting Operations

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

8.30.080. Self-Hauler Requirements

- A. Self-Haulers shall source separate all Recyclable Materials and Organic Waste (materials that City otherwise requires generators to separate for collection in the City's organics and Recycling collection program) generated on-site from Solid Waste in a manner consistent with 14 CCR 18984.1 and 18984.2, or shall haul Organic Waste to a High Diversion Organic Waste Processing Facility as specified in 14 CCR 18984.3.

- B. Self-Haulers shall haul their Source Separated Recyclable Materials to a Facility that recovers those materials; and haul their Source Separated Green Container Organic Waste to a Solid Waste Facility, operation, activity, or property that processes or recovers Source Separated Organic Waste. Alternatively, Self-Haulers may haul Organic Waste to a High Diversion Organic Waste Processing Facility.
- C. Self-Haulers that are Commercial Businesses (including Multi-Family Residential Dwellings) 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 City. The records shall include the following information:
 - (1) Delivery receipts and weight tickets from the entity accepting the waste.
 - (2) A reasonable estimate of the amount of material transported by the generator to each entity, measured in cubic yards, tons, or other identifiable means of quantification.
 - (3) If the material is transported to an entity that does not have scales on-site, or employs scales incapable of weighing the Self-Hauler's vehicle in a manner that allows it to determine the weight of materials received, the Self-Hauler is not required to record the weight of material but shall keep a record of the entities that received the Organic Waste.
- D. A Residential Organic Waste Generator that Self-Hauls Organic Waste is not required to record or report information in Subsection C above.

8.30.090. Inspections and Investigations by City

- A. The City is authorized to conduct Inspections and investigations, at random or otherwise, of any collection Container, collection vehicle loads, or Facility for materials collected from generators or Source Separated materials to confirm compliance with this chapter 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 City to enter the interior of a private Residential property for Inspection
- B. Regulated entity shall provide or arrange for access during all Inspections (with the exception of Residential property interiors) and shall cooperate with the City during such Inspections and investigations. Such Inspections and investigations may include confirmation of proper placement of materials in Containers, Edible Food Recovery activities, records, or any other requirement of this chapter. 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 chapter and may result in penalties described herein.

- C. Any records obtained by the City 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. City shall accept written complaints, including anonymous complaints, from persons regarding an entity that may be potentially non-compliant with SB 1383 Regulations.

8.30.100. Enforcement

Enforcement of this chapter shall be as provided in Section 8.28.030 of this title.

SECTION V:

Chapter 8.31 of the Orange Municipal Code, “Construction and Demolition Waste Disposal Reduction,” is hereby added to read as follows:

Chapter 8.31 – CONSTRUCTION AND DEMOLITION WASTE DISPOSAL REDUCTION

8.31.010 Title of Ordinance

This chapter is entitled “Construction and Demolition Waste Disposal Reduction Ordinance.”

8.31.020 Waste Management Plan for Construction and Demolition

- A. Covered Projects. Prior to beginning any Construction or Demolition activities, the Applicant shall submit a waste management plan to the City Enforcement Official or sign up for C&D services through the City’s Solid Waste Hauler and shall comply with all provisions of this chapter.
- B. Non-covered Projects. Proponents of Non-Covered Projects shall Divert at least sixty-five percent (65%) of all project-related C&D Debris, or other Diversion Requirements as may be imposed by applicable laws, but shall not be required to submit a waste management plan to the Enforcement Official.
- C. Compliance as a Condition of Approval. Compliance with the provisions of this chapter shall be listed as a condition of approval on any building or Demolition permit issued for a Covered Project.

8.31.030 Submission of Waste Management Plan.

- A. Applicants for building or Demolition permits involving any Covered Project shall complete and submit a waste management plan ("WMP"), on a WMP form approved by the City for this purpose, as part of the application packet for the building and/or Demolition permit. The completed WMP shall indicate all of the following:
 - (1) The estimated weight of project C&D Debris, by material type, to be generated;
 - (2) The maximum weight of such materials that can feasibly be Diverted via reuse or Recycling;
 - (3) The vendor or Facility that the Applicant proposes to use and receive the material;
 - (4) The estimated weight of C&D Debris that will be landfilled;

- (5) Any special or specific activities that the Applicant will use to comply with the provisions of this section;

For purposes of this chapter, measurements of weight may be satisfied by measurements of volume, as authorized by Section 8.31.060.B.

- B. Calculating Weight of Debris. In estimating the weight of materials identified in the WMP, the Applicant shall use the standardized Conversion Rates approved by the City for this purpose.
- C. Deconstruction. In preparing the WMP, Applicants for building or Demolition permits involving the removal of all or part of an existing structure shall consider Deconstruction, to the maximum extent feasible, and shall make the materials generated thereby available for salvage rather than being landfilled.

8.31.040 Review of Waste Management Plan.

- A. Approval. No building or Demolition permit shall be issued for any Covered Project unless and until the Enforcement Official has approved the WMP. Approval shall not be required, however, where an emergency Demolition is required to protect public health or safety as determined by the Enforcement Official. The Enforcement Official shall only approve a WMP if the official first determines that all of the following conditions have been met:
 - (1) The WMP provides all of the information set forth in Section 8.31.030.
 - (2) The WMP indicates that at least sixty-five percent (65%) of all C&D Debris generated by the project will be Diverted, or other Diversion Requirements as may be imposed by applicable laws.
 - (3) If the Enforcement Official determines that these conditions have been met, the official shall mark the WMP "approved," return a copy of the WMP to the Applicant.
- B. Non-approval. If the Enforcement Official determines that the WMP is incomplete or fails to indicate that at least sixty-five percent (65%) of all C&D Debris generated by the project will be reused or recycled, or other Diversion Requirements as may be imposed by applicable laws, the Enforcement Official shall either:
 - (1) Return the WMP to the Applicant marked "denied," including a statement of reasons, and immediately stop processing the building or Demolition permit application; or
 - (2) Return the WMP to the Applicant marked "further information required," accompanied by a description of the needed additional information.

8.31.050 Compliance with Waste Management Plan.

- A. Documentation. Within 90 days after completion of any Covered Project, the Applicant shall submit to the Enforcement Official documentation that it has met the Diversion Requirement. This documentation shall include all of the following:
 - (1) Receipts from the vendor and Facility that collected and received each material showing the actual weight or volume of that material;

- (2) A copy of the previously approved WMP for the project adding the actual weight or volume of each material Diverted and landfilled;
 - (3) Any additional information the Applicant believes is relevant to determining its efforts to comply in good faith with the approved WMP for the project.
- B. **Weighing of Wastes.** The Applicant shall make reasonable efforts to ensure that all C&D Debris Diverted or landfilled, is measured and recorded using the most accurate method of measurement available. Unless otherwise exempted by the Enforcement Official, all C&D Debris shall be weighed. Regarding C&D Debris for which weighing is not required due to small size or other considerations, a volumetric measurement shall be used. For conversion of volumetric measurements to weight, the Applicant shall use the standardized Conversion Rates approved by the City for this purpose.
- C. **Determination of Compliance and Release of Building Permit.** The Enforcement Official shall review the information submitted under this section and determine whether the Applicant has complied with the Diversion Requirement, as follows:
 - (1) **Full Compliance.** If the Enforcement Official determines that the Applicant has fully complied with the Diversion Requirement applicable to the project, the official shall give authorization for release of the building permit.
 - (2) **Good Faith Effort to Comply.** If the Enforcement Official determines that the Diversion Requirement has not been achieved, the Enforcement Official may determine on a case-by-case basis whether the Applicant has made a good faith effort to comply with the Diversion Requirement. In making this determination, the Enforcement Official shall consider the availability of markets for the C&D Debris landfilled, the size of the project, and the documented efforts of the Applicant to Divert C&D Debris. If the Enforcement Official determines that the Applicant has made a good faith effort to comply with the Diversion Requirement, the official shall authorize release of the building permit.
 - (3) **Noncompliance.** If the Enforcement Official determines that the Applicant has not made a good faith effort to comply with the Diversion Requirement, or if the Applicant fails to submit the documentation required by this chapter within the required time period for Construction as specified in the City of Orange Building Code, then the Enforcement Official shall notify the Applicant. The Applicant is subject to fines as established by resolution of the City Council and other enforcement as authorized. At such time as the Enforcement Official determines the Applicant has substantially complied with the Diversion Requirement, the official shall authorize release of the building permit.

8.31.060 Application for Exemption from Waste Management Plan.

- A. **Application.** If an Applicant for a Covered Project believes unique circumstances make it unfeasible to comply with the Diversion Requirements, the Applicant may apply for an exemption at the time the WMP is submitted as required under Section 8.31.030. The Applicant shall indicate on the WMP the maximum rate of Diversion believed feasible for each material and the specific circumstances that make it infeasible to comply with the Diversion Requirement.

- B. Meeting with Enforcement Official. The Enforcement Official shall review the information supplied by the Applicant and may meet with the Applicant to discuss possible ways of meeting the Diversion Requirement. Based on the information supplied by the Applicant the Enforcement Official shall determine whether it is possible for the Applicant to meet the Diversion Requirement.
- C. Granting of Exemption. If the Enforcement Official determines that it is infeasible for the Applicant to meet the Diversion Requirement due to unique circumstances, the Enforcement Official shall determine the maximum feasible Diversion rate for each material and shall indicate this rate on the WMP submitted by the Applicant. The Enforcement Official shall return a copy of the WMP to the Applicant marked "approved for exemption."
- D. Denial of Exemption. If the Enforcement Official determines that it is possible for the Applicant to meet the Diversion Requirement, the Enforcement Official shall so inform the Applicant in writing. The Applicant shall resubmit a WMP form in full compliance with Section 8.31.030. If the Applicant fails to resubmit the WMP, or if the resubmitted WMP does not comply with Section 8.31.030, the Enforcement Official shall deny the WMP.

8.31.070 Other Exemptions to Waste Management Plan

Except as otherwise required by the City in its sole discretion, no WMP shall be required for the following:

- A. Non-Covered Project.
- B. Roofing projects not involving the tear-off of the existing roof.
- C. Residential projects, other than roofing, not involving expansion of square footage of habitable space.
- D. Work for which only one of the following permits is required: plumbing, electrical, or mechanical permit.
- E. Seismic tie-down projects.
- F. Installation of prefabricated enclosures and covers where no foundation or other structural building modifications are required.
- G. Installation of prefabricated accessories such as signs or antennas where no structural building modifications are required.

8.31.080. Enforcement

Enforcement of this chapter shall be as provided in Section 8.28.030 of this title.

SECTION VI:

If any section, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each section, subdivision, paragraph, sentence, clause and phrase thereof, irrespective of the fact that any one (or more) section, subdivision, paragraph, sentence, clause or phrase had been declared invalid or unconstitutional.

SECTION VII:

The City Clerk is hereby directed to certify the adoption of this Ordinance and cause a summary of the same to be published as required by law. This Ordinance shall take effect thirty (30) days from and after the date of its final passage.

ADOPTED this _____ day of _____, 2021.

Mark A. Murphy, Mayor, City of Orange

ATTEST:

Pamela Coleman, City Clerk, City of Orange

STATE OF CALIFORNIA)
COUNTY OF ORANGE)
CITY OF ORANGE)

I, PAMELA COLEMAN, City Clerk of the City of Orange, California, do hereby certify that the foregoing Ordinance was introduced at the regular meeting of the City Council held on the ____ day of _____, 2021, and thereafter at the regular meeting of said City Council duly held on the ____ day of _____, 2021 was duly passed and adopted by the following vote, to wit:

AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:
ABSTAIN:	COUNCILMEMBERS:

Pamela Coleman, City Clerk, City of Orange