

## CHAPTER 1

### REGULATION OF THE STORAGE, COLLECTION, TRANSPORTATION AND DISPOSAL OF SOLID WASTE AND SOURCE SEPARATED MATERIALS

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521-1.

#### General.

Except as provided in this chapter, the provisions of Sections [17301](#) through [17751](#) of Title [14](#) of the California Code of Regulations are hereby adopted as the minimum standards for storage, collection, transportation, and disposal of solid waste and source-separated materials in Humboldt County. It shall be unlawful for persons to engage in storage, collection, transportation, or disposal practices for solid waste and source separated materials that do not meet those minimum standards, and the standards herein set forth.

(Repealed and reenacted by Ord. 2063, § 1, 2/14/1995)

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521-2.

### Purpose and Intent.

The purpose of this Ordinance is to promote the health, safety and welfare of the people of Humboldt County, and to protect the environment by establishing and maintaining a dynamic and flexible system for the management of solid wastes and waste resources which encompasses the storage, collection, transportation, separation, processing, waste reduction, recycling, recovery and marketing of diverted materials, and disposal of solid waste for the County of Humboldt.

It is the intent of this Ordinance to achieve these purposes while reducing the amount and toxicity of waste generated in the county to the greatest degree possible, and by maximizing the use of source-separated materials as a resource for local businesses and manufacturers and residences. (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995)

521-3.

### Definitions.

Unless otherwise stated, the terms used in this ordinance shall have the same meaning as provided by the definitions set forth in Sections [17225](#) and 18982 of Title [14](#) of the California Code of Regulations and the appropriate subsections of Division 30, Part 1, Chapter 2 of the [California Public Resources Code](#). (Repealed and reenacted by Ord. 2063, § 1, 02/14/1995)

(a) “Authorized Collection Agent” means a person or business that a local governing body or private commercial entity authorizes or contracts with to collect source-separated materials. An authorized agent may be a governmental collection service, a private refuse collector, private recycling enterprise, or private non-profit corporation or association. (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995)

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

(c) “Blue Container” means a container or bin used for the purpose of storage and collection of source separated recyclable materials but may include the following types of organic wastes if part of the current recycling program: paper products, printing and writing paper, wood and dry lumber and textiles.

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(d) "Board" means the Board of Supervisors of Humboldt County.

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

(f) "Centralized Drop-Off Location" means a designated source-separated materials collection location used by multiple generators. (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995)

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

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

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

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

(k) "County" means the County of Humboldt, State of California.

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

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

(n) "Department" means the Division of Solid Waste in the Department of Public Works.

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

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

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

(r) "Disposal site" has the same definition as provided in Public Resources Code Section 40122.

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

(t) "Edible food" is food intended for people to eat, including food not sold because of appearance, age, freshness, grade, surplus, etc. Edible food includes, but is not limited to, prepared foods, packaged foods and produce. All edible food must meet the food safety requirements of the California Retail Food Code.

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

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

(w) "Food" means a raw, cooked, or processed edible substance, ice, beverage, an ingredient used or intended for use or for sale in whole or in part for human consumption, and chewing gum.

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(x) “Food facility” means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption at the retail level, including, but not limited to, the following:

(1) An operation where food is consumed on or off the premises, regardless of whether there is a charge for the food.

(2) A place used in conjunction with the operations described in this subdivision, including, but not limited to, storage facilities for food-related utensils, equipment, and materials.

(3) “Food facility” includes permanent and nonpermanent food facilities, including but not limited to, the following:

(A) Public and private school cafeterias.

(B) Restricted food service facilities.

(C) Licensed health care facilities, except as provided in paragraph (12) of subdivision (c).

(D) Commissaries.

(E) Mobile food facilities.

(F) Mobile support units.

(G) Temporary food facilities.

(H) Vending machines.

(I) Certified farmers’ markets, for purposes of permitting and enforcement pursuant to Section 114370.

(J) Farm stands, for purposes of permitting and enforcement pursuant to Section 114375.

(K) Fishermen’s markets.

(L) Microenterprise home kitchen operations. (*NOTE: These are not allowed in Humboldt County*)

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(M) Catering operation.

(N) Host facility.

(y) “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 including, but not limited to: (1) A food bank as defined in Section 113783 of the State Health and Safety Code; (2) A nonprofit charitable organization as defined in Section 113841 of the State Health and Safety code; and, (3) A nonprofit charitable temporary food facility as defined in Section 113842 of the State Health and Safety Code. A Food Recovery Organization is not a Commercial Edible Food Generator for the purposes of this article and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7).

(z) “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 Edible Food Recovery.

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

(bb) “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.

(cc) “Food Waste” means Food Scraps and Food-Soiled Paper.

(dd) “Franchise” as used in this ordinance means a written agreement between a refuse or source-separated materials collector and the County of Humboldt which grants to the collector the right to provide a specified service and which imposes upon the collector certain responsibilities as specified in the agreement. Such franchises shall be granted by the Board of Supervisors as specified in section [521-6](#) (a). (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995)

(ee) “Franchise Contract Administrator” as used in this ordinance means the person(s) or division(s) within the Department of Public Works responsible for the administration of solid waste disposal and/or source-separated materials collection contracts. (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995)

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

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

(hh) "Gray Container Waste" has the same definition as provided in 14 CCR Section 17402(a)(6.5) and shall be for the collection of non-organic waste only.

(ii) "Green Container" means a container or bin used for the purpose of storage and collection of source separated organic waste. The green container shall be intended for the collection of organic waste only and not non-organic waste. The green container shall be transported to a facility that recovers or processes source separated organic waste.

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

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

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

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

(nn) "Inert wastes" means waste which includes, but is not limited to, rock, earth, construction rubble and asphalt chunks, and which contains insignificant amounts of decomposable wastes and no soluble pollutants.

(oo) "Institutional entity" means any facility operated by a governmental entity, including City, County, State and/or Federal buildings, local education entities, colleges, and public recreational sites.

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

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

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

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

(ss) "Nondiscarded recyclable materials" means any recyclable materials, as defined in this Chapter, the owner sells or donates.

(tt) "Non-putrescible Wastes" are materials not capable of being decomposed by micro-organisms with sufficient rapidity so as to create nuisances such as odors, gases or other offensive conditions, and include but are not limited to materials such as ashes, paper, cardboard, cans, wood, glass, bedding, crockery, plastics, or rubber by-products. (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995)

(uu) "Notice of Violation" means a notice that a violation has occurred that includes a compliance date to avoid an action to seek penalties.

Notice of Violation shall contain:

- (1) The name(s), or account name(s) if different, of each person or entity to whom it is directed.
  - (2) A factual description of the violations of this chapter, including the regulatory section(s) being violated.
  - (3) A compliance date by which the operator is to take specified action(s).
  - (4) The penalty for not complying within the specified compliance date.
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(vv) "Occupant" means the person in possession or control of the premises, including but not limited to persons such as tenant, lessee, licensee, manager, custodian or caretaker.

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

(xx) "Permit" as used in this Chapter means a written approval for operation and/or use of solid waste disposal facilities, or for the collection of source separated materials, as specified in sections [521-5](#) (a), [521-6](#) (a), and [521-10](#). (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995)

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

(zz) "Prohibited Container Contaminants" means any of the following:

- (1) Non-organic waste placed in a green container that is part of an organic waste collection service provided pursuant to California Code of Regulations Section 18984.1 or 18984.2;
- (2) Organic wastes that are carpet, hazardous wood waste, or non-compostable paper placed in the green container that is part of an organic waste collection service provided pursuant to Section 18984.1 or 18984.2;
- (3) Organic wastes placed in a gray container that pursuant to Section 18984.1 or 18984.2 were intended to be collected separately in the green container or blue container;
- (4) Organic wastes placed in the blue container shall be considered prohibited container contaminants when those wastes were specifically identified in Title 14, California Code of Regulations, Division 7, Chapter 12 or this ordinance for collection in the green container for recovery. Paper products, printing and writing paper, wood and dry lumber may be considered acceptable and not considered prohibited container contaminants if they are placed in the blue container.

(aaa) "Public facility" includes, but is not limited to, buildings, structures, marinas and outdoor recreation areas owned by a local agency.

(bbb) "Putrescible Wastes" are wastes that are capable of being decomposed by micro-organisms with sufficient rapidity so as to create nuisances such as odors, gases or other offensive conditions, and include but are not limited to materials such as food wastes, offal and dead animals. (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995)

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

(ddd) "Recycling" means the process of collecting, sorting, cleansing, treating and reconstituting materials that would otherwise become solid waste, and returning them to the economic mainstream in the form of raw material for new, reused or reconstituted products which meet the quality standards necessary to be used in the marketplace. "Recycling" does not include transformation, as defined in Public Resources Code Section 40201.

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

(fff) "Recycling area" or "areas for recycling" means space allocated for collecting and loading of recyclable materials. Such areas shall have the ability to accommodate receptacles for recyclable materials. Recycling areas shall be accessible and convenient for those who deposit as well as those who collect and load any recyclable materials placed therein.

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

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

(iii) "SB 1383" means Senate Bill 1383 of 2016 (Chapter 395), which added Sections 39730.5, 39730.6, 39730.7, and 39730.8 to the Health and Safety Code, and added Chapter 13.1 (commencing with Section 42652) to Part 3 of Division 30 of the Public Resources Code, establishing methane emissions reduction targets in a Statewide effort to reduce emissions of short-lived climate pollutants as amended, supplemented, superseded, and replaced from time to time.

(jjj) "Segregated recyclable materials" means those recyclable materials which:

- (1) Have been source separated by the person from whom they are being collected; or

(2) Are physically separated from other waste material following collection.

(kkk) "Single-Family Dwelling" or "Single-Family Residential Dwelling" means notwithstanding any contrary definition in the County code and for the purposes of this Chapter only, any detached or attached house or residence designed or used for occupancy by one family, provided that collection service feasibly can be provided to such premises as an independent unit, and the owner or occupant of such independent unit is billed directly for the collection service.

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

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

(nnn) "Source-separated materials" shall mean any recyclable, reusable, repairable or compostable materials stored by the generator separately from the storage of solid waste. (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995)

(ooo) "Source-separated Materials Collector" shall mean any person engaged in the business of collecting or transporting, on a regularly scheduled basis, recyclable or compostable materials which have been separated by the generator for reuse or processing, and diversion from disposal. "Source-separated materials collector" does not include non-profit community service organizations for which the primary function of the organization is neither the collection nor the processing of recyclable or compostable materials. (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995)

(ppp) "State" means the state of California.

(qqq) "Tier 1 generator" means a commercial 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

(rrr) "Tier 2 generator" means a commercial edible food generator that is one of the following:

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- (1) Restaurant with 250 or more seats or a total facility size equal 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 a total cafeteria size equal or greater than 5,000 square feet
- (7) A local education agency with an on-site food facility

521-4.

## Standards for Removal of Solid Waste and Source Separated Materials

(a) Provisions Declared Minimum Standards.

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

(b) Refuse Deposition—Private Property.

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

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(c) General Refuse Removal Requirement.

The owner or tenant of any premises, business establishment, or industry shall be responsible for the satisfactory removal of all refuse accumulated by him/her on his/her property or premises in accordance with State requirements (14 CCR 17331). The County may require removals as it deems necessary. The owner or tenant shall effect the removal of solid waste by one of the following means:

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

(d) Refuse Removal Requirements for Generators Subject to SB 1383

(1) Single-Family Dwelling Organic Waste Generators Requirements:

- (A) Single-Family Dwelling Organic Waste Generators shall subscribe to the County's three-container collection services and comply with the requirements of those services as described below, except Single-Family Dwelling Organic Waste Generators that meet the Self-Hauler requirements stated in paragraph (C) below or have been granted a waiver pursuant to 521-12 (e). Single-Family Organic Waste Generators shall adjust their level for their collection services as requested by the County.
- (B) Single-Family Dwelling Organic Waste Generators shall place Source Separated Green Container Organic Waste, including Food Waste, in the Green Container; Source Separated Recyclable Materials in the Blue Container; and Gray Container Waste in the Gray Container. Generators shall not place materials designated for the Gray Container into the Green Container or Blue Container.
- (C) Generators subject to SB 1383 may additionally manage their Organic Waste by preventing or reducing their Organic Waste, managing Organic Waste on-site, and/or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).
- (D) Generators shall not place Prohibited Container Contaminants in the collection containers.

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

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(A) Commercial Businesses shall subscribe to the County's three-container collection services and comply with the requirements of those services as described below, except Commercial Businesses that meet the Self-Hauler requirements stated in subsection (C) below or have been granted a waiver pursuant to Section 521-12 (e). Commercial Businesses shall adjust their level for their collection services as requested by the County.

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

(3) Self-Hauler Requirements

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

- i. The Generator shall source separate all organic waste generated on site in a manner consistent with 14 CCR Sections 18984.1 and 18984.2, or haul organic waste to a high diversion organic waste processing facility as specified in Section 18984.3.
  - ii. The Generator shall haul source separated organic waste to a solid waste facility operation, activity, or property that processes or recovers source separated organic waste.
  - iii. The Generator shall keep a record of the amount of organic waste delivered to each solid waste facility, operation, activity, or property that processes or recovers organic waste; this record shall be subject to inspection by the County and shall be provided to the County if requested.
    1. The records shall include delivery receipts and weight tickets from the entity accepting the waste.
    2. The record shall indicate the amount of material in cubic yards or tons transported by the Generator to each entity.
    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 waste received, the Self-Hauler is not
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required to record the weight of material but shall keep a record of the entities that received the Organic Waste.

iv. A Single-Family Dwelling Organic Waste Generator that self-hauls Organic Waste is not required to record or report the information identified in clause (c) above.

(B) A Generator that is located in a jurisdiction or area that received a waiver under 14 CCR Section 18984.12 and is not a business subject to the requirements of Section 42649.81 of the Public Resources Code is not required to comply with the requirements of this section.

(e) Mandatory Commercial Organics Recycling

(1) A Commercial Business that is not subject to SB 1383 but that generates two (2) cubic yards or more of commercial solid waste, as defined in Public Resources Code Section 42649.1, per week or is a Multi-Family Residential Dwelling of five (5) units or more shall:

(A) Take at least one of the following actions:

i. Source separate Organic Waste from other Solid Waste and subscribe to Organic Waste collection service provided by the County's franchised hauler.

ii. Source separate its own Organic Waste and self-haul to a solid waste facility operation, activity, or property that processes or recovers source separated Organic Waste.

iii. Compost its Organic Waste onsite and/or use a Community Composting site.

iv. If separate Organic Waste collection services are not offered through the County's franchised hauler, arrange for separate Organic Waste collection services, until the County's franchised hauler offers Organic Waste collection services.

(B) When arranging for gardening or landscaping services, require in the contract or work agreement that the Organic Waste generated by those services be managed in compliance with this chapter.

(2) A property owner may require a lessee or tenant of that property to source separate their Organic Waste to aid in compliance with this section.

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

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

(f) Mandatory Commercial Recycling

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

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

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

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(g) Hazardous Materials.

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

(h) Tires and/or Hard-to-Handle Waste.

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

(i) Use of Refuse.

Notwithstanding the provisions of Sections 521-4 (b), refuse may be used for animal feed, soil improvement, recycling or other beneficial purpose, provided such use complies with this Chapter and all other laws and does not create a health menace or nuisance.

(j) Recyclable Material Disposal Requirements.

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

## 521-5.

### Collection and Storage of Solid Waste and Source-Separated Material.

(a) Authorization.

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

(A) Persons engaged in the business of collecting, transporting or disposing of solid waste within the County shall be required to obtain a franchise or permit from the Franchise Contract Administrator. (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995)

(B) Source-separated materials collectors shall be required to obtain a permit or franchise

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from the County. If a collection fee is charged for the collection of source-separated materials, such services shall be regulated by non-exclusive franchise agreement with the County. If no collection fee is charged for such sources, they shall be regulated by permit. (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995)

(C) Persons engaged in the processing of source-separated materials for diversion from disposal shall not be required to obtain a permit or franchise as otherwise required by this Chapter, except as may be required by the State of California. Such persons shall be Subject to the reporting requirements as defined under section [521-5](#) (p)(2). (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995)

(D) Non-profit community service organizations for which the primary function is neither the collection nor the processing of recyclable or compostable materials, such as youth groups, shall not be required to obtain a permit from the County for the purpose of collecting source-separated materials. (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995)

(b) Hauling of Own Solid Waste and Source-Separated Materials.

Nothing in this Chapter shall be interpreted to prevent an individual from carrying said individual's solid waste or source-separated materials to an approved public or private processing site, or to a disposal site for which a permit is in effect. An individual transporting such solid waste or source-separated materials to such private or public solid waste or processing facility shall take all steps necessary to prevent the loss of any portion of the materials during transport. Such steps shall include the use of tarps or other means to prevent loss of debris from the vehicle. Persons hauling their own solid waste or source-separated materials are required to meet the minimum removal frequencies of Section [521-4\(c\)](#) and [521-4\(d\)](#), and the minimum standards of Section [521-1](#). (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995)

(c) Ownership and Control of Materials.

- (1) Nothing in this Chapter is intended to limit the right of any person to donate, sell, or otherwise dispose of his or her source-separated materials. (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995)
  - (2) Solid wastes subject to collection by a refuse collector shall become the property of the refuse collector from such time as the collector takes possession of the wastes. Collector shall be
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deemed to take possession of solid wastes at the moment such wastes are deposited into the collection vehicle. Solid waste found to be contaminated with hazardous materials shall remain the property and responsibility of the generator. (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995)

- (3) Source-separated materials subject to collection by an authorized source-separated materials collector, as specified by agreement, shall become the property of the authorized collection agent, from such time as the collector takes possession of the materials. Collector shall be deemed to take possession of materials at the moment such materials are deposited into the container at the centralized drop-off location, or into the collection vehicle. Unauthorized removal of source-separated materials from designated collection locations is prohibited. (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995)

(A) Franchised haulers providing Residential, Commercial, or Industrial Organic Waste Collection Services to Generators subject to SB 1383 within the County's boundaries shall meet the following requirements and standards as a condition of approval of a contract, agreement, or other authorization with the County to collect Organic Waste

- i. Identify the facilities to which they will transport Organic Waste unless otherwise designated by the County.
- ii. Transport Source Separated Green Container Organic Waste to a facility, operation, or activity that recovers Organic Waste as defined in 14 CCR, Division 7, Chapter 12, Article 2 unless otherwise designated by the County.
- iii. Obtain approval from the County to haul Organic Waste, unless they are transporting Source Separated Organic Waste to a Community Composting site.
- iv. Nothing in this section shall preclude the Board of Supervisors from approving franchise agreements specifying disposal or processing at privately owned and lawfully permitted disposal or processing facilities. (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995)

(d) Minimum Standards for Collection of Solid Waste and Source-Separated Materials.

All collectors shall meet the minimum standards of Section [17301](#) of Title [14](#) of the California Code of Regulations, in addition to those otherwise required by this Chapter, including the following: (Repealed and reenacted by Ord. 2063, § 1, 02/14/1995)

- (1). Collection.
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- (A). Each collector shall be responsible for the removal and disposal of all solid waste and/or source-separated materials placed, spilled, or tracked on any road, street, alley or public place by collector's equipment. If the collector fails to clean the same within four (4) hours after notice is served by the Franchise Contract Administrator, the Franchise Contract Administrator may cause such roads, streets, alleys, or public places to be cleaned at the expense of the collector. (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995)
  
  - (B). Collection of source-separated materials shall not occur between the hours of 8:00 p.m and 5:00 a.m. Exceptions to this requirement may be granted on a case-by-case basis by the Franchise Contract Administrator. (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995)
  
  - (C). Each collector shall exercise care during loading, unloading and operation of equipment such that the noise level shall not be excessive. In no event shall the noise level exceed that allowed by contract or by California Motor Vehicle Code, whichever is less. (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995)
  
  - (D). In rural areas, collector shall not be required to travel upon private driveways to collect solid waste or source-separated materials. Customers shall place their containers in a convenient location for removal within five (5) feet of the public roadway. (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995)
  
  - (E). Collector shall not be required to manually remove containers which exceed a laden weight of fifty (50) pounds. (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995)
  
  - (F). When hazardous road conditions are present due to snow, ice, slides or other reasons, the collector may, with the approval of the Franchise Contract Administrator, suspend collection in those areas affected. Special collections, at no additional charge, shall be made when road conditions permit. (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995)
  
  - (G). Any person who has entered into a contract with the County, or obtained a franchise for the collection and disposal or handling of solid waste or source-separated materials
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shall collect all solid waste or source-separated materials offered or specified by franchise, except as provided in Section [523-1](#), as often as required so long as the customer pays bills promptly for such service. The franchise holder shall remove all solid waste or source-separated materials from the premises in a sanitary manner.

(Repealed and reenacted by Ord. 2063, § 1, 2/14/1995)

(2). Emergency Collections - Solid Waste.

Adequate provisions shall be made by any refuse collector who has an exclusive franchise agreement as authorized by Section [521-6](#) hereof to make collections when solid waste has not been collected during the regularly scheduled trip. Special pickups for missed collections shall be made by the refuse collector when ordered by the Franchise Contract Administrator or requested by a customer. (Repealed and reenacted by Ord. 2063, § 1, 02/14/1995)

The refuse collector shall be entitled to additional compensation in those cases where a pickup was previously attempted but no solid waste receptacle was found, or such receptacle was in no condition to be picked up. (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995)

(3). Special Collections - Source-separated Materials.

Adequate provisions shall be made by any franchised collector to make collections when source-separated materials have not been collected during the regularly scheduled trip. Special pickups for missed collections shall be made by the collector when directed by the Franchise Contract Administrator, or when requested by a customer. (Repealed and reenacted by Ord. 2063, § 1, 02/14/1995)

The collector shall be entitled to additional compensation in those cases where a pickup was previously attempted but no source-separated material was found, or such material was in no condition to be picked up. (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995)

(4). Collection Equipment. The following provisions shall apply to the equipment used by each refuse collector and source-separated materials collector: (Repealed and reenacted by Ord. 2063, § 1, 02/14/1995)

(A). Such equipment shall meet the standards set forth in Sections [17341](#) to [17345](#) of Title [14](#) of the California Code of Regulations. (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995)

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- (B). For servicing large, bulky dry loads, an open steel truck bed may be used provided adequate canvas or other covers are applied to restrict any loss of debris. (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995)
  
- (C). For hauling ash and fish waste, transportation shall be in leak-proof containers. (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995)
  
- (D). Collection vehicles shall be made available for inspection as requested by the Department of Health and Human Services, Environmental Health Division. (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995; Ord. 2364, § 4, 6/20/2006)

(e) Nondiscarded Recyclables Collection.

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

(f) Recyclables Collection Service.

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

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

(h) Recycling Entity—Rights.

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

(i) Wash Facilities.

Any collector shall provide or have available wash facilities to wash solid waste and source-separated materials collection equipment. All vehicles shall be kept in a clean and sanitary condition. All solid waste collection vehicles shall be steam-cleaned, or equivalent, inside and out, at least once each week. Wastewater from washing the inside of packer bodies and bins shall be disposed of in compliance with Section 304(A) of the Uniform Plumbing Code, 1991 Edition (including subsequent revisions). (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995)

(j). Painting of Vehicles.

- (1). Solid waste collection vehicles shall be numbered, and they shall have the refuse collector's name and number of the vehicle painted in letters of a contrasting color at least four inches (4") high on each side of each vehicle and the number painted on the front and rear. The number shall be illuminated, and shall be visible from a distance of one hundred feet (100'). (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995)
  - (2) Source-separated materials collection vehicles shall be numbered, and they shall have the collector's name and number of the vehicle painted in letters of a contrasting color at least four inches (4") high on each side of each vehicle and the number painted on the front and rear.
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(Repealed and reenacted by Ord. 2063, § 1, 2/14/1995)

(k) Parking of Vehicles.

No collector shall use property in or adjoining that used or zoned for residential purposes for the parking, standing, washing, cleaning or storing of collection vehicles or equipment without the written approval of the Director of Public Works, the Planning Commission or the Board of Supervisors, or other appropriate agency as designated by the Board of Supervisors. (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995)

(l) Additional Requirements for Organic Waste Facilities and Commercial Businesses

- (1) Owners of facilities, operations, and activities that recover Organic Waste from Generators subject to SB 1383, including, but not limited to Compost facilities, in-vessel digestion facilities, and publicly-owned treatment works shall, upon County request, provide information regarding available and potential new or expanded capacity at their facilities, operations, and activities, including information about throughput and permitted capacity necessary for planning purposes. Entities contacted by the County shall respond within 60 days.
  - (2) Community Composting operators, upon County request, shall provide an estimate of the amount of Organic Waste collected from Generators subject to SB 1383 anticipated to be handled at the Community Composting operation.
  - (3) Commercial Businesses, including Multi-Family Residential Dwellings subject to SB 1383 shall
    - (A) Annually provide information to employees, contractors, tenants, and customers about Organic Waste Recovery requirements and about proper sorting.
    - (B) Provide education information before or within fourteen (14) days of occupation of the premises to new tenants that describes requirements to keep Source Separated Green Container Organic Waste and Source Separated Recyclable Materials separate from Gray Container Waste and the location of containers and the rules governing their use at each property.
    - (C) Provide or arrange access for County or its agent to their properties during all inspections, excluding entry to private residences.
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- (D) Nothing in this Section prohibits a generator from preventing or reducing waste generation, managing Organic Waste on site, or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).

(m) Wastestream Control.

- (1) The County has the right, at its option, to control the collection, disposal and diversion of all waste, Organic Waste, and certain recyclables, generated within the unincorporated areas of the County, upon release of custody of ownership of the waste or recyclables by generator as follows:

- (A) The County has the right to direct the wastestream to be disposed of at any solid waste facility or in any manner, respectively, the County may designate;

- (B) The County has the right to direct the wastestream to be diverted to any transfer or processing station the County may designate;

- (C) The County has the right to direct discarded recyclables collected by a franchise hauler to be processed at, or marketed to, a specific facility when in the best interest of the County and provided the collector would receive a reasonable, competitive market value for the recyclables; and

- (D) The County has the right to direct the wastestream to be diverted to any Designated Source Separated Organic Waste Facility the County may designate.

(n) Compliance with Regulations.

Each refuse and source-separated materials collector shall comply with all laws, regulations, ordinances, and other requirements of the County of Humboldt, State of California, and the Federal Government. (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995)

(o) Reporting.

- (1) Each refuse collector shall submit to the County a written quarterly report containing the number of tons of solid waste collected, and such other information as specified by the franchise agreement. This report shall be submitted to the Franchise Contract Administrator. Quarterly solid
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- waste reports shall be due by the 15th day of the second month following the end of each calendar quarter; specifically, May, August, November and February 15th. (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995; Ord. 2440, § 1, 11/9/2010)
- (2) Each refuse collector, source-separated materials collector, and processor shall submit to the County an annual written report containing the total quantity of recyclable and compostable material collected, processed and sold, and such other information as required by law or as specified by the franchise agreement or permit. Annual reports shall be due on the date specified by the franchise agreement or permit. Information required in this report may be compiled on a monthly or quarterly basis. Refuse collectors shall submit this report to the Franchise Contract Administrator. Materials collectors and processors shall submit this report to the Franchise Contract Administrator, or other permitting agency, as applicable. Annual diversion reports shall be due by February 15 for the prior calendar year. (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995; Ord. 2440, § 1, 11/9/2010)
- (3). Collectors shall also supply additional information when requested by the County in order to assist The County in meeting its diversion goals, as specified by the California Integrated Waste Management Act of 1989 and other state or local laws. (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995)
- (4). The County shall, when requested in writing by the refuse collector, source-separated materials collector, or processor, protect the confidentiality of any and all information contained in reports which is specifically designated by the collector or processor as confidential and/or proprietary in nature, except such information that is required by law.( Repealed and reenacted by Ord. 2063, § 1, 2/14/1995)
- (5). Failure to comply with reporting requirements as required by law may be considered grounds for termination of collection contracts or permits. (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995)

(p) Container Requirements.

- (1) All owners or occupants who have contracted with a franchised hauler shall be provided with Containers for receiving and holding, without leakage or escape of odors, all refuse produced,
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created, deposited, or accumulated upon their premises, and all such refuse shall be deposited in such containers. Containers shall be at all times kept in good, useful and sanitary condition and shall be kept continuously closed except when material is being placed therein or removed therefrom and shall at all times be closed against the access of flies, rodents and other animals.

- (2) Containers shall not be placed at the point of collection earlier than twelve (12) hours prior to the date and time of scheduled collection, nor left there longer than twelve (12) hours following collection, regardless of whether the point of collection lies on public or private property. When not set out for collection, the Containers shall be removed not less than ten (10) feet away from the vehicular right-of-way. Under no circumstances may the Containers be left continuously at the point of collection where the point of collection is at the edge of the vehicular right-of-way.
- (3) A Container left in place by a customer in violation of the requirement for removal following collection may be tagged with a notice of violation. In case of repeated violation, the Enforcement Officer may instruct the franchised collector to cancel service and remove the Container.
- (4) The restriction set forth in subsection (B) above shall not apply to those customers who subscribe to special service whereby the franchised collection enters their property, brings the Container to the road where it can be emptied, and then returns it to its original location.

The County and/or County Designee may allow modifications on a case-by-case basis to the Container restrictions in subsection (B) upon finding that all feasible measures to comply have been taken.

(q) Container Number.

All premises receiving collection services shall have sufficient Containers or equivalent bin capacity to hold all refuse created, produced or accumulated on the premises between removals. County shall have the right to review the number and size of a generator's containers to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and a generator shall adjust its service level for its collection services as requested by the County.

(r) Container Location.

Containers shall be placed for collection as follows:

(1).Single-Family Dwelling residential units:

- (A) Where alleys exist with well-maintained, all-weather surfaces, immediately adjacent to and accessible from the alley; or
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- (B) Where alleys do not exist or do not meet the criteria in Subsection (1)(A) of this section, immediately adjacent to the nearest County or State maintained road, and accessible to the franchised collector without the necessity of entering a fenced yard; and further provided, that the County may approve an agreement between the customer and the franchised collector as to an alternate location for Containers.
- (2) Multi-Family Residential Dwellings, businesses, motels, hotels and trailer and/or mobile home parks: Containers for service to multiple dwelling buildings, businesses, motels, hotels, and trailer and/or mobile home parks shall be placed immediately adjacent to and accessible from the nearest County or State maintained road, or in locations that are mutually agreed upon by the property owner and the franchised collector. Drop boxes and bins shall be located at an easily accessible location as agreed upon between the customer and the franchised collector. In case of dispute, the location shall be determined by the County.
- (3). Exceptions: Containers for required service may be placed on premises at a location other than as provided in Subsections (A) and (B) of this Section if the customer and franchised hauler concur, and the customer agrees to pay an additional charge, if applicable, as set forth in the schedule of charges established in the waste collector's franchise agreement.
- (4) Generators subject to SB 1383. In addition to the above requirements, Generators subject to SB 1383 shall be subject to the following
- (A) Commercial Businesses, including Multi-Family Residential Dwellings shall supply and allow access to adequate number, size, and location of collection containers with sufficient labels or colors for employees, contractors, tenants, and customers consistent with the County's Blue Container, Green Container, and Gray Container collection service, or, if self-hauling, per the Commercial Businesses' instructions to support its compliance with its self-haul program, in accordance with this ordinance.
- (B) Commercial Businesses, excluding Multi-Family Residential Dwellings, shall provide Containers for the collection of Source Separated Green Container Organic Waste and Source Separated Recyclable Materials in all areas where disposal containers are provided for customers. Such containers do not need to be provided in restrooms. If a Commercial Business does not generate any of the materials that would be collected in one type of container, then the business does not have to provide that particular container in all areas where disposal containers are provided for customers.
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(s) Container Label.

- (1) General Requirements: Containers for refuse left on the premises by the solid waste collector shall have printed or marked thereon a symbol of designation of the premises to which the container belongs. The solid waste collector may collect and remove any container which does not have the symbol plainly marked thereon.
- (2) Generators subject to SB 1383. In addition to the above requirements, Generators subject to SB 1383 shall be subject to the following: Pursuant to 14 CCR Section 18984.9(b), Commercial Businesses, excluding Multi-Family Residential Dwellings shall provide containers that comply with either of the following
  - (A) A body or lid that conforms with the container colors provided through the collection service provided by the County.
  - (B) Container labels:
    - i. Placing labels on containers that include language or graphic images or both that indicate the primary materials accepted and the primary materials prohibited in that container; or
    - ii. Providing containers with imprinted text or graphic images that indicate the primary materials accepted and the primary materials prohibited in that container.

(t) Mandatory Commercial Organics Recycling Customer Containers

- (1) A Commercial Business that is not a generator subject to SB 1383 but that generates two (2) cubic yards or more of commercial solid waste, as defined in Public Resources Code Section 42649.1, per week and provides customers access to the business shall provide customers with a Container for Organic Waste to collect material purchased on the premises for immediate consumption and that fulfills all of the following requirements:
    - (A) Is in the same area as a Container for Solid Waste other than Organic Waste, except in restrooms.
    - (B) Is visible and easily accessible.
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(C) Is clearly marked with educational signage indicating what is appropriate to place in the Container for Organic Waste in accordance with state law and the County's solid waste ordinances and practices.

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

(u) Mandatory Commercial Recycling Customer Containers

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

(A) Is in the same area as a Container for Solid Waste other than Recyclable Materials, except in restrooms.

(B) Is visible and easily accessible.

(C) Is clearly marked with educational signage indicating what is appropriate to place in the Container for Recyclable Materials in accordance with state law and the County's solid waste ordinances and practices.

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

(v) Recyclables.

(1) Pursuant to the terms and conditions of any franchise agreement between the County and any authorized recycling entity, each residential unit subscribing to the service shall be provided with suitable and sufficient containers to store segregated recyclable materials, including Organic Waste as applicable, to be made available for pick-up.

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- (2) All such residential containers shall be and remain the property of the authorized recycling entity, and shall not be used for any purpose other than the segregation and curbside placement of recyclable materials.
- (3) It is the duty of the occupant to maintain containers in a reasonably safe, clean and secure manner.
- (4) Containers that have become unusable shall be replaced by the authorized recycling entity in accordance with the approved fee schedule of the applicable franchise agreement.
- (5) Generators subject to SB 1383. In addition to the above requirements, Generators subject to SB 1383 shall be subject to the following: Commercial Businesses, excluding Multi-Family Residential Dwellings, shall: (1) to the extent practical, prohibit employees from placing materials in a container not designated for those materials; and (2) periodically inspect containers for contamination and inform employees if containers are contaminated and the requirements to keep contaminants out of those containers pursuant to 14 CCR Section 18984.9(b)(3).

(w) **Recyclables Separation.**

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

(x) **Inspection.**

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

521-6.

**Granting of Franchises and Permits.**

- (a) The Board may grant any permit or franchise or enter into any contract with any person, for the right and privilege of collecting solid waste or source-separated materials within the County or any portion thereof, or
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district, to be fixed by the Board upon such terms and conditions, consistent with this chapter and the [Public Resources Code](#) of the State of California, as the Board may deem for the best interests of the County, for such period of time as the Board deems advisable, but not to exceed twenty (20) years. (Repealed and reenacted by Ord. 2063, § 1, 02/14/1995; Ord. 2431, § 1, 05/25/2010)

- (1) If, in the opinion of the Board, the public health, safety, and well-being so require, the Board may grant partially or wholly exclusive franchises, either with or without competitive bidding. (Ord. 2396, § 1, 8/26/2008)
  - (2) The grant of exclusive franchises shall require that the Board of Supervisors call and hold a public hearing, for which hearing publication of notice shall be made by the Board of Supervisors pursuant to Section [6066](#) of the Government Code. Before granting an exclusive franchise without competitive bidding, the Board shall make specific findings as to why the public health, safety and well-being are best served by proceeding without competitive bidding. (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995; Ord. 2396, § 1, 8/26/2008)
  - (3) Any person may apply to the Franchise Contract Administrator to obtain a non-exclusive franchise. Non-exclusive franchises shall be granted by the Board of Supervisors, during regularly scheduled public meetings. Non-exclusive franchises shall not require competitive bidding. (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995; Ord. 2396, § 1, 8/26/2008)
  - (4) Any holder of an exclusive franchise for solid waste collection may obtain a non-exclusive franchise for the collection of source-separated materials (recyclables or compostables) by submitting a cost proposal to the Franchise Contract Administrator. Upon approval by the Board of Supervisors, the non-exclusive franchise may be incorporated as part of the exclusive franchise for solid waste collection. (Ord. 2440, § 1, 11/9/2010)
  - (5) Permits for the operation of source-separated collection services offered to the public without charge may be obtained by application to the Franchise Contract Administrator, or other agency as designated by the Board of Supervisors.
    - (A) Permits shall be granted for a five (5) year period, and shall be renewable every five years. (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995)
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- (B) Permit applicants shall be required to satisfy all applicable provisions of this ordinance, with the exception of section [521-6](#) (b)(1), below. (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995)
  
- (C) Permits may be modified, based upon substantial changes to operations as described in the initial permit application. (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995)
  
- (D) Failure to comply with the terms and conditions of a permit, or the provisions of this chapter, shall be grounds for revocation of a permit. (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995)
  
- (E) Denial or revocation of a permit by the permitting agency may be appealed to the Board of Supervisors, by filing a notice of appeal with the Clerk of the Board of Supervisors and with the Franchise Contract Administrator, within 15 working days of the agency's denial or revocation. The notice of appeal filed with the Franchise Contract Administrator shall be accompanied by an appeal fee set by the Board of Supervisors, to cover the costs of processing the appeal. The notice shall specify the grounds upon which the appeal is based. The appeal shall be heard no earlier than 20 days, and no later than 45 days, after receipt of the notice of appeal, except with the consent of the appellant. If the Board of Supervisors fails to render its decision on the matter within 35 days of the conclusion of the hearing, the appeal shall be deemed to be granted.  
(Repealed and reenacted by Ord. 2063, § 1, 2/14/1995; Ord. 2364, § 4, 6/20/2006)  
(Repealed and reenacted by Ord. 2063, § 1, 2/14/1995; Ord. 2364, § 4, 6/20/2006; Ord. 2396, § 1, 8/26/2008)

(b) Qualifications.

- (1) Any person or firm applying for a franchise to provide refuse or source-separated materials collection services within the unincorporated area of Humboldt County shall be required to provide proof that such person or firm has adequate financial resources and experience to properly conduct the operation authorized. The facts needed to establish proof shall include but not be limited to the following: (Repealed and reenacted by Ord. 2063, § 1, 02/14/1995)

- (A) The filing of a performance bond or equivalent security in an amount designated by the authority of the Board of Supervisors; and (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995)
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- (B) Evidence submitted to the Board of Supervisors and the Franchise Contract Administrator that the person or firm has experience or expertise sufficient to meet the needs of the situation. Such evidence may include, but is not limited to, references from at least two (2) customers, clients or contracting agencies for whom similar services have been provided; and (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995)
  
  - (2) Any person or firm applying for a franchise or permit to provide refuse or source-separated materials collection services within the unincorporated area of Humboldt County must provide evidence that the collection service can and will be operated in a manner adequate to protect and ensure the health and safety of the public and the environment. (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995)
  
  - (c) Extension and Renewal of Franchises.
    - (1) Franchises and contracts for the collection of solid waste or of source-separated materials may be extended or renewed for additional terms of up to ten (10) years for each such extension, if the Board of Supervisors determines that the public health, safety and well-being so require. No extension or renewal shall be granted unless the following conditions have been met: (Repealed and reenacted by Ord. 2063, § 1, 02/14/1995)
      - (A) At the time of extension or renewal, the services of the existing contract holder are in substantial compliance with the terms and conditions of the franchise or contract. (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995; Ord. 2396, § 1, 8/26/2008)
      - (B) The Board of Supervisors shall retain the right to modify existing contracts and agreements to allow the County to comply with changing legislative requirements. (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995)
      - (C) The extension is not contrary to state or federal law. (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995)
  
    - (2) No extension or renewal of an exclusive franchise or exclusive contract shall be granted for a period in excess of five (5) years unless the Board of Supervisors first holds a public hearing for which publication of notice has been made as provided by Section [6066](#) of the Government Code. The Board of Supervisors shall be required to make a finding, based on substantial evidence in the record, that extension or renewal in excess of five (5) years is required for the
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public health, safety and well-being. (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995)

- (3) Any exclusive franchise or exclusive contract which attains a total term of seventy-five (75) years, including all extensions, shall not be further extended unless the Board of Supervisors first holds a noticed public hearing, and finds, based on substantial evidence in the record, that such extension or renewal beyond the total term of seventy-five (75) years is required for the public health, safety and well-being. (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995; Ord. 2396, § 1, 8/26/2008; Ord. 2431, § 1, 5/25/2010)

521-7.

#### Assigning Permits and Franchises.

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

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

- (b) No sale, gift or transfer of stock of a franchise hauler which shall result in change in control of franchise hauler during the term of a franchise agreement shall be made without prior written approval of the Board, which shall not be unreasonably withheld.

- (c) A violation of the provisions of this Section shall be a material breach of a franchise agreement and grounds for termination by County.

521-8

#### Franchise Termination.

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(a) Franchise Revocation—Equipment Use by County. In the event of suspension or revocation of a franchise, the County shall have the right forthwith to take possession of all trucks and other equipment of the franchisee for the purpose of collecting and disposing of the refuse and performing all other duties which the franchisee is obligated to perform. The County shall have the right to retain possession of such trucks and equipment until other suitable trucks and equipment can be purchased or otherwise acquired by the County for such purpose. The County shall pay the franchisee a reasonable rental for the use of such trucks and equipment.

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

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

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

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

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

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

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

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

(d) General Standards of Responsibility

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

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

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

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

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

521-9.

### Fees and Rates for Collection, Disposal, Handling and Enforcement.

- (a) The Board shall by ordinance set and charge fees for the disposal of solid waste and the collection and/or processing of source related materials at County owned or operated facilities and programs. The Board may, in
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addition, charge and collect fees and other charges from solid waste facilities operators or persons who conduct solid waste handling, consistent with the provisions of state or local law. The setting of fees and the increasing of existing fees shall require the Board to call and hold a public hearing, for which publication of notice shall be made by the Board of Supervisors pursuant to Section [6066](#) of the Government Code. (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995)

(b) The Board of Supervisors shall control the maximum rates which may be charged customers by the exclusive franchise holder, which rates, except as indicated below, shall not be increased without the holding of a public hearing, for which publication of notice shall be made by the Board of Supervisors pursuant to Section [6066](#) of the Government Code.

Rate changes which occur for the reasons set forth below, if authorized by a franchise agreement, may be implemented without action of the Board of Supervisors, if the total annual rate increase does not exceed eight percent (8%): (Ord. 2440, § 1, 11/09/2010)

(1) Annual index-based adjustments; (Ord. 2440, § 1, 11/9/2010)

(2) Changes in the Franchise Fee and/or the Recycling Percentage set forth in the franchise agreement; (Ord. 2440, § 1, 11/9/2010)

(3) Changes in disposal and/or processing costs. (Ord. 2440, § 1, 11/09/2010)

Such rate changes may be implemented by amendment to a Franchise agreement, executed by the Franchise Contract Administrator. All other rate changes shall be approved by the Board of Supervisors, after the holding of a public hearing. (Ord. 2440, § 1, 11/09/2010)

It is the policy of the Board of Supervisors to consider rate adjustment requests only on an Annual basis. (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995)

(Repealed and reenacted by Ord. 2063, § 1, 2/14/1995; Ord. 2396, § 1, 8/26/2008; Ord. 2440, § 1, 11/9/2010)

521-10.

### Audits, Payments and Credits.

(a) Each refuse collector who is granted an exclusive franchise by the Board of Supervisors to collect solid waste shall pay the County for the privilege of said franchise a fee in the amount of nine percent (9%) of its gross receipts collected in the exercise of the franchise; except that when the refuse collector also provides for



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collection of recyclables under grant of a non-exclusive franchise, the franchise fee shall be nine percent (9%) of adjusted gross receipts, or such other amount as specified in the franchise agreement. The method of calculating adjusted gross receipts shall be set forth in the franchise agreement. (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995; Ord. 2321, § 1, 7/6/2004; Ord. 2419, § 1, 9/22/2009; Ord. 2440, § 1, 11/9/2010)

(b) Except as set forth in sub-section (a) above, each collector who is granted a non-exclusive franchise for the collection of recyclables shall, if a fee is charged for such collection, pay to the County for the privilege of said franchise a fee in the amount of one percent (1%) of the gross receipts from collection, exclusive of revenue from the sale of collected materials. (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995; Ord. 2440, § 1, 11/9/2010)

(c) Payment shall be made on a monthly basis with payment for each calendar month due on the fifteenth (15th) day of the following month. Payments made later than the twenty-fifth (25th) day of the following month shall be subject to a 10% penalty on the amount due. (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995)

(d) Each collector shall keep records of the gross receipts obtained in the exercise of the contracts, and the County shall have the right to audit and examine such records, or the collector may elect to hire an independent certified public accountant approved by the Auditor-Controller to perform an audit, as an alternative to examination by the County. (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995)

521-11.

### Disposal and Handling of Solid Waste for Disposal.

It shall be unlawful for any person to deposit, bury, burn, or otherwise dispose of any solid waste, other than the composting on-site of small quantities of non-hazardous organic materials produced on the premises, or the burning of authorized materials under a valid burn permit, at any place other than a permitted solid waste facility. It shall be unlawful for any person to operate any solid waste facility within the County without first having obtained a permit to do so from the County. (Repealed and reenacted by Ord. 2063, § 1, 02/14/1995)

Unpermitted deposits of solid waste containing a minimum of two (2) pieces of addressed mail or other named property shall be judged to be “prima facie” evidence that the named addressee is responsible for the violation hereof, and shall subject the addressee to remedies as specified in Section [521-13](#) of this chapter. (Repealed and reenacted by Ord. 2063, § 1, 02/14/1995)

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Permits for the operation of solid waste facilities shall be issued in accordance with the [California Public Resources Code](#) by the Department of Health and Human Services, Environmental Health Division, and concurred in by the California Integrated Waste Management Board. A permit fee may be charged if so established by the Board of Supervisors. Any person operating a solid waste facility not in accordance with a solid waste facility's permit shall be subject to remedies as specified by local ordinance and in California Public Resources Code Section [45000](#) et seq. (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995; Ord. 2364, § 4, 6/20/2006)

521-12.

#### Enforcement Agency.

(f) The Department of Health and Human Services, Environmental Health Division, Department of Public Works and Department of Building and Planning shall be enforcement agencies in accordance with the provisions of the [California Public Resources Code](#) Section 40181. (Repealed and reenacted by Ord. 2063, § 1, 2/14/1995; Ord. 2364, § 4, 6/20/2006)

#### (b) Administration and Enforcement Responsibility.

The administration and enforcement of this Chapter shall be the responsibility of the County and enforcement may be undertaken by the County and/or its designee.

#### (c) Inspections.

- (1) The County is authorized to conduct inspections and investigations, at random or otherwise, of any collection container, collection vehicle loads, or transfer, processing or disposal facility for materials collected from generators, or Source Separated materials, to confirm compliance with this Ordinance by Organic Waste Generators, Commercial Businesses (including Multi-Family Residential Dwellings), property owners, Commercial Edible Food Generators, haulers, Self-Haulers, Food Recovery Services, and Food Recovery Organizations, subject to applicable laws. This section does not allow the County to enter the interior of a private residential property for inspection. If entry for an inspection is refused by an owner, occupant or agent, the County may still inspect the property after obtaining an inspection warrant.
- (2) An entity regulated under this Chapter shall provide or arrange for access during all inspections (with the exception of private residential property interiors) and shall cooperate with the County 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 described herein. Failure to provide or arrange for access to an entity's premises or access to records for any inspection or investigation is a violation of this Chapter and may result in penalties as described herein.
- (3) Any records obtained by the County during its inspections and other reviews shall be subject to the requirements and applicable disclosure exemptions of the Public Records Act as set forth in Government Code section 6250 *et seq.*
  - (4) The County is authorized to conduct any inspections or other investigations as reasonably necessary to further the goals of this Chapter, subject to applicable laws.
  - (5) Compliance Reviews. At least annually, the County and/or County Designee shall complete a compliance review of all solid waste collection accounts for commercial businesses that are subject to its authority and that generate two cubic yards or more per week of solid waste, including organic waste. The County and/or County Designee shall annually either conduct route reviews or waste evaluations consistent with Section 18984.5(c). The County and/or County Designee shall also determine compliance with organic waste generator requirements set forth in Section 18984.9(a) and self-haul requirements set forth in Section 18988.3.

(d) Process for Enforcement.

- (1) The County and/or County Designee will monitor compliance with the ordinance through Compliance Reviews, Route Reviews, investigation of complaints, and Inspections. Section 521-12 (c) establishes the County's right to conduct Inspections and investigations. Complaints regarding non-compliance with this Title may be submitted to the County anonymously.
  - (2) Upon discovery of a violation of this Chapter, the County and/or County Designee shall first provide reasonable notice of and an opportunity to correct prior to imposing penalties. Notices may be provided via cart tag or other posting on the property in a conspicuous place.
  - (3) After notice and opportunity to correct, the County and/or County Designee may issue citations and penalties pursuant to the provisions of Humboldt County Code Chapter 1.08 for uncorrected violations.
  - (4) For incidences of Prohibited Container Contaminants found in containers, County and/or County Designee, may issue a warning or notice to any generators found to have Prohibited Container Contaminants in a container. Such notice will be provided via a cart tag or other communication immediately upon identification of the Prohibited Container Contaminants or within one day after
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- determining that a violation has occurred, and pursuant to any additional applicable requirements of a franchise agreement. If the County and/or County Designee observes Prohibited Container Contaminants in a generator's containers on more than one (1) occasion, County and/or County Designee may assess contamination processing fees or contamination penalties on the generator.
- (5) With the exception of violations of generator contamination of container contents addressed in Subsection (C) above, the County and/or County Designee shall issue a Notice of Violation requiring compliance within 60 days of issuance of the notice. The County and/or County Designee may extend the compliance deadline if it finds that there are extenuating circumstances beyond the control of the respondent that make compliance within the deadlines impracticable, including but not limited to the following:
- (A) Acts of God such as earthquakes, wildfires, flooding, and other emergencies or natural disasters;
  - (B) Delays in obtaining discretionary permits or other government agency approvals; or,
  - (C) Deficiencies in Organic Waste recycling infrastructure or Edible Food Recovery capacity and the County is under a corrective action plan with CalRecycle pursuant to 14 CCR Section 18996.2 due to those deficiencies.
- (6) Absent compliance by the respondent within the deadline set forth in the Notice of Violation, County may commence an action to impose penalties, via an administrative citation and fine, pursuant to Humboldt County Code and the penalty amounts stated therein. The County's procedures on imposition of administrative fines are hereby incorporated in their entirety, as modified from time to time, and shall govern the imposition, enforcement, collection, and review of administrative citations issued to enforce this ordinance and any rule or regulation adopted pursuant to this ordinance, except as otherwise indicated in this ordinance. Notices shall be sent to the party responsible for paying the collection services, or, if no address is available, to the owner at the address of the dwelling or Commercial property or to the mailing address as shown in the County's last equalized property tax assessment roll, depending upon available information.
- (7) Starting on the effective date of the ordinance amending this Chapter in its entirety and through December 31, 2023, the County and/or County Designee shall provide educational material describing the applicable requirements of this chapter in response to violations and stating that compliance is required and that violations may be subject to administrative civil penalties starting on January 1, 2024.
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(8) In addition to the remedies provided above, any person violating any provision of this Chapter is guilty of an infraction and subject to the penalties provided for by law for infractions unless declared to be a misdemeanor or felony under State law. In addition to the remedy available herein, the County may exercise any and all powers authorized by any other provision of law to enforce this Chapter including, but not limited to, the declaration of a public nuisance and the abatement thereof and injunctive remedies. The full costs of enforcement of this Chapter shall be recoverable by the County against persons who are in violation of provisions of this Chapter. County may pursue civil actions in the California courts to seek recovery of unpaid administrative citations. County may choose to delay court action until such time as a sufficiently large number of violations, or cumulative size of violations exist such that court action is a reasonable use of County staff and resources.

(e) Exceptions, Exemptions, and Waivers.

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

(2) Waivers for Generators subject to SB 1383.

(A) Nothing in this section allows the County to exempt a business subject to the requirements of Section 42649.81 of the Public Resources Code from compliance with that section.

(B) At least every five years from the date of issuance, the County and/or County Designee shall verify through inspection that commercial businesses that are meeting de minimis and physical space waivers for compliance consistent with the requirements of 14 CCR Section 18984.11.

(C) Nothing in this section precludes the County from charging a fee for reviewing and issuing waivers as described in this section.

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

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- i. The commercial business's total solid waste collection service is two cubic yards or more per week and organic waste subject to collection in a blue container or green container as specified in 14 CCR Section 18984.1(a) comprises less than 20 gallons per week per applicable container of the business' total waste.
- ii. The commercial business' total solid waste collection service is less than two cubic yards per week and organic waste subject to collection in blue container or a green container as specified in 14 CCR Section 18984.1(a) comprises less than 10 gallons per week per applicable container of the business' total waste.

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

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

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

(f) Refuse Cleanup.

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

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(g) Interfering with Container Prohibited.

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

(h) Unauthorized Person Placing Refuse in Container.

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

(i) Interfering with Removal Prohibited.

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

(j) Placing Residential and Commercial Solid Waste in Street Side Litter Container Prohibited.

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

(j) Appeals.

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

521-13.

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## Edible Food Generators.

### (a) Requirements for Commercial Edible Food Generators

- (1) Tier One Commercial Edible Food Generators must comply with the requirements of this section as of the effective date of the ordinance establishing this Chapter, and Tier Two Commercial Edible Food Generators must comply commencing January 1, 2024, pursuant to 14 CCR Section 18991.3.
  - (2) Large Venue or Large Event operators not providing food services, but that allow for food to be provided by others, shall require Food Facilities operating at the Large Venue or Event to comply with the requirements of this section, as Tier Two Generators.
  - (3) Commercial Edible Food Generators shall comply with the following requirements:
    - (A) Arrange to recover the maximum amount of Edible Food that would otherwise be disposed.
    - (B) Contract with, or enter into a written agreement with Food Recovery Organizations or Food Recovery Services for:
      - i. The collection of Edible Food for Food Recovery; or,
      - ii. Acceptance of the Edible Food that the Commercial Edible Food Generator self-hauls to the Food Recovery Organization for Food Recovery.
    - (C) Shall not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery Organization or a Food Recovery Service.
    - (D) Pursuant to 14 CCR Section 18995.1(a)(2), shall allow County and/or County Designee to access the premises to ensure compliance with this Chapter and to review records kept pursuant to 14 CCR Section 18991.4.
    - (E) Keep records that include the following information, or as otherwise specified in 14 CCR Section 18991.4:
      - i. A list of each Food Recovery Organization or Service that receives or collects its Edible Food pursuant to a contract or written agreement established under 14 CCR Section 18991.3(b).
      - ii. A copy of all contracts or written agreements established under 14 CCR Section 18991.3(b).
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- iii. A record of the following information for each of those Food Recovery Services or Food Recovery Organizations that the Commercial Edible Food Generator has a contract or written agreement with:
  - a. The name, address and contact information of the Food Recovery Service or Food Recovery Organization.
  - b. The types of food that will be collected by or self-hauled to the Food Recovery Service or Food Recovery Organization.
  - c. The established frequency that food will be collected or self-hauled.
  - d. The quantity of food, measured in pounds recovered per month, collected by, or self-hauled to, a Food Recovery Service or Food Recovery Organization for Food Recovery.

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

- i. No later than August 1, 2023, Tier One Commercial Edible Food Generators must provide an initial annual report for the period of January 1, 2023 through June 30, 2024. Beginning in year 2023, and every year thereafter, Tier One Commercial Edible Food Generators must provide annual reports no later than May 1 for the period covering the entire previous calendar year.
- ii. Beginning in year 2025, and every year thereafter, Tier Two Commercial Edible Food Generators must provide annual reports no later than May 1 for the period covering the entire previous calendar year.

(4) Nothing in this Section shall be construed to limit or conflict with the protection provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share table and school food donation guidance pursuant to Senate Bill 557 of 2017 (Chapter 285).

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(b) Requirements for Food Recovery Organizations, Services, and Jurisdictions

- (1) Food Recovery Services collecting or receiving Edible Food directly from Commercial Edible Food Generators through a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records:
    - (A) The name, address, and contact information for each Commercial Edible Food Generator from which the Food Recovery Service collects Edible Food.
    - (B) The quantity in pounds of Edible Food collected from each Commercial Edible Food Generator per month.
    - (C) The quantity in pounds of Edible Food transported to each Food Recovery Organization per month.
    - (D) The name, address, and contact information for each Food Recovery Organization that the Food Recovery Service transports Edible Food to for Food Recovery.
  
  - (2) Food Recovery Organizations collecting or receiving Edible Food directly from Commercial Edible Food Generators through a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records:
    - (A) The name, address, and contact information for each Commercial Edible Food Generator from which the Food Recovery Organization receives Edible Food.
    - (B) The quantity in pounds of Edible Food received from each Commercial Edible Food Generator per month.
    - (C) The name, address, and contact information for each Food Recovery Service that the Food Recovery Organization receives Edible Food from for Food Recovery.
  
  - (3) Food Recovery Organizations and Food Recovery Services that have their primary address physically located in the County and contract with or have written agreements with Commercial Edible Food Generators shall annually report to County and/or County Designee the total pounds of Edible Food they recovered from Commercial Edible Food Generators, as follows
    - (A) No later than August 1, 2023, Food Recovery Organizations and Food Recovery Services must provide a written initial annual report for the period of January 1, 2023 through June 30, 2023.
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(B) Beginning in year 2023, and every year thereafter, Food Recovery Organizations and Food Recovery Services must provide written annual reports by May 1 for the period covering the entire previous calendar year.

(4) Food Recovery Capacity Planning

(A) Food Recovery Services and Food Recovery Organizations operating in the County shall provide information and consultation to the County and/or County Designee, upon request, regarding existing, or proposed new or expanded, Food Recovery capacity that could be accessed by the County and its Commercial Edible Food Generators. A Food Recovery Service or Food Recovery Organization contacted by the County shall respond to such request for information within 60 days, unless a shorter timeframe is otherwise specified by the County.

(B) Pursuant to 14 CCR 18992.1 *et seq.*, cities located within the County shall conduct Edible Food Recovery capacity planning, in coordination with the County.

- i. If the County identifies that new or expanded capacity to recover Edible Food is needed, then each city within the County that lacks capacity shall:
    - a. Submit an implementation schedule to CalRecycle and the County that demonstrates how it will ensure there is enough new or expanded capacity to recover the Edible Food currently disposed by Commercial Edible Food Generators within its Jurisdiction by the end of the reporting period set forth in 14 CCR Section 18992.3. The implementation schedule shall include the information specified in 14 CCR Section 18992.2(c)(1)(A).
    - b. Consult with Food Recovery Organizations and Food Recovery Services regarding existing, or proposed new and expanded capacity that could be accessed by the City and its Commercial Edible Food Generators.
    - c. If the County finds that new or expanded capacity is needed, the County shall notify the City(ies) that lack sufficient capacity.
    - d. A City contacted by the County pursuant to this Section shall respond to the County's request for information within 120 days of receiving the request from the County
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521-14.

Remedies.

(a) In addition to the remedies otherwise authorized by law, any person violating any provision of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a mandatory fine of not less than two hundred fifty dollars (\$250) upon a first conviction, by a mandatory fine of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000) upon a second conviction, and by a mandatory fine of not less than seven hundred fifty dollars (\$750) nor more than two thousand five hundred dollars (\$2,500) upon a third or subsequent conviction, or by imprisonment in the County jail for a period of not to exceed six months, or by both such fine and imprisonment. If the waste matter placed, deposited, or dumped includes hazardous waste or extremely hazardous waste, or includes waste tires, the fine prescribed in this subdivision shall be doubled. The District Attorney shall have the discretion to prosecute a violation of this section as an infraction. (Ord. 2334, § 1, 11/2/2004; Ord. 2364, § 4, 6/20/2006)

(b) Each day that waste placed, deposited, or dumped in violation of this section remains is a separate violation. (Ord. 2334, § 1, 11/2/2004)

(c) The court may require, in addition to any fine imposed upon a conviction, that, as a condition of probation and in addition to any other condition of probation, a person convicted under this section remove, or pay the cost of removing, any waste matter which the convicted person dumped or caused to be dumped upon public or private property. (Ord. 2334, § 1, 11/2/2004)

(d) Except when the court requires the convicted person to remove waste matter which he or she is responsible for dumping as a condition of probation, the court may, in addition to the fine imposed upon a conviction, require as a condition of probation, in addition to any other condition of probation, that any person convicted of a violation of this section pick up waste matter at a time and place within the jurisdiction of the court for not less than 12 hours. (Ord. 2334, § 1, 11/2/2004)

(e)\_\_\_\_\_

(1) Any person who places, deposits, or dumps, or causes to be placed, deposited, or dumped, waste matter in violation of this section in commercial quantities shall be guilty of a misdemeanor punishable by imprisonment in a county jail for not more than six months and by a fine. The fine

is mandatory and shall amount to not less than five hundred dollars (\$500) nor more than one thousand five hundred dollars (\$1,500) upon a first conviction, not less than one thousand five hundred dollars (\$1,500) nor more than three thousand dollars (\$3,000) upon a second conviction, and not less than two thousand seven hundred fifty dollars (\$2,750) nor more than four thousand dollars (\$4,000) upon a third or subsequent conviction. (Ord. 2334, § 1, 11/2/2004)

- (2) "Commercial quantities" means an amount of waste matter generated in the course of a trade, business, profession, or occupation, or an amount equal to or in excess of one cubic yard. (Ord. 2334, § 1, 11/2/2004)

(f) Except in unusual cases where the interests of justice would be best served by waiving or reducing a fine, the minimum fines provided by this section shall not be waived or reduced. (Ord. 2334, § 1, 11/2/2004)

(g) SB 1383 Non-Compliance

Non-compliance with any of the SB 1383 requirements may result in enforcement action, including the issuance of monetary penalties. Penalty amounts may vary, but the base penalties shall fall within the ranges listed below:

- (1) First violation: \$50-100
- (2) Second violation: \$100-200
- (3) Third and subsequent violations: \$250-500 In addition, jurisdictions may revoke, suspend, or deny a permit, registration, license, or other authorization.

In addition, once the penalty range is determined, the following factors shall be used to determine the amount of the penalty for each violation within that range:

- (1) The nature, circumstances, and severity of the violation(s).
  - (2) The violator's ability to pay.
  - (3) The willfulness of the violator's misconduct.
  - (4) Whether the violator took measures to avoid or mitigate violations of this chapter.
  - (5) Evidence of any economic benefit resulting from the violation(s).
  - (6) The deterrent effect of the penalty on the violator.
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(7) Whether the violation(s) were due to conditions outside the control of the violator.

521-15

**Severability.**

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

521-16.

**CEQA.**

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

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