

ORDINANCE NO. 2021-05

AN ORDINANCE OF THE CITY OF EL CERRITO AMENDING CHAPTER 8.12 OF THE EL CERRITO MUNICIPAL CODE REGARDING "COLLECTION AND DISPOSAL OF WASTE STREAM" TO IMPLEMENT MANDATORY ORGANIC WASTE REDUCTION PROGRAMS IN COMPLIANCE WITH SENATE BILL 1383.

WHEREAS, the purpose of this Ordinance is to reduce the amount of organic and recyclable materials deposited in landfills from commercial and residential generators; and

WHEREAS, state recycling law, Assembly Bill 939, the California Integrated Waste Management Act of 1989, requires cities and counties to reduce, reuse, and recycle (including composting) Solid Waste generated in their jurisdictions to the maximum extent feasible before any incineration or landfill disposal of waste, to conserve water, energy, and other natural resources, and to protect the environment; and

WHEREAS, state recycling law, Assembly Bill 341 of 2011, places requirements on businesses and multi-family property owners that generate a specified threshold amount of Solid Waste to arrange for recycling service and requires jurisdictions to implement a Mandatory Commercial Recycling program; and

WHEREAS, state organics recycling law, Assembly Bill 1826 of 2014, requires businesses and multi-family property owners that generate a specified threshold amount of Solid Waste, recycling, and Organic Waste per week to arrange for recycling service for those materials, requires counties and cities to implement a recycling program to divert Organic Waste from businesses subject to the law, and to implement a Mandatory Commercial Organics Recycling program; and

WHEREAS, state organics recycling law, Senate Bill 1383 of 2016, the Short-lived Climate Pollutant Reduction Act of 2016, took effect on January 1, 2017 and set Statewide Organic Waste disposal reduction targets of 50 percent by 2020 and 75 percent by 2025, based on the 2014 organics waste disposal baseline, set forth in Section 39730.6 of the Health and Safety Code, and requires California's Department of Resources Recycling and Recovery (CalRecycle) to develop regulations to reduce organics in landfills as a source of methane ("SB 1383 Regulations"); and

WHEREAS, the SB 1383 Regulations place requirements on multiple entities, including counties, cities, residential households, Commercial Businesses (including Multi-Family Residential Dwellings), Commercial Edible Food Generators, haulers, Self-Haulers, Food Recovery Organizations, and Food Recovery Services to support achievement of statewide Organic Waste disposal reduction targets with compliance required beginning January 1, 2022; and

WHEREAS, by January 1, 2022, the SB 1383 Regulations require jurisdictions to adopt and enforce an ordinance or other enforceable mechanism to implement relevant provisions of the SB 1383 Regulations concerning regulation of organic waste collection services, generators of organic waste, waste haulers, and generators and processors of edible food, together with enforcement mechanisms and administrative civil penalties for violations of local regulations; and

WHEREAS, this Ordinance will also help reduce food insecurity by requiring Commercial Edible Food Generators to arrange to have the maximum amount of their Edible Food, that would otherwise be disposed, be recovered for human consumption.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF EL CERRITO DOES HEREBY ORDAIN AS FOLLOWS:

Section 1: Incorporation of Recitals. The City Council finds that the above Recitals are true and correct and are incorporated herein by reference.

Section 2: Amendment of the El Cerrito Municipal Code. Chapter 8.12 of Title 8 of the El Cerrito Municipal Code, "Collection and Disposal of Waste Stream," is hereby deleted in its entirety and replaced with a new Chapter 8.12 to read as follows:

Title:

Chapter 8.12 – REQUIREMENTS FOR SEPARATION, COLLECTION, DISPOSAL AND RECOVERY OF ORGANICS, RECYCLABLES, AND SOLID WASTE

Sections:

8.12.010 - Purpose

The reduction of Solid Waste landfilling through waste prevention, Reuse, recycling, and composting, is a statewide mandate (California Integrated Waste Management Act of 1989). In addition, reduction of Solid Waste is a key component of meeting the statewide climate protection mandate (California Global Warming Solutions Act of 2006). Furthermore, AB 341, the Jobs and Recycling Act of 2011, and AB 1826, the Mandatory Commercial Organics Recycling Act of 2014, require businesses and Multi-Family property owners to arrange for recycling and organics services. Additionally, SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016, seeks to reduce organics in landfills, to reduce methane emissions and to increase Edible Food recovery to reduce human food insecurity. To that end, the State of California's Department of Resources Recycling and Recovery (CalRecycle) developed regulations that place requirements on multiple entities, many of which are contained herein. Therefore, to protect the public peace, health, safety, and general welfare, to reduce the Solid Waste stream, to reduce methane emissions from landfills, and to comply with state regulations, the City deems it necessary to regulate the separation, collection, disposal and recovery of recyclable materials, organic waste, and other Solid Waste as set forth in this chapter.

8.12.020 - Definitions

A. As used in this chapter:

1. "California Code of Regulations" or "CCR" means the State of California Code of Regulations. CCR references in this chapter are preceded with a number that refers to the relevant Title of the CCR (e.g., "14 CCR" refers to Title 14 of CCR).
2. "Collection Services" means the collection of Solid Waste originating in the City from Compost Containers, Recycling Containers, and/or Landfill Containers by a Franchised Collector.
3. "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 Multi-Family Residential Dwelling, or as otherwise defined in 14 (CCR) Section 18982(a)(6). A Multi-Family Residential Dwelling that

consists of fewer than five (5) units is not a Commercial Business for purposes of implementing this chapter.

4. "Commercial Edible Food Generator" includes a Tier One or a Tier Two Commercial Edible Food Generator, as defined in 14 CCR Section 18982(a)(73) and (a)(74).
5. "Community Composting" means any activity that composts green material, agricultural material, food material, and vegetative food material, alone or in combination, and the total amount of feedstock and Compost on-site at any one time does not exceed 100 cubic yards and 750 square feet, as specified in 14 CCR Section 17855(a)(4), or as otherwise defined by 14 CCR Section 18982(a)(8).
6. "Compost" means the product resulting from the managed and controlled biological decomposition of organic Solid Waste that is Source Separated from the municipal Solid Waste stream, or which is separated at a centralized facility.
7. "Compost Container" has the same meaning as "Green Container" in 14 CCR Section 18982(a)(29) and shall be used for the purpose of storage and collection of Source Separated Compost Container Organic Waste.
8. "C&D" means Construction and Demolition debris, which includes the waste building materials, packaging, and rubble resulting from construction, remodeling, repair and demolition operations on pavements, houses, Commercial buildings, and other structures.
9. "Designated Entity" means a person or entity that the City assigns, contracts with, or otherwise arranges to carry out any of the City's responsibilities of this chapter, as authorized in 14 CCR Section 18981.2. A Designated Entity may be a government employee, government entity, private entity, or a combination of those entities. Nothing in this chapter authorizing an entity, other than a City employee, to carry out any of the City's responsibilities of this chapter shall permit or require that entity to undertake such actions unless agreed to by the entity and the City. The issuance of civil penalties shall remain the authority of public agencies and shall not be delegated to a private entity.
10. "Edible Food" means food intended for human consumption, or as otherwise defined in 14 CCR Section 18982(a)(18). For the purposes of this chapter or as otherwise defined in 14 CCR Section 18982(a)(18), Edible Food is not Solid Waste if it is recovered and not discarded. Nothing in this chapter or in 14 CCR, Division 7, Chapter 12 requires or authorizes the recovery of Edible Food that does not meet the food safety requirements of the California Retail Food Code.
11. "Enforcement Agency" means an entity, which may include a Designated Entity, with the authority to enforce part, or all, of this chapter, as specified herein. Employees and agents of an Enforcement Agency may carry out inspections and enforcement activities pursuant to this chapter. Nothing in this chapter authorizing an entity to enforce its terms shall permit or require that entity to undertake such enforcement except as agreed to by that entity and the City. The City is an Enforcement Agency for all Sections of this chapter. The City may choose to additionally delegate enforcement responsibility for certain sections, to other public entities, including, but not limited to, the West Contra Costa Integrated Waste Management Authority (RecycleMore) and the County of Contra Costa. The issuance of civil penalties shall remain the authority of public agencies and shall not be delegated to a private entity.
12. "Excluded Wastes" means hazardous substances, hazardous waste, infectious waste, designated waste, waste that is volatile, corrosive or infectious, medical waste, regulated radioactive waste, and toxic substances or material that facility operator(s), which receive materials from the City and its Generators, reasonably believe(s) would, as a result of or upon acceptance, transfer, processing, or disposal, be a violation of local, State, or Federal law, regulation, or ordinance, including: land use restrictions or conditions, waste that cannot be disposed of in

Class III landfills or accepted at the facility by permit conditions, waste that in the reasonable opinion of the City or its Designated Entity's reasonable opinion would present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose the City or its Designated Entity to potential liability; but not including de minimis volumes or concentrations of waste of a type and amount normally found in Single-Family or Multi-Family Solid Waste after implementation of programs for the safe collection, processing, recycling, treatment, and disposal of batteries and paint in compliance with Sections 41500 and 41802 of the Public Resources Code. Excluded Wastes do not include used motor oil and filters, household batteries, Universal Wastes, and/or latex paint when such materials are defined as allowable materials for collection through the City's collection programs and the Generator or customer has properly placed the materials for collection pursuant to instructions provided by the Franchised Collector providing service to the Generator.

13. "Food Facility" has the same meaning as in Section 113789 of the Health and Safety Code.
14. "Food Recovery" means actions to collect and distribute food for human consumption that otherwise would be disposed, or as otherwise defined in 14 CCR Section 18982(a)(24).
15. "Food Recovery Organization" means an entity that engages in the collection or receipt of Edible Food from Commercial Edible Food Generators and distributes that Edible Food to the public for Food Recovery either directly or through other entities or as otherwise defined in 14 CCR Section 18982(a)(25), including, but not limited to:
 - a) A food bank as defined in Section 113783 of the Health and Safety Code;
 - b) A nonprofit charitable organization as defined in Section 113841 of the Health and Safety code; and,
 - c) A nonprofit charitable temporary Food Facility as defined in Section 113842 of the Health and Safety Code.
16. "Food Recovery Service" means a person or entity that collects and transports Edible Food from a Commercial Edible Food Generator to a Food Recovery Organization or other entities for Food Recovery, or as otherwise defined in 14 CCR Section 18982(a)(26). A Food Recovery Service is not a Commercial Edible Food Generator for the purposes of this chapter and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7).
17. "Food Scraps" means all edible or inedible food such as, but not limited to, fruits, vegetables, meat, poultry, seafood, shellfish, bones, rice, beans, pasta, bread, dairy, coffee grounds, and eggshells. Food Scraps excludes fats, oils, and grease when such materials are Source Separated from other Food Scraps.
18. "Food Service Provider" means an entity primarily engaged in providing food services to institutional, governmental, Commercial, or industrial locations of others based on contractual arrangements with these types of organizations, or as otherwise defined in 14 CCR Section 18982(a)(27).
19. "Food Soiled Paper" means paper plates, paper cups, napkins, paper bags, and any other items as determined by the City or Designated Entity.
20. "Food Waste" means Food Scraps and Food Soiled Paper.
21. "Franchised Collector" means such persons, firms or corporations providing Collection Services or post-collection services including processing or disposal under a contract or franchise agreement with the City.
22. "Garbage" means those elements of the Solid Waste stream designated for the "Landfill Container", and excludes hazardous waste, universal waste, Excluded

Wastes, materials designated for the “Compost Container” or “Recycling Container” or materials which have been separated for Reuse.

23. “Generator” means a person or entity that is responsible for the initial creation of Garbage, Organic Waste and/or Recyclables, including Commercial Businesses, Single-Family Residential Dwellings and Multi-Family Residential Dwellings.
24. “Grocery Store” means a store primarily engaged in the retail sale of canned food; dry goods; fresh fruits and vegetables; fresh meats, fish, and poultry; and any area that is not separately owned within the store where the food is prepared and served, including a bakery, deli, and meat and seafood departments, or as otherwise defined in 14 CCR Section 18982(a)(30).
25. “High Diversion Organic Waste Processing Facility” means a facility that is in compliance with the reporting requirements of 14 CCR Section 18815.5(d) and meets or exceeds an annual average mixed waste organic content Recovery rate of 50 percent between January 1, 2022 and December 31, 2024, and 75 percent after January 1, 2025, as calculated pursuant to 14 CCR Section 18815.5(e) for Organic Waste received from the “Mixed waste organic collection stream” as defined in 14 CCR Section 17402(a)(11.5); or, as otherwise defined in 14 CCR Section 18982(a)(33).
26. “Inspection” means a site visit where the City or its Designated Entity reviews records, containers, and an entity’s collection, handling, recycling, or landfill disposal of Garbage, Recyclables, Organic Waste and/or Edible Food handling to determine if the entity is complying with requirements set forth in this chapter, or as otherwise defined in 14 CCR Section 18982(a)(35).
27. “Landfill Container” has the same meaning as “Gray Container” in 14 CCR Section 18982(a)(28) and shall be used for the purpose of storage and collection of Landfill Container Waste or Garbage.
28. “Landfill Container Waste” means Garbage that is collected in a Landfill Container.
29. “Multi-Family Residential Dwelling” or “Multi-Family” means of, from, or pertaining to residential premises with five (5) or more dwelling units. Multi-Family premises are considered a distinct type of Commercial Business for the purposes of implementing SB 1383 requirements. Consistent with SB 1383 Regulations, residential premises that consist of fewer than five units are not “Multi-Family” and instead are “Single-Family” for the purposes of implementing this chapter. Multi-Family premises do not include hotels, motels, or other transient occupancy facilities, which are considered Commercial Businesses.
30. “Organic Waste” means Solid Waste containing material originated from living organisms and their metabolic waste products, including, but not limited to, Food Scraps, Food Soiled Paper, Yard Waste, organic textiles and organic carpets, lumber, wood, paper products, printing and writing paper, manure, biosolids, digestate, and sludges or as otherwise defined in 14 CCR Section 18982(a)(46).
31. “Organic Waste Generator” means a person or entity that is responsible for the initial creation of Organic Waste, or as otherwise defined in 14 CCR Section 18982(a)(48).
32. “Non-Organic Recyclables” or “Recyclables” means non-putrescible and non-hazardous discarded materials which, when separated from other discarded materials and properly processed, can be turned into useful products through reprocessing or remanufacturing, including but not limited to bottles, cans, metals, plastics and glass, as determined by the City or Designated Entity.
33. “Pharmaceuticals and Personal Care Products (PPCPs)” means chemical substances, including prescription and over-the-counter therapeutic drugs, fragrances, cosmetics, sunscreen agents, diagnostic agents, nutraceuticals, and biopharmaceuticals.

34. "Prohibited Container Contaminants" includes all of the following: (i) materials placed in the Recycling Container that are not identified as acceptable Source Separated Recyclable Materials for the Recycling Container; (ii) materials placed in the Compost Container that are not identified as acceptable Source Separated Compost Container Organic Waste; (iii) materials placed in the Landfill Container that are acceptable Source Separated Recyclable Materials that can be placed in the Recycling Container and/or acceptable Source Separated Compost Container Organic Waste; and (iv) Excluded Wastes placed in any container.
35. "Property Owner" means the owner of real property.
36. "Recycling Container" has the same meaning as "Blue Container" in 14 CCR Section 18982.2(a)(5) and shall be used for the purpose of storage and collection of Source Separated Recyclable Materials.
37. "Reuse" occurs when an item of the Solid Waste stream is reused in its manufactured form without reprocessing. Reusable materials include but are not limited to clothing, indoor and outdoor furnishings, clean fill dirt, architectural detailing, art and art supplies, books and antiques.
38. "Restricted Drop-Off Items" means those items collected at the El Cerrito Recycling + Environmental Resource Center (RERC) that, for reasons of safety, health, security, and/or cost-efficiency, are locked, secured, or otherwise made inaccessible to the public without the assistance of City staff. The proper procedure for dropping off restricted items at the RERC shall be posted at each restricted drop-off area, and shall instruct the public how to get staff assistance with those items.
39. "Salvage" means the act of accessing and taking those materials from the El Cerrito Recycling + Environmental Resource Center that can be Reused or repurposed by individuals while providing equal or greater community and environmental benefits than would be realized if those items were recycled by the City. Salvage also means to access and take such materials.
40. "Salvage Permit" means a granted exemption under Section 8.12.160 of this chapter.
41. "SB 1383" means Senate Bill 1383, the Short-lived Climate Pollutant Reduction Act of 2016.
42. "SB 1383 Regulations" means or refers to, for the purposes of this chapter, the Short-Lived Climate Pollutants: Organic Waste Reduction regulations developed by CalRecycle and adopted in 2020 that created 14 CCR, Division 7, Chapter 12 and amended portions of regulations of 14 CCR and 27 CCR.
43. "Self-Hauler" means a person who self-hauls Solid Waste, Organic Waste and/or Recyclables they generated in accordance with Section 8.12.110. Self-Hauler also includes a person who back hauls waste, or as otherwise defined in 14 CCR Section 18982(a)(66). Back-haul means generating and transporting Organic Waste to a destination owned and operated by the Generator using the Generator's own employees and equipment, or as otherwise defined in 14 CCR Section 189881(a)(66)(A).
44. "Sharps" means any potential biohazard device having acute rigid corners, edges, or protuberances capable of cutting or piercing, such as hypodermic needles, hypodermic needles with syringes, lancets, blades, needles with attached tubing, syringes contaminated with biohazardous waste, acupuncture needles, root canal files, broken glass items such as Pasteur pipettes and blood vials contaminated with biohazardous waste, and any item capable of cutting or piercing that is contaminated with trauma scene waste. "Sharps" does not mean household disposable razors, box cutting knives, craft tools, or household glass.
45. "Single-Family Residential Dwelling" or "Single-Family" means, of, from, or pertaining to any residential premises with fewer than five (5) dwelling units.

46. "Solid Waste" has the same meaning as defined in Public Resources Code Section 40191, which defines Solid Waste as all putrescible and nonputrescible solid, semisolid, and liquid wastes, including Garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semi-Solid Wastes, and other discarded solid and semi-Solid Wastes, with the exception that Solid Waste does not include any of the following wastes:
- a) Hazardous waste, as defined in the Public Resources Code Section 40141.
 - b) Radioactive waste regulated pursuant to the State Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the Health and Safety Code).
 - c) Medical waste regulated pursuant to the State Medical Waste Management Act (Part 14 (commencing with Section 117600) of Division 104 of the Health and Safety Code). Untreated medical waste shall not be disposed of in a Solid Waste landfill, as defined in Public Resources Code Section 40195.1. Medical waste that has been treated and deemed to be Solid Waste shall be regulated pursuant to Division 30 of the Public Resources Code.
47. "Source Separated" means materials that have been kept separate from the Solid Waste stream, at the point of generation, for the purpose of additional sorting or processing in order to return them to the economic mainstream in the form of raw material for new, Reused, or reconstituted products, which meet the quality standards necessary to be used in the marketplace, or as otherwise defined in 14 CCR Section 17402.5(b)(4). For the purposes of this chapter, Source Separated shall include separation of waste and materials into different containers for the purpose of complying with this chapter.
48. "Source Separated Compost Container Organic Waste" means Source Separated Organic Waste that can be placed in a Compost Container, including Food Scraps, Food Soiled Paper, Yard Waste, and any other items accepted in the Compost Container Collection Service, as determined by the City or Designated Entity.
49. "Source Separated Recycling Container Organic Waste" means Source Separated Organic Waste that can be placed in a Recycling Container, including unsoiled paper products, printing and writing paper, cardboard, and any other items accepted in the Recycling Container Collection Service, as determined by the City or Designated Entity.
50. "Source Separated Recyclable Materials" means Source Separated Non-Organic Recyclables and Source Separated Recycling Container Organic Waste.
51. "Supermarket" means a full-line, self-service retail store with gross annual sales of two million dollars (\$2,000,000), or more, and which sells a line of dry grocery, canned goods, or nonfood items and some perishable items, or as otherwise defined in 14 CCR Section 18982(a)(71).
52. "Tier 1 Commercial Edible Food Generator" means a Commercial Edible Food Generator that is one of the following:
- a) Supermarkets.
 - b) Grocery store with a total facility size equal to or greater than 10,000 square feet.
 - c) Food Service Provider.
 - d) Wholesale Food Vendor which means a business or establishment engaged in the merchant wholesale distribution of food, where food (including fruits and vegetables) is received, shipped, stored, prepared for distribution to a retailer,

warehouse, distributor, or other destination, or as otherwise defined in 14 CCR Section 189852(a)(76)

- e) Food Distributor which means a company that distributes food to entities including, but not limited to, Supermarkets and Grocery Stores or as otherwise defined in 14 CCR Section 18982(a)(22).
53. "Tier 2 Commercial Edible Food Generator" means a Commercial Edible Food Generator that is one of the following:
- a) Restaurant which means an establishment primarily engaged in the retail sale of food and drinks for on-premises or immediate consumption, or as otherwise defined in 14 CCR Section 18982(a)(64) and which has 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.
 - b) Hotel with an on-site Food Facility and 200 or more rooms or as otherwise defined in 14 CCR Section 18982(a)(74)(B).
 - c) Health facility with an on-site Food Facility and 100 or more beds, or as otherwise defined in 14 CCR Section 18982(a)(73)(C).
 - d) Large Venue, which means a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility, or as otherwise defined in 14 CCR Section 18982(a)(39). For purposes of this chapter and implementation of 14 CCR, Division 7, Chapter 12, a venue facility includes, but is not limited to, a public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts center, fairground, museum, theater, or other public attraction facility. For purposes of this chapter and implementation of 14 CCR, Division 7, Chapter 12, a site under common ownership or control that includes more than one Large Venue that is contiguous with other Large Venues in the site, is a single Large Venue.
 - e) Large Event, which means an event, including, but not limited to, a sporting event or flea market, that charges an admission price, or is operated by a local agency, and serves an average of more than 2,000 individuals per day of operation of the event, at a location that includes, but is not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for an event, or as otherwise defined in 14 CCR Section 18982(a)(38).
 - f) A state agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet.
 - g) A local education agency, which means a school district, charter school, or county office of education that is not subject to the control of city or county regulations related to Solid Waste, or as otherwise defined in 14 CCR Section 18982(a)(40), and which has an on-site Food Facility.
54. "Universal Wastes" are hazardous wastes, including but, are not limited to, electronic devices, fluorescent lamps, cathode ray tubes, instruments that contain mercury, batteries, and many other items, as determined by the California Department of Toxic Substance Control pursuant to the California Code of Regulations (Title 22 Universal Waste Rule).
55. "Yard Waste" means grass clippings, yard trimmings, tree branches (up to 3 feet), weeds, leaves, flowers, pine needles, unpainted or untreated wood scraps, and any other items as determined by City or Designated Entity.

8.12.030 - Unlawful Collection and Disposal

- A. It is unlawful for any person to throw, place, or bury any Garbage, Recyclables, or Organic Waste, or other discarded materials anywhere in the City other than in an authorized private or public solid waste container.
- B. It is unlawful for any person to place Prohibited Container Containments in collection containers, including the placement of Garbage in a Compost Container or a Recycling Container.
- C. It is unlawful for any person to allow unseparated Garbage, Recyclables, or Organic Waste to accumulate in any place or container.
- D. It is unlawful for any person other than the Franchised Collectors to take any materials from a Recycling Container, Compost Container, or Landfill Container left on or near City curbs for Collection Services.
- E. It is unlawful to place Sharps in a Recycling Container, Compost Container, or Landfill Container. All Sharps must be taken to an appropriate medical waste disposal facility, the El Cerrito Recycling + Environmental Resource Center, or a household hazardous waste facility, if they are accepted there.
- F. Pharmaceuticals and Personal Care Products shall not be placed in Recycling Containers, Compost Containers, or Landfill Containers and must be taken to a household hazardous waste facility or the El Cerrito Recycling + Environmental Resource Center for appropriate disposal, when accepted there. A list of such products shall be available from the household hazardous waste facility.
- G. The state of California has deemed it illegal to dispose of Universal Wastes in landfills. Universal Wastes must be properly disposed or recycled pursuant to state law. Most Universal Wastes are accepted daily at the El Cerrito Recycling + Environmental Resource Center.
- H. It is unlawful to place hazardous waste or household hazardous waste in a Landfill Container, Recycling Container, or Compost Container nor shall such wastes be delivered by self-haul or otherwise to any landfill, transfer station, recycling facility materials recovery facility, organics processing facility, or any other facility which is not a regulated facility capable and permitted to handle such hazardous waste.
- I. Excluded Wastes must be handled and disposed of or recycled in a manner that protects human health and the environment and in accordance with all applicable regulations.
- J. It is unlawful for any person to place or dispose of items at the El Cerrito Recycling + Environmental Resource Center that are not accepted at that facility. Unlawful disposal includes, but is not limited to, placing Garbage, Compost Container Waste, or Excluded Wastes, and other items not listed as accepted, anywhere in the facility; placing any acceptable items in the incorrect containers; and placing Restricted Drop-Off Items anywhere in the facility without gaining appropriate access for restricted items.
- K. Except for materials designated by the El Cerrito Recycling + Environmental Resource Center staff as being available for Salvage, it is unlawful for any person, other than authorized employees of the City or Designated Entity, to remove Source Separated Recyclable Materials from any container, patron, contractor, employee, vehicle or area at El Cerrito Recycling + Environmental Resource Center or from public bins designated for the collection of such.

8.12.040 - Public Solid Waste Containers

It is the policy of the City to place and maintain Landfill Containers, Recycling Containers and Compost Containers at such locations as are deemed necessary for the public convenience for incidental materials generated while away from home. Residents using such containers shall place Garbage in the Landfill Container, Source Separated

Recyclable Materials in the Recycling Container and Source Separated Compost Container Organic Waste in the Compost Container, should they be available. It is unlawful for any person to put any household or business Garbage, Recyclables, or Organic Waste into public containers.

8.12.050 - Collection – Subscription Required

- A. Every Generator in the City shall, within seven (7) days of occupancy of a property, subscribe to Collection Services, and comply with the requirements thereof, unless the Generator has received an applicable exemption or waiver as provided for in this chapter. Every Generator shall be required to subscribe with the Franchised Collectors to collect and dispose of such other elements of the Solid Waste stream as designated by the City, when the City Council has authorized a contract, or determined that the City shall provide such service. Subscription to Collection Services does not preclude a Generator from self-hauling in accordance with Section 8.12.110.
- B. Every Generator who subscribes to Collection Services shall be responsible for payment, even if the Generator is not the Property Owner. Upon a Generator's failure to pay for Collection Services, the Property Owner shall become responsible for the payment of all delinquent Collection Service fees and charges, and the Franchised Collector shall use the provisions contained in Section 8.12.080 to secure payment.
- C. 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) to the extent permitted by other applicable laws. Nor shall any provision of this chapter limit the right of any Generator to donate or sell their Recyclables to any other person, firm or organization who collects such Recyclables in the City. However, these allowances shall not relieve such Generator from subscribing to Collection Services as required in this Section.
- D. If a Generator has failed to subscribe to Collection Services, the City or Designated Entity shall serve written notice to the Generator. Such notice shall advise the Generator of the requirements of this chapter and the obligation to subscribe to Collection Services. Collection Service shall commence within ten (10) days of the date of this notice unless the Generator can demonstrate to the City Manager or Designated Entity's satisfaction that the Generator has obtained an applicable exemption or waiver as provided for in this chapter, and/or is otherwise not subject to this chapter.

8.12.060 - Collection – Containers, Participation and Separation

- A. Every Generator in the City, except those with an applicable exemption or waiver as provided for in this chapter, shall:
 - 1. Maintain separate Landfill Containers, Recycling Containers, and Compost Containers supplied by the Franchised Collector. Generators shall arrange for a sufficient number of such containers to adequately store all Garbage, Source Separated Recyclable Materials and Source Separated Compost Container Organic Waste generated in connection with the residence or business between the times designated for collection. The City shall have the right to review the number and size of such containers to evaluate the adequacy of capacity provided for each type of Collection Service and to review the separation and containment of materials. Generators shall adjust service levels for their Collection Services as requested by the City or its Designated Entity in order to meet the standards set forth in this chapter.

2. Participate in the Collection Services by placing designated materials in designated containers as described below, and by not placing Prohibited Container Contaminants in collection containers.
 3. Place all Source Separated Compost Container Organic Waste in the Compost Container; Source Separated Recyclable Materials in the Recycling Container; and Landfill Container Waste (Garbage) in the Landfill Container. If any materials in a container are not collected by a Franchised Collector due to the presence of Prohibited Container Contaminants, the Generator shall properly Source Separate those materials and place them in their designated containers. The City or Designated Entity may charge a fee, approved in the Master Fee Schedule, if an additional Collection Services trip to collect properly Source Separated materials is requested or deemed necessary.
 4. Place Landfill Containers, Recycling Containers, and/or Compost Containers on or near the curb on the day specified for collection. The City Manager or Designated Entity shall grant an alternate setout location to households whose occupants are physically unable to roll their containers to the curb. Households requesting an alternate setout location shall submit an application to the City Manager or Designated Entity. A doctor's note and a signed statement, under penalty of perjury, must accompany the application stating that neither the occupant, nor any member of the occupant's household, is physically able to move the containers to the curb. It shall be the responsibility of the holder of the allowance to arrange a suitable location for the container with the Franchised Collector. No additional fee will be charged for this service. The City Manager or Designated Entity may grant temporary allowances for persons with temporary disabilities.
 5. Maintain Landfill Containers, Recycling Containers and Compost Containers in a sanitary condition at all times. Any bulky material must be reduced in size so that it may be placed in the appropriate container with the cover tightly closed and without excessive tamping, so that the container may be easily emptied.
 6. Not place Landfill Containers, Recycling Containers and Compost Containers for collection at any time other than the day or days established for collection, or earlier than sunset of the day preceding the day designated for collection. All Landfill Containers, Recycling Containers, and Compost Containers shall be removed from the curb prior to midnight of the day the containers have been emptied.
- B. Every Commercial Business Generator in the City, except those with an applicable exemption or waiver as provided for in this chapter, shall supply and allow access to adequate number, size and location of containers with sufficient labels or colors, consistent with Sections 8.12.060(C)(1)-(2), for employees, contractors, tenants, and customers, consistent with Collection Services or, if self-hauling, in compliance with Section 8.12.110.
- C. Every Commercial Business Generator in the City, excluding Multi-Family Residential Dwellings and those with an applicable exemption or waiver as provided for in this chapter, shall provide containers for the collection of Source Separated Compost Container Organic Waste and Source Separated Recyclable Materials generated by that business in all areas where the Commercial Business provides disposal containers for employees, contractors, tenants, customers, and other users of the premises. 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 Commercial Business does not have to provide that particular type of container in all areas where other containers are provided.

Pursuant to 14 CCR Section 18984.9(b), the containers provided by the Commercial Business shall have either:

1. A body and/or lid that conforms to the following container colors provided through the Collection Services: gray or black for Landfill Containers, blue for Recycling Containers, and green for Compost Containers. Notwithstanding the foregoing, a Commercial Business is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the color requirements of this Section prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first; or
 2. Container labels that include language or graphic images, or both, indicating the primary materials accepted and the primary materials prohibited in that container, or containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the container. The container labeling requirements are required on new containers commencing January 1, 2022.
- D. If a Commercial Business requires the use of more than four (4) Landfill Containers or the equivalent thereof, for the storage of Garbage, the Commercial Business shall provide a suitable screened area for these Landfill Containers. The design and location of this screened area must be approved by the City's Building Official.

8.12.065 - Education & Outreach Requirements for Commercial Businesses

- A. Every Commercial Business Generator in the City, except Multi-Family Residential Dwellings and those with an applicable exemption or waiver as provided for in this chapter, shall, to the extent practical through education, training, inspection, and/or other measures, prohibit employees from placing materials in a container not designated for those materials per the Landfill Container, Recycling Container, and/or Compost Container Collection Service, or if self-hauling, per the Commercial Businesses' instructions to support its compliance with its self-haul program, in accordance with Section 8.12.110.
- B. Every Commercial Business Generator in the City, except Multi-Family Residential Dwellings and those with an applicable exemption or waiver as provided for in this chapter, shall annually inspect all Landfill Containers, Recycling Containers, or Compost Containers for contamination and inform employees if containers are contaminated and of the requirements to keep contaminants out of those containers.
- C. Every Commercial Business Generator in the City, except those with an applicable exemption or waiver as provided for in this chapter, shall annually provide information to employees, contractors, tenants, building residents, and customers about Organic Waste Recovery requirements and about proper sorting of Source Separated Compost Container Organic Waste and Source Separated Recyclable Materials. A copy of such instructions shall be provided to the City Manager, and/or Designated Entity upon request.
- D. Every Commercial Business Generator in the City, except those with an applicable exemption or waiver as provided for in this chapter, shall provide education information to tenants that describes requirements to keep Source Separated Compost Container Organic Waste and Source Separated Recyclable Materials separate from each other and from Landfill Container Waste, and the location of containers and the rules governing their use at the property. The education information shall be provided before or within fourteen (14) days of occupation of the premises to new tenants and no less than fourteen (14) days before tenants move out of the premises, unless a tenant does not provide fourteen (14) or more days' notice before moving out.

8.12.070 - Waivers for Generators

- A. De Minimis Waivers. The City Manager or Designated Entity may waive a Commercial Business' obligation to comply with some or all of the Organic Waste Collection Service subscription requirements of this chapter, if documentation is provided demonstrating that the Commercial Business generates a de minimis amount of Organic Waste material, as further described below.
1. A Commercial Business requesting a de minimis waiver shall:
 - a) Submit an application to the City Manager or Designated Entity specifying the service or requirements for which it is requesting a waiver. Applicant shall supply all required proof of qualifications in writing along with the application submittal. Applicants may be required to provide information in forms provided by the City or Designated Entity. Applicants may be subject to one or more site inspection(s) prior to approval of a waiver.
 - b) In support of a de minimis waiver application, Commercial Businesses shall provide documentation that either:
 - i) The Commercial Business' total Solid Waste collection service is two cubic yards or more per week and Organic Waste subject to collection in a Recycling Container or Compost Container comprises less than 20 gallons per week per applicable container of the business' total waste; or
 - ii) The Commercial Business' total Solid Waste collection service is less than two cubic yards per week and Organic Waste subject to collection in a Recycling Container or Compost Container comprises less than 10 gallons per week per applicable container of the business' total waste.
 2. For the purposes of a de minimis waiver application, total Solid Waste shall be the sum of weekly Landfill Container Waste, Source Separated Recyclable Materials, and Source Separated Compost Container Organic Waste, measured in cubic yards.
 3. A Commercial Business that is granted a de minimis waiver shall:
 - a) Notify the City Manager or Designated Entity if circumstances change such that the Commercial Business' Organic Waste exceeds the threshold required for a waiver, in which case the waiver may be rescinded.
 - b) Provide written verification of continued eligibility for de minimis waiver to the City Manager or Designated Entity every five (5) years.
- B. Physical Space Waivers. The City Manager or Designated Entity may waive a Generator's obligation to comply with some or all of the Recyclables and/or Organic Waste Collection Service subscription requirements of this chapter, if the City Manager or Designated Entity has evidence from the City, a Designated Entity, or a licensed architect or engineer demonstrating that the premises lacks adequate space for the collection containers required for compliance with the Recyclables and/or Organic Waste Collection Service requirements of this chapter.
1. A Generator requesting a physical space waiver shall:
 - a) Submit an application to the City Manager or Designated Entity specifying the Collection Service(s) or requirements for which it is requesting a waiver.
 - b) Provide documentation that the premises lacks adequate space for Recycling Containers and/or Compost Containers, which shall include documentation from the City, a Designated Entity, and/or a licensed architect or engineer.
 2. A Generator that is granted a physical space waiver shall:
 - a) Notify the City Manager or Designated Entity if the Generator's physical space configurations or amounts of Solid Waste generation change, in which case the waiver may be rescinded.

- b) Provide written verification of continued eligibility for a physical space waiver to the City Manager or Designated Entity every five (5) years.
- C. Container Waivers. The City Manager or Designated Entity may waive a Generator's obligation to comply with some or all of the Collection Service subscription requirements of this chapter, if documentation is provided demonstrating compliance with all of the requirements described below.
 - 1. A Generator requesting a Container Waiver shall:
 - a) Submit an application to the City Manager or Designated Entity specifying the Collection Services or requirements for which it is requesting a waiver.
 - b) Provide documentation proving that the applicant's applicable waste or materials diversion is equal to or greater than the Collection Services provided in this chapter.
 - c) Provide documentation proving that the applicant's applicable waste or materials diversion and disposal is completed with equal to or less environmental impacts than the Collection Services currently provide (e.g., meets carbon emissions standards per the California Global Warming Solutions Act of 2006, and meets best management practice standards as required by Contra Costa Clean Water Program).
 - d) Provide documentation proving that the applicant's applicable waste and materials diversion and disposal methods do not constitute a nuisance as defined in Chapter 8.34 and is not in violation of any other Municipal Code provisions.
 - e) Supply all required proof of qualifications in writing together with the application submittal. Applicants may be required to provide information in forms provided by the City or Designated Entity.
 - f) Pay an application fee as provided in the City's Master Fee Schedule.
 - g) Be subject to meetings with the City or Designated Entity, including any application hearings or site inspections as the City Manager or Designated Entity deems necessary to obtain all required information and proof.

D. All Waivers.

- 1. Change of ownership or occupants of a property automatically revokes a waiver.
- 2. Upon the determination of the City Manager or Designated Entity, a written notification of the approval or denial of a waiver shall be issued to the applicant.
- 3. If an application is denied or a waiver is revoked, an applicant may re-apply following the applicable process.
- 4. The City Manager or Designated Entity may revoke a waiver at any time if a nuisance as defined in Chapter 8.34 is found on the applicant's property or on another property as a result of Solid Waste generated by the applicant.
- 5. Applicants shall provide the written approved notification of waiver when requesting that a Franchised Collector terminate subscription to applicable Collection Services or when the City Manager or Designated Entity requests verification.
- 6. Any self-hauling of waste or materials shall comply with Section 8.12.110.

8.12.080 - Failure to Pay

- A. Each Franchised Collector shall be entitled to payment from the Generator or Property Owner for Collection Services provided by the Franchised Collector. In the event of nonpayment from a Generator or Property Owner, the Franchised Collector may temporarily stop collection as of the second scheduled collection day after the payment due date until payment has been secured, or until the City Manager or Designated Entity authorizes a waiver or exemption from Collection Services as

provided for in this chapter. Prior to stopping Collection Services, the Franchised Collector shall individually notify the Generator and/or Property Owner in writing or by phone that service will be stopped if payment is not secured. If payment is not secured after thirty (30) days from the payment due date, the Franchised Collector shall notify the City Manager or Designated Entity in writing of the failure to pay and the date that Collection Service was stopped. Upon notification, the City Manager or Designated Entity will investigate whether the lack of Collection Service constitutes a nuisance as defined in Chapter 8.34 or whether a waiver or exemption from Collection Service as provided for in this chapter is allowable. The City Manager or Designated Entity may require the Franchised Collector to continue to provide Collection Services for occupied residences or businesses and may pursue nuisance abatement pursuant to Chapter 8.34. Any cost recovery of abatement costs, as authorized pursuant to Chapter 8.34, shall not be recoverable by recording a lien or special assessment against the parcel of land on which the nuisance is or was maintained.

- B. The Franchised Collector shall provide a written procedure through which a Generator may contest the charges imposed by the Franchised Collector.

8.12.090 - Commercial Edible Food Generator Requirements

- A. Tier One Commercial Edible Food Generators must comply with the requirements of Section 8.12.090(C) commencing January 1, 2022, and Tier Two Commercial Edible Food Generators must comply commencing January 1, 2024, pursuant to 14 CCR Section 18991.3 or such later deadline established by State law or regulations.
- B. Large Venue or Large Event operators not providing food services, but allowing for food to be provided by others, shall require Food Facilities, as defined in Section 113789 of the Health and Safety Code, operating at the Large Venue or Large Event to comply with the requirements of Section 8.12.090(C), commencing January 1, 2024 or such later deadline established by State law or regulations.
- C. Commercial Edible Food Generators shall, by the dates set forth above, comply with the following requirements:
 - 1. Arrange to safely recover for human consumption the maximum amount of Edible Food that would otherwise be disposed.
 - 2. Enter into a contract or other written agreement with Food Recovery Organizations or Food Recovery Services for: (i) the collection for Food Recovery of Edible Food that would otherwise be disposed; or, (ii) acceptance of Edible Food that would otherwise be disposed that the Commercial Edible Food Generator self-hauls to the Food Recovery Organization for Food Recovery.
 - 3. Use best efforts to abide by all contractual or written agreement requirements specified by the Food Recovery Organization or Food Recovery Service on how Edible Food should be prepared, packaged, labeled, handled, stored, distributed or transported to the Food Recovery Organization or Service.
 - 4. Not intentionally donate food that has not been prepared, packaged, handled, stored and/or transported in accordance with the safety requirements of the California Retail Food Code.
 - 5. Not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery Organization or a Food Recovery Service.
 - 6. Allow the Enforcement Agency to review records upon request, including by providing electronic copies or allowing access to the premises.
 - 7. Keep records that include the following information, or as otherwise specified in 14 CCR Section 18991.4:

- a. A list of each Food Recovery Service or Food Recovery Organization that collects or receives its Edible Food pursuant to a contract or written agreement established under 14 CCR Section 18991.3(b).
 - b. A copy of all contracts and written agreements established under 14 CCR Section 18991.3(b) and/or this chapter.
 - c. A record of the following information for each of those Food Recovery Services or Food Recovery Organizations:
 - i. The name, address and contact information of the Food Recovery Service or Food Recovery Organization.
 - ii. The types of food that will be collected by or self-hauled to the Food Recovery Service or Food Recovery Organization.
 - iii. The established frequency that food will be collected or self-hauled.
 - iv. The quantity of food, measured in pounds recovered per month, collected or self-hauled to a Food Recovery Service or Food Recovery Organization for Food Recovery.
 - d. If it has not entered into a contract or written agreement with Food Recovery Organizations or Food Recovery Service, a record that describes (i) its direct donation of Edible Food to end recipients (including employees) and/or (ii) its food waste prevention practices that result in it generating no surplus Edible Food that it can donate.
8. Tier One Commercial Edible Food Generators and Tier Two Commercial Edible Food Generators shall provide, upon request, a Food Recovery report to the City or Designated Entity that includes the information in Section 8.12.090(C)(7). Said Generators shall provide the requested information within sixty (60) days of the request.
- D. Nothing in this chapter shall be construed to limit or conflict with (1) the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share table and school food donation guidance pursuant to Senate Bill 557 of 2017 or (2) otherwise applicable food safety and handling laws and regulations.
- E. Nothing in this chapter prohibits a Commercial Edible Food Generator from donating Edible Food directly to end recipients for consumption, pursuant to Health and Safety Code Section 114432(a).

8.12.095 - Food Recovery Organizations and Services Requirements

- A. Food Recovery Services collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records:
 - 1. The name, address, and contact information for each Commercial Edible Food Generator from which the service collects Edible Food.
 - 2. The quantity in pounds of Edible Food collected from each Commercial Edible Food Generator per month. This may also include the total quantity in pounds of food collected that was spoiled when received from a Commercial Edible Food Generator or otherwise not able to be used to feed people.
 - 3. The quantity in pounds of Edible Food transported to each Food Recovery Organization per month.
 - 4. The name, address, and contact information for each Food Recovery Organization that the Food Recovery Service transports Edible Food to for Food Recovery.
- B. Food Recovery Organizations collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records:

1. The name, address, and contact information for each Commercial Edible Food Generator from which the organization receives Edible Food.
 2. The quantity in pounds of Edible Food received from each Commercial Edible Food Generator per month. This may also include the total quantity in pounds of food collected that was spoiled when received from a Commercial Edible Food Generator or otherwise not able to be used to feed people.
 3. The name, address, and contact information for each Food Recovery Service that the organization receives Edible Food from for Food Recovery.
- C. Food Recovery Organizations and Food Recovery Services that have their primary address physically located in the City and contract with or have written agreements with one or more Commercial Edible Food Generators shall report to the City, or its Designated Entity, the total pounds of Edible Food recovered from the Tier One and Tier Two Commercial Edible Food Generators they have established a contract or written agreement with (regardless of whether those Generators are located in the City) according to the following schedule:
1. No later than August 15, 2022, submit an initial report covering the period of January 1, 2022 to June 30, 2022; and
 2. No later than March 31, 2023, and no later than every March 31 thereafter, submit a report covering the period of January 1 to December 31 of the previous calendar year.
- D. In order to support Edible Food Recovery capacity planning assessments and similar studies, Food Recovery Services and Food Recovery Organizations operating in the City shall provide, upon request, information and consultation to the City or Designated Entity, regarding existing, or proposed new or expanded, Food Recovery capacity that could be accessed by the City or Designated Entity, and its Commercial Edible Food Generators. A Food Recovery Service or Food Recovery Organization contacted by the City or Designated Entity shall respond to such request for information within sixty (60) days unless a shorter timeframe is otherwise specified by the City or Designated Entity.

8.12.100 - Franchised Collector Requirements

- A. Every Franchised Collector providing Collection Services in the City shall meet the following requirements and standards in connection with collection of Organic Waste:
1. Through written notice to the City or Designated Entity, annually identify the facilities to which they will transport Organic Waste including facilities for Source Separated Recyclable Materials and Source Separated Compost Container Organic Waste.
 2. Transport Source Separated Recyclable Materials to a facility that recycles those materials and transport Source Separated Compost Container Organic Waste to a facility, operation, activity, or property that recovers Organic Waste as defined in 14 CCR, Division 7, Chapter 12, Article 2.
 3. Obtain approval from the City or Designated Entity to haul Organic Waste, unless it is transporting Source Separated Organic Waste to a Community Composting site or lawfully transporting C&D in a manner that complies with 14 CCR Section 18989.1.

8.12.110 - Self-Hauler Requirements

- A. Self-Haulers shall Source Separate all Recyclables and Organic Waste generated on-site from Solid Waste in a manner consistent with 14 CCR Sections 18984.1 and 18984.2, or shall haul Organic Waste to a High Diversion Organic Waste Processing Facility as specified in 14 CCR Section 18984.3.

- B. Self-Haulers shall self-haul their Source Separated Recyclable Materials to a facility that recovers those materials; self-haul their Source Separated Compost Container Organic Waste to a Solid Waste facility, operation, activity, or property that processes or recovers Source Separated Organic Waste or to a High Diversion Organic Waste Processing Facility; and self-haul their Garbage to a facility that is permitted to accept Garbage.
- C. Self-Haulers that are Commercial Businesses shall keep a record of the amount of Organic Waste delivered to each Solid Waste facility, operation, activity, or property that processes or recovers Organic Waste; this record shall be subject to Inspection by the City. The records shall include the following information:
 - 1. Delivery receipts and weight tickets from the entity accepting the waste.
 - 2. 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 materials received, the Self-Hauler is not required to record the weight of material but shall keep a record of the entities that received the Organic Waste.
- D. Self-Haulers that are Commercial Businesses shall provide the above information, upon request, to the City Manager or Designated Entity within sixty (60) days of the request.
- E. Landscapers who self-haul Yard Waste generated at a customer's site, must also meet the requirements in this Section.

8.12.120 - Requirements for Facility Operators and Community Composting Operations

A. Owners of facilities, operations, and activities that recover Organic Waste, including, but not limited to, compost facilities, in-vessel digestion facilities, and publicly-owned treatment works shall, upon request from City or Designated Entity, provide within sixty (60) days, 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.

B. Community Composting operators shall, upon request from City or Designated Entity, provide within sixty (60) days, information to support Organic Waste capacity planning, including, but not limited to, an estimate of the amount of Organic Waste anticipated to be handled at the Community Composting operation.

8.12.130 - Collection and Disposal Contracts

At such times as there is in force, a contract entered into by the City with any Franchised Collector for Garbage, Recyclables and/or Organic Waste Collection Services in the City, it shall be unlawful for any person other than the Franchised Collector to collect and dispose of these materials within the City. In the event the City has not contracted with a Franchised Collector for Garbage, Recyclables and/or Organic Waste Collection Services, the City may, at its option, provide such Collection Services. For such Collection Services as the City provides, the City shall be deemed the Franchised Collector, and the City shall be entitled to enforce all of the rights and obligations of a Franchised Collector under the provisions of this chapter.

8.12.140 - Collection – Schedule

Collection Services shall be performed by the City, or the Franchised Collector selected by the City, in a manner and frequency which protects public health and safety.

8.12.150 - Collection – Service Rates

The City Council may, by resolution or an approved contract with any Franchised Collector, place a limit on the rates, fees and charges for Collection Services. No Franchised Collector shall impose any fee that is greater than the maximum permitted by the City Council, unless otherwise authorized in this chapter.

8.12.160 - Salvage and Application for Salvage Exemption

- A. The City Manager or Designated Entity may grant an exemption to Section 8.12.030(K) to individuals removing certain items collected at the El Cerrito Recycling + Environmental Resource Center for legitimate Salvage. Certain categories of items, as designated and specially marked by City staff, may be designated for ongoing Salvage and/or Reuse available to all patrons without a Salvage permit.
- B. Salvage of all other categories of materials that are not designated by City staff for ongoing Salvage and/or Reuse shall require an exemption via a Salvage permit application by the individual seeking permission to Salvage the materials. Such Salvage permit application is subject to the following qualifications:
 - 1. Applicant must demonstrate that the Salvaged materials will be legitimately Reused or repurposed through, for example: use as-is; repair and use; use in an art, school, or other project; use as parts; use in collections (e.g., stamps); or other personal uses.
 - 2. Applicant must sign a statement, under penalty of perjury, that no materials taken for Salvage will be sold as Recyclables.
 - 3. Applicant will be subject to any limits on the quantity of Salvaged material that may be taken, as determined by the City Manager or Designated Entity. The City Manager or Designated Entity may require that applicants salvaging materials above certain limits purchase those materials at fair market value from the City. Applicant must sign a statement, under penalty of perjury, that the applicant will abide by all Salvage limits.
 - 4. Applicant must demonstrate that any Salvage proposed by applicant does not constitute a nuisance as specified in Chapter 8.34 and is not in violation of any other El Cerrito Municipal Code provisions.
 - 5. The mere payment of fees that fund Recyclables collection, the El Cerrito Recycling + Environmental Resource Center and El Cerrito environmental programs shall not constitute grounds for the granting of a Salvage permit.
- C. The Salvage permit application procedure is as follows:
 - 1. Applicants may be required to provide information in forms provided by the City or Designated Entity. Applicants may be required to show proof of information provided on the application form. Salvage activities are subject to Inspection prior to approval of a permit.
 - 2. Applicant shall pay an application fee as provided in the City's Master Fee Schedule if one is established.
 - 3. Applicant may be required to meet with City staff or attend an application hearing as the City Manager or Designated Entity deems necessary to provide all required information and proof.
 - 4. Upon the determination of the City Manager or Designated Entity, a written notification of the approval or denial of permit shall be issued to the applicant.
 - 5. A Salvage permit may be granted only to an individual.
 - 6. If the application is denied or permit revoked, the applicant may re-apply following the above process, but no more than twice in one calendar year.
 - 7. The City Manager or Designated Entity may revoke a Salvage permit at any time if a nuisance as defined in Chapter 8.34 is found to be a result of the Salvage

and/or if the City or Designated Entity determines that any permitted Salvage results in volumes that materially impact the El Cerrito Recycling + Environmental Resource Center operations.

- D. Permittees shall provide their written approved Salvage permit to City staff when engaging in permitted Salvage activities or when the City Manager or Designated Entity requests verification.

8.12.170 - El Cerrito Recycling + Environmental Resource Center Activities – Control

Whenever the City Manager or Designated Entity finds that the welfare of any person will be best served by restricting the use of any portion of the El Cerrito Recycling + Environmental Resource Center, they shall control activities which are deemed to be of a hazardous nature, or of a nature which would endanger property, or which are not in the best interest of the citizens of the City. These activities may include, but are not limited to, restricting the total length of all daily visits to the El Cerrito Recycling + Environmental Resource Center by an individual and limiting the duration of parking at the El Cerrito Recycling + Environmental Resource Center. The City Manager or Designated Entity shall cause signs or notices to be posted setting forth the controlled activities.

8.12.180 - El Cerrito Recycling + Environmental Resource Center Activities – Compliance Required

Any person entering, being or remaining in the El Cerrito Recycling + Environmental Resource Center shall comply with the provisions of this chapter, all other related provisions of this code, and any rules posted by the City Manager or Designated Entity as provided by Section 8.12.170.

8.12.190 - Inspections and Investigations

- A. An Enforcement Agency is authorized to conduct any Inspections, remote monitoring (cameras in collection containers to identify contamination), or other investigations as reasonably necessary to further the goals of this chapter, subject to applicable laws. This may include Inspections and investigations, at random or otherwise, of any collection container, collection vehicle load, or transfer, processing, or disposal facility to confirm compliance with this chapter, subject to applicable laws. This Section does not allow entry into a private residential dwelling unit for Inspection without an occupant's or owner's consent. For the purposes of inspecting Commercial Business containers for compliance, an Enforcement Agency may conduct container Inspections for Prohibited Container Contaminants using remote monitoring, and Commercial Businesses shall accommodate and cooperate with the remote monitoring.
- B. Every Generator subject to the requirements of this chapter shall provide or arrange for access during all Inspections (with the exception of a residential dwelling unit interiors) and shall cooperate with an Enforcement Agency during such Inspections and investigations. Such Inspections and investigations may include confirmation of proper placement of materials in containers, Inspection of Edible Food Recovery activities, review of required records, or other verification or Inspection to confirm compliance with any other requirement of this chapter. Failure to provide or arrange for: (i) access to the premises; (ii) installation and operation of remote monitoring equipment; or (iii) access to records for any Inspection or investigation is in violation of this chapter and may result in penalties as provided for herein.

- C. Any records obtained by an Enforcement Agency during Inspections, remote monitoring, and other reviews shall be subject to the requirements and applicable disclosure exemptions of the California Public Records Act.
- D. An Enforcement Agency shall accept written complaints from persons, including anonymous complaints, regarding a Generator or other entity that may be potentially non-compliant with this chapter.

8.12.200 - Enforcement

A violation of any provision of this chapter shall be subject to any of the following enforcement mechanisms: (i) general penalty process set forth in Chapter 1.08; (ii) administrative citation process set forth in Chapter 1.14; (iii) nuisance abatement process set forth in Chapter 8.34; and/or (iv) by any means available to the City to remedy a violation of the Municipal Code; except that fines, charges, and/or costs shall not be recoverable by recording a lien or special assessment against a property. Enforcement pursuant to this Section may be undertaken by any Enforcement Agency.

Section 3: Compliance with the California Environmental Quality Act. This Ordinance is adopted pursuant to CalRecycle's SB 1383 Regulations. The SB 1383 Regulations were the subject of a program environmental impact report (EIR) prepared by CalRecycle, and the activities to be carried out under this Ordinance are entirely within the scope of the SB 1383 Regulations and that EIR. No mitigation measures identified in the EIR are applicable to the City of El Cerrito's enactment of this Ordinance. Moreover, none of the conditions requiring a subsequent or supplemental EIR, as described in Public Resources Code Section 21166 and California Environmental Quality Act (CEQA) Guidelines Sections 15162 and 15163, have occurred. The EIR therefore adequately analyzes any potential environmental effects of the Ordinance, and no additional environmental review is required. On a separate and independent basis, the Ordinance is exempt from CEQA pursuant to Section 15308, Class 8 of the CEQA Guidelines as an action that will not have a significant impact on the environment and as an action taken by a regulatory agency for the protection of the environment, specifically, for the protection of the climate. There are no unusual circumstances that would cause this Ordinance to have a significant effect on the environment.

Section 4: Severability. If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter. The City Council hereby declares that it would have passed the ordinance codified in this chapter, and each and every section, subsection, sentence, clause or phrase not declared invalid or unconstitutional without regard to whether any portion of this chapter would be subsequently declared invalid or unconstitutional.

Section 5: Effective Date. This Ordinance shall take effect and be enforced thirty days after the date of its adoption. Prior to the expiration of fifteen days from the passage thereof, the ordinance or a summary thereof shall be posted or published as may be required by law, and thereafter the same shall be in full force and effect.

THE FOREGOING ORDINANCE was introduced at a regular meeting of the City Council on November 16, 2021 and passed by the following vote:

AYES: Mayor Fadelli; Mayor Pro Tem Quinto; Councilmembers Abelson,
Motoyama and Rudnick
NOES: None
ABSENT: None
ABSTAIN: None

ADOPTED AND ORDERED published at a regular meeting of the City Council
held on December 7, 2021 and passed by the following vote:

AYES: Mayor Fadelli; Mayor Pro Tem Quinto; Councilmembers Abelson,
Motoyama and Rudnick
NOES: None
ABSENT: None
ABSTAIN: None

APPROVED:

Paul Fadelli, Mayor

ATTEST:

Holly M. Charl  ty, City Clerk

ORDINANCE CERTIFICATION

I, Holly M. Charl  ty, City Clerk of the City of El Cerrito, do hereby certify that this Ordinance is the true and correct original Ordinance No. 2021-05 of the City of El Cerrito; that said Ordinance was duly enacted and adopted by the City Council of the City of El Cerrito at a meeting of the City Council held on the 7th day of December 2021; and that said Ordinance has been published and/or posted in the manner required by law.

WITNESS my hand and the Official Seal of the City of El Cerrito, California, this ____
_____ day of December, 2021.

Holly M. Charl  ty, City Clerk