

ORDINANCE NO. 3130

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, AMENDING THE WHITTIER MUNICIPAL CODE, ADDING CHAPTER 8.14 OF TITLE 8 (HEALTH AND SAFETY) REGARDING MANDATORY ORGANIC WASTE DISPOSAL REDUCTION AND AMENDING SECTION 8.12.105 OF TITLE 8 (HEALTH AND SAFETY) REGARDING SELF-HAULER TO COMPLY WITH SB 1383

WHEREAS, State recycling law, Assembly Bill 939 of 1989, the California Integrated Waste Management Act of 1989 (California Public Resources Code Section 40000, et seq., as amended, supplemented, superseded, and replaced from time to time), requires cities and counties to reduce, reuse, and recycle (including Composting) Solid Waste generated in their City to the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 (approved by the Governor of the State of California on October 5, 2011, which amended Sections 41730, 41731, 41734, 41735, 41736, 41800, 42926, 44004, and 50001 of, and added Sections 40004, 41734.5, and 41780.01 and Chapter 12.8 (commencing with Section 42649) to Part 3 of Division 30 of, and added and repealed Section 41780.02 of, the Public Resources Code, as amended, supplemented, superseded and replaced from time to time), places requirements on Commercial Premises and Multi-Family Premises property owners that generate a specified threshold amount of Solid Waste to arrange for recycling services and requires cities to implement a mandatory Commercial recycling program; and

WHEREAS, State Organic Materials recycling law, Assembly Bill 1826 of 2014 (approved by the Governor of the State of California on September 28, 2014, which added Chapter 12.9 (commencing with Section 42649.8) to Part 3 of Division 30 of the Public Resources Code, relating to Solid Waste, as amended, supplemented, superseded, and replaced from time to time), requires Commercial Premises and Multi-Family Premises property owners that generate a specified threshold amount of Solid Waste, Recyclable Materials, and Organic Materials per week to arrange for recycling services for that waste, requires Cities to implement a recycling program to divert Organic Materials from Commercial Premises and Multi-Family Premises subject to the law, and requires cities to implement a mandatory Commercial Organic Materials program; and

WHEREAS, SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016, requires CalRecycle to develop regulations to reduce Organic Waste in landfills as a source of methane. The regulations place requirements on multiple entities including

jurisdictions, Residential Premises, Multi-Family Premises, Commercial Premises and business owners, Commercial Edible Food Generators, haulers, Self-Haulers, Food Recovery Organizations, and Food Recovery Services to support achievement of Statewide Organic Waste disposal reduction targets; and

WHEREAS, SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016, requires Cities to adopt and enforce an ordinance or enforceable mechanism to implement relevant provisions of SB 1383 Regulations. 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; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. Chapter 8.12 of Title 8 (Health and Safety) of the Whittier Municipal Code is hereby amended to read as follows:

8.12.105 - Self-hauler.

- A. Self-Hauler Permit. A resident or property owner responsible for the generation or accumulation of Refuse, Recyclable Materials, and/or Organic Materials on their premise in the city may, instead of subscribing to regular collection service through the city authorized contractor, apply for a self-hauler permit for their premise.
- B. Term. A self-hauler permit shall be good for one calendar year, or such part of the calendar year that is remaining after the issuance of the permit. All self-hauler permits shall expire on December 31st, and may be renewed annually. Application for renewal permit must be filed at least sixty days prior to the expiration date of the permit to allow adequate time for processing, inspection and verifications required to issue the permit.
- C. Issuance of Permit. An applicant for a self-hauler permit shall submit a completed application, on a form approved by the public works director, to the public works department. The public works director or designee shall determine whether the application is complete within five working days of the receipt of the application. If the director or designee finds the application incomplete, the applicant shall be given a list of further information needed to complete the application.

After it is determined that an application for a self-hauler permit is complete, the applicant shall produce the items listed in subsections (C)(1) through (7). The director of public works or designee shall issue a self-hauler permit within five working days of the production of all of the required items.

1. The applicant produces for inspection the vehicle the applicant intends to use for self-hauling, and the vehicle meets the following standards:
 - a. The vehicle is capable of safely hauling a minimum of thirty-two gallons (4.3 cubic feet) of Refuse, Recyclable Materials, and/or Organic Materials in a safe and sanitary manner so that such matter will not spill.
 - b. If the vehicle is not fully enclosed, the applicant produces a tarp or other material that is demonstrated to completely secure the materials being self-hauled.
2. The applicant produces evidence that they own or lease the vehicle produced for inspection or has written agreement to use the vehicle for self-hauling with the vehicle's owner or lessor.
3. The applicant produces evidence that they have a valid California driver's license to operate the vehicle produced for inspection and that the vehicle is registered in the state of California.
4. The applicant provides a certificate of automobile insurance for the vehicle.
5. The vehicle is operational and meets all standards in WMC Section 8.12.100.B.
6. The applicant provides proof that the applicant has containers for storage of Refuse, Recyclable Materials, and/or Organic Materials on the applicant's premises before the materials are hauled to a processing or disposal facility. All city-provided Refuse, Recyclable Materials, and/or Organic Materials containers shall be returned to the city. All contractor-provided ~~refuse and recycling~~ Refuse, Recyclable Materials, and/or Organic Materials containers shall be returned to the contractor.
7. The applicant attests that they understand and will comply with the self-hauler requirements contained in SB 1383, and included as items E.1 through E.3 below.
8. The applicant pays for the fee for a self-haul permit authorized by resolution of the city council. The fee shall reflect the city's reasonable costs of issuing and monitoring compliance with the permit. Permits issued between January 1st and March 31st shall

pay one hundred percent of the permit fee; permits issued between April 1st and June 30th shall pay for seventy-five percent of the permit fee; permits issued between July 1st and September 30th shall pay fifty percent of the permit fee; permits issued between October 1st and December 31st shall pay twenty-five percent of the permit fee.

- D. Appeal of Denial. An applicant whose application for a self-hauler permit has been denied may appeal that decision. An appeal may be filed within five days of the date the applicant was notified of the denial. Appeals shall be heard by the city manager. The decision of the city manager is final.
- E. Operational Standards.
 - 1. Separate its Recyclable Materials and Organic Materials (materials that City otherwise requires Generators or Responsible Parties to separate for collection in the City's Recyclable Materials and Organic Materials collection program) generated on-site from Solid Waste in a manner consistent with 14 CCR Section 18984.1 and 18984.2 and the City's collection program. Self-Haulers shall deliver their materials to facilities described in subsection (b) below. Alternatively, Self-Haulers may or choose not to Source Separate Recyclable Materials and Organic Materials and shall haul its Solid Waste (that includes Recyclable Materials and Organic Materials) to a High Diversion Organic Waste Processing Facility that is approved by the City.
 - 2. Self-Haulers that Source Separate their Recyclable Materials and Organic Materials shall haul their Source Separated Recyclable Materials to a facility that recovers those materials; haul their Source Separated Organic Waste to a facility, operation, activity, or property that processes or recovers Source Separated Organic Waste; and, haul their Refuse to a disposal facility or transfer facility or operation that processes or disposes of Solid Waste; and, transport manure to a facility that manages manure in conformance with 14 CCR Article 12 and such that the manure is not landfilled, used as Alternative Daily Cover (ADC), or used as Alternative Intermediate Cover (AIC).
 - 3. Self-Haulers that are Responsible Parties of Commercial Businesses or Multi-Family Premises shall keep records of the amount of Recyclable Materials, Organic Waste, and Refuse delivered to each facility, operation, activity, or property that processes or recovers Recyclable Materials and Organic Waste and processes or disposes of Solid Waste or shall keep records of

Solid Waste delivered to High Diversion Organic Waste Processing Facilities. These records shall be subject to Inspection by the City or its designee. The records shall include the following information:

- a) Delivery receipts and weight tickets from the entity accepting the Recyclable Materials, Organic Materials, and Refuse.
 - b) The amount of material in cubic yards or tons transported by the Generator or Responsible Party to each entity.
 - c) 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 Recyclable Materials, Organic Materials, and Refuse.
4. 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 Recyclable Materials, Organic Materials, and Refuse.
 5. Self-hauler permittees must notify the city of any change in the vehicle being used to haul Solid Waste by permittee. Permittees must bring the new vehicle in for an inspection and demonstrate compliance with subsection (C)(1) through (5) of this section before the new vehicle is used to haul any Solid Waste under permit.
 6. Self-hauler permittee must keep on file with the city copies of the current automobile insurance and registration for the vehicle used to self-haul and the permittee's current California driver's license. The permittee must provide proof to the city of renewed automobile insurance, vehicle registration, and California's driver's license within five days of expiration of respective document.
 7. Self-hauler permittees are liable for any damages and clean-up costs resulting from any Refuse, Recyclable Material, or Organic Material spills during the course of the permittee's self-hauling activity.

- F. Revocation of permit. The self-hauler permit shall be subject to revocation if permittee violates any provision of this chapter. A notice of revocation shall be mailed to the permittee informing them that their self-hauler permit is being revoked identifying the violations of this chapter that have occurred, and informing the permittee that they have the right to dispute the revocation by an appeal to the city manager. An appeal of revocation must be filed within five calendar days of the mailing of notice of the revocation. A revocation appeal hearing will be scheduled within five days of the date the city receives the request for an appeal. The city manager will issue a decision on the appeal within five days of the hearing and provide the permittee with written notice of the decision. The decision of the city manager on the appeal shall be final. A person whose self-hauler permit has been revoked pursuant to this subsection F may not obtain another self-hauler permit for one year from the date of the revocation.

SECTION 2. Chapter 8.14 of Title 8 (Health and Safety) is added to the Whittier Municipal Code.

Chapter 8.14 – MANDATORY ORGANIC WASTE DISPOSAL REDUCTION

Sections:

- 8.14.010 – Title of ordinance
- 8.14.020 – Definitions
- 8.14.030 – Requirements for residential premises generators
- 8.14.040 – Requirements for multi-family premises generators
- 8.14.050 – Requirements for commercial premises generators
- 8.14.060 – Waivers for multi-family and commercial premises generators
- 8.14.070 – Requirements for commercial edible food generators
- 8.14.080 – Requirements for food recovery organizations and services
- 8.14.090 – Requirements for haulers and facility operators
- 8.14.100 – Procurement requirements for city departments, direct service providers, and vendors
- 8.14.110 – Inspections and investigations
- 8.14.120 – Enforcement
- 8.14.130 – Effective date

8.14.010 – Title of ordinance.

This chapter shall be entitled “Mandatory Organic Waste Disposal Reduction Ordinance”.

8.14.020 – Definitions.

- A. “California Code of Regulations” or “CCR” means the State of California Code of Regulations. CCR references in this ordinance are preceded with a number that refers to the relevant Title of the CCR (e.g., “14 CCR,

Division 7, Chapter 12” refers to Title 14, Division 7, Chapter 12 of the California Code of Regulations.

- B. “CalRecycle” is the California Department of Resources Recycling and Recovery.
- C. “City” means the City of Whittier, California, a municipal corporation, and all the territory lying within its boundaries as presently existing or as such boundaries may be modified during the term of this ordinance.
- D. “City Enforcement Official” means the city manager or their authorized Designee(s) who is/are partially or wholly responsible for enforcing the ordinance.
- E. “Commercial Edible Food Generators” means Tier One Commercial Edible Food Generators and Tier Two Commercial Edible Food Generators, or as otherwise defined in 14 CCR Section 18982(a)(7). For the purposes of this definition, Food Recovery Organizations and Food Recovery Services are not Commercial Edible Food Generators, or as otherwise specified by 14 CCR Section 18982(a)(7).
- F. “Commercial Premises” means all Premises in the City, other than single family Residential Premises, where Solid Waste is generated or accumulated. The term “Commercial Premises” includes, but is not limited to, Multi-Family Premises, stores; offices; industrial plants; private schools; school district offices, special districts and water districts (to the extent permitted by law); restaurants; rooming houses; hotels; motels; manufacturing, processing, or assembly shops or plants; hospitals, clinics, convalescent centers and nursing homes (non-medical waste only).
- G. “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).
- H. “Compliance Review” means a review of records by a City to determine compliance with this ordinance.
- I. “Compostable Plastics” or “Compostable Plastic” means plastic materials that meet the ASTM D6400 standard for compostability, or as otherwise described in 14 CCR Section 18984.1(a)(1)(A) or 18984.2(a)(1)(C).

- J. "Composting" or "Compost" (or any variation thereof) includes a controlled biological decomposition of Organic Materials yielding a safe and nuisance free Compost product.
- K. "Construction and Demolition Debris" or "C&D" means discarded building materials, packaging, debris, and rubble resulting from construction, alteration, remodeling, repair, or demolition operations on any pavements, excavation projects, houses, Commercial buildings, or other structures, excluding Excluded Waste. Construction and Demolition Debris includes rocks, soils, tree remains, and other Yard Waste which results from land clearing or land development operations in preparation for construction.
- L. "Container Contamination" or "Contaminated Container" means a container, regardless of color, that contains Prohibited Container Contaminants, or as otherwise defined in 14 CCR Section 18982(a)(55).
- M. "Designated Waste" means non-Hazardous Waste which may pose special Disposal problems because of its potential to contaminate the environment and which may be Disposed of only in Class II Disposal sites or Class III Disposal sites pursuant to a variance issued by the California Department of Health Services. Designated Waste consists of those substances classified as Designated Waste by the California Water Code Section 13173 as may be amended from time to time. O. "Designee" means an entity that a City contracts with or otherwise arranges to carry out any of the City's responsibilities of this ordinance as authorized in 14 CCR Section 18981.2. A Designee may be a government entity, a hauler, a private entity, or a combination of those entities.
- N. "Discarded Materials" means Recyclable Materials, Organic Materials, and Solid Waste placed by a Generator in a receptacle and/or at a location for the purposes of Collection by Contractor, excluding Excluded Waste.
- O. "Disposal" or "Dispose" (or any variation thereof) means the ultimate final disposition of Solid Waste Refuse or Processing Residue at a Disposal Facility.
- P. "Edible Food" means food intended for human consumption. For the purposes of this ordinance, Edible Food is not Solid Waste if it is recovered and not discarded. Nothing in this ordinance requires or authorizes the Recovery of Edible Food that does not meet the food safety requirements of the California Retail Food Code. If the definition in 14 CCR Section 18982(a)(18) for Edible Food differs from this definition, the definition in 14 CCR Section 18982(a)(18) shall apply to this ordinance.

- Q. "Enforcement Action" means an action of the City to address non-compliance with this ordinance including, but not limited to, issuing administrative citations, fines, penalties, or using other remedies.
- R. "Excluded Waste" means Hazardous Substance, Hazardous Waste, Infectious Waste, Designated Waste, volatile, corrosive, biomedical, infectious, biohazardous, and toxic substances or material, waste that Contractor reasonably believes 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 but not limited to land use restrictions or conditions, waste that cannot be Disposed of in Class III landfills, waste that in Contractor's reasonable opinion would present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose Contractor or City to potential liability; but not including 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, processing, treatment, and Disposal of batteries and paint in compliance with Sections 41500 and 41802 of the California Public Resources Code. Excluded Waste does 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 City or its Designee for collection.
- S. "Food Distributor" means a company that distributes food to entities including, but not limited to, Supermarkets and Grocery Stores, or as otherwise defined in 14 CCR Section 18982(a)(22).
- T. "Food Facility" has the same meaning as in Section 113789 of the Health and Safety Code.
- U. "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).
- V. "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:
1. A food bank as defined in Section 113783 of the Health and Safety Code;
 2. A nonprofit charitable organization as defined in Section 113841 of the Health and Safety code; and,

3. A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.

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

If the definition in 14 CCR Section 18982(a)(25) for Food Recovery Organization differs from this definition, the definition in 14 CCR Section 18982(a)(25) shall apply to this ordinance.

- W. "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 ordinance.
- X. "Food Scraps" means those Discarded Materials that will decompose and/or putrefy including: (i) all kitchen and table Food Waste; (ii) animal or vegetable waste that is generated during or results from the storage, preparation, cooking or handling of food stuffs; (iii) fruit waste, grain waste, dairy waste, meat, and fish waste; and, (iv) vegetable trimmings, houseplant trimmings and other Compostable Organic Waste common to the occupancy of Residential dwellings. Food Scraps are a subset of Food Waste. Food Scraps excludes fats, oils, and grease when such materials are Source Separated from other Food Scraps.
- Y. "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).
- Z. "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.
- AA. "Food Waste" means Source Separated Food Scraps, Food-Soiled Paper, and 100% compostable dinnerware. Food Waste is a subset of Organic Materials.
- BB. "Generator" means any person whose act or process produces Discarded Materials as defined in the Public Resources Code, or whose act first causes Discarded Materials to become subject to regulation.

- CC. “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).
- DD. “Hauler Route” means the designated itinerary or sequence of stops for each segment of the City’s collection service area, or as otherwise defined in 14 CCR Section 18982(a)(31.5).
- EE. “Hazardous Substance” shall mean any of the following: (a) any substance defined, regulated or listed (directly or by reference) as “hazardous substances”, “hazardous materials”, “hazardous wastes”, “toxic waste”, “pollutant” or “toxic substances” or similarly identified as hazardous to human health or the environment, in or pursuant to (i) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC Section 9601, et seq.; (ii) the Hazardous Materials Transportation Act, 49 USC Section 5101, et seq.; (iii) the Resource Conservation and Recovery Act, 42 USC Section 6901, et seq.; (iv) the Clean Water Act, 33 USC Section 1251, et seq.; (v) California Health and Safety Code Sections 25115-25117, 25249.8, 25281, and 25316; (vi) the Clean Air Act, 42 USC Section 7401, et seq.; and (vii) California Water Code Section 13050; (b) any amendments, rules, or regulations promulgated thereunder to such enumerated statutes or acts currently existing or hereinafter enacted; and (c) any other hazardous or toxic substance, material, chemical, waste, or pollutant identified as hazardous or toxic or regulated under any other applicable federal, State, and local environmental laws currently existing or hereinafter enacted, including without limitation, friable asbestos, polychlorinated biphenyl (“PCBs”), petroleum, natural gas and synthetic fuel products, and by-products.
- FF. “Hazardous Waste” means all substances defined as Hazardous Waste, acutely Hazardous Waste, or extremely Hazardous Waste by the State in Health and Safety Code §25110.02, §25115, and §25117 or in the future amendments to or recodifications of such statutes or identified and listed as Hazardous Waste by the U.S. Environmental Protection Agency (EPA), pursuant to the Federal Resource Conservation and Recovery Act (42 USC §6901 et seq.), all future amendments thereto, and all rules and regulations promulgated thereunder.
- GG. “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).

- HH. “Infectious Waste” means biomedical waste generated at hospitals, public or private medical clinics, dental offices, research laboratories, pharmaceutical industries, blood banks, mortuaries, veterinary facilities and other similar establishments that are identified in Health and Safety Code Section 25117.5 as may be amended from time to time.
- II. “Inspection” means a site visit where a City reviews records, containers, and an entity’s collection, handling, recycling, or landfill disposal of Organic Waste or Edible Food handling to determine if the entity is complying with requirements set forth in this ordinance, or as otherwise defined in 14 CCR Section 18982(a)(35).
- JJ. “Large Event” means an event, including, but not limited to, a sporting event or a flea market, that charges an admission price, or is operated by a local agency, and serves an average of more than 2,000 individuals per day of operation of the event, at a location that includes, but is not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for an event. If the definition in 14 CCR Section 18982(a)(38) differs from this definition, the definition in 14 CCR Section 18982(a)(38) shall apply to this ordinance.
- KK. “Large Venue” means a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility. For purposes of 14 CCR, Division 7, Chapter 12 and this ordinance, 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 14 CCR, Division 7, Chapter 12 and this ordinance a site under common ownership or control that includes more than one Large Venue that is contiguous with other Large Venues in the site, is a single Large Venue. If the definition in 14 CCR Section 18982(a)(39) differs from this definition, the definition in 14 CCR Section 18982(a)(39) shall apply to this ordinance.
- LL. “Local Education Agency” 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).

- MM. “Multi-Family Premises” or “Multi-Family Units” means those residential units such as apartments, condominiums and town homes, each with separate cooking and bathing facilities, with four (4) or more units.
- NN. “Non-Compostable Paper” includes but is not limited to paper that is coated in a plastic material that will not breakdown in the Composting process, or as otherwise defined in 14 CCR Section 18982(a)(41).
- OO. “Non-Local Entity” means the following entities that are not subject to the City’s enforcement authority, or as otherwise defined in 14 CCR Section 18982(a)(42), including special districts located within the boundaries of the City, including Whittier City School District, East Whittier City School District, Whittier Union High School District, Los Nietos School District, Lowell Joint School District and Puente Hills Landfill Native Habitat Preservation Authority.
- PP. “Non-Organic Recyclables” means non-putrescible and non-hazardous recyclable wastes including but not limited to bottles, cans, metals, plastics and glass, or as otherwise defined in 14 CCR Section 18982(a)(43).
- QQ. “Notice of Violation (NOV)” means a notice that a violation has occurred that includes a compliance date to avoid an action to seek penalties, or as otherwise defined in 14 CCR Section 18982(a)(45) or further explained in 14 CCR Section 18995.4.
- RR. “Organic Materials” means Yard Waste and Food Waste, individually or collectively. No Discarded Material shall be considered to be Organic Materials, however, unless it is separated from Recyclable Materials and Solid Waste. Organic Materials are a subset of Organic Waste.
- SS. “Organic Materials Container” shall be used for the purpose of storage and collection of Source Separated Organic Materials.
- TT. “Organic Waste” means Solid Wastes containing material originated from living organisms and their metabolic waste products, including but not limited to food, Yard Waste, organic textiles and carpets, lumber, wood, Paper Products, Printing and Writing Paper, manure, biosolids, digestate, and sludges, or as otherwise defined in 14 CCR Section 18982(a)(46). Biosolids and digestate are as defined in 14 CCR Section 18982(a)(4) and 14 CCR Section 18982(a)(16.5), respectively.
- UU. “Paper Products” include, but are not limited to, paper janitorial supplies, cartons, wrapping, packaging, file folders, hanging files, corrugated boxes, tissue, and toweling, or as otherwise defined in 14 CCR Section 18982(a)(51).

- VV. "Printing and Writing Papers" include, but are not limited to, copy, xerographic, watermark, cotton fiber, offset, forms, computer printout paper, white wove envelopes, manila envelopes, book paper, note pads, writing tablets, newsprint, and other uncoated writing papers, posters, index cards, calendars, brochures, reports, magazines, and publications, or as otherwise defined in 14 CCR Section 18982(a)(54).
- WW. "Prohibited Container Contaminants" means the following: (i) Discarded Materials placed in the Source Separated Recyclable Materials Container that are not identified as acceptable Source Separated Recyclable Materials for the City's collection program; (ii) Discarded Materials placed in the Source Separated Organic Material Container that are not identified as acceptable Source Separated Organic Materials Container for the City's collection program; (iii) Discarded Materials placed in the Refuse Container that are acceptable Source Separated Recyclable Materials and/or Source Separated Organic Materials ; and, (iv) Excluded Waste placed in any Container.
- XX. "Recovered Organic Waste Products" means products made from California, landfill-diverted recovered Organic Waste processed in a permitted or otherwise authorized facility, or as otherwise defined in 14 CCR Section 18982(a)(60).
- YY. "Recovery" means any activity or process described in 14 CCR Section 18983.1(b), or as otherwise defined in 14 CCR Section 18982(a)(49).
- ZZ. "Recycling" means the processing of Recyclable Materials for the purpose of returning them to the economy in the form of raw materials for new, reused, or reconstituted products. The collection, transportation or Disposal of Solid Waste not intended for, or capable of, reuse is not Recycling. Recycling does not include use of Solid Waste for conversion to energy.
- AAA. "Recyclable Materials" means materials, by-products, or components of such materials set aside, handled, packaged, or offered for collection in a manner different from Solid Waste for the purpose of Recycling.
- BBB. "Recyclable Materials Container" shall be used for the purpose of storage and collection of Source Separated Recyclable Materials.
- CCC. "Recycled-Content Paper" means Paper Products and Printing and Writing Paper that consists of at least 30 percent, by fiber weight, postconsumer fiber, or as otherwise defined in 14 CCR Section 18982(a)(61).
- DDD. "Refuse" means putrescible and non-putrescible Solid Waste.

- EEE. "Regional Agency" means a regional agency as defined in Public Resources Code Section 40181.
- FFF. "Remote Monitoring" means the implementation and use by City only of the internet of things (IoT) and/or wireless electronic devices to visualize the contents of Recyclable Materials, Organic Materials, and/or Refuse Container(s) for purposes of identifying the quantity of materials in containers (level of fill) and/or presence of Prohibited Container Contaminants.
- GGG. "Renewable Natural Gas" means gas derived from Organic Waste that has been diverted from a California landfill and processed at an in-vessel digestion facility that is permitted or otherwise authorized by 14 CCR to recycle Organic Waste, or as otherwise defined in 14 CCR Section 18982(a)(62).
- HHH. "Residential Premises" means a detached building, or each unit of multi-family dwelling, which utilize Carts for Residential Service.
- III. "Responsible Party" means the owner, property manager, tenant, lessee, occupant, or other Designee that subscribes to and pays for Recyclable Materials, Organic Materials, and/or Solid Waste collection services for a premises in the City, or, if there is no such subscriber, the owner or property manager of Residential Premises, Multi-Family premises, or Commercial Premises. In instances of dispute or uncertainty regarding who is the Responsible Party for a premises, Responsible Party shall mean the owner of a Residential Premises, Multi-Family Premises, or Commercial Premises.
- JJJ. "Restaurant" means an establishment primarily engaged in the retail sale of food and drinks for on-premises or immediate consumption, or as otherwise defined in 14 CCR Section 18982(a)(64).
- KKK. "Route Review" means a visual Inspection of containers along a Hauler Route for the purpose of determining Container Contamination and may include mechanical Inspection methods such as the use of cameras, or as otherwise defined in 14 CCR Section 18982(a)(65).
- LLL. "SB 1383" means Senate Bill 1383 of 2016 approved by the Governor on September 19, 2016, which added Sections 39730.5, 39730.6, 39730.7, and 39730.8 to the Health and Safety Code, and added Chapter 13.1 (commencing with Section 42652) to Part 3 of Division 30 of the Public Resources Code, establishing methane emissions reduction targets in a Statewide effort to reduce emissions of short-lived climate pollutants as amended, supplemented, superseded, and replaced from time to time.

MMM. "SB 1383 Regulations" or "SB 1383 Regulatory" refers to the Short-Lived Climate Pollutants (SLCP): Organic Waste Reductions regulations developed by CalRecycle and adopted in 2020 that created Chapter 12 of 14 CCR, Division 7 and amended portions of regulations of 14 CCR and 27 CCR.

NNN. "Self-Hauler" or "Self-Haul" means a person, who hauls Solid Waste, Organic Waste, or recovered material they have generated to another Person, or as otherwise defined in 14 CCR Section 18982(a)(66). Self-Hauler also includes a Person who Back-Hauls waste.

OOO. "Solid Waste" means all "Solid Waste" as defined under California Public Resources Code § 40191, as such may be amended from time to time and includes discarded putrescible and non-putrescible solid, semisolid, and liquid wastes, including Refuse, Construction and Demolition Debris, Bulky Waste, Recyclable Materials, Food Waste, and Green Waste, and Organic Materials, or any combination thereof which are permitted to be disposed of in a Class III landfill, and which are included in the definition of "Non-Hazardous Solid Waste" set forth in the California Code of Regulations.

Solid Waste does not include any of the following wastes:

1. Hazardous waste, as defined in PRC Section 40141.
2. Radioactive waste regulated pursuant to the Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the Health and Safety Code).
3. Medical waste regulated pursuant to the 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 PRC Section 40195.1. Medical waste that has been treated and deemed to be Solid Waste shall be regulated pursuant to PRC, Division 30.

PPP. "Source-Separated" means the segregation, by the Generator, of materials designated for separate collection for Recycling, Composting, Recovery, or Reuse.

QQQ. "Source Separated Organic Materials" means Organic Materials that are Source Separated and placed in an Organic Materials Container.

RRR. "Source Separated Recyclable Materials" means Recyclable Materials that are Source Separated and placed in a Recyclable Materials Container.

SSS. "State" means the State of California.

TTT. "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).

UUU. "Tier One Commercial Edible Food Generator" means a Commercial Edible Food Generator that is one of the following, each as defined in 14 CCR Section 18982:

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

If the definition in 14 CCR Section 18982(a)(73) of Tier One Commercial Edible Food Generator differs from this definition, the definition in 14 CCR Section 18982(a)(73) shall apply to this ordinance.

VVV. "Tier Two Commercial Edible Food Generator" means a Commercial Edible Food Generator that is one of the following, each as defined in 14 CCR Section 18982:

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

If the definition in 14 CCR Section 18982(a)(74) of Tier Two Commercial Edible Food Generator differs from this definition, the definition in 14 CCR Section 18982(a)(74) shall apply to this ordinance.

WWW. "Wholesale Food Vendor" 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).

8.14.030 - Requirements for residential premises generators.

Residential Premises Organic Waste Generators shall comply with the following requirements except Residential Premises Generators that meet the Self-Hauler requirements in Section 8.12.105 of the code:

- A. Shall subscribe to City's three-container collection services for all Recyclable Materials, Organic Materials, and Refuse generated as described in Section 8.14.030(B). City or its Designee shall have the right to review the number and size of a Generator's containers to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and, Single-Family Generators shall adjust its service level for its collection services as requested by the City or its Designee.
- B. Shall participate in the City's three-container collection services for all Recyclable Materials, Organic Materials, and Refuse collection service(s) by placing designated materials in designated containers as described below.
 - 1. Generator shall place Source Separated Organic Materials, including Food Waste, in the Organic Materials Container; Source Separated Recyclable Materials in the Recyclable Materials Container; and Refuse in the Refuse Container.
 - 2. Generators shall not place Prohibited Container Contaminants in collection containers or otherwise place Discarded Materials in any Container not identified as acceptable for that Container, including but not limited to placing materials designated for the Organic Materials Containers or Recyclable Materials Containers in the Refuse Containers.
- C. Nothing in this Section prohibits a Responsible Party or waste Generator of a Residential Premises from preventing or reducing Discarded Materials generation, managing Organic Waste on site, and/or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).

8.14.040 - Requirements for multi-family premises generators.

- A. Responsible Parties of Multi-Family Premises shall provide or arrange for Recyclable Materials, Organic Materials, and Refuse collection services consistent with this ordinance and for employees, contractors, and tenants.
- B. Except for Responsible Parties of Multi-Family Premises that meet the Self-Hauler requirements in Section 8.12.105 of this ordinance, Responsible Parties of Multi-Family Premises shall:

1. Subscribe to and pay for City's three-container collection services and comply with requirements of those services for all Recyclable Materials, Organic Materials, and Refuse generated at the Multi-Family Premises as further described below in this Section 8.14.040. City shall have the right to review the number and size of the Multi-Family Premises' collection containers and frequency of collection to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials. The Responsible Party of a Multi-Family Premises shall adjust their service level for their collection services as requested by the City or its Designee.
2. Participate in the City's three -container collection service(s) for at least weekly collection of Recyclable Materials, Organic Materials, and Refuse in the manner described below.
 - a. Place and/or direct its Generators to place Source Separated Organic Materials, including Food Waste, in the Organic Materials Container; Source Separated Recyclable Materials in the Recyclable Materials Container; and Refuse in the Refuse Container.
 - b. Not place and/or direct its Generators to not place Prohibited Container Contaminants in collection containers or otherwise place Discarded Materials in any Container not identified as acceptable for that Container, including but not limited to placing materials designated for the Organic Materials Containers or Recyclable Materials Containers in the Refuse Containers.
3. 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 City's Recyclable Materials Container, Organic Materials Container, and Refuse Container collection service or, if Self-Hauling, consistent with the Multi-Family Premises' approach to complying with Self-Hauler requirements in Section 8.12.105 of this ordinance.
4. Annually provide information to employees, contractors, tenants, and customers about Recyclable Materials and Organic Waste Recovery requirements and about proper sorting of Recyclable Materials, Organic Materials, and Refuse.
5. Provide education information before or within fourteen (14) days of occupation of the Premises to new tenants that describes

requirements to Source Separate Recyclable Materials and Organic Materials and to keep Source Separated Organic Materials and Source Separated Recyclable Materials separate from each other and from Refuse (when applicable) and the location of containers and the rules governing their use at each property.

6. Provide or arrange access for City or its Designee to their properties during all Inspections conducted in accordance with this ordinance to confirm compliance with the requirements of this ordinance.
- C. If the Responsible Party of a Multi-Family Premises wants to Self-Haul, meet the Self-Hauler requirements in Section 8.12.105 of this ordinance.
- D. Multi-family Premises that generate two (2) cubic yards or more of total Refuse, Recyclable Materials, and Organic Materials per week (or other threshold defined by the State) that arrange for gardening or landscaping services shall require that the contract or work agreement between the owner, occupant, or operator of a Multi-Family Premises and a gardening or landscaping service specifies that the designated organic materials generated by those services be managed in compliance with this chapter.
- E. Nothing in this Section prohibits a Responsible Party or Generator of a Multi-Family Premises from preventing or reducing Discarded Materials generation, managing Organic Waste on site, or using a Community Composting site pursuant to 14 CCR Section 18984.9(c)

8.14.050 - Requirements for commercial premises generators.

Generators that are Commercial Premises, shall:

- A. Subscribe to City's three-container collection services and comply with requirements of those services as described below in Section 8.14.050(B), except Commercial Premises that meet the Self-Hauler requirements in Section 8.12.105. City or its Designee shall have the right to review the number and size of a Generator's containers and frequency of collection to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and, the Responsible Party of the Commercial Premises shall adjust their service level for their collection services as requested by the City or its Designee.
- B. Except Commercial Premises that meet the Self-Hauler requirements in Section 8.12.105, participate in the City's Organic Waste collection service(s) by placing designated materials in designated containers as described below.

1. Generator shall place Source Separated Organic Materials, including Food Waste, in the Organic Materials Container; Source Separated Recyclable Materials in the Recyclable Materials Container; and Refuse in the Refuse Container.
2. Not place and/or direct its Generators to not place Prohibited Container Contaminants in collection containers or otherwise place Discarded Materials in any Container not identified as acceptable for that Container, including but not limited to placing materials designated for the Organic Materials Containers or Recyclable Materials Containers in the Refuse Containers.
3. Supply and allow access to adequate number, size and location of collection containers with sufficient labels or colors (conforming with Sections 3(a) and 3(b) below) for employees, contractors, tenants, and customers, consistent with City's Recyclable Materials Container, Organic Materials Container, and Refuse Container collection service or, if Self-Hauling, complying with Self-Hauler requirements in Section 8.12.105.
4. Provide containers for the collection of Source Separated Organic Materials and Source Separated Recyclable Materials in all indoor and outdoor areas where disposal containers are provided for customers, for materials generated by that business. Such containers do not need to be provided in restrooms. If a Commercial Premises does not generate any of the materials that would be collected in one type of container, then the Responsible Party of the Commercial Business does not have to provide that particular container in all areas where Refuse containers are provided for customers. Pursuant to 14 CCR Section 18984.9(b), the containers provided by the Responsible Party of the Commercial Premises shall have either:
 - a. A body or lid that conforms with the container colors provided through the collection service provided by City, with either lids conforming to the color requirements or bodies conforming to the color requirements or both lids and bodies conforming to color requirements. The Responsible Party of the Commercial Premises is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the requirements of the subsection prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first.

- b. Container labels that include language or graphic images, or both, indicating the primary material accepted and the primary materials prohibited in that container, or containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the container. Pursuant 14 CCR Section 18984.8, the container labeling requirements are required on new containers commencing January 1, 2022.
5. To the extent practical through education, training, Inspection, and/or other measures prohibit employees from placing materials in a container not designated for those materials per the City's Recyclable Materials Container, Organic Materials Container, and Refuse Container collection service or, if Self-Hauling, per the instructions of the Commercial Premises' Responsible Party to support its compliance with Self-Hauler requirements in Section 8.12.105.
6. Periodically inspect Recyclable Materials Containers, Organic Materials Containers, and Refuse Containers for contamination and inform employees if containers are contaminated and of the requirements to keep contaminants out of those containers pursuant to 14 CCR Section 18984.9(b)(3).
7. Annually provide information to employees, contractors, tenants, and customers about Recyclable Materials and Organic Waste Recovery requirements and about proper sorting of Recyclable Materials, Organic Materials, and Refuse.
8. Provide education information before or within fourteen (14) days of occupation of the premises to new tenants that describes requirements to keep Source Separated Organic Materials and Source Separated Recyclable Materials separate from Refuse (when applicable) and the location of containers and the rules governing their use at each property.
9. Provide or arrange access for City or its or its Designee to their properties during all Inspections conducted in accordance with 8.14.110 of this ordinance to confirm compliance with the requirements of this ordinance.
10. Accommodate and cooperate with City's Remote Monitoring program for Inspection of the contents of containers for Prohibited Container Contaminants, which may be implemented by City at a later date, to evaluate Generator's compliance with Section 8.14.060(B). The Remote Monitoring program shall involve

installation of Remote Monitoring equipment on or in the Recyclable Materials Containers, Organic Materials Containers, and Refuse Containers.

11. At Commercial Premise's option and subject to any approval required from the City, implement a Remote Monitoring program for Inspection of the contents of its Recyclable Materials Containers, Organic Materials Containers, and Refuse Containers for the purpose of monitoring the contents of containers to determine appropriate levels of service and to identify Prohibited Container Contaminants. Generators may install Remote Monitoring devices on or in the Recyclable Materials Containers, Organic Materials Containers, and Refuse Containers subject to written notification to or approval by the City or its Designee.
12. If a Commercial Premises wants to Self-Haul, meet the Self-Hauler requirements in Section 8.12.105.
13. Commercial Premises that are Tier One or Tier Two Commercial Edible Food Generators shall comply with Food Recovery requirements, pursuant to Section 8.14.070.

8.14.060 – Waivers for multi-family and commercial premises generators.

- A. De Minimis Waivers - City may waive a Commercial Premises' or Multi-Family Premises' obligation to comply with some or all of the Recyclable Materials and Organic Materials requirements of this ordinance if the Commercial Premises or Multi-Family Premises provides documentation that the Commercial Premises or Multi-Family Premises meets each of the criteria below. The below criteria may be met in instances including but not limited to on-site organics management and/or property vacancy. For the purposes of Sections 8.14.060(2)(a) and 8.14.060(2)(b), the total Solid Waste shall be the sum of weekly container capacity measured in cubic yards for Refuse, Recyclable Materials, and Organic Materials collection service.
 1. Submit an application specifying the services that they are requesting a waiver from and provide documentation as required by this section.
 2. Provide documentation that either:
 - a. The Commercial Premises or Multi-Family Premises' total Solid Waste collection service is two cubic yards or more per week and Recyclable Materials, Organic Materials subject to collection in Recyclable Materials Container(s) or Organic

- Materials Container(s) comprises less than 20 gallons per week per applicable material stream of the Multi-family Premises' or Commercial Premises' total waste (i.e., Recyclable Materials in the Recyclable Materials stream are less than twenty (20) gallons per week or Organic Materials in the Organic Materials stream are less than twenty (20) gallons per week; or,
- b. The Commercial Premises' or Multi-Family Premises' total Solid Waste collection service is less than two cubic yards per week and Recyclable Materials and Organic Materials subject to collection in Recyclable Materials Container(s) or Organic Materials Container(s) comprises less than 10 gallons per week per applicable business' material stream of the Multi-family Premises' or Commercial Premises' total waste. (i.e., Recyclable Materials in the Recyclable Materials stream are less than ten (10) gallons per week or Organic Materials in the Organic Materials stream are less than ten (10) gallons per week).
3. Notify City if circumstances change such that Commercial Premises' or Multi-Family Premises' Recyclable Materials or Organic Materials exceed the thresholds required for waiver, in which case waiver will be rescinded.
 4. Provide written verification of eligibility for de minimis waiver every five years, if City has approved de minimis waiver.
- B. Physical Space Waivers – The City may waive a Commercial Premises' or Multi-Family Premises' property owner's obligation to comply with some or all of the Recyclable Materials and/or Organic Material collection service requirements if the City has evidence from its own staff, a hauler, licensed architect, or licensed engineer demonstrating that the premises lacks adequate space for the collection containers required for compliance with the Recyclable Materials and Organic Materials collection requirements of Section 8.14.040 and 8.14.050 as applicable.
- A Commercial Premises or Multi-Family Premises may request a physical space waiver through the following process:
1. Submit an exemption request form to the Public Works Department specifying the type(s) of collection services for which they are requesting a compliance waiver.
 2. Provide documentation that the premises lacks adequate space for Recyclable Materials Containers and/or Organic Materials

Containers including documentation from its hauler, licensed architect, or licensed engineer.

3. Provide written verification to the Public Works Department that it is still eligible for physical space waiver every five years, if City has approved application for a physical space waiver.

8.14.070 - Requirements for commercial edible food generators.

- A. Tier One Commercial Edible Food Generators must comply with the requirements of this Section 8.14.080 commencing January 1, 2022, and Tier Two Commercial Edible Food Generators must comply commencing January 1, 2024, pursuant to 14 CCR Section 18991.3.
- B. Large Venue or Large Event operators not providing food services, but allowing for food to be provided by others, shall require Food Facilities operating at the Large Venue or Large Event to comply with the requirements of this Section, commencing January 1, 2024.
- C. Commercial Edible Food Generators shall comply with the following requirements:
 1. Arrange to recover the maximum amount of Edible Food that would otherwise be disposed.
 2. Contract with, or enter into a written agreement with Food Recovery Organizations or Food Recovery Services for: (i) the collection of Edible Food for Food Recovery; or, (ii) acceptance of the Edible Food that the Commercial Edible Food Generator Self-Hauls to the Food Recovery Organization for Food Recovery.
 3. Shall not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery Organization or a Food Recovery Service.
 4. Allow City's designated enforcement entity or designated third party enforcement entity to access the premises and review records pursuant to 14 CCR Section 18991.4.
 5. Keep records that include the following information, or as otherwise specified in 14 CCR Section 18991.4:
 - a. A list of each Food Recovery Service or 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 or written agreements established under 14 CCR Section 18991.3(b).
 - c. A record of the following information for each of those Food Recovery Services or Food Recovery Organizations:
 - 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.
- 6. No later than July 1st of each year commencing no later than July 1, 2022, for Tier One Commercial Edible Food Generators and July 1, 2024 for Tier Two Commercial Edible Food Generators, provide an annual Food Recovery report to the City that includes the records listed in Section 8.14.070(5)(c).
- D. Nothing in this ordinance shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share table and school food donation guidance pursuant to Senate Bill 557 of 2017 (approved by the Governor of the State of California on September 25, 2017, which added Article 13 [commencing with Section 49580] to Chapter 9 of Part 27 of Division 4 of Title 2 of the Education Code, and to amend Section 114079 of the Health and Safety Code, relating to food safety, as amended, supplemented, superseded and replaced from time to time).

8.14.080 - Requirements for food recovery organizations and services.

- A. Food Recovery Services collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(1):
 - 1. The name, address, and contact information for each Commercial Edible Food Generator from which the service collects Edible Food.

2. The quantity in pounds of Edible Food collected from each Commercial Edible Food Generator per month.
 3. The quantity in pounds of Edible Food transported to each Food Recovery Organization per month.
 4. The name, address, and contact information for each Food Recovery Organization that the Food Recovery Service transports Edible Food to for Food Recovery.
- B. Food Recovery Organizations collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(2):
1. The name, address, and contact information for each Commercial Edible Food Generator from which the organization receives Edible Food.
 2. The quantity in pounds of Edible Food received from each Commercial Edible Food Generator per month.
 3. The name, address, and contact information for each Food Recovery Service that the organization receives Edible Food from for Food Recovery.
- C. Food Recovery Organizations and Food Recovery Services shall inform Generators about California and Federal Good Samaritan Food Donation Act protection in written communications, such as in their contract or agreement established under 14 CCR Section 18991.3(b).
- D. 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 pursuant to 14 CCR Section 18991.3(b) shall report to the City it is located in the total pounds of Edible Food recovered in the previous calendar year from the Tier One and Tier Two Commercial Edible Food Generators they have established a contract or written agreement with pursuant to 14 CCR Section 18991.3(b) no later than July 1, 2022.
- E. In order to support Edible Food Recovery capacity planning assessments or other studies conducted by the County, City, special district that provides Solid Waste collection services, or its designated entity, Food Recovery Services and Food Recovery Organizations operating in the City shall provide information and consultation to the City, upon request, regarding existing, or proposed new or expanded, Food Recovery

capacity that could be accessed by the City and its Commercial Edible Food Generators. A Food Recovery Service or Food Recovery Organization contacted by the City shall respond to such request for information within 60 days, unless a shorter timeframe is otherwise specified by the City.

8.14.090 - Requirements for haulers and facility operators.

- A. Exclusive franchised hauler(s) providing residential, Commercial, or industrial Organic Waste collection services to Generators within the City's boundaries shall meet the following requirements as a condition of approval of a contract, agreement, or similar contractual authorization with the City to collect Organic Waste:
1. Through written notice to the City annually on or before July 1, 2022, identify the facilities to which they will transport Discarded Materials, including facilities for Source Separated Recyclable Materials, Source Separated Organic Materials, and Refuse unless otherwise stated in the franchise agreement, contract, permit, or license, or other authorization with the City.
 2. Transport Source Separated Recyclable Materials to a facility that recovers those materials; transport Source Separated Organic Materials to a facility, operation, activity, or property that recovers Organic Waste as defined in 14 CCR, Division 7, Chapter 12, Article 2; and, transport Refuse to a disposal facility or transfer facility or operation that processes or disposes of Refuse. Notwithstanding the foregoing, hauler shall not be required to transport any containers with Prohibited Container Contaminants to a facility, operation, activity, or property that recovers Organic Waste.
 3. Obtain approval from the City to haul Organic Waste, unless it is transporting Source Separated Organic Waste to a Community Composting site or lawfully transporting C&D in a manner that complies with 14 CCR Section 18989.1 and Section 15.04.010(a)(8).
 4. Exclusive franchised hauler(s) authorization to collect Organic Waste shall comply with any education, equipment, signage, container labeling, container color, contamination, monitoring, and reporting requirements, and other requirements relating to the collection of Organic Waste contained within its franchise agreement entered into with the City.

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

8.14.100 - Procurement requirements for city departments, direct service providers, and vendors.

- A. City departments, and direct service providers to the City, as applicable, must comply with the City's Recovered Organic Waste Product procurement policy and Recycled-Content Paper procurement policy.
- B. All vendors providing Paper Products and Printing and Writing Paper shall:
 - 1. If fitness and quality are equal, provide Recycled-Content Paper Products and Recycled-Content Printing and Writing Paper that consists of at least 30 percent, by fiber weight, postconsumer fiber instead of non-recycled products whenever recycled Paper Products and Printing and Writing Paper are available at the same or lesser total cost than non-recycled items or at a total cost of no more than 10% of the total cost for non-recycled items.
 - 2. Provide Paper Products and Printing and Writing Paper that meet Federal Trade Commission recyclability standard as defined in 16 Code of Federal Regulations (CFR) Section 260.12.
 - 3. Certify in writing, under penalty of perjury, the minimum percentage of postconsumer material in the Paper Products and Printing and Writing Paper offered or sold to the City. This certification requirement may be waived if the percentage of postconsumer material in the Paper Products, Printing and Writing Paper, or both

can be verified by a product label, catalog, invoice, or a manufacturer or vendor internet website.

4. Certify in writing, on invoices or receipts provided, that the Paper Products and Printing and Writing Paper offered or sold to the City are eligible to be labeled with an unqualified recyclable label as defined in 16 Code of Federal Regulations (CFR) Section 260.12 (2013).
5. Provide records to the City's Recycling Coordinator, in accordance with the City's Recycled-Content Paper procurement policy(ies) of all Paper Products and Printing and Writing Paper purchases within thirty (30) days of the purchase (both recycled-content and non-recycled content, if any is purchased) made by any division or department or employee of the City. Records shall include a copy (electronic or paper) of the invoice or other documentation of purchase, written certifications as required in Sections 8.14.100(B)(3) and 8.14.100(B)(4) of this ordinance for recycled-content purchases, purchaser name, quantity purchased, date purchased, and recycled content (including products that contain none), and if non-recycled content Paper Products or Printing and Writing Papers are provided, include a description of why Recycled-Content Paper Products or Printing and Writing Papers were not provided.

8.14.110 - Inspections and investigations.

- A. City representatives and/or its designated entity, including Designees are 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 Premises and Multi-Family Premises, Commercial Edible Food Generators, Self-Haulers, Food Recovery Services, and Food Recovery Organizations, subject to applicable laws. This Section does not allow City to enter the interior of a private residential property for Inspection. For the purposes of inspecting Commercial Premises and Multi-Family Premises containers for compliance with Sections 8.14.040(B) and 8.14.050(B) of this ordinance, City may conduct container Inspections for Prohibited Container Contaminants using Remote Monitoring, Commercial Premises, Multi-Family Premises and Generators at such Premises shall accommodate and cooperate with the Remote Monitoring pursuant to Section 8.14.050(B)(10) of this ordinance.

- B. Organic Waste Generators, Commercial Premises and Multi-Family Premises, Commercial Edible Food Generators, Self-Haulers, Food Recovery Services, and Food Recovery Organizations shall provide or arrange for access during all Inspections (with the exception of residential property interiors) and shall cooperate with the City's representative or its Designee 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 Inspection to confirm compliance with this ordinance. Failure to provide or arrange for: (i) access to an entity's premises; (ii) installation and operation of Remote Monitoring equipment; or (ii) access to records for any Inspection or investigation is a violation of this ordinance and may result in penalties described.
- C. Any records obtained by a City during its Inspections, Remote Monitoring, and other reviews shall be subject to the requirements and applicable disclosure exemptions of the Public Records Act as set forth in Government Code Section 6250 et seq.
- D. City representatives, its designated entity, and/or Designee are authorized to conduct any Inspections, Remote Monitoring, or other investigations of Organic Waste Generators, Commercial Premises and Multi-Family Premises, Commercial Edible Food Generators, Self-Haulers, Food Recovery Services, and Food Recovery Organizations as reasonably necessary to further the goals of this ordinance, subject to applicable laws.
- E. City shall receive written complaints from persons regarding an entity that may be potentially non-compliant with SB 1383 Regulations, including receipt of anonymous complaints.

8.14.120 – Enforcement.

- A. Violation of any provision of this ordinance shall constitute grounds for issuance of a Notice of Violation and assessment of a fine by a City Enforcement Official or representative. Enforcement Actions under this ordinance are issuance of an administrative citation and assessment of a fine. The City'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.
- B. Other remedies allowed by law may be used, including civil action or prosecution as misdemeanor or infraction. City may pursue civil actions in the California courts to seek recovery of unpaid administrative citations.

City 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 City staff and resources.

C. Responsible Entity for Enforcement

1. Enforcement pursuant to this ordinance may be undertaken by the City Enforcement Official, which may be the city manager or their designated entity, legal counsel, or combination thereof.
 - a. City Enforcement Official(s) will interpret ordinance; determine the applicability of waivers, if violation(s) have occurred; implement Enforcement Actions; and, determine if compliance standards are met.
 - b. City Enforcement Official(s) may issue Notices of Violation(s).
 - c. Enforcement may also be undertaken by a Regional or County Agency Enforcement Official, designated by the City, in consultation with City Enforcement Official.

D. Process for Enforcement

1. City Enforcement Officials will monitor compliance with the ordinance randomly and through Compliance Reviews, Route Reviews, investigation of complaints, and an Inspection program that may include Remote Monitoring. Section 18.14.110 establishes City's right to conduct Inspections and investigations.
2. City may issue an official notification to notify regulated entities of its obligations under the ordinance.
3. Contamination Prevention.
 - a. For incidences of Prohibited Container Contaminants found by City in containers, City will issue a Notice of Violation to any Generator 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 2 days after determining that a violation has occurred. If the City observes Prohibited Container Contaminants in a Generator's containers on more than two (2) occasion(s), every calendar year starting January 1, the City may assess

an administrative fine or penalty on the Generator in accordance with Section 8.14.120(E).

- b. In addition to 8.14.120(D)(3)(a), for incidences of Prohibited Container Contaminants found by a hauler in containers, hauler will issue a notice of contamination to any Generator 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 2 days after determining that a violation has occurred. If a hauler observes Prohibited Container Contaminants in a Generator's containers on more than two (2) occasion(s) every calendar year starting January 1, the hauler shall have the right to assess a contamination service charge on the Generator to cover the additional costs of processing Contaminated Containers per the current franchise hauler rate schedule. The foregoing contamination service charge shall not be considered an administrative fine or penalty. Any disputes arising from the assessment of a contamination service charge shall be adjudicated pursuant to the customer complaint resolution process provided under the terms of any contract, agreement, or similar contractual authorization between the hauler and the City to collect Organic Waste.
4. With the exception of violations of Generator contamination of container contents addressed under Section 8.14.120(D)(3), City shall issue a Notice of Violation requiring compliance within 60 days of issuance of the notice.
5. Absent compliance by the respondent within the deadline set forth in the Notice of Violation, City shall commence an action to impose penalties, via an administrative citation and fine, pursuant to the City's ordinance contained in Section 8.14.120(K), List of Violations.

Notices shall be sent to "owner" at the official address of the owner maintained by the tax collector for the City or if no such address is available, to the owner at the address of the Multi-Family Premises or Commercial Premises or to the party responsible for paying for the collection services, depending upon available information.

E. Penalty Amounts for Types of Violations

The penalty levels for City-issued Notices of Violation are as follows:

1. For a first violation, the amount of the base penalty shall be \$100 per violation.
2. For a second violation, the amount of the base penalty shall be \$200 per violation.
3. For a third or subsequent violation, the amount of the base penalty shall be \$500 per violation.

Factors Considered in Determining Penalty Amount

The following factors shall be used to determine the amount of the penalty for each violation within the appropriate penalty amount range:

- a. The nature, circumstances, and severity of the violation(s).
- b. The violator's ability to pay.
- c. The willfulness of the violator's misconduct.
- d. Whether the violator took measures to avoid or mitigate violations of this chapter.
- e. Evidence of any economic benefit resulting from the violation(s).
- f. The deterrent effect of the penalty on the violator.
- g. Whether the violation(s) were due to conditions outside the control of the violator.

F. Compliance Deadline Extension Considerations

The City may extend the compliance deadlines set forth in a Notice of Violation issued in accordance with Section 8.14.120 if it finds that there are extenuating circumstances beyond the control of the respondent that make compliance within the deadlines impracticable, including the following:

1. Acts of God such as earthquakes, wildfires, flooding, and other emergencies or natural disasters;
2. Delays in obtaining discretionary permits or other government agency approvals; or,
3. Deficiencies in Organic Waste recycling infrastructure or Edible Food Recovery capacity and the City is under a corrective action plan with CalRecycle pursuant to 14 CCR Section 18996.2 due to those deficiencies.

G. Appeals Process

Persons receiving an administrative citation containing a penalty for an uncorrected violation may request a hearing to appeal the citation. A hearing will be held only if it is requested within the time prescribed and consistent with City's procedures in the City's codes for appeals of administrative citations. Evidence may be presented at the hearing. The City will appoint a hearing officer who shall conduct the hearing and issue a final written order.

H. Education Period for Non-Compliance

Beginning January 1, 2022 and through December 31, 2023, City will conduct Inspections, Remote Monitoring, Route Reviews or waste evaluations, and Compliance Reviews, depending upon the type of regulated entity, to determine compliance with this ordinance, and if City determines that Organic Waste Generator, Self-Hauler, hauler, Tier One Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance, it shall provide educational materials to the entity describing its obligations under this ordinance and a notice that compliance is required by January 1, 2022, and that violations may be subject to administrative civil penalties starting on January 1, 2024.

I. Civil Penalties for Non-Compliance

Beginning January 1, 2024, if the City determines that a Generator, Self-Hauler, hauler, Tier One or Tier Two Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance with this ordinance, it shall document the noncompliance or violation, issue a Notice of Violation, and take Enforcement Action pursuant to Section 8.14.130, as needed. The foregoing shall not apply to violations arising from incidences where a hauler discovers Prohibited Container Contaminants found in containers.

J. Enforcement Table – List of Violations

| Requirement | Description of Violation |
|---|---|
| Commercial Premises and Multi-Family Premises Responsibility Requirement Sections 8.14.040 and 8.14.050 | Responsible Party for a Commercial Premises or Multi-Family Premises fails to provide or arrange for Organic Waste collection services consistent with City requirements and as outlined in this ordinance, for employees, contractors, tenants, and customers, including supplying and allowing access to adequate |

| | |
|---|---|
| | numbers, size, and location of containers and sufficient signage and container color. |
| Organic Waste Generator or Responsible Party Requirement Sections 8.14.030, 8.14.040, and 8.14.050 | Organic Waste Generator or Responsible Party fails to comply with requirements adopted pursuant to this ordinance. |
| Hauler Requirement Section 8.14.090 | A hauler providing Single-Family, Multi-Family or Commercial collection service fails to transport Discarded Materials to a facility, operation, activity, or property that recovers Organic Materials, as prescribed by this chapter. |
| Hauler Requirement Section 8.14.090 | A hauler providing Single Family, Multi-Family, Commercial, or industrial Organic Materials collection service fails to obtain applicable approval issued by the City to haul Recyclable Materials, Organic Materials, and/or Refuse as prescribed by this ordinance. |
| Hauler Requirement Section 8.14.090 | A hauler fails to keep a record of the applicable documentation of its approval to haul Recyclable Materials, Organic Materials, and/or Refuse by the City, as prescribed by this ordinance. |
| Self-Hauler Requirement Section 8.12.105 | A Generator or Responsible Party who is a Self-Hauler fails to comply with the requirements of 14 CCR Section 18988.3(b). |
| Commercial Edible Food Generator Requirement Section 8.14.070 | Tier One Commercial Edible Food Generator fails to arrange to recover the maximum amount of its Edible Food that would otherwise be disposed by establishing a contract or written agreement with a Food Recovery Organization or Food Recovery Service and/or fails to comply with other requirements of this Section commencing Jan. 1, 2022. |
| Commercial Edible Food Generator Requirement Section 8.14.070 | Tier Two Commercial Edible Food Generator fails to arrange to recover the maximum amount of its Edible Food that would otherwise be disposed by establishing a contract or written agreement with a Food Recovery Organization or Food Recovery Service and comply with this Section commencing Jan. 1, 2024. |
| Commercial Edible Food Generator Requirement Section 8.14.070 | Tier One or Tier Two Commercial Edible Food Generator intentionally spoils Edible Food that is capable of being recovered by a Food Recovery Organization or Food Recovery Service. |

| | |
|--|---|
| Commercial Premises Responsible Party, Commercial Edible Food Generator, Food Recovery Organization or Food Recovery Service Sections 8.14.050, 8.14.070 and 8.14.080 | Failure to provide or arrange for access to an entity's premises for any Inspection or investigation. |
| Recordkeeping Requirements for Commercial Edible Food Generator Section 8.14.070 | Tier One or Tier Two Commercial Edible Food Generator fails to keep records, as prescribed by Section 8.14.080. |
| Recordkeeping Requirements for Food Recovery Services and Food Recovery Organizations Section 8.14.080 | A Food Recovery Organization or Food Recovery Service that has established a contract or written agreement to collect or receive Edible Food directly from a Commercial Edible Food Generator pursuant to 14 CCR Section 18991.3(b) fails to keep records, as prescribed by Section 8.14.090. |

8.14.130 - Effective date.

This ordinance shall be effective commencing on January 1, 2022.

SECTION 3. Repeal of Inconsistent Sections. Any provision of the Whittier Municipal Code or appendices thereto inconsistent with the provisions of the Ordinance, to the extent of such inconsistencies and no further, are repealed or modified to that extent necessary to affect the provisions of this Ordinance.

SECTION 4. Environmental Review. The Council finds this ordinance is exempt from environmental review pursuant to Section 15061(b)(3) of the California Environmental Quality Act (CEQA) because no possibility exists that the proposed ordinance, related to updating the Solid Waste Chapter and adding a section on Mandatory Organic Waste Disposal Reduction section to the Whittier Municipal Code to comply with SB 1383, will have a significant effect on the environment.

SECTION 5. Severability. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Whittier hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

SECTION 6. Attestation. The City Clerk shall certify to the passage and adoption hereof. This Ordinance shall take effect 30 days after its adoption and shall be published pursuant to law.

APPROVED AND ADOPTED this 12th day of October 2021.

JOSEPH A. VINATIERI, Mayor

ATTEST:

RIGOBERTO GARCIA JR., City Clerk
(seal)

Date: _____

I CERTIFY THAT THE FOREGOING ORDINANCE NO. 3130 was introduced on the 28th day of September 2021, and was adopted by the City Council of the City of Whittier at the regular meeting held on the 12th day of October 2021, by the following vote:

| | | | |
|----------|---|------------------|----------------------------------|
| AYES: | 4 | Council Members: | Warner, Martinez, Dutra, Bouchot |
| NOES: | 1 | Council Member: | Vinatieri |
| ABSTAIN: | 0 | | |
| ABSENT: | 0 | | |

RIGOBERTO GARCIA JR., City Clerk
(seal)