

**ORDINANCE NO. 818**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF INDUSTRY DELETING IN ITS ENTIRETY CHAPTER 8.20 OF THE INDUSTRY MUNICIPAL CODE AND REPLACING IT WITH A NEW CHAPTER 8.20, INTEGRATED WASTE MANAGEMENT, AND IMPLEMENTING THE MANDATORY ORGANIC WASTE REDUCTION PROGRAMS IN COMPLIANCE WITH SENATE BILL 1383**

**WHEREAS**, the purpose of this Ordinance is to update the City of Industry's (the "City") Municipal Code, Title 8, Health and Safety Chapter 8.20, Integrated Waste Management and to ensure best practices by reducing the amount of organic and recyclable materials deposited in landfills from commercial and residential generators; and

**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Waste Management Act of 1989 (California Public Resources Code Section 40000, et seq., as amended, supplemented, superseded, and replaced from time to time), requires cities and counties to reduce, reuse, and recycle (including composting) Solid Waste generated in their 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 services and requires local agencies 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 services for that waste, requires local agencies to implement a recycling program to divert Organic Waste from businesses subject to the law, and requires local agencies 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 local agencies 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 updates the City’s integrated waste management practices and it also implements the requirements of AB 1826 and SB 1383 Regulations.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF INDUSTRY 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:** Chapter 8.20 of the Industry Municipal Code is hereby deleted in its entirety and replaced as follows: Chapter 8.20 of the same title, INTEGRATED WASTE MANAGEMENT.

**Section 3:**

**Article I. Definitions; Integrated Waste Management Procedures**

**8.20.010 Definitions.**

For the purposes of this Chapter the following words and phrases shall have the meanings respectfully ascribed to them, unless it shall appear from the context that they have a different meaning. Words and phrases not ascribed a meaning by this chapter shall have the meaning ascribed by Division 30, Part 1, Chapter 2 of the Public Resources Code, Sections 40105-40201, and the regulations of the California Integrated Waste Management Board.

“**AB 1826**” means Assembly Bill 1826 approved by the Governor in October 2014, requires businesses that generate a specified amount of organic waste per week to arrange for recycling services for that waste, and for local agencies to implement a recycling program to divert organic waste from businesses subject to the law, as well as report to CalRecycle on their progress in implementing an organic waste recycling program (codified by Public Resources Code, Section 42649.8 et seq.).

“**AB 341**” means AB 341 (Chesbro, Chapter 476, Statutes of 2011), which sets forth the requirements of the statewide mandatory commercial recycling program (codified by Public Resources Code, Sections 40004, 41730, 41731, 41734 – 41736, 41780.01, 41780.02, 41800, 42649 – 42649.7, 42926, 44004, 50001).

“**Act**” or “**AB 939**” means the California Integrated Waste Management Act of 1989, as may be amended, in the Public Resources Code Section 40000 et seq. and implementing regulations of the California Integrated Waste Management Board.

“**Bale**” means the process of compacting by pressure resulting in a homogenous mass of like composition bound together by straps or wire.

“**Bin**” means containers, whether residential, multi-family residential, commercial, industrial, or institutional, provided for temporary accumulation and collection of solid waste for removal from all premises located within the city. Bins include but are not limited to, solid waste containers with capacity of at least one cubic yard and roll-off type service containers.

**“Blue Container”** means a container where either: (a) the lid of the container is blue in color (b) the body of the container blue in color and the lid is blue in color.

**“C&D Diversion Requirement”** means the percentage of C&D debris for each project that must be diverted from landfills.

**“C&D Generator”** means a residential or commercial entity that produces construction and demolition debris.

**“CalRecycle”** means California's Department of Resources Recycling and Recovery, which is the Department designated with responsibility for developing, implementing, and enforcing SB 1383 Regulations on local agencies.

**“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).

**“City”** means the City of Industry and all of the territory lying within the municipal boundaries of the City as presently existing, including all federal facilities and all geographic areas which may be added or annexed to the City.

**“City Manager”** means an individual having the title in the employ of the city or the City Manager’s authorized designee.

**“Collection”** means the act of collecting solid waste, at or near the place of generation or accumulation.

**“Collection Vehicle”** means the vehicle utilized in the collection, transportation, storage, transfer, or processing of solid waste or recyclable solid waste.

**“Collector”** means a solid waste collector with a written franchise, contract or permit for the collection of solid waste, issued as set forth in this chapter, including salvaging or salvage collecting.

**“Commercial Business”** or **“Commercial”** means a firm, partnership, proprietorship, joint-stock company, corporation, or association, whether for-profit or nonprofit, strip mall, industrial facility, or a multifamily residential dwelling, or as otherwise defined in 14 CCR 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.

**“Commercial Collection”** means the regularly scheduled removal of solid waste from commercial property by the City’s authorized franchisee.

**“Commercial Edible Food Generator”** includes a Tier One or a Tier Two Commercial Edible Food Generator as defined in Article VII of this Chapter or as otherwise defined in 14 CCR Section 18982(a)(73) and (a)(74). For the purposes of this definition, Food Recovery Organizations and Food Recovery Services are not Commercial Edible Food Generators pursuant to 14 CCR Section 18982(a)(7).

**“Commercial Property”** means non-residential unit including, but not limited to, a place of business, hotel, restaurant, office building, shop, store, hospital, auto court, industrial property, including a place of manufacture, production or fabrication, warehouse, and residential units containing five or more family residential units.

**“Commercial Solid Waste”** means solid waste generated by commercial units.

**“Compliance Review”** or **“Compliance”** means a review of records by the City to determine compliance with this Chapter.

**“Compost”** has the same meaning as in 14 CCR Section 17896.2(a)(4), which stated, as of the effective date of this Chapter, that “Compost” means the product resulting from the controlled biological decomposition of organic Solid Wastes that are Source Separated from the municipal Solid Waste stream, or which are separated at a centralized facility.

**“Construction”** means the building of any facility or structure or any portion thereof including any tenant improvement or renovation to an existing facility or structure.

**“Construction and Demolition Debris”** or **“C&D”** means bricks, stones, mortar, concrete, asphaltic concrete, wood, or other debris including used or discarded materials removed from premises during construction, renovation, remodeling, repair, or demolition operations including the demolition of buildings or structures.

**“Construction Waste Management Plan”** or **“CWMP”** means a completed Construction Waste Management Plan form, approved by the City for the purpose of compliance with this chapter, submitted by the applicant for any covered or noncovered project.

**“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).

**“Conversion Factor/Conversion Rate”** The rate set forth in the standardized Conversion Rate Table approved by the City pursuant to this Chapter for use in estimating the volume or weight of materials identified in the construction waste management plan.

**“Covered Projects”** means a project where, prior to beginning any construction or demolition activities, the applicant shall submit a Construction Waste Management Plan to the CWMP Compliance Official and shall be subject to all applicable provisions of this Chapter. Failure to comply with any of the terms of this section shall subject the project applicant to the full range of enforcement mechanisms set forth in this Chapter.

**“Curbside collection”** means the regularly scheduled collection of solid waste from bins as specified herein.

**“CWMP Compliance Official”** means the City Manager or his/her designee authorized and responsible for implementing this Chapter.

**“Deconstruction”** means to disassemble any facility, structure or building, whether in whole or in part, whether interior or exterior, piece by piece in order to salvage the parts.

**“Demolition”** means the disseminating, razing, ruining, tearing down or wrecking of any facility, structure, pavement or building, whether in whole or in part, whether interior or exterior including, but not limited to soft demolition such as that associated with remodeling or the replacement of roofs.

**“Designee”** means an entity that the City contracts with or otherwise arranges to carry out any of the Jurisdiction’s responsibilities of this Chapter 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.

**“Divert”** means to use material for any lawful purpose other than disposal in a landfill or transformation facility.

**“Edible Food”** means food intended for human consumption, or as otherwise defined in 14 CCR 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.

**“Enforcement Action”** means an action of the City to address non-compliance with this Chapter including, but not limited to, issuing administrative citations, fines, penalties, or using other remedies.

**“Excluded Waste”** means hazardous substance, hazardous waste, infectious waste, designated waste, volatile, corrosive, medical waste, infectious, regulated radioactive waste, and toxic substances or material that facility operator(s), which receive materials from the Jurisdiction 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 Chapter, 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 Jurisdiction, or its Designee’s reasonable opinion would present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose Jurisdiction, or its Designee, 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 California Public Resources Code.

**“Food Distributor”** means a company that distributes food to entities including, but not limited to, Supermarkets and Grocery Stores, or as otherwise defined in 14 CCR Section 18982(a)(22).

**“Food Facility”** has the same meaning as in Section 113789 of the Health and Safety Code.

**“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).

**“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 Chapter 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 Chapter.

**“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).

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

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

**“Food-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.

**“Food Waste”** means Food Scraps and Food-Soiled Paper.

**“Franchise”** means the right of a person or entity to make arrangements for the collection and transportation of solid waste, recyclable material and recyclable solid waste to landfills, transformation facilities, material recovery facility or other licensed solid waste management facilities, and/or the ability to extricate recyclable material from all solid waste including recyclable solid waste and green waste, or composting material.

**“Franchise fee”** means the fee or assessment imposed by the City on a collector because of its status as a collector.

**“Generator”** means a person or entity that generates any form of Solid Waste, Organic Waste, Green Waste, or Recyclable Materials.

**“Gray Container”** means a container where either: (a) the lid of the container is gray or black in color, or (b) the body of the container is entirely gray or black in color and the lid is gray or black in color.

**“Green Container”** means a container where either: (a) the lid of the container is green in color, or (b) the body of the container is green in color and the lid is green.

**“Green Waste”** means leaves, grass clippings, brush, branches and other forms of organic matter generated from landscapes and gardens and incidental pieces of untreated and unpainted scrap lumber no longer than twenty-four inches and containing no metal objects, separated from other forms of solid waste. Green waste also includes holiday trees from which all tinsel, flock, base attachments and ornaments have been removed. Green waste does not include stumps or branches exceeding six inches in diameter or two feet in length, palm fronds, yucca, food waste, manure, dirt, rocks, garbage or any other form of solid waste which are not suitable for composting.

**“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).

**“Hauler Route”** or **“Route”** means the designated itinerary or sequence of stops for each segment of the Jurisdiction’s collection service area, or as otherwise defined in 14 CCR Section 18982(a)(31.5).

**“Hazardous Waste”** means (a) all waste defined or characterized as hazardous waste by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 et seq.) in 42 U.S.C. Section 6903(5) as amended from time to time, and all implementing regulations, (b) all waste defined or characterized

as a hazardous substance pursuant to the provisions of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601 et seq. (“CERCLA” or “Superfund”), as in 42 U.S.C. Section 9601 (14), may be amended from time to time, and all implementing regulations, and (c) all waste defined or characterized as hazardous waste by agencies of the state of California (including without limitations the Department of Health Services, the Department of Toxic Substances Control and the California Integrated Waste Management Board) having jurisdiction over solid and hazardous waste. The term “Hazardous Waste” means, in addition to any substance included in any of the foregoing categories, those substances which are not normally permitted to be disposed of by generally accepted, sanitary landfill disposal methods, but which may be contained in solid waste streams. In the event of a conflict in the definitions employed by two or more governmental agencies having concurrent or overlapping jurisdiction over Hazardous Waste, the broader, more encompassing definition shall apply.

**“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).

**“Inspection”** means a site visit where a Jurisdiction 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 Chapter, or as otherwise defined in 14 CCR Section 18982(a)(35).

**“Jurisdiction”** means the City of Industry, or the area within the territorial limits of the City of Industry, and such territory outside of the City over which the City has jurisdiction or control by virtue of any constitutional or statutory provision.

**“Jurisdiction Enforcement Official”** means the City Manager, county administrative official, chief operating officer, executive director, or other executive in charge or their authorized Designee(s) who is/are partially or whole responsible for enforcing the Chapter. See also “Regional or County Agency Enforcement Official.”

**“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 Chapter.

**“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 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. 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 Chapter.

**“Mixed Waste”** means Organic Waste collected in a container that is required by 14 CCR Sections 18984.1, 18984.2 or 18984.3 to be taken to a High Diversion Organic Waste Processing Facility.

**“Multi-Family Residential Dwelling”** or **“Multi-Family”** means of, from, or pertaining to residential premises with five (5) or more dwelling units. Multi-Family premises do not include hotels, motels, or other transient occupancy facilities, which are considered Commercial Businesses.

**“MWELO”** refers to the Model Water Efficient Landscape Ordinance (MWELO), 23 CCR, Division 2, Chapter 2.7.

**“Non-covered Project”** shall have the meaning set forth in Section 8.20.590 of this Chapter.

**“Organic Waste”** means Solid Wastes containing material originated from living organisms and their metabolic waste products, including but not limited to food, green material, landscape and pruning waste, organic textiles and carpets, lumber, wood, Paper Products, Printing and Writing Paper, manure, biosolids, digestate, and sludges or as otherwise defined in 14 CCR Section 18982(a)(46). Biosolids and digestate are as defined by 14 CCR Section 18982(a).

**“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).

**“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).

**“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).

**“Permittee”** means any individual, partnership, joint venture, unincorporated private organization or private corporation who has been issued a permit by the City to conduct salvage and recycling activities as well as those permits issued to salvage generators.

**“Person”** means any individual, partnership, joint venture, unincorporated private organization, or private corporation.

**“Prohibited Container Contaminants”** means the following:

- (1) Discarded materials placed in the Blue Container that are not identified as acceptable Source Separated Recyclable Materials for the Jurisdiction’s Blue Container;
- (2) Discarded materials placed in the Green Container that are not identified as acceptable Source Separated Green Container Organic Waste for the Jurisdiction’s Green Container;
- (3) Discarded materials placed in the Gray Container that are acceptable Source Separated Recyclable Materials and/or Source Separated Green Container Organic Wastes to be placed in Jurisdiction’s Green Container and/or Blue Container; and,
- (4) Excluded Waste placed in any container.



**“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).

**“Recyclable Materials”** means materials that have been source separated from the Solid Waste stream prior to collection or disposal at a landfill, which may be used or reused in the form of materials for new, used or reconstituted products that meet the quality standards necessary to be used in the marketplace. Recyclable Materials includes any source-separated single-category materials identified by the City Manager for which a market or value exists, including, but not limited to: cans, cardboard, glass, newspaper, metal containers, paper, plastic bottles and containers, plastic film, as well as organic or compostable materials such as green waste, yard waste or food waste. Recyclable Materials are a material which has commercial value and which is sold or donated to an entity other than a Solid Waste Collector. Recyclable Materials are commodities and are not part of the Solid Waste stream. Recyclable Materials lose their character as Recyclable Materials upon being disposed of in the waste stream and become Solid Waste subject to this Chapter. If the seller or donor of Recyclable Material pays the buyer or donee, including any Solid Waste Collector, any consideration for collecting, processing, recycling, transporting or disposing of "Recyclable Material" or for providing consultation or other services, the transaction shall not be regarded as a sale or donation of "Recyclable Material," but as an arrangement for the disposal of Solid Waste subject to this Chapter. Recyclable Material shall be deemed to be contaminated if the Container into which it has been placed contains more than one percent (1%) non-recyclable material, or any amount of Hazardous Waste.

**“Recyclable Material Bins”** means a bin, vessel, can, or other receptacle used for accumulating and collecting recyclable material.

**“Recycle”** or **“Recycling”** means the act or process of segregating, transporting, collecting, sorting, cleansing, treating, or reconstituting materials that would otherwise be discarded and returning them for use or reuse in the form of materials for new, used or reconstituted products which meet the quality standards necessary to be used in the marketplace.

**“Refuse”** means Solid Waste.

**“Renovation”** or **“Remodel”** means any change, addition, or modification of more than 1,000 square feet in an existing structure.

**“Residential Property”** means every lot in the City upon which one or more but not more than four dwelling units is situated, including planned development projects and any other parcel which has been improved with a so-called “duplex” or “triplex” residential dwelling unit designated and used as living quarters by human beings. Residential units shall not include hotels, motels, lodge halls, clubs, tourist camps, trailer camps, churches, commercial and industrial establishments, or any other lot containing more than four dwelling units or upon which commercial or industrial occupation is conducted.

**“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).

**“Salvage”** means refuse for which a permit to treat as Salvage has been obtained under this Chapter and which includes recyclable material. Salvage is source separate recyclable materials, consisting of source separated commingled recyclable materials, sources separated recyclable materials and source separated single-category recyclable materials.

**“Salvage Collector”** means any individual, partnership, joint venture, unincorporated private organization, or private corporation regularly engaged in the business of providing Salvage collection services including those who use third party haulers.

**“Salvage Generator”** means any individual, partnership, joint venture, unincorporated private organization or corporation which created, accumulates, imports or causes to be imported into the City Salvage which is sold or given to a Salvage Collector.

**“Salvaging”** or **“Salvage Collecting”** means the controlled removal, collection, accumulation, baling or transportation of Salvage for utilization.

**“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.

**“SB 1383 Regulations”** or **“SB 1383 Regulatory”** 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.

**“Scavenging”** means the unauthorized removal of Recyclable material or any other commodity designated by the City to have Recyclable properties or value by any person, individual, business, or Solid Waste entity other than those authorized by the city or established in accordance with this chapter.

**“Self-hauler”** means any individual, partnership, joint venture, unincorporated private organization, or private corporation engaged in salvaging which it creates, accumulates, imports or causes to be imported into the City. Any person that self-hauls any solid waste or recyclables within the City without a valid permit, shall be subject to all fines, fees, and penalties identified in this Chapter. Back-haul means generating and transporting Organic, Recyclable or and Solid 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 18982(a)(66)(A).

**“Single-Family”** means of, from, or pertaining to any residential premises with fewer than five (5) units.

**“Solid Waste”** has the same meaning as defined in State Public Resources Code Section 40191, which defines Solid Waste as all putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semi-solid wastes, and other discarded solid and semisolid wastes, with the exception that Solid Waste does not include any of the following wastes:

- (1) Hazardous waste, as defined in the State Public Resources Code Section 40141.
- (2) Radioactive waste regulated pursuant to the State Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the State Health and Safety Code).
- (3) Medical waste regulated pursuant to the State Medical Waste Management Act (Part 14 (commencing with Section 117600) of Division 104 of the State Health and Safety Code). Untreated medical waste shall not be disposed of in a Solid Waste landfill, as defined in State 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 State Public Resources Code.

As used in this Chapter, the term Solid Waste includes Green Waste and Recyclable Solid Waste, as well as waste generated by Deconstruction and Demolition.

**“Solid Waste collection services”** means the collection, transportation, storage, transfer, or processing of Solid Waste or Recyclable Solid Waste for residential, commercial, industrial, or institutional user(s), customers, patrons, or residents.

**“Solid Waste collector”** means any individual, partnership, joint venture, unincorporated private organization, or private corporation regularly engaged in the business of providing solid waste collection services or recycling services.

**“Source Separated Recyclable Material”** or **“Source Separated Single-Category Recyclable Material”** means single type or category of Recyclable or Organic Material that have been separated or kept separate from the Solid Waste stream, at the point of generation for recycling or reuse in order to return them to the economic mainstream in the form of raw material for new, reused, or reconstituted products, which meet the quality standards necessary to be used in the marketplace. Source Separated Recyclable Material shall be deemed contaminated if the container into which it has been placed contains more than five percent (5%) of any other type of material (including but not limited to any mixed waste and/or any amount of hazardous waste). If a container is deemed “contaminated” it is therefore considered “Solid Waste” as defined under this Chapter.

**“Special waste”** means an item or element of solid waste identified in 22 California Code of Regulations Sections 66261.120, 66261.122, or any other waste which has been classified as Special Waste by resolution of the City Council.

**“State”** means the State of California.

**“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).

**“Third Party Hauler”** means any commercial carrier or common carrier who transports Salvage or recyclable material at the direction, request or hiring of a Salvage collector.

**“Tier One Commercial Edible Food Generator”** means a Commercial Edible Food Generator that is one of the following:

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

If the definition in 14 CCR 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 Chapter.

**“Tier Two Commercial Edible Food Generator”** means a Commercial Edible Food Generator that is one of the following:

- (1) Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.
- (2) Hotel with an on-site Food Facility and 200 or more rooms.

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

If the definition in 14 CCR 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 Chapter.

**“Universal Waste”** or **“U-Waste”** reflects the traditional federal concept of identifying processes. In the case of universal wastes, there are supposedly no processes that can be clearly identified as the source of generation because they come from an infinite number of sources. California Universal Waste includes but is not limited to:

- (1) Batteries--Includes AAA, AA, C, D, button cell, 9-volt, both rechargeable and single use. These may contain some corrosive or reactive chemicals, as well as toxic heavy metals like cadmium. (Automotive type batteries are not universal waste. However, when they become waste, they are banned from the trash.)
- (2) Fluorescent lamps and tubes--Includes fluorescent tubes, compact fluorescent lamps, metal halide lamps, sodium vapor lamps, high intensity discharge (HID) lamps, and neon bulbs. These lamps contain Mercury. Mercury vapor might be released to the environment when they are broken. The mercury from broken lamps in trash bins could find its way to lakes and rivers during rain storms.
- (3) Thermostats--There is mercury inside the sealed glass "tilt switch" of the old-style thermostats (not the newer electronic kind).
- (4) Electronic Devices--Includes televisions and computer monitors, computers, printers, VCRs, cell phones, telephones, and radios. These devices often contain heavy metals like lead, cadmium, copper, and chromium.
- (5) Electrical Switches--Some electrical switches and relays contain mercury. Such mercury switches can be found in some chest freezers, pre-1972 washing machines, sump pumps, electric space heaters, clothes irons, silent light switches, automobile hood and trunk lights, and ABS brakes.
- (6) Pilot Light Sensors--Mercury-containing switches associated with pilot light sensors are found in some gas appliances such as stoves, ovens, clothes dryers, water heaters, furnaces and space heaters.
- (7) Mercury Gauges--Some gauges, such as barometers, manometers, blood pressure, and vacuum gauges contain mercury.
- (8) Mercury Added Novelties--Examples include greeting cards that play music when opened; athletic shoes (made before 1997) with flashing lights in soles; and mercury maze games.
- (9) Mercury Thermometers--Mercury thermometers typically contain about a half gram of mercury. Many health clinics, pharmacies and doctor's offices have thermometer exchange programs that will provide new mercury-free fever thermometer in exchange for old ones.

- (10) Non-Empty Aerosol Cans that Contain Hazardous Materials--Many products in aerosol cans are toxic. And many aerosol cans contain flammables, like butane, as propellants for products like paint. If an aerosol can is labeled with words like TOXIC or FLAMMABLE, it should not be placed in the trash unless it is completely empty.

“**Vehicle**” means any truck, trailer, or other conveyance or equipment used to collect, haul or transport Solid Waste, Hazardous Waste, Recyclable Material, or Recyclable Solid Waste.

#### **8.20.020 Policy.**

The City Council finds and determines that the storage, accumulation, collection and disposal of Commercial Solid Waste, Construction, Demolition and Deconstruction waste, Green Waste, Hazardous Waste, refuse, Solid Waste and other discarded matter is of great public concern, in that improper control of such matters may create a public nuisance, or lead to air pollution, fire hazards, insect breeding, rat infestation and other problems affecting the health, welfare and safety of the residents of this and surrounding cities. The City Council further finds that the periodic collection of Commercial Solid Waste, Construction, Demolition and Deconstruction waste, Green Waste, Hazardous Waste, refuse, Solid Waste and other discarded matter from all Residential and Commercial Properties within the City and that the letting of one exclusive franchise as well as Salvage and other permits, by the City for such collection will provide the most orderly and efficient solution to such problems and promote the public health, safety and welfare and to provide for accurate monitoring for compliance with the Act.

#### **8.20.030 Authorization required to collect.**

No person, collector, or Salvage collector shall engage in the collection, caring, conveyance, Salvage or transportation of any Solid Waste or Recyclable Material from or at any location within the limits of the City, without the express written consent of the City Council by means of a franchise or permit granted by the City Council or, where authorized, the City Manager, pursuant to this Chapter or other provisions set forth in the City of Industry Municipal Code.

#### **8.20.040 Solid waste collection required.**

Every owner or occupant of any premises in the City shall dispose of the Solid Waste through the regular Solid Waste collection service of the Collector, and shall pay therefore the rate or rates set by the City a component of which rate shall be applied to the Solid Waste Recovery Fund. Every owner or occupant of any premises in the City shall maintain, at minimum, a bin of not less than two cubic yards with collection service occurring not less than one time per week. Arrangements with the Collector shall be made by each such owner or occupant for the required collection of Solid Waste, and such arrangements shall specify the location of the premises, Solid Waste bin types and sizes, and the frequency of collection. The owner of a Single-family dwelling or Multi-family dwelling of not more than four units, must by prior agreement with the Collector and with the occupants of such dwellings arrange for the individual, joint, or communal use of Solid Waste bins thereon.

#### **8.20.050 Accumulation unlawful—Abatement.**

It is unlawful and declared to be a public nuisance for any owner or occupant of a residential or commercial premises to permit the accumulation of Solid Waste to become or remain offensive, unsightly, or unsafe to public health or creates a fire hazard, or to deposit, keep, or accumulate, or permit, or cause any Solid Waste to be deposited, kept, or accumulated upon any lot or parcel of land, or any public or private place, street, lane, alley, or driveway, except as provided in this Chapter. The City Manager or authorized Designee may take action to abate the nuisance pursuant to the procedures set forth in this code.

## Article II. Solid Waste Fees, Franchises and Permits

### 8.20.060 Exclusive franchise.

The City may, from time to time, enter into an exclusive franchise agreement with a collector regarding the collection of solid waste from residential and commercial property. The Collector, under the franchise agreement, shall be allowed to conduct Salvaging and the Collector is deemed to be in compliance with Sections 8.20.410, 8.20.420, 8.20.430 and 8.20.440. However, with respect to Salvaging only, the rights of the Collector shall not be exclusive. So long as the franchise agreement remains in force, collection of the material provided for in this Chapter may be made only by such Collector in accordance with the terms and conditions of this Chapter and the franchise agreement. The charges for such collection of Solid Waste, including removal and disposal services shall be those agreed upon between such Collector and the person utilizing the service; provided, however, that such charges shall not be greater than the rates permitted by the terms of the franchise agreement between the City and the Collector. No person other than the City or the Collector shall collect, remove or dispose of any Solid Waste within the City, nor transport the same over any public streets or highways within the City. All recycling and Salvage activities not otherwise governed by the terms of the exclusive franchise agreement shall be conducted only pursuant to this Chapter.

### 8.20.070 Collection of solid waste restricted to collector.

It is unlawful for any person other than the Collector or those persons employed by the collector to collect or haul any Solid Waste within the City except:

- A. Source separated single-category recyclable materials, including but not limited to those collected by a person under permit by the City as provided in Section 8.20.410 of this Chapter. Loads which consist of source separated single-category recyclables commingled with any residual Solid Waste, or other recyclable materials, shall not be considered source separated single-category recyclable materials
- B. Green Waste (a) removed from a premises by a contractor as an incidental part of a total landscaping or gardening service offered by that contractor, and loaded into a fixed body vehicle, rather than as a separately contracted or subcontracted hauling service using debris boxes or similar apparatus; or (b) directly loaded onto a fixed body vehicle such as a “chipper and truck” and hauled directly to a transfer station or disposal facility;
- C. Animal waste and remains from slaughterhouses and butcher shops, or grease waste;
- D. Special waste;
- E. Hazardous waste.

### 8.20.080 Franchise—Terms.

Any franchise entered into or issued by the City shall regulate the duties imposed upon the collector as well as the rates to be charged. Without limiting the scope of the foregoing regulatory power, in general, said regulations shall control:

- A. The maximum rates to be charged and the time of billing;
- B. The manner in which the work of Solid Waste collection shall be performed;
- C. The condition and maintenance of the equipment used by the Collector;
- D. The hours within which such collection work may be performed;
- E. The security and insurance which the Collector shall provide to the City;

F. Any other items which the City Council deems to be necessary for the best interest of the City and its residents and owners or occupants of property therein.

**8.20.090 Collector—Compliance with all laws.**

The Collector shall comply with the provisions of this Chapter and any and all applicable sections of the City of Industry Municipal Code, Public Resources Code or any other local, state or federal code having jurisdiction. The Collector shall be required to cooperate with the City in Solid Waste generation studies, preparation of waste stream audits and the submission of information required by the City to meet the reporting requirements of the Act or other applicable legislation as may be amended from time to time, and to implement measures consistent with the City's source reduction and recycling element and household hazardous waste element in order for the City to reach the mandated diversion and other goals as established by the Act as it may be amended from time to time. The Collector shall submit to the City monthly reports which show the number of tons collected and the tonnage delivered to disposal facilities, itemized by disposal facility.

**8.20.100 Flow control.**

The City reserves whatever, if any, right it may receive from local, state or federal authorities to exercise "flow control", i.e., the right to select disposal facilities and materials recovery facilities to which the Solid Waste collected pursuant to the franchise is taken. In the event that the City directs collector to transport Solid Waste to a particular disposal facility or materials recovery facility, City and Collector agree to use their best efforts to obtain indemnification against CERCLA Superfund and related claims from the operator of the disposal facility or materials recovery facility to which Solid Waste collected pursuant to the franchise is taken for disposal or materials recovery. In the event that the City requires Collector to utilize a disposal facility or materials recovery facility not owned or operated by Collector or an affiliate of Collector pursuant to this provision, the City shall indemnify and hold harmless Collector for delivering Solid Waste to the designated disposal facility or materials recovery facility. In the event that the City selects a transfer or disposal facility pursuant to this provision, Collector shall be entitled to a rate adjustment to offset for any substantiated increase in expenses resulting from the City's exercise of "flow control".

**8.20.110 Existing franchise—Continued effect.**

Any franchise which is in effect on the date of the Chapter enacting this Chapter shall remain in full force and effect through the duration of the respective franchise. A franchisee shall comply with the provisions of this Chapter so long as the requirements set forth for compliance do not conflict with any current franchise agreement or the constitutionally protected rights provided for under any existing franchise agreement. The provisions of this Chapter in no way confirm, modify or extend existing contractual agreements.

**8.20.120 Franchise fees.**

The Collector shall be required to pay a franchise fee in an amount and under terms and conditions as set forth in the franchise agreement.

**8.20.130 Cost recovery special fund.**

The Collector shall be required to include a line item charge on its regular billing invoice as a fee based on volume for purposes of establishing a "Cost Recovery Special Fund" pursuant to the Act. The amount of the fee shall be determined by the City Manager. Funds deposited into the Cost Recovery Special Fund shall be used and applied to pay for costs associated with the preparation, adoption and implementation of the City's source reduction and recycling element. Any and all such fees shall be

paid monthly in accordance with the collector's regular billing cycle. (Public Resources Code Section 41003 (g)).

### Article III. Bins, Collection and Equipment

#### 8.20.140 Solid waste bins.

All owners or occupants of commercial or residential premises and all persons and entities involved in Deconstruction, Demolition and construction within the City are required under this Chapter to arrange for Solid Waste collection with the Collector and to keep readily accessible to the Collector, one or more bins provided by the Collector and of adequate size and quantity, so as to be capable of holding without spilling all Solid Waste accumulated on the commercial and/or residential premises between the time of two successive collections. All Solid Waste generated or accumulated on the commercial and/or residential premises shall be deposited in said approved bins.

City reserves the right from time to time to review and determine the collection option that will allow the City to meet the diversion requirements as prescribed therein of this Chapter. Commercial uses, including Multi-Family Residential Dwellings shall subscribe to a program as determined by the Jurisdiction and generators shall place materials into the bins as follows:

#### 8.20.150 Commercial bin requirement.

Commercial uses shall subscribe to a program as determined by the Jurisdiction and generators shall place materials into the bins as follows:

1. Two-container collection service:
  - a. Green Container: Generator shall place only Source Separated Organic Waste, including Food Waste in a Green Container.
  - b. Gray Container: Except for Organic Waste and Food Waste, generator shall place all other Solid Waste and Recyclable Materials in a Gray Container.
2. All Solid Waste or Recyclable Solid Waste generated or accumulated on the commercial premises shall be deposited in said approved bins. City shall have the right to review the number and size of a Generator's containers to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials. Generators may additionally manage their Organic Waste by preventing or reducing their Organic Waste, managing Organic Waste on site, and/or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).

#### 8.20.160 Residential bin requirement.

Residential uses shall subscribe to a program as determined by the Jurisdiction and Generators shall place materials into the bins as follows:

1. Three- and three-plus-container collection service:
  - a. Green Container: Generator shall place only Source Separated Organic Waste, including Food Waste in a Green Container.
  - b. Blue Container: Generator shall place only Source Separated Recyclable Materials in a Blue Container.
  - c. Gray Container: Except for Organic Waste and Food Waste, generator shall place all other Solid Waste materials in a Gray Container.
2. All Solid Waste or Recyclable Solid Waste generated or accumulated on the residential premises shall be deposited in said approved bins. City shall have the right to review the number and size of a Generator's containers to evaluate adequacy of capacity provided for



each type of collection service for proper separation of materials and containment of materials. Generators may additionally manage their Organic Waste by preventing or reducing their Organic Waste, managing Organic Waste on site, and/or using a community composting site pursuant to 14 CCR Section 18984.9(c).

#### **8.20.170 Commercial bin color and labeling requirements.**

Except Multi-Family Residential Dwellings, commercial businesses under section 8.20.150 of this Chapter are to provide containers for the collection of Source Separated Organic Waste, and Source Separated Recyclable Materials in all indoor and outdoor areas where disposal containers are provided for customers, for materials generated by that business. Such containers do not need to be provided in restrooms. If a Commercial Business does not generate any of the materials that would be collected in one type of container, then the business does not have to provide that particular container in all areas where disposal containers are provided for customers. Commercial businesses are not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the color requirements of this article prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first. Containers shall have labels that include language or graphic images, or both, indicating the primary material accepted and the primary materials prohibited in that container.

#### **8.20.180 Organic recycling waivers.**

Jurisdiction may waive a Commercial Business' obligation (including Multi-Family Residential Dwellings) to comply with some or all of the Organic Waste requirements of this Chapter if the Commercial Business provides documentation that the business generates below a certain amount of Organic Waste material. Commercial Businesses requesting an organic recycling waiver shall:

1. Submit an application specifying the services that they are requesting a waiver from and provide documentation as noted below:
2. Provide documentation that either:
  - a. The Commercial Business' total Solid Waste collection service is two cubic yards or more per week and Organic Waste subject to collection in a Blue Container or Green Container comprises less than 20 gallons per week per applicable container of the business' total waste; or
  - b. The Commercial Business' total Solid Waste collection service is less than two cubic yards per week and Organic Waste subject to collection in a Blue Container or Green Container comprises less than 10 gallons per week per applicable container of the business' total waste.
3. Notify Jurisdiction if circumstances change such that Commercial Business's Organic Waste exceeds threshold required for waiver, in which case waiver will be rescinded.
4. Provide written verification of eligibility for de minimis waiver every 5 years, if Jurisdiction has approved de minimis waiver.

Jurisdiction may waive a Commercial Business' or property owner's obligations (including Multi-Family Residential Dwellings) to comply with some or all of the recyclable materials and/or Organic Waste collection service requirements if the Jurisdiction has evidence from its own staff, a hauler, licensed architect, or licensed engineer demonstrating that the premises lacks adequate space for the collection containers required for compliance with the Organic Waste collection requirements. A

Commercial Business or property owner may request a physical space waiver through the following process:

1. Submit an application form 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 Blue Containers and/or Green Containers including documentation from its hauler, licensed architect, or licensed engineer.
3. Provide written verification to Jurisdiction that it is still eligible for physical space waiver every five years, if Jurisdiction has approved application for a physical space waiver.

#### **8.20.190 Placement of bins.**

All Solid Waste to be collected shall be set out or placed by the owner or occupant of a residential or commercial property as follows:

Residential Property:

- A. Where a residential property is contiguous to a paved alley, all articles for collection shall be set out or placed at one and the same location at the alley or property line;
- B. Where the residential property is not contiguous to a paved alley, all articles for collection shall be set out or placed at one and the same location in the public parkway or at the curblin;
- C. No Solid Waste shall be set out for collection except that which is accumulated on the residential premises from which the collection is made, by the owners or occupants of said premises in the use of the premises;

Commercial Property:

D. Each owner or occupant of a commercial property shall place all Solid Waste originating from such property in bins provided by the collector. Such bins shall be placed at the rear of such properties, or if the premises are so situated that the Collector is unable to collect at such location, then at the sides of such properties if space is available at such location. Under no circumstances shall the bins be pushed to the front of the property or curbside for pickup. Bins may be located within industrial properties where necessary to accommodate plant operation. All Solid Waste shall be placed in such bins and not upon or around the same. Solid Waste shall not be compacted in bins furnished by the collector by any mechanical means without permission of the Collector. The owner or occupant of commercial or industrial property shall arrange with the collector for as many collections per week as shall be necessary, but in no case less than one time per week to remove all such solid waste from said property as frequently as the bin becomes filled.

#### **8.20.200 Collectors' obligation.**

The Collector shall:

- A. Collect solid waste from every residential property, commercial property in the City with respect to which collection arrangements are made by the owner or occupant thereof;
- B. Make collections of such Solid Waste on the dates and between the hours specified in the written franchise agreement with the City or in resolution or ordinance from time to time adopted by the City Council, or in schedules to be approved by the City Manager when the franchise agreement so provides;

- C. Provide and maintain adequate equipment and vehicles including standby vehicles with adequate capacity and provide all labor and services necessary to perform the duties assumed by the Collector;
- D. Provide a collection and disposal service in such a manner as to prevent any leakage or dropping of garbage or refuse on private property or upon the streets, ways and public places within the City;
- E. Maintain all of Collector's collection equipment in a uniformly painted condition with a uniform color scheme with the name of the Collector and the number of the truck or motor vehicle engaged in collections, in a manner approved by the City Manager;
- F. Dispose promptly of all garbage or refuse in sanitary dumps or other disposal points approved by the governmental agency having jurisdiction thereof;
- G. Provide containers on casters of a size, shape and construction approved by the City Manager for all residential, industrial and commercial property occupants utilizing collectors' collection services.
- H. Provide an office and telephone service at all times between the hours of eight o'clock a.m. and four o'clock p.m., Monday through Friday, and eight o'clock a.m. to twelve o'clock noon on Saturday to enable prompt response to all calls and action upon all requests and instructions pertaining to the collection of solid waste.
- I. Provide at collector's expense public liability and property damage insurance covering liability for not less than ten million dollars for personal injuries including death of one person, ten million dollars on account of any one accident, and property damage of not less than ten million dollars. The company and policy shall be subject to the approval of the City Attorney, and a copy thereof shall be kept on file in the office of the City Clerk at all times during the terms of Collector's contract.
- J. Deliver to the city a good and sufficient surety bond in the amount of fifty thousand dollars to secure the full, true and faithful performance by the Collector of the provisions of this Chapter and of the terms of the franchise agreement between Collector and the City. Such bond shall be kept in full force and effect at all times during the term of the franchise agreement and shall be subject to the approval of the City Attorney.
- K. In no event shall the Collector charge, collect or receive any sums in excess of the rates approved by the City Manager for collector's services under this Chapter.

**8.20.210 Collection system.**

The Collector shall provide for the collection and disposal of Solid Waste from all Residential Property within its assigned or designated area at least once each calendar week and from commercial properties as provided in the contract or franchise. The City Manager shall have charge and supervision of such collection and removal, and shall approve the routes and days as proposed by the Collector for the collection so as to conform to the provisions of this Chapter. When such routes and days of collection are established or changed, the City Manager shall be given notice thereof.

**8.20.220 Collection vehicles.**

Collection vehicles used by collectors within the City shall comply with the requirements of this section and shall conform to the highest industry standards and all provisions of the California Vehicle Code. The City reserves the right to inspect or cause the inspection of any collection vehicles.

**8.20.230 Vehicle compliance.**

The City shall recognize the bi-annual inspection of terminal "BIT Program" performed by the California Highway Patrol for all collection vehicles operating within City limits for the purpose of

executing the provisions herein. Satisfactory rating certificates demonstrating “BIT Program” compliance for each Collector or Salvage Collector shall be filed with the City Clerk. Any Collector or Salvage Collector utilizing a Third Party Hauler shall comply with the provisions of the Motor Carriers of Property Permit Act, California Vehicle Code Sections 34600 et seq., and shall have on file with the City Clerk a common carrier permit as required therein.

#### **8.20.240 Maintenance of collection vehicles.**

All collection vehicles shall at all times be kept clean, in good repair and painted to the satisfaction of the City and shall comply with all measures and procedures promulgated by agencies having jurisdiction. All collection vehicles shall be cleaned on a regular basis.

#### **8.20.250 Leakage and spillage.**

Each collection vehicle shall be so constructed and utilized so as to prevent any solid waste, oil, grease or other liquid from blowing, falling, or leaking out of the collection vehicle onto any public right of way or any residential, or commercial, property whether or not the property has been established for public or private use.

#### **8.20.260 Transportation of solid waste.**

All Solid Waste shall be transported by means of vehicles equipped with watertight bodies fitted with close fitting metal covers so as to prevent any leakage, spillage or offensive odor to emit from the contents thereof. Should any Solid Waste be dropped or spilled in collecting, transferring or transporting, it shall be immediately cleaned up. Sufficient equipment to contain or clean any of the collection vehicle’s contents which may have been allowed to escape the inner body of the vehicle shall be carried on each truck at all times for such purpose.

#### **8.20.270 Audible warning device.**

Each vehicle used for the collection, hauling and disposal of Solid Waste shall be equipped with an audible warning device that is activated when the vehicle is backing up.

#### **8.20.280 Vehicle removal from service.**

Should the City at any time give notification in writing to the Collector that any designated collection vehicle does not comply with the standards of this Chapter, such vehicle shall forthwith be removed from service by the Collector and not again so used herein until inspected and approved in writing by the City.

### **Article IV. Prohibited Acts and Enforcement**

#### **8.20.290 Throwing or scattering solid waste prohibited.**

No person shall throw, place, scatter or deposit any Solid Waste in or upon any public street, alley, or highway except as expressly authorized by this Chapter, nor throw, place, scatter or deposit any such material upon or below the surface of any premises in such a manner that the same is or may become a nuisance or endanger the public health.

#### **8.20.300 Unauthorized use of bins.**

It is unlawful for any person to place or deposit into any bin any medical waste (as defined in Health and Safety Code Sections 117690), Hazardous Waste, or special waste requiring unique collection and disposal procedures, in any bin as defined herein.

#### **8.20.310 Solid waste burning.**

It is unlawful to burn any Solid Waste within the City except in an approved incinerator or transformation facility or other device for which a permit has been issued by the City and which complies with all applicable license, permit and other regulations of the air pollution control authorities and provided any such act of burning in all respects complies with other laws, rules and regulations.

#### **8.20.320 Unauthorized removal.**

It is unlawful for any person, other than a Collector or Salvage Collector to take, remove, or appropriate for his or her own use any Solid Waste, Recyclable Solid Waste, potentially recyclable articles commingled with Solid Waste, Source-Separated Single Recyclable Solid Waste (recyclable materials) or Green Waste which has been placed for collection or removal by a Collector or Salvage Collector, whether so placed in containers, recycling bins or not. Unauthorized removal as defined herein shall include Scavenging.

#### **8.20.330 Unauthorized disposal.**

It is unlawful for any person to place Solid Waste in, or to otherwise use the Solid Waste, Green Waste or Recyclable Solid Waste containers of another person without the permission of such other person.

#### **8.20.340 Unauthorized bins.**

It is unlawful for any person to utilize bins for the collection, deposit or transport of Solid Waste, commercial Solid Waste, construction, Demolition and Deconstruction debris, Green Waste, or other Solid Waste unless such bins have been issued by the Collector. It is unlawful for any person to utilize bins for the collection, deposit or transfer of Recyclable Material, or other Solid Waste or Recyclable Solid Waste unless such bins have been issued by the Collector or a Salvage Collector authorized by the City Manager to issue such bins. Such bins shall be subject to removal as set forth at Section 8.20.400.

#### **8.20.350 Spills.**

It is unlawful for any person transporting solid waste to fail to immediately clean up, or arrange for the immediate cleanup, of any Solid Waste released, spilled or dumped during removal or transport within the City by such person. It shall be unlawful and a nuisance for the person in charge of the day to day operation of any premises within the City to permit or suffer Solid Waste to be deposited, released, spilled, leaked, pumped, poured, emitted, emptied, discharged, injected, dumped or disposed into the environment or otherwise come to be located outside an authorized bin for the collection of such Solid Waste at the premises of which the person is in charge, notwithstanding human or animal interference with bins, wind or other natural forces, and weather during storage, collection, removal or transfer.

#### **8.20.360 Unlawful dumping.**

It is unlawful for any person to deposit, release, spill, leak, pump, pour, emit, empty, discharge, inject, dump or dispose into the environment, including the abandonment of or discarding of barrels, containers and other closed receptacles of solid or liquid waste of any kind whatsoever, any solid or liquid waste upon any premises, including, but not limited to, any storm drain or channel, within the City, or to cause, suffer, or permit such solid or liquid waste to come to be located upon any premises within the City, except as authorized by the City of Industry Municipal Code.

### **8.20.370 Enforcement.**

Pursuant to California Penal Code Section 836.5, the City Manager, persons designated by the City Manager, and all City code enforcement officers are hereby authorized to enforce the provisions of this Chapter as well as those of California Penal Code Sections 373 (a), 374.2, 374.3, 374.4, and 375; California Government Code Section 68055 et seq.; and California Vehicle Code Sections 374.7, 374.8, 23111 and 23112. The City Manager may promulgate administrative regulations to provide those integrated waste management services which are not specifically provided for in this Chapter.

### **8.20.380 Violation.**

Violations of this Chapter are punishable as set forth in Chapter 1.08 of this code.

### **8.20.390 Civil action by collector.**

Nothing in this Chapter shall be deemed to limit the right of a collector to bring a civil action against any person who violates this Chapter, nor shall a conviction for such violation exempt any person from a civil action brought by a Collector.

### **8.20.400 Unauthorized bins impoundment.**

Any bin used for storing or transporting Salvage or Solid Waste which is not the property of the Collector, or under control of a duly permitted Salvage collector in the City, may be removed from any premises in the City and impounded without notice to the owner of the bin.

Such removal and impoundment may be made by any person or entity designated by the City Manager. In the event the bin has contents, the contents may be disposed of if the City Manager determines disposal to be necessary, in his or her sole discretion, to preserve the public health, safety and welfare. Any such bin shall be held under his or her direction subject to the right of the owner thereof to take it upon payment of a sum as provided in a fee schedule. The fee schedule shall be inclusive of the amounts incurred to recover the costs of removing and impoundment of the bin, the disposing of the contents of any such container caused to be removed by the City, including both the costs incurred by the collector/hauler performing such removal and the City's administrative costs, the fee schedule shall be an amount equal to the City's maximum authorized daily service rate charged for the subject size container, plus any processing charges, disposal charges, storage fees, and overhead charges incurred. The processing charges and disposal charges of the bin's content shall be based on the rates of the City-designated local transfer station and landfill. Storage fees for the bin shall be based on the rates of the City-designated local storage facility.

Within twenty-four hours of the time that the City has removed and impounded the bin, and its contents if any, the City Manager shall cause to be sent to the owner of the bin written notice advising the owner that the bin has been removed and is in the possession of the City and, that if said bin is not redeemed by the owner within thirty days, said bin will be subject to sale. If the bin is not redeemed by the owner within thirty days after such removal and impoundment, it may be thereafter sold at public auction under the direction of the City Manager to the, highest bidder after the City Manager has, within forty days from the date of removal and impoundment of the bin, sent by regular mail with postage prepaid notice of such sale to the person owning or in control of such bin and to four or more other collectors at least ten days before such sale. The proceeds of any such sale shall be applied to the cost of such sale and to the cost of removal and holding of such bin plus twenty-five percent of such costs for the overhead expenses of the City in causing such sale. Any balance such proceeds shall be paid upon demand to the person who owns such bin at the time of its removal. In the instance of a deficiency where the sales price of the bin does not generate sufficient money to pay for the costs of removal, storage and overhead charges, the City Manager shall submit an invoice to

the bin owner, for payment in an amount equal to the deficiency. The bin may be redeemed by the owner at any time prior to the sale and upon payment of the amounts due and owing pursuant to this section.

## Article V. Regulation of Recycling and Salvage Business

### **8.20.410 Salvaging—Policy.**

The City Council finds and determines that the storage, accumulation, collection and disposal of Salvage is of great public concern, in that improper control of such matters may create a public nuisance, or lead to air pollution, fire hazards, insect breeding, rat infestation and other problems affecting the health, welfare and safety of the residents of this and surrounding cities. The City Council further finds that the activity of salvaging within the City would be best regulated through permit which would provide the most orderly and efficient solution to such problems and to promote the public health, safety and welfare, as well to better enable the city to comply with the provisions of the act including the reduction of the total tonnage of materials taken to landfills.

### **8.20.420 Salvage collector permit—Required.**

Except for the Collector, no individual, partnership, joint venture, unincorporated private organization, or private corporation shall engage in Salvage collection unless a permit to do so has been issued as provided herein.

### **8.20.430 Salvaging collector permit—Application.**

Applications for Salvage collection permits required under this Chapter shall be filed with the City Manager upon printed forms to be prescribed and supplied by the City Manager. Within thirty days after receipt of all the information requested of an applicant, the City Manager shall either grant or deny Salvage collection permit and shall immediately notify the applicant by electronic mail or first class mail of the action taken.

### **8.20.440 Salvaging collector permit—Term.**

The Salvage collection permit issued under this Chapter shall be valid for a period of one year unless revoked earlier pursuant to this Chapter. The term of the Salvage collection permit shall run concurrently with the fiscal year of the City beginning July 1 and ending on June 30 of each year. Renewal applications for Salvage collection permits shall be submitted to the City Clerk no later than June 1 of each year.

### **8.20.450 Salvage collector permit—Provisions—Fees.**

A permit issued pursuant to this Chapter shall provide for the payment of permit fees to the City, in an amount established from time to time by the City Manager, and shall contain additional provisions agreed to by and between the City and the Salvage Collector and shall constitute a written agreement of the parties. The permit fees shall consist of two components including Salvage Collector Decal Fee and a fee based upon the weight of Salvage collected during any given month. New applicants for a Salvage collection permit shall be assessed a prorated fee adjusted to the nearest quarter year. The City shall issue to the permitted Salvage collector decals which the Salvage Collector shall affix to all bins utilized by the Salvage Collector within the City. Any bins not displaying said decal shall be subject to impoundment. Fees for such permits shall be at a rate as determined by the City Manager.

### **8.20.460 Permit—Limitation of assignment of transfer.**

No assignment or transfer of a permit issued pursuant to this Chapter or any right accruing under such permit shall be made in whole or part by the Salvage Collector without the prior express consent

of the City Manager. In the event any assignment or transfer is authorized by the City Manager, the assignee shall assume the liability and all other obligations of the Salvage Collector under the permit.

#### **8.20.470 Salvage generator—Permit required.**

Every Salvage Generator within the City shall secure a permit to create, accumulate, import or cause to be imported Salvage which is sold or given to a Salvage Collector. Applications for Salvage Generator permits required under this Chapter shall be filed with the City Manager upon printed forms to be prescribed and supplied by the City Manager. Within thirty days after receipt of all information requested of an applicant, the City Manager shall either grant or deny the Salvage Generator permit and shall immediately notify applicant by electronic mail or first-class mail of the action taken. The City shall charge no fee for the issuance of a Salvage Generator permit.

#### **8.20.480 Self-hauler—Permit required.**

Every Self-hauler within the City shall secure a permit to create, accumulate, import or cause to be imported or transport Salvage. Applications for self-hauler permits required under this Chapter shall be filed with the City Manager upon printed forms to be prescribed and supplied by the City Manager. Within thirty days after receipt of all information requested of an applicant, the City Manager shall either grant or deny the Self-hauler permit and shall immediately notify the applicant by electronic mail or first class mail of the action taken. The permit shall provide for the payment of fees to the City in an amount established from time to time by the City Manager.

#### **8.20.490 Reporting requirements.**

Each Salvage Collector, Salvage Generator or Self-Hauler operating under the provisions of this code shall be required at the discretion of the City to submit monthly, quarterly and annual reports containing information relative to its Salvaging activities including collection tonnage of Salvage or Recyclable Solid Waste collected within the City limits and other information as may be reasonably required by the City to determine the effectiveness of services provided, effectiveness of City and/or Salvage Collector, Salvage Generator or Self-hauler sponsored programs for compliance with the Act, as well as current collection tonnages within the City. Such records shall be submitted in a format approved by the City with the affixed signature of a duly authorized representative of the Salvage Collector, Salvage Generator or Self-hauler. Such reports shall be submitted to the City pursuant to a schedule established by the City Manager. Notwithstanding the foregoing, each Salvage Collector, Salvage Generator or Self-hauler shall submit, on or before the twenty-eighth day of each month, a monthly weight report prepared on a form approved by the City which shall enable the City to determine the volume of Salvage for the preceding month.

Each Salvage Collector, Salvage Generator or Self-hauler shall maintain all records relating to the services provided for in this Chapter for twenty-five months from the date upon which such services are provided. The City shall have the right, upon reasonable advanced notice, to inspect and/or audit records which may be relevant to the operations within the City or relating to the imposition of any fees which be imposed by the City. Such records shall be made available to the City at the regular place of business of the Salvage Collector, Salvage Generator or Self-hauler. Should an inspection or audit of a Salvage Collector, Salvage Generator or Self-hauler result in the obtaining of proprietary information between the Salvage Collector, Salvage Generator or Self-hauler and the City, any exchange of information between the City and the Salvage Collector, Salvage Generator or Self-hauler shall be considered to be proprietary between the City and the Salvage Collector, Salvage Generator or Self-hauler and of the utmost confidential nature to the extent allowable by law.



### **8.20.500 Bins and equipment.**

All Salvage shall be collected, accumulated or transported in bins, bales or other methods approved by the City Manager. Salvage shall not be collected in a packer box system where material has been packed into a closed container. Each such bin shall at all times be kept in good repair and maintained in a clean and sanitary condition. Each such bin shall bear upon at least two of its sides the name and telephone number of the Salvage Collector, which name and telephone number shall be in legible letters and numerals. Any bin which does not comply with the requirements of this section shall be subject to removal as provided in Section 8.20.400 of this Chapter.

### **8.20.510 Salvage collection vehicles.**

All vehicles used in the Salvaging process shall comply, to the extent applicable, with Sections 8.20.220 through 8.20.280 of this Chapter.

### **8.20.520 Salvaging permit—Revocation.**

A permit issued pursuant to this Chapter may be revoked or suspended for cause. For purposes of this Chapter, cause shall include the following grounds:

- A. Fraud or deceit in obtaining a permit;
- B. Failure of a permittee to correct a violation within the time prescribed in a notice of violation;
- C. Willful violation of any provision of this Chapter, of a condition or limitation of a permit, or of any lawful order of the City Manager.

Should a Salvage Collector, Salvage Generator or Self-hauler (“permittee”) be found to be in noncompliance with the provisions of its permit, and the City Manager or the City Manager’s Designee should determine that there is sufficient reason to authorize the suspension or revocation of a such permit, then such permit shall be revoked or suspended by the City Manager or the City Manager’s Designee by issuing a written order to the permittee clearly stating the reasons for such suspension or revocation. Unless the permittee supplies sufficient verification as to the correction of the deficiency stated, to the City within fifteen days of the written order, then, after fifteen days from the date of the written order, the permit may be revoked or suspended by the city. All notices and orders issued pursuant to this section shall be mailed by certified mail, return receipt requested.

### **8.20.530 Right to appeal to city council—Hearing.**

Should any permit be revoked or suspended in accordance with this Chapter, or any other provision set forth in this code or applicable legislation, or should the City Manager take any adverse action against the permittee or permit applicant as provided in this Chapter, the permittee or permit applicant shall have the right to appeal the decision to the City Council and to request a hearing. The request must be in the form of a written request made within fifteen calendar days of the effective date of the suspension, revocation or adverse action. Such request must be filed directly with the City Clerk by way of certified mail or personal delivery. The permittee or permit applicant shall have the right to submit its appeal to the City Council in the form of a written argument and waive its right to a hearing. When a request for hearing is filed with the City Clerk, the City Council shall set the matter for hearing and give notice of the time and place thereof to the person requesting the hearing, the City Manager, and any other person or public agency requesting notice thereof. The hearing shall be held not more than thirty days after a written request thereof has been filed with the City Clerk and not less than ten days after the issuance of the notice thereof. The decision of the City Council shall be final and binding upon all parties and shall be issued, in writing, within thirty days from the date of the hearing. Nothing

contained within the context of this section shall prevent any person or permittee or permit applicant from pursuing remedies to the extent allowable by law.

#### **8.20.540 Cooperation with City.**

Each Salvage Collector, Salvage Generator or Self-hauler shall cooperate with the City and/or designated consultants in Solid Waste disposal characterization studies and waste stream audits and shall implement measures adequate to achieve the City's source reduction, recycling and waste stream diversion goals for the Solid Waste stream. Each Salvage Collector, Solid Waste Generator or Self-hauler, at its own expense shall submit to the City information and reports necessary for the City to meet its reporting obligations imposed by the Act and/or other legislation, and the regulations implementing the Act and/or other legislation.

#### **8.20.550 Educational materials and public awareness programs.**

It shall be the responsibility of each Salvage Collector to develop and distribute materials and information sufficient to (a) educate its customers as to the recycling services provided by the Salvage Collector; (b) allow the City to meet recycling educational needs of the City, as may be required by local, state or federal authorities during the period of the Salvage Collector's permit.

#### **8.20.560 Cost recovery special fund.**

The Salvage Collector and Self-hauler shall be required to pay a fee for purposes of establishing a "cost recovery special fund" pursuant to the act in an amount to be established from time to time by the City Manager. Funds deposited into the cost recovery special fund shall be used and applied to pay for costs associated with the preparation, adoption, and implementation of the City's source reduction and recycling element. Any and all such fees shall be paid monthly concurrently with the regular submission of the monthly weight report.

### **Article VI. Recycling and Disposal of Construction, Demolition, and Renovation Debris**

#### **8.20.570 Findings and Statement of Intent.**

In order to comply with AB 939 as embodied in the California Waste Management Act of 1989 (California Public Resources Code Sections 40000 et seq.), and SB 1374 (Chapter 501, Statutes of 2002 ) as embodied in California Green Building Code (CALGreen), the City of Industry is required to prepare, adopt and implement source reduction and recycling plans in order to make substantial reductions in the volume of waste materials going to landfills and to reach landfill recycling/diversion rates mandated by the CALGreen Building Code.

To meet these goals, it is necessary that the City promote the reduction of Solid Waste and reduce the stream of Solid Waste going to landfills. Waste from construction, demolition, and renovation of buildings represents a significant portion of the volume of waste coming from the City of Industry, and much of this waste is particularly suitable for recycling and reuse. The City is committed to the reduction of waste through the establishment of programs for recycling and salvaging of construction and demolition (C&D) waste.

#### **8.20.580 C&D Diversion/Recycling Requirement.**

All Covered Projects shall reuse, recycle, or divert the minimum percentage of construction and demolition debris generated from landfills and/or disposal sites. This minimum diversion requirement for construction and demolition debris is defined by the CALGreen Building Code, and at the time of the adoption of this Chapter, is currently sixty-five percent (65%). The CALGreen Building Code

diversion/recycling requirement may change from time-to-time. It is the sole responsibility of the applicant to be familiar with current CALGreen Building Code requirements.

#### **8.20.590 Waste Management Plan Requirement.**

- A. **Covered Projects.** Prior to beginning any construction or demolition activities, the applicant shall submit a Waste Management Plan to the WMP Compliance Official and shall be subject to all applicable provisions of this Chapter. Failure to comply with any of the terms of this section shall subject the project applicant to the full range of enforcement mechanisms set forth in this Chapter.
- B. **Non-Covered Projects** are defined as those Projects which do not generate any Solid Waste, Recyclable Materials or any discarded materials, all other projects are considered “Covered Projects”.
- C. **Compliance as a condition of approval.** Compliance with the provisions of this Chapter shall be listed as a condition of approval on any building or demolition permit issued for a Covered Project.
- D. **City-sponsored Projects** (construction and renovation). All City-sponsored construction and renovation projects shall be considered "Covered Projects" for the purposes of this Chapter and shall submit a waste management plan prior to beginning any construction or demolition activities and shall be subject to the provisions of this Chapter.
- E. **City-sponsored Projects** (demolition). All City-sponsored demolition projects shall be considered "Covered Projects" for the purposes of this Chapter and shall submit a waste management plan prior to beginning any demolition activities and shall be subject to the provisions of this Chapter.
- F. **Exempted Projects:** A diversion deposit and a Waste Management Plan shall not be required for the following:
  - (1) Work for which a building or demolition permit is not required.
  - (2) Roofing projects that do not include tear-off of existing roof.
  - (3) Work for which only a plumbing, only an electrical, or only a mechanical permit is required.
  - (4) Seismic tie-down projects.
  - (5) Emergency demolition required to protect the public health and safety.

While not required, it shall be encouraged, that at least 65 percent (65%) of all project-related construction and demolition waste from exempt projects be diverted whenever possible.

#### **8.20.600 Submission of Construction Waste Management Plan.**

Applicants for building or demolition permits involving any Covered Project shall complete and submit a Construction Waste Management Plan ("CWMP"), on a City-approved CWMP form, as part of the application packet for the building or demolition permit.

#### **8.20.610 Review of Construction Waste Management Plan.**

Notwithstanding any other provision of this code, no building or demolition permit shall be issued for any Project unless and until the CWMP Compliance Official has approved applicants CWMP.

Approval shall not be required, however, where the Building Official determines that an emergency demolition is required to protect public health or safety.

#### 8.20.620 Compliance with Waste Management Plan.

- A. **Documentation.** Prior to the completion of any Covered Project, the applicant shall submit to the CWMP Compliance Official documentation that the diversion requirement has been met. The diversion requirement shall be that the applicant has diverted at minimum the CALGreen required diversion rate of the total construction and demolition debris generated by the project via reuse or recycling. This documentation shall include all of the following:
- (1) Receipts from the Franchisee and facility that collected and received each type of material, showing its actual weight or volume;
  - (2) A copy of the previously approved CWMP for the project adding the actual volume or weight of each type of material diverted and landfilled;
  - (3) Any additional information the applicant believes is relevant to determining his efforts to comply in good faith with the approved CWMP for the project.
- B. **Weighing of discards.** Applicants shall make reasonable efforts to ensure that, whether diverted or landfilled, all construction and demolition debris is measured and recorded, using the most accurate method of measurement available. To the extent practical, all construction and demolition debris shall be weighed by way of certified scales. In instances which, due to small size or other considerations, weighing construction and demolition debris is not practical, a CalRecycle and/or City of Industry approved volumetric measurement shall be used. To convert volumetric measurements to weight, the applicant shall use the standardized Conversion Rate approved by the city for this purpose.
- C. **Determination of compliance and release of building permit.** The CWMP Compliance Official (as appointed by the City Manager or his/her designee) shall review the information submitted under this Chapter and determine which of the following standards best describes the extent the applicant has complied with the diversion requirement.
- (1) **Full compliance.** If the CWMP Compliance Official determines that the applicant has fully complied with the diversion requirement, he or she shall cause the building permit to be released to the applicant.
  - (2) **Good faith effort to comply.** If the CWMP Compliance Official determines that the diversion requirement has not been achieved, he or she shall determine, on a case-by-case basis, whether the applicant has made a good faith effort to comply with the diversion requirement. In making this determination, the CWMP Compliance Official shall consider: the availability of markets for the construction and demolition debris landfilled, the size of the project, and the documented efforts of the applicant to divert construction and demolition debris. If the CWMP Compliance Official determines that the applicant has made a good faith effort to comply with the diversion requirement, he or she shall release the building permit to the applicant.
  - (3) **Noncompliance.** If the CWMP Compliance Official determines that the applicant has not made a good faith effort to comply with the diversion requirement, or if the applicant fails to submit the documentation required by this Chapter within the required time period, then the CWMP Compliance Official shall so notify the applicant and the Building Official. The Building Official shall not release the building permit until the

applicant has complied with this Chapter and/or has paid the penalty fees and/or the deposit submitted during application submittal was kept and deposited by the City.

#### **8.20.630 Non-Compliance of Waste Management Plan.**

Violation of meeting the requirements and/or following a submitted and approved WMP means that the CWMP applicant shall lose the deposit that was submitted to the Planning/Building Permit during permit issuance. Additionally, City Manager or his/her designee may choose to prohibit applicant and/or contractor/ generator from continuing business and/or doing future business in the City. Violation of this Chapter shall also be subject to all fees and penalties identified in this Chapter.

#### **8.20.640 Compliance with CALGreen Recycling Requirements.**

Persons applying for a permit from the City of Industry for new construction and building additions and alterations shall comply with the requirements of this Section and all required components of the California Green Building Standards Code, 24 CCR, Part 11, known as CALGreen, as amended, if its project is covered by the scope of CALGreen or more stringent requirements of the City of Industry. If the requirements of CALGreen are more stringent than the requirements of this Section, the CALGreen requirements shall apply.

- A. For projects covered by CALGreen or more stringent requirements of the Jurisdiction, the applicants must, as a condition of the Jurisdiction's permit approval, comply with the following:
  - (1) Where five (5) or more Multi-Family dwelling units are constructed on a building site, provide readily accessible areas that serve occupants of all buildings on the site and are identified for the storage and collection of a Gray Container and Green Container materials, consistent with the two container collection program offered by the Jurisdiction, or comply with provision of adequate space for recycling for Multi-Family and Commercial premises pursuant to Sections 4.408.1, 4.410.2, 5.408.1, and 5.410.1 of the California Green Building Standards Code, 24 CCR, Part 11 as amended provided amended requirements are more stringent than the CALGreen requirements for adequate recycling space effective January 1, 2020.
  - (2) New Commercial construction or additions resulting in more than 30% of the floor area shall provide readily accessible areas identified for the storage and collection of a Gray Container and Green Container materials, consistent with the two container collection program offered by the Jurisdiction, or shall comply with provision of adequate space for recycling for Multi-Family and Commercial premises pursuant to Sections 4.408.1, 4.410.2, 5.408.1, and 5.410.1 of the California Green Building Standards Code, 24 CCR, Part 11 as amended provided amended requirements are more stringent than the CALGreen requirements for adequate recycling space effective January 1, 2020.
  - (3) Comply with CALGreen requirements and applicable law related to management of C&D, including diversion of Organic Waste in C&D from disposal. Comply with Jurisdiction's C&D ordinance, Section 8.20 of Jurisdiction's municipal code, and all written and published Jurisdiction policies and/or administrative guidelines regarding the collection, recycling, diversion, tracking, and/or reporting of C&D.

#### **8.20.650 Hauling Requirements.**

Any person or entity who engages in a covered project within the City that requires the usage of a Solid Waste processing facility or disposal site, shall be required to contract with the City franchise

hauler. Should an exclusive franchise with a particular hauler not exist, the person or entity may use a hauler licensed to do business within the City in accordance with the terms of Chapter 8.20 of the City Municipal Code and the contract between the City and the City's contract hauler, to provide such service. Failure to meet this requirement shall constitute as a violation and is subject to the administrative citation process up to and including a misdemeanor complaint.

#### **8.20.660 Exception to Franchise Hauling Requirements.**

Removal of materials from a premise by a contractor as an incidental part of a gardening, landscaping, or tree trimming, may be excluded from the exclusive construction and demolition franchise requirement.

#### **8.20.670 Appeals.**

- A. Should the applicant be adversely affected by the Compliance Official's decision regarding determinations made under the provisions of this Chapter, the applicant may file a notice of appeal.
  - (1) Determinations subject to appeal include:
  - (2) The granting or denying of an exemption;
  - (3) Whether the applicant has acted in good faith;
  - (4) The amount of the deposit to be released; and,

Any administrative citations issued.

- B. Appeals shall be made by submitting written notice to the City Clerk within ten days of the decision. No appeal shall be accepted after the appeal period has expired. The appeal shall specifically state where a determination or interpretation is not in accord with the purpose of this chapter, where the decision was made inconsistently with the City of Industry Municipal Code, where the record includes inaccurate information, or where a decision is not supported by the record.
- C. Appeals and the required hearings shall be conducted as provided in Section 8.20.530.

### **Article VII. Commercial Edible Food Generators and Food Recovery Organizations and Services**

#### **8.20.680 Requirements for Tier One and Tier Two Commercial Edible Food Generators.**

Tier One Commercial Edible Food Generators must comply with the requirements of this Section 9 commencing January 1, 2022, and Tier Two Commercial Edible Food Generators must comply commencing January 1, 2024, pursuant to 14 CCR Section 18991.3.

#### **8.20.690 Requirements for Large Venue or Large Event Edible Food Generators.**

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.

#### **8.20.700 Requirements for Commercial Edible Food Generators**

Commercial Edible Food Generators shall comply with the following requirements:

- A. Arrange to recover the maximum amount of Edible Food that would otherwise be disposed.
- B. Contract with, or enter into a written agreement with Food Recovery Organizations or Food Recovery Services for:

- (1) The collection of Edible Food for Food Recovery; or
  - (2) Acceptance of the Edible Food that the Commercial Edible Food Generator self-hauls to the Food Recovery Organization for Food Recovery.
- C. Shall not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery Organization or a Food Recovery Service.
- D. Allow Jurisdiction’s designated enforcement entity or designated third party enforcement entity to access the premises and review records pursuant to 14 CCR Section 18991.4.
- E. Keep records that include the following information, or as otherwise specified in 14 CCR Section 18991.4:
- (1) 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).
  - (2) A copy of all contracts or written agreements established under 14 CCR Section 18991.3(b).
  - (3) 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.
- F. Nothing in this Chapter shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, 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).

**8.20.710 Requirements for Food Recovery Organizations**

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)(1):

- A. The name, address, and contact information for each Commercial Edible Food Generator from which the service collects Edible Food.
- B. The quantity in pounds of Edible Food collected from each Commercial Edible Food Generator per month.

- C. The name, address, and contact information for each Food Recovery Organization that the Food Recovery Service transports Edible Food to for Food Recovery.

#### **8.20.720 Requirements for Food Recovery Services**

- A. The name, address, and contact information for each Commercial Edible Food Generator from which the service collects Edible Food.
- B. The quantity in pounds of Edible Food collected from each Commercial Edible Food Generator per month.
- C. The quantity in pounds of Edible Food transported to each Food Recovery Organization per month.
- D. The name, address, and contact information for each Food Recovery Organization that the Food Recovery Service transports Edible Food to for Food Recovery.

#### **8.20.730 Requirements for Food Recovery Organizations and Services within the City**

Food Recovery Organizations and Food Recovery Services that have their primary address physically located in the Jurisdiction 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 Jurisdiction 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 March 31<sup>st</sup> of each calendar year.

### **Article VIII. Procurement**

#### **8.20.740 Recovered organic waste product and recycled-content paper procurement**

- A. The City, and direct service providers, as applicable, must comply with the City's adopted 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.
  - (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 Jurisdiction. 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 Jurisdiction is 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 Jurisdiction's Recovered Organic Waste Product procurement recordkeeping Designee, in accordance with the Jurisdiction'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 Jurisdiction. Records shall include a copy (electronic or paper) of the invoice or other documentation of purchase, written certifications as required in Article VIII (B)(3) and VIII (B)(4) of this Chapter 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.

## Article XI. Enforcement

### 8.20.760 Notice of Violation.

Violation of any provision of this Chapter shall constitute grounds for issuance of a Notice of Violation and assessment of a fine by an Enforcement Officer. Enforcement Actions under this Chapter are issuance of an administrative citations 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 Chapter and any rule or regulation adopted pursuant to this Chapter, except as otherwise indicated in this Chapter.

Other remedies allowed by law may be used, including civil action or prosecution as misdemeanor or infraction. The Jurisdiction may pursue civil actions in the California courts to seek recovery of unpaid administrative citations.

### 8.20.770 Penalties.

The penalty levels are as follows:

- (1) For a first violation, the amount of the base penalty shall be \$50 to \$100 per violation.
- (2) For a second violation, the amount of the base penalty shall be \$100 to \$200 per violation.
- (3) For a third or subsequent violation, the amount of the base penalty shall be \$250 or \$500 per violation.

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

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

(7) Whether the violation(s) were due to conditions outside the control of the violator.

**Section 4. Clerical Errors.** The City Council directs the City Clerk to correct any clerical errors found in this Chapter, including, but not limited to, typographical errors, irregular numbering, and incorrect section references.

**Section 5. Severability.** Should any section, subsection, paragraph, sentence, clause, or provision of this Ordinance for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Ordinance; it being hereby expressly declared that this Ordinance, and each section, subsection, sentence, clause, and phrase hereof would have been prepared, proposed, approved, and ratified irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid, unenforceable, or unconstitutional.

**Section 6. Effective Date.**

In accordance with Government Code section 36937, this Ordinance shall take effect and be in force thirty (30) calendar days from passage and adoption.

**Section 7. Publication.**

The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause this Ordinance to be published and posted as required by law.

**PASSED, APPROVED AND ADOPTED** by the City Council of the City of Industry at a regular meeting held on January 13, 2022, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

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Cory C. Moss, Mayor

ATTEST:

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Julie Gutierrez-Robles, City Clerk