

ORDINANCE NO. 2226

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HAWTHORNE, CALIFORNIA, AMENDING CHAPTERS 8.16, 8.17A, 8.17B, 8.17C, 8.18, 15.40, VARIOUS SECTIONS OF CHAPTER 17.89 AND ADDING CHAPTERS 15.80, 15.85 TO THE CITY OF HAWTHORNE MUNICIPAL CODE REGARDING SOLID WASTE, AND MAKING A DETERMINATION OF EXEMPTION UNDER CEQA.

WHEREAS, SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016, requires the California Department of Resources Recycling and Recovery (CalRecycle) to develop regulations to reduce organics in landfills as a source of methane. As adopted, by CalRecycle, the SB 1383 regulations (SB 1383 Regulations) place requirements on multiple entities including the City, residential households, commercial businesses and business owners, commercial edible food generators, haulers, self-haulers, food recovery organizations, and food recovery services to support achievement of statewide organic waste disposal reduction targets; and

WHEREAS, the SB 1383 Regulations require the City to adopt and enforce an ordinance or other enforceable mechanism to implement relevant provisions of the SB 1383 Regulations; and

WHEREAS, this Ordinance implements the requirements of SB 1383 Regulations.

THE CITY COUNCIL OF THE CITY OF HAWTHORNE, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Chapter 8.16 of the Hawthorne Municipal Code is hereby amended to read as follows:

Chapter 8.16 SOLID WASTE AND RECYCLING

8.16.010 Definitions.

The following words and phrases, whenever used in this chapter, shall be construed as defined in this section:

“Authorized haulers” means franchisee or persons, including corporate entities, that are permitted, licensed, franchised or otherwise authorized pursuant to official action of the city to provide collection services in the city.

“Bins” means containers capable of being emptied with front end loading vehicles, such as three-yard bins.

“Bulky waste” means solid waste that cannot be contained within a container, including discarded furniture (such as chairs, sofas, mattresses and rugs); appliances (including refrigerators, ranges, washers, dryers, water heaters, dishwashers, plumbing, small household appliances and other similar items, commonly known as “white goods”); electronic equipment (including stereos, computers, and VCRs and other similar items commonly known as “brown goods”); residential woody wastes (including wood waste, tree branches, scrap wood); and tires.

“C & D debris recycling” means the recycling of C & D debris generated at commercial premises comprised of sites or premises that generate C & D 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 jurisdictions (and others).

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

“Cart” means a polyethylene wheeled container with a hinged lid and wheels serviced by an automated or semi-automated collection truck with a capacity of no less than 30- and no greater than 101- gallons.

“City ” means the City of Hawthorne, a municipal corporation acting through its city council, and all the territory lying within the municipal boundaries of the city.

“City enforcement official” means the city manager or their authorized designee(s) who is/are partially or wholly responsible for enforcing this ordinance.

"Collect" or "collection" means to take physical possession, transport, and remove discarded materials within and from the city.

“Commercial” means comprised of a business, including any retail outlet, financial establishment, commercial warehouse, manufacturing facility, professional office, hotel or motel and automobile courts, hospital or other health care facility, any nonprofit organization, (such as any church or club), and any multi-family dwellings comprised of five units or more.

“Commercial edible food generator” includes a tier one or a tier two commercial edible food generator as defined in this Section 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).

“Compliance review” means a review of records by a city to determine compliance with this ordinance.

“Community composting” means any activity that composts green material, agricultural material, food material, and vegetative food material, alone or in combination, and the total amount of feedstock and compost on-site at any one time does not exceed 100 cubic yards and 750 square feet, as specified in 14 CCR Section 17855(a)(4); or, as otherwise defined by 14 CCR Section 18982(a)(8).

“Compost” has the same meaning as in 14 CCR Section 17896.2(a)(4), which stated, as of the effective date of this ordinance, 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.

“Compostable plastics ” or “compostable plastic” means plastic materials that meet the ASTM D6400 standard for compostability, or as otherwise described in 14 CCR Section 18984.1(a)(1)(A) or 18984.2(a)(1)(C).

“Container(s)” means all types of discarded materials containers, including carts, bins, and roll-off boxes.

“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).

“Construction and demolition debris” or “C&D debris” means any combination of inert building material and solid waste material resulting from building, construction, alteration, repair, or demolition, as defined in 22 CCR, including asphalt, brick, stone, cement, lumber, plaster, carpeting, drywall, plastic pipe, steel, packaging and rubble resulting from construction, remodeling, repair and demolition operations on pavements or on any residential or commercial buildings or other structures. This term includes, but is not limited to, asphalt, concrete, Portland cement concrete, brick, lumber, gypsum wallboard, cardboard, and other associated packaging; roofing material, ceramic tile, carpeting, plastic pipe and steel. The material may be commingled with rock, soil, tree stumps; and other vegetative matter resulting from land clearing and landscaping for construction or land development projects.

“Customer” means a generator that contracts for collection services and enters into a service agreement with a franchised authorized hauler for collection services.

“Designee” means an entity that a city contracts with or otherwise arranges to carry out any of the city’s responsibilities of this ordinance as authorized in 14 CCR Section

18981.2. A designee may be a government entity, a hauler, a private entity, or a combination of those entities.

“Director” means the city’s director of public works.

“Discarded materials” means recyclable materials, organic materials, and solid waste placed by a generator in a collection container and/or at a location for the purposes of collection excluding excluded waste.

“Disposal,” “dispose,” or “disposed” means the ultimate disposition of solid waste collected at a landfill or otherwise in full regulatory compliance.

“Divert” or “diversion” (or any variation thereof) means to prevent discarded materials from disposal at landfill or transformation facilities, (including facilities using incineration, pyrolysis, distillation, gasification, or biological conversion methods) through source reduction, reuse, recycling, composting, anaerobic digestion or other method of processing.

“Edible food” means food intended for human consumption, or as otherwise defined in 14 CCR Section 18982(a)(18). For the purposes of this ordinance 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 ordinance 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 ordinance 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 city and its generators, reasonably believe(s) would, as a result of or upon acceptance, transfer, processing, or disposal, be a violation of local, state, or federal law, regulation, or ordinance, including: land use restrictions or conditions, waste that cannot be disposed of in Class III landfills or accepted at the facility by permit conditions, waste that in city, 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 city, 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. Excluded waste does not include used motor oil and filters, household batteries, universal wastes, and/or latex paint when such materials are defined as allowable materials for collection through the city’s collection programs and the

generator or customer has properly placed the materials for collection pursuant to instructions provided by city or its designee for collection services.

“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 ordinance and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7). If the definition in 14 CCR Section 18982(a)(25) for food recovery organization differs from this definition, the definition in 14 CCR Section 18982(a)(25) shall apply to this ordinance.

“Food recovery service” means a person or entity that collects and transports edible food from a commercial edible food generator to a food recovery organization or other entities for food recovery, or as otherwise defined in 14 CCR Section 18982(a)(26). A food recovery service is not a commercial edible food generator for the purposes of this ordinance 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 scraps is a subset of food waste.

“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 paper products that have come in contact with food or liquid, such as, but not limited to, paper plates, paper coffee cups, napkins, pizza boxes, and milk cartons. Food-soiled paper does not include non-compostable paper. Food-soiled paper is a subset of food waste.

"Food waste" means all kitchen and food scraps, animal or vegetable waste that is generated during or results from the storage, preparation, cooking or handling of food stuffs; food-soiled paper; fruit waste, grain waste, dairy waste, meat, and fish waste, which has been source separated from other solid waste. Food waste is a subset of organic materials and excludes hazardous materials.

“Food waste self-hauler” means a self-hauler who generates and hauls, utilizing their own employees and equipment, an average of one cubic yard or more per week, or 6,500 pounds or more per quarter of their own food waste to a location or facility that is not owned and operated by that self-hauler. Food waste self-haulers are a subset of self-haulers.

"Franchisee" shall mean any person, persons, firm or corporation to whom a franchise has been granted by the city for the collection, processing, recycling and/or disposal of discarded materials.

“Generator” means a person or entity that is responsible for the initial creation of one or more types of discarded materials.

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

“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 fifty percent (50%) between January 1, 2022 and December 31, 2024, and seventy-five percent (75%) 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).

“Holiday” means days designated from time to time by the director, including New Year’s Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

“Incident” with respect to violations, means a single act prohibited by this chapter or omission of an act required by this chapter.

“Inspection” means a site visit where city or their designee reviews records, containers, and an entity’s collection, handling, recycling, or landfill disposal of recyclable materials, organic waste, solid waste, or edible food handling to determine if the entity is complying with requirements set forth in this ordinance, or as otherwise defined in 14 CCR Section 18982(a)(35).

“Large event” means an event, including, but not limited to, a sporting event or a flea market, that charges an admission price, or is operated by a local agency, and serves an average of more than 2,000 individuals per day of operation of the event, at a location that includes, but is not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for an event. If the definition in 14 CCR Section 18982(a)(38) differs from this definition, the definition in 14 CCR Section 18982(a)(38) shall apply to this ordinance.

“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 ordinance 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 ordinance 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 ordinance.

“Local education agency” means a school district, charter school, or county office of education that is not subject to the control of city or county regulations related to solid waste, or as otherwise defined in 14 CCR Section 18982(a)(40).

“Multi-family residential dwelling” or “multi-family” means of, from, or pertaining to residential premises with five (5) or more dwelling units. Multi-family premises do not include hotels, motels, or other transient occupancy facilities, which are considered commercial businesses.

“Multi-family recycling” means the recycling of recyclable materials generated at multi-family premises.

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

“Non-compostable paper” includes but is not limited to paper that is coated in a plastic material that will not breakdown in the composting process, or as otherwise defined in 14 CCR Section 18982(a)(41).

“Non-local entity” means the following entities that are not subject to the City’s enforcement authority, or as otherwise defined in 14 CCR Section 18982(a)(42):

- 1. Special district(s) located within the boundaries of the city, including (insert names of special districts).**
- 2. Federal facilities, including military installations, located within the boundaries of the city, including (insert names of federal facilities).**
- 3. Prison(s) located within the boundaries of the city, including (insert names of prisons).**
- 4. Facilities operated by the state park system located within the boundaries of the city, including (insert names of state park facilities).**
- 5. Public universities (including community colleges) located within the boundaries of the city, including (insert names of universities).**
- 6. County fairgrounds located within the boundaries of the city, including (insert names of fairgrounds).**
- 7. State agencies located within the boundaries of the city, including (insert names of state agencies).**

“Notice of violation (NOV)” means a notice that a violation has occurred that includes a compliance date to avoid an action to seek penalties, or as otherwise defined in 14 CCR Section 18982(a)(45) or further explained in 14 CCR Section 18995.4.

“Organic materials” means yard trimmings, food scraps, and food-soiled papers that are set aside, handled, packaged, or offered for collection in a manner different from solid waste for the purpose of processing. Organic materials are a subset of organic waste.

“Organic materials container” shall be used for the purpose of storage and collection of source separated organic materials.

“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).

“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).

“Premises” means and includes any land, building and/or structure, or portion thereof, in the city where discarded materials are produced, generated, or accumulated. All structures on the same legal parcel, which are owned by the same person shall be considered as one premises.

“Prohibited container contaminants” means the following: (i) discarded materials placed in the recyclable materials container that are not identified as acceptable source separated recyclable materials for the city’s recyclable materials container; (ii) discarded materials placed in the organic materials container that are not identified as acceptable source separated organic materials for the city’s organic materials container; (iii) discarded materials placed in the solid waste container that are acceptable source separated recyclable materials and/or source separated organic materials to be placed in city’s organic materials container and/or recyclable materials container; and, (iv) excluded waste placed in any container.

“Recovered organic waste products” means products made from California, landfill-diverted recovered organic waste processed in a permitted or otherwise authorized facility, or as otherwise defined in 14 CCR Section 18982(a)(60).

“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, by-products, or components of such materials set aside, handled, packaged, or offered for collection in a manner different from solid waste for the purpose of recycling.

“Recyclable materials container” shall be used for the purpose of storage and collection of source separated recyclable materials.

“Recycled-content paper” means paper products and printing and writing paper that consists of at least 30 percent, by fiber weight, postconsumer fiber, or as otherwise defined in 14 CCR Section 18982(a)(61).

“Regional agency” means regional agency as defined in public resources code section 40181.

“Regional or county agency enforcement official” means a regional or county agency enforcement official, designated by the city with responsibility for enforcing the ordinance in conjunction or consultation with city enforcement official.

“Remote monitoring” means the use of the internet of things (IOT) and/or wireless electronic devices to visualize the contents of recyclable materials containers, organic materials containers, and solid waste containers for purposes of identifying the quantity of materials in containers (level of fill) and/or presence of prohibited container contaminants.

“Renewable gas” means gas derived from organic waste that has been diverted from a California landfill and processed at an in-vessel digestion facility that is permitted or otherwise authorized by 14 CCR to recycle organic waste, or as otherwise defined in 14 CCR Section 18982(a)(62).

“Responsible party” means the owner, property manager, tenant, lessee, occupant, or other designee that subscribes to and pays for recyclable materials, organic materials, and/or solid waste collection services for a premises in the city, or, if there is no such subscriber, the owner or property manager of a single-family premises, multi-family premises, or commercial premises. In instances of dispute or uncertainty regarding who is the responsible party for a premises, responsible party shall mean the owner of a single-family premises, multi-family premises, or commercial premises.

“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).

“Roll-off containers” means containers for collection of residential, commercial and industrial solid waste and C & D debris, loaded and unloaded by pulley, winch or other means from a flatbed truck.

“Residential” references single-family dwellings and multi-family dwellings less than five units.

“Route review” means a visual inspection of containers along a hauler route for the purpose of determining container contamination and may include mechanical inspection methods such as the use of cameras, or as otherwise defined in 14 CCR Section 18982(a)(65).

“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 ordinance, 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 collection, removal of, or possession of recyclable materials intended for collection by the city or an authorized hauler.

“Self-haul” means to act as a self-hauler.

“Self-hauler” means a person, who hauls solid waste, organic waste or recyclable material they have generated to another person. Self-hauler also includes a landscaper, or a person who back-hauls waste. Back-haul means generating and transporting recyclable materials or organic waste to a destination owned and operated by the generator or responsible party using the generator’s or responsible party’s own employees and equipment, or as otherwise defined in 14 CCR Section 18982(a)(66)(A).

“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 refuse, trash, 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.**
- 4. Recyclable materials, organic waste, and construction and demolition debris when such materials are source separated.**

“Solid waste container” shall be used for the purpose of storage and collection of solid waste.

“Source separated” or “source-separated (materials)” means materials, including commingled recyclable materials and organic materials, that have been separated or kept separate from the solid waste stream, at the point of generation, for the purpose of additional sorting or processing those materials for recycling or reuse in order to return them to the economic mainstream in the form of raw material for new, reused, or reconstituted products, which meet the quality standards necessary to be used in the marketplace, or as otherwise defined in 14 CCR Section 17402.5(b)(4). For the purposes of the ordinance, source separated shall include separation of materials by the generator, responsible party, or responsible party’s employee, into different containers for the

purpose of collection such that source-separated materials are separated from solid waste for the purposes of collection and processing.

“Source separated organic materials” means organic materials that are source separated and placed in an organic materials container.

“Source separated recyclable materials” means recyclable materials that are source separated and placed in a recyclable materials container.

“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).

“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 ordinance.

“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 ordinance.

“Uncontainerized green waste and yard waste collection service” or “uncontainerized service” means a collection service that collects green waste and yard waste that is placed in a pile or bagged for collection on the street in front of a generator’s

house or place of business for collection and transport to a facility that recovers source separated organic waste, or as otherwise defined in 14 CCR Section 189852(a)(75).

“Violation” means breach of or failure to timely and fully comply with any provision of a recycling permit, this chapter or any other applicable law, ordinance or regulation of any public agency.

“Waiver holder” means a commercial premise that may apply for a waiver under Section 8.17.230. Under these circumstances, the city manager or their designee may issue special written permits (waivers) authorizing variations from the provisions of this chapter. Special written permits include de minimis waivers and physical space waivers.

“Wholesale food vendor” means a business or establishment engaged in the merchant wholesale distribution of food, where food (including fruits and vegetables) is received, shipped, stored, prepared for distribution to a retailer, warehouse, distributor, or other destination, or as otherwise defined in 14 CCR Section 189852(a)(76).

“Yard waste” or **“yard trimmings”** means types of organic waste resulting from normal yard and landscaping installation, maintenance, or removal.

8.16.020 Unlawful to deposit or bury.

No person shall dump, place or bury in any lot, land or street, or in any alley, or in any water or waterway, any discarded materials or substance condemned by the health officer or the city, or any other deleterious or offensive substance; provided, however, that this section shall not apply to any land used by the city for a disposal or reclamation site. (Prior code § 9-801.)

8.16.030 Unlawful to permit solid waste to collect.

A. No person owning or occupying any building, lot or premises shall allow any solid waste to collect and remain upon said lot or premises except as provided for in Section 8.17.080; provided, however, that this provision shall not be construed as interfering with building under a building permit during the course of construction and within a reasonable time thereafter, or with the piling of wood neatly piled for kitchen or household use.

B. No person shall sweep, deposit, throw or place solid waste in the public right-of-way, nor shall any person cause solid waste already in the public right-of-way to be collected in the gutter or storm drain openings.

C. Every person licensed to do business under the provisions of this code shall keep and maintain a clean, sanitary and refuse free premises, including the public right-of-way abutting said premises. Failure to do so shall be grounds of revocation of license pursuant to the provisions of Chapters 5.02 through 5.12 and Chapter 5.16. (Prior code § 9-802.)

8.16.040 Dead animals.

No person shall place the body of any dead animal in any street or park or in any discarded materials container. The bodies of any dead animals shall be promptly removed as directed by the city manager. In case the owner of such dead animal is known and

removal is accomplished by the city, said owner shall pay the cost of removal of such animal. The city manager shall fix the charges to be paid for the removal of dead animals. (Prior code § 9-809.)

8.16.050 Cleanliness.

All discarded materials shall be collected, removed and disposed of in such a manner as not to be needlessly offensive or filthy in relation to any person, place, building, premises or street. No authorized hauler or self-hauler shall use any cart or vehicle for the conveyance of solid waste, filth, offal of any kind, or any offensive matter, unless the cart or vehicle is staunch and watertight. The container or vehicle used by the authorized hauler shall be kept clean, well made, and in good repair. (Prior code § 9-811.)

8.16.060 Disputes.

In all cases of disputes or complaints arising from or concerning the place where the discarded materials containers shall be placed while awaiting the removal of their contents or with respect to service provided under any franchise issued by the city, the city manager shall forthwith designate the place, and his decision shall be final. (Ord. 1766 § 10, 2003; prior code § 9-812.)

8.16.070 Scavenging prohibited.

Scavenging is prohibited in the city. No person, other than authorized haulers, may remove recyclable materials that have been segregated from other solid waste materials and placed at the collection location for the purposes of collection and recycling. Unless otherwise authorized by the city in writing, recyclable materials may not be removed from such location by anyone other than an authorized hauler. (Ord. 1766 §§ 18—19, 2003.)

8.16.080 Right to sell or donate recyclables.

Nothing in this chapter shall limit the right of any person to donate or sell their own recyclables. (Ord. 1770 § 2, 2003.)

8.16.090 Other provisions.

A. No Other Powers Affected. This chapter does not do any of the following:

1. Otherwise affect the authority of the city or its designee to take any other action authorized by any other provision of law.

2. Restrict the power of a city attorney, district attorney, or the Attorney General to bring in the name of the people of California any criminal proceeding otherwise authorized by law.

3. Prevent the city or designee from cooperating with, or participating in, a proceeding.

5. Affect in any way existing contractual arrangements including franchises, permits, or licenses previously granted or entered into between the authorized haulers and city.

B. Cumulative Remedies. Any remedy provided under this chapter is cumulative to any other remedy provided in equity or at law. Nothing in this chapter shall be deemed to limit the right of the city or its authorized haulers to bring a civil action; nor shall a conviction for such violation exempt any person from a civil action brought by the city or its authorized haulers. The fees and penalties imposed under this chapter shall constitute a civil debt and liability owing to the city from the persons, firms, or corporations using or chargeable for such services and shall be collectible in the manner provided by law.

C. Liability. Nothing in this chapter shall be deemed to impose any liability upon the city or upon any of its officers or employees including, without limitation, under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA). (Ord. 2120 § 3, 2016.)

8.16.100 Disclaimer of liability.

The degree of protection required by this chapter is considered to be reasonable for regulatory purposes. The standards set forth in this chapter are minimal standards and do not imply that compliance will ensure safe handling of recyclable materials, organic materials, or solid waste. This chapter shall not create liability on the part of the city, or any of its officers or employees, for any damages that result from reliance on this chapter or any administrative decision lawfully made in accordance with this chapter. All persons handling discarded materials within the boundaries of the city should be and are advised to conduct their own inquiry as to the handling of such materials. In undertaking the implementation of this chapter, the city is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury. (Ord. 2120 § 3, 2016.)

8.16.110 Duties discretionary.

Subject to the limitations of due process and applicable requirements of state or federal laws, and notwithstanding any other provisions of this chapter, whenever the words “shall” or “must” are used in establishing a responsibility or duty of the city, its elected or appointed officers, employees or agents, it is the legislative intent that such words establish a discretionary responsibility or duty requiring the exercise of judgment and discretion. (Ord. 2120 § 3, 2016.)

SECTION 2. Chapter 8.17 of the Hawthorne Municipal Code is hereby amended to read as follows:

Chapter 8.17 Mandatory Organic Waste Disposal Reduction Ordinance

8.17.010 Definitions.

Words and phrases defined in Chapter 8.16 of this municipal code shall have the same meaning when used in this chapter.

8.17.020 Collection arrangements required.

A. To protect public health, safety and well-being and to prevent the spread of vectors, all responsible parties, whether at a residential or commercial location or otherwise, shall make arrangements with the city's franchisee for three-container collection service for regular collection services of recyclable materials, organic materials, and solid waste and comply with the requirements of those services as described below. It is unlawful for any such person to fail, refuse or neglect to do so. An occupant of any real property within the city shall be deemed to have complied with this subsection if the owner of the premises occupied has caused to be made such appropriate arrangements for collection of discarded materials upon all portions of the premises occupied by the occupant. An owner shall be deemed to have complied with this subsection if an occupant or occupants has or have caused to be made such appropriate arrangements for collection of all discarded materials upon all portions of the premises.

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 source separation of materials and containment of materials. The responsible parties shall adjust their service level for their collection services as requested by the city.

The minimum collection schedule for discarded materials generated on the premises shall be no less than once a week with the exception of construction and demolition debris. Upon notice from the city that additional collection is necessary for the premises, the owner, occupant, or other person in charge of the day-to-day operation of the premises shall make arrangements with the appropriate authorized hauler for collection more frequently than once a week.

B. It is unlawful and a public nuisance for any person to occupy, inhabit or conduct business on any property within the city for which appropriate arrangements have not been made and kept in full force and effect, including payment therefor, for regular discarded materials collection services, in compliance with subsection A of this section.

C. Every person having a duty, pursuant to subsection A of this section, to make or cause to be made arrangements for regular discarded materials collection services, shall be liable for payment of the appropriate service fees and charges therefor to the same extent and at the same times, whether such person has or has not made the appropriate arrangements for collection services in compliance with subsection A of this section. Whenever the fees or charges for such services have not been paid when due, owners and occupants of the property shall be jointly and severally liable for payment thereof (together with any applicable penalties and interest) irrespective of which person made the arrangements for collection services, provided that an occupant of only a portion of a parcel of real property or building shall be deemed liable only for the fees or charges, or portion thereof, attributable to collection services for discarded materials produced or to be produced or accumulated by that occupant.

D. Owners of premises which have been unoccupied of human habitation and upon which no discarded materials have been produced or accumulated (other than yard waste such as clippings, branches, leaves and the like, which has been promptly removed by personnel doing gardening work on the premises), for six consecutive months or more

may be exempted for a period of no more than twelve months or until the property becomes occupied or produces or accumulates discarded materials. Should the property remain vacant upon the expiration of the exemption period, the property owner may apply to the city for an additional exemption.

To request city authorization for this exception, a property owner must submit a declaration signed under penalty of perjury affirming that they own the property, and that the property has been unoccupied for a minimum of six consecutive months and will remain vacant for the foreseeable future to the city's public works director. Unless the director has reason to believe that the request is untruthful, the director shall advise the property owner and the authorized hauler in writing of the exemption and its approved duration. Any property owner who has received an exemption pursuant to this subsection shall immediately notify the director in writing should the property become occupied during the exemption period. Upon expiration of the exemption or should the property become occupied, the exception shall cease to apply and the property owner shall make arrangements with the city's franchised discarded materials collection service for regular collection services.

E. All responsible parties, whether at a residential or commercial location or otherwise, excepting only those persons and circumstances, shall participate in the city's authorized hauler or franchisee's three-container collection service(s) in the manner described below:

1. Place and/or direct its generators to place source separated organic materials, including food waste, in the organic materials container; source separated recyclable materials in the recyclable materials container; and solid waste in the solid waste container.
2. Not place and/or direct its generators to not place prohibited container contaminants in collection containers and not place materials designated for the organic materials containers or recyclable materials containers in the solid waste containers.

F. Nothing in this Section prohibits a responsible party or generator from preventing or reducing discarded materials generation, managing organic waste on site, and/or using a community composting site pursuant to 14 CCR.

8.17.030 Requirements for multi-family residential dwellings.

- A.** Responsible parties of multi-family premises shall:
1. Supply and allow access to adequate number, size and location of collection containers with sufficient labels and colors, compliant with SB 1383, for employees, contractors, tenants, and customers, consistent with city's recyclable materials container, organic materials container, and solid waste container collection service or, if self-hauling, consistent with the multi-family premises' approach to complying with self-hauler requirements in Sections 8.17.150 and 8.17.200 of this chapter.
 2. Annually provide information to employees, contractors, tenants, and customers about recyclable materials and organic waste recovery

requirements and about proper sorting of recyclable materials, organic materials, and solid waste.

3. Provide education information before or within fourteen (14) days of occupation of the premises to new tenants that describes requirements to source separate recyclable materials and organic materials and to keep source separated organic materials and source separated recyclable materials separate from each other and from solid waste (when applicable) and the location of containers and the rules governing their use at each property.
4. Provide or arrange access for city or its designee to their properties during all inspections conducted in accordance with this chapter to confirm compliance with the requirements of this chapter.
5. If ever implemented by city, accommodate and cooperate with city's remote monitoring program for inspection of the contents of containers for prohibited container contaminants, if implemented, to evaluate responsible party's compliance. The remote monitoring program shall involve installation of remote monitoring equipment on or in the recyclable materials containers, organic materials containers, and solid waste containers.
6. At the option of the responsible party of a multi-family premises and subject to any approval required from the city, implement a remote monitoring program for inspection of the contents of its recyclable materials containers, organic materials containers, and solid waste containers for the purpose of monitoring the contents of containers to determine appropriate levels of service and to identify prohibited container contaminants. Responsible parties may install remote monitoring devices on or in the recyclable materials containers, organic materials containers, and solid waste containers subject to written notification to or approval by the city or its designee.
7. If the responsible party of a multi-family premises wants to self-haul, meet the self-hauler requirements in Section 8.17.150 and 8.17.200 of this chapter.
8. Multi-family premises that generate two (2) cubic yards or more of total solid waste, recyclable materials, and organic materials per week (or other threshold defined by the state) that arrange for gardening or landscaping services shall require that the contract or work agreement between the owner, occupant, or operator of a multi-family premises and a gardening or landscaping service specifies that the designated organic materials generated by those services be managed in compliance with this chapter.

8.17.040 Requirements for commercial businesses.

- A. Responsible parties of commercial premises shall:
 1. Supply and allow access to adequate number, size and location of collection containers with sufficient labels and colors, compliant with SB 1383, for employees, contractors, tenants, and customers, consistent with city's recyclable materials container, organic materials container, and solid waste container collection service or, if self-hauling, consistent with

the commercial premises' approach to complying with self-hauler requirements in Sections 8.17.150 and 8.17.200 of this chapter.

2. Provide containers for the collection of source separated recyclable materials and source separated organic materials in all indoor and outdoor areas where solid waste containers are provided for customers, for materials generated by that commercial business. Such containers shall be visible and easily accessible. 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 responsible party of the commercial business does not have to provide that particular container in all areas where solid waste containers are provided for customers. Pursuant to 14 CCR, the containers provided by the responsible party of the commercial business shall have either:
 - (a) A body or lid that conforms with the container colors provided through the collection service provided by city, with either lids conforming to the color requirements or bodies conforming to the color requirements or both lids and bodies conforming to color requirements. The responsible party of the commercial business is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the requirements of this subsection prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first.
 - (b) Container labels that include language or graphic images, or both, indicating the primary materials accepted and the primary materials prohibited in that container, or containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the container. Pursuant 14 CCR, the container labeling requirements are required on new containers commencing January 1, 2022.
3. To the extent practical through education, training, inspection, and/or other measures, prohibit employees from placing materials in a container not designated for those materials per the city's recyclable materials container, organic materials container, and solid waste collection service or, if self-hauling, per the instructions of the commercial business's responsible party to support its compliance with self-hauler requirements in Sections 8.17.150 and 8.17.200 of this chapter.
4. Annually inspect recyclable materials containers, organic materials containers, and solid waste containers for contamination and inform employees if contaminated containers are found and of the requirements to keep contaminants out of those containers pursuant to 14 CCR.
5. Annually provide information to employees, contractors, tenants, and customers about recyclable materials and organic waste recovery requirements and about proper sorting of recyclable materials, organic materials, and solid waste.
6. Provide education information before or within fourteen (14) days of occupation of the premises to new tenants that describes requirements to

source separate recyclable materials and organic materials and to keep source separated organic materials and source separated recyclable materials separate from each other and from other solid waste (when applicable) and the location of containers and the rules governing their use at each property.

7. Provide or arrange access for city or its designee to their properties during all inspections conducted in accordance with this chapter to confirm compliance with the requirements of this chapter.
8. If implemented by city, accommodate and cooperate with city's remote monitoring program for inspection of the contents of containers for prohibited container contaminants, if implemented, to evaluate responsible party's compliance with this chapter. The remote monitoring program shall involve installation of remote monitoring equipment on or in the recyclable materials containers, organic materials containers, and solid waste containers.
9. At the option of the responsible party of the commercial business and subject to any approval required from the city, implement a remote monitoring program for inspection of the contents of its recyclable materials containers, organic materials containers, and solid waste containers for the purpose of monitoring the contents of containers to determine appropriate levels of service and to identify prohibited container contaminants. Responsible parties may install remote monitoring devices on or in the recyclable materials containers, organic materials containers, and solid waste containers subject to written notification to or approval by the city or its designee.
10. If the responsible party of a commercial business wants to self-haul, meet the self-hauler requirements in Sections 8.17.150 and 8.17.200 of this chapter.
11. Responsible parties of commercial businesses that are tier one or tier two commercial edible food generators shall comply with food recovery requirements, pursuant to Section 8.17.050 of this chapter.

8.17.050 Requirements for commercial edible food generators.

- A. Tier one commercial edible food generators must comply with the requirements of this Section commencing January 1, 2022, and tier two commercial edible food generators must comply with this section commencing January 1, 2024, pursuant to 14 CCR.
- B. Large venue or large event operators not providing food services, but allowing for food to be provided by others, shall require food facilities operating at the large venue or large event to comply with the requirements of this Section, commencing January 1, 2024.
- C. Commercial edible food generators shall comply with the following requirements:
 1. Arrange to recover the maximum amount of edible food that would otherwise be disposed.

2. **Contract with or enter into a written agreement with food recovery organizations or food recovery services for: (i) the collection of edible food for food recovery; or, (ii) acceptance of the edible food that the commercial edible food generator self-hauls to the food recovery organization for food recovery.**
3. **Not intentionally spoil edible food that is capable of being recovered by a food recovery organization or a food recovery service.**
4. **Allow city's designated enforcement entity or designated third party enforcement entity to access the premises and review records pursuant to 14 CCR.**
5. **Keep records that include the following information, or as otherwise specified in 14 CCR:**
 - (a) **A list of each food recovery service or organization that collects or receives its edible food pursuant to a contract or written agreement established under 14 CCR.**
 - (b) **A copy of all food recovery contracts or written agreements established under 14 CCR.**
 - (c) **A record of the following information for each of those food recovery services or food recovery organizations:**
 - (i) **The name, address and contact information of the food recovery service or food recovery organization.**
 - (ii) **The types of food that will be collected by or self-hauled to the food recovery service or food recovery organization.**
 - (iii) **The established frequency that food will be collected or self-hauled.**
 - (iv) **The quantity of food, measured in pounds recovered per month, collected or self-hauled to a food recovery service or food recovery organization for food recovery.**
- D. **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).**

8.17.060 Requirements for food recovery organizations and services.

- A. **Food recovery services collecting or receiving edible food directly from commercial edible food generators, via a contract or written agreement established under 14 CCR, shall maintain the following records, or as otherwise specified by 14 CCR:**
 1. **The name, address, and contact information for each commercial edible food generator from which the service collects edible food.**

2. The quantity in pounds of edible food collected from each commercial edible food generator per month.
 3. The quantity in pounds of edible food transported to each food recovery organization per month.
 4. The name, address, and contact information for each food recovery organization that the food recovery service transports edible food to for food recovery.
- B. Food recovery organizations collecting or receiving edible food directly from commercial edible food generators, via a contract or written agreement established under 14 CCR, shall maintain the following records, or as otherwise specified by 14 CCR:**
1. The name, address, and contact information for each commercial edible food generator from which the organization receives edible food.
 2. The quantity in pounds of edible food received from each commercial edible food generator per month.
 3. The name, address, and contact information for each food recovery service that the organization receives edible food from for food recovery.
- C. Food recovery organizations and food recovery services that have their primary address physically located in the city and contract with or have written agreements with one or more commercial edible food generators pursuant to 14 CCR shall report to the city 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). The annual report shall be submitted to the city no later than June 30th of each year.**
- D. In order to support edible food recovery capacity planning assessments or other studies conducted by the city or its designee, food recovery services and food recovery organizations operating in the city shall provide information and consultation to the city, upon request, regarding existing, or proposed new or expanded, food recovery capacity that could be accessed by the city and its commercial edible food generators. A food recovery service or food recovery organization contacted by the city shall respond to such request for information within 60 days, unless a shorter timeframe is otherwise specified by the city.**
- E. Food recovery organizations and food recovery services that have their primary address physically located in the city and contract with or have written agreements with one or more commercial edible food generators shall include language in all agreements with tier one and tier two edible food generators located in the city identifying and describing the California Good Samaritan Act, as may be amended from time to time.**

8.17.070 Exceptions to collection arrangements.

- A. All school districts and all local, regional, state or federal governmental agencies are not required by this chapter to make arrangements with the city's authorized hauler for the collection, removal and/or disposal of discarded materials.**

- B. The following are not required to be collected by the city's authorized hauler:**
 - 1. All recyclable materials source separated from solid waste by the owner and/or operator of the premises from which the solid waste was generated, whereby the generator of the recyclable materials sells or is otherwise compensated by a collector of the recyclable materials in a manner resulting in a net payment to the owner and/or operator;**
 - 2. Recyclable materials and organic materials source separated at the premises by the owner and/or operator of the premises and donated to a youth, civic or charitable organization;**
 - 3. Containers delivered for recycling under the California Beverage Container Recycling Litter Reduction Act, Sections 14500 et seq., of the California Public Resources Code;**
 - 4. Yard waste removed from the premises by a gardener, landscaper or a tree trimming company, or similar business or occupation, as an incidental part of a total service offered by such person;**
 - 5. Construction and demolition debris;**
 - 6. The collection, removal and disposal or diversion of discarded materials by the city through city officers, agents or employees, or any other person designated by the city.**
- B. Commercial businesses and multi-family premises may be exempted by the city from some of the requirements to make arrangements with the city's authorized hauler for the collection of discarded materials, by meeting the self-hauler requirements in Sections 8.17.150 and 8.17.200 of this chapter.**
- C. Premises, approved by the city, that are demolished, no longer authorized to be occupied, or the customer documents to the satisfaction of the city that all the discarded materials generated at the premises are properly disposed of in another way in compliance with SB 1383 . In such an event, authorized hauler shall cease providing collection services to customers within the time frame the city representative may direct. Authorized hauler shall revise the customer lists to show the deletion of such customers and shall provide such revised lists to the city upon request including the service type that was discontinued.**

8.17.080 Container requirements.

- A. Container Specifications. Every owner, tenant, employee or occupant of any premises where discarded materials are created shall provide, or the person who collects those discarded materials shall provide, upon such premises one or more discarded materials containers of the size, material and type that may be provided by regulations promulgated by the director of public works.**
- B. Where to be Kept. All such containers shall at all times be located in such places as to be readily accessible for removing and emptying the same, but shall not be placed within the limits of any street, unless by direction of the city engineer, or anywhere so as to constitute a nuisance. On the day set for collection, but not before twelve (12) hours of such day, containers to be collected shall be placed as follows: where there is an alley, other than a blind**

alley, in the rear of the premises, the containers shall be placed in such alley and next to the rear property line of such premises. In all other cases, the containers shall be placed on the curb in front of the premises. All containers so placed for collection shall be removed from the street within twelve hours after the contents thereof have been collected.

- C. **Interference.** No person other than the owner thereof, or any officer, employee or licensee of the city shall move, remove or interfere with any discarded materials container, or the contents thereof. (Ord. 1766 § 3, 2003; prior code § 9-803.)
- D. **Containers provided by Franchisee.** Any containers provided by the city's franchisee shall comply with the terms of the agreement with the city. Franchisee is responsible for container color and label compliance with SB 1383.
- E. **Recyclable Materials and Organic Materials Container Labels.** In addition to any and all other identification requirements, recyclable materials and organic materials containers placed within the city shall carry a label indicating which materials are and are not permitted to be placed within these containers. The authorized hauler shall design and place these labels on each such container prior to distribution and shall replace them when materials accepted change or labels become worn. Labels shall be written in both English and Spanish and be compliant with SB 1383 container labeling requirements.

8.17.090 Containers must be kept clean and portable.

- A. **Generally.** All discarded materials containers shall be kept in a clean and sanitary condition by the owner or person using the same.
- B. **Containers to be Tight.** Containers shall be kept tightly covered at all times, except when discarded materials are being deposited therein or removed therefrom, and shall at all times be proof against access by flies to the contents thereof.
- C. **Weight of Discarded Materials Containers.** Loaded containers shall not exceed weight limits prescribed on containers or otherwise by written notice by the owner of the container, as approved by the city. (Ord. 1766 § 4, 2003; prior code § 9-804.)

8.17.100 Discarded Materials must be placed in proper containers.

- A. All discarded materials shall be placed in containers, except for bulky waste, bundles or boxes weighing no more than sixty pounds, or carts weighing no more than one hundred fifty pounds each set out in compliance with any excess discarded materials set-out program approved by the director of public works.
- B. The owner or occupant of any premises where an infectious or contagious disease has prevailed shall forthwith notify the health officer and shall dispose of articles which are, or might be, affected in accordance with his directions.
- C. Nothing contained in subsections A and B of this section shall authorize, and it is unlawful for any pharmacist, physician, surgeon, dentist, podiatrist, veterinarian, nurse, nurse's aid or helper, or any other person engaged in a

similar profession or occupation, or the agent or employee of any such person, or for any clinic or hospital, or any agent or employee of any such clinic or hospital, or for any other person or custodian responsible for the disposal of such material, to dispose of any unused, used or partly used containers, bottles, hypodermic syringes, hypodermic needles, drugs, medicines, medical supplies or other similar items customarily used by any such person, clinic or hospital, including bandages or dressings, by placing any such item in any container authorized and required by Section 8.16.080. (Ord. 1766 §§ 5—6, 2003; prior code § 9-805.)

- D. Hazardous Waste.** Hazardous waste shall not be placed in any container to be used for discarded materials collection by authorized hauler.
- E. Organic Materials and Recyclable Materials.** Organic materials and recyclable materials to be collected by an authorized hauler shall be placed in the container designated for such materials by the authorized hauler.
- F. Other Requirements.** Containers shall be used in accordance with the noticed requirements of the authorized hauler.

8.17.110 Who may collect discarded materials.

- A. City or contractor.** The collection, removal and disposal of all discarded materials shall only be performed or franchised by the city under the supervision of the city manager; and for such purpose contracts or franchise agreements may be made, let, or entered into with any person, with or without advertising for bids. The city council may prescribe the terms, conditions or limitations in contracts or franchise agreements as it may deem necessary, including granting semi-exclusive or exclusive franchises and prescribing amounts and terms of insurance and bonds and charging franchise or other collection administrative fees.
- B. Gardeners.** Every person engaging in the business of gardening or landscaping is authorized to collect, remove, and diverting from landfilling of yard trimmings as an incident to such business.
- C. Use of streets.** No person shall remove or convey any discarded materials upon or along any street unless in the employ of the city and assigned by the city manager to the work of discarded materials collection; or an authorized hauler under contract with the city for the collection, removal, disposal, processing, or purchase of discarded materials, or an employee of such authorized hauler during such time as such contract shall be in force; or otherwise authorized to collect, remove, process, or dispose of discarded materials; or conveying discarded materials collected outside of the city.
- D. Leakage.** Any person authorized or licensed by the city to collect, remove, process or dispose of discarded materials and any person conveying discarded materials collected outside of the city upon or along any street shall prevent the leakage or deposit of such matter on the streets in the city. In case any person is responsible for the leakage or deposit of discarded materials upon or along any street in the city, said person shall pay the cost of removal of such discarded materials. (Ord. 1766 § 7, 2003; prior code § 9-806.)

- E. Unauthorized use of containers. With the exception of containers placed in public areas for use of the public, no person shall enter the property of another and utilize the container on such property for disposal, without the permission of the owner, occupant, or person otherwise responsible for the container. No person shall place anything other than recyclable materials in collection containers designated for recyclable materials by the authorized hauler. No person shall place anything other than organic materials in collection containers designated for organic materials by the authorized hauler. (Ord._____)**

8.17.120 Inspection and investigations by city.

- A. The health officer and the fire chief shall visit all premises within the city from time to time and examine the conditions of said premises to determine whether the provisions of this chapter are being complied with. He shall report to the city manager all violations of this chapter and all places where discarded materials shall be removed. Upon notification by the health officer or the fire chief, all persons shall comply with the provisions of this chapter or be deemed guilty of a violation of this municipal code and subject to an administrative citation in accordance with Chapter 1.23. (Prior code § 9-870.)**
- B. City representatives and/or its designee are authorized to conduct inspections and investigations, at random or otherwise, of any collection container, collection vehicle loads, or transfer, processing, or disposal facility for materials collected from generators, or source separated materials to confirm compliance with this chapter by generators, responsible parties of commercial businesses, responsible parties of multi-family premises, commercial edible food generators, haulers, self-haulers, food recovery services, and food recovery organizations, subject to applicable laws. This Section does not allow city to enter the interior of a private residential property for inspection. For the purposes of inspecting commercial businesses' or multi-family premises' containers for compliance with this chapter, city may conduct container inspections for prohibited container contaminants using remote monitoring, if implemented, and responsible parties of multi-family premises and commercial businesses and generators at such premises shall accommodate and cooperate with the remote monitoring pursuant to this chapter.**
- C. Regulated entity shall provide or arrange for access during all inspections (with the exception of residential property interiors) and shall cooperate with the city's representative or its designee during such inspections and investigations. Such inspections and investigations may include confirmation of proper placement of materials in containers, inspection of edible food recovery activities, review of required records, or other verification or inspection to confirm compliance with any other requirement of this chapter. Failure of a responsible party to provide or arrange for: (i) access to an entity's premises; (ii) installation and operation of remote monitoring equipment; or (ii) access to records for any inspection or investigation is a violation of this chapter and may result in penalties described in Section 8.17.290.**

- D. Any records obtained by a city during its inspections, remote monitoring, and other reviews shall be subject to the requirements and applicable disclosure exemptions of the Public Records Act as set forth in Government Code Section 6250 et seq.**
- E. City representatives or its designee are authorized to conduct any inspections, remote monitoring, or other investigations as reasonably necessary to further the goals of this chapter, subject to applicable laws.**
- F. City shall receive written complaints from persons regarding an entity that may be potentially non-compliant with SB 1383 regulations, including receipt of anonymous complaints.**

8.17.130 Specifications for residential collection vehicles.

All vehicles used for discarded materials collection within the residential area of the city shall be required:

- A. To be completely enclosed with metal coverings while transporting discarded materials in or through the city. "Completely enclosed with metal coverings" means that no discarded materials shall be visible from the street, nor shall any of said substances be permitted to leak, spill or become deposited upon the public streets;**
- B. To be designed so that when engaged in actual collection of discarded materials, the only open portion of the collection body shall be the loading port which is that part of a vehicle where the collected matter enters the body of the truck. The loading port shall not exceed eighty square feet in area;**
- C. To be designed in such a way that loading of the vehicle may be accomplished without lifting discarded materials containers more than six feet from the street level;**
- D. To be equipped with either mechanical or hydraulic compaction or pusher type devices designed to facilitate the loading and compaction of collected materials in all the metal enclosed bodies;**
- E. Trucks are required to carry a broom, rake and shovel of adequate size to clean up any spilled discarded materials and petroleum absorbent materials to clean up liquid leaks and spills. (Ord. 1766 § 11, 2003; prior code § 9-813.)**
- F. No person shall transport discarded materials over any public street, alley, highway, right-of-way, or other public place, except in watertight vessels or tanks or in vehicles or boxes constructed of steel, galvanized iron, or some other metallic substance. Each such vessel, receptacle, tank, vehicle, or box shall, while the same contains discarded materials, be securely and tightly covered and closed in such a manner so as to prevent the contents thereof from escaping, and so as to prevent the escape of odors therefrom. Every vehicle containing any such vessel, tank, receptacle, or box shall be so loaded and driven so as to prevent the contents contained therein from falling from such vehicle or escaping therefrom.**
- G. Every vessel, receptacle, tank, or box shall be thoroughly cleaned and disinfected at least once each week or more frequently as necessary to avoid the creation of a nuisance.**

Collection vehicles shall display the name of the authorized hauler in large enough letters that the vehicle may be easily identified as belonging to an authorized hauler. If authorized hauler uses a vehicle displaying the name of an affiliated company, the affiliated company's name must be indicated on the permit application. Improperly identified vehicles may be treated as belonging to non-authorized hauler.

8.17.140 Specifications for collection vehicles in areas other than residential.

All vehicles used in the collection of discarded materials in areas of the city other than residential shall meet the following requirements:

- A. Trucks are required to carry a broom, rake and shovel of adequate size to clean up any spilled discarded materials and petroleum absorbent materials to clean up liquid leaks and spills.
- B. Loaded in such a manner that none of the collected material extends above the top of the body during collection or transportation;
- C. Equipped with a tight-fitting cover designed to fit flush across the top of the vehicle body. This cover must be stretched across the top of said vehicle body so as to protect against discarded materials being spilled, leaked or deposited on the streets whenever the vehicle is in the process of transporting discarded materials in or through the city. Said cover need not be in place when discarded materials are in the process of being collected. (Ord. 1766 §§ 12—14, 2003; prior code § 9-814.)
- D. No person shall transport discarded materials over any public street, alley, highway, right-of-way, or other public place, except in watertight vessels or tanks or in vehicles or boxes constructed of steel, galvanized iron, or some other metallic substance. Each such vessel, receptacle, tank, vehicle, or box shall, while the same contains discarded materials, be securely and tightly covered and closed in such a manner so as to prevent the contents thereof from escaping, and so as to prevent the escape of odors therefrom. Every vehicle containing any such vessel, tank, receptacle, or box shall be so loaded and driven so as to prevent the contents contained therein from falling from such vehicle or escaping therefrom.
- E. Every vessel, receptacle, tank, or box shall be thoroughly cleaned and disinfected at least once each week or more frequently as necessary to avoid the creation of a nuisance.
- F. Collection vehicles shall display the name of the authorized hauler in large enough letters that the vehicle may be easily identified as belonging to an authorized hauler. If authorized hauler uses a vehicle displaying the name of an affiliated company, the affiliated company's name must be indicated on the permit application. Improperly identified vehicles may be treated as belonging to non-authorized haulers.

8.17.150 Exemption from necessity of discarded materials service (self-haul requirements).

- A. Every self-hauler shall source separate its recyclable materials and organic materials (materials that city otherwise requires generators or responsible parties to separate for collection in the franchisee's recyclable materials and

organic materials collection program) generated on-site from solid waste in a manner consistent with 14 CCR and the city's collection program. Self-haulers shall deliver their materials to facilities described below. Alternatively, self-haulers may or choose not to source separate recyclable materials and organic materials and shall haul its solid waste (that includes recyclable materials and organic materials) to a high diversion organic waste processing facility that is approved by the city.

- B. Self-haulers that source separate their recyclable materials and organic materials shall haul their source separated recyclable materials to a facility that recovers those materials; haul their source separated organic waste to a facility, operation, activity, or property that processes or recovers source separated organic waste; haul their solid waste to a disposal facility or transfer facility or operation that processes or disposes of solid waste; and, transport manure to a facility that manages manure in conformance with 14 CCR Article 12 and such that the manure is not landfilled, used as alternative daily cover (ADC), or used as alternative intermediate cover (AIC).
- C. Self-haulers that are responsible parties of commercial businesses or multi-family premises shall keep records of the amount of recyclable materials, organic waste, and solid waste delivered to each facility, operation, activity, or property that processes or recovers recyclable materials and organic waste and processes or disposes of solid waste or shall keep records of solid waste delivered to high diversion organic waste processing facilities. These records shall be subject to inspection by the city or its designee. The records shall include the following information:
 - 1. Delivery receipts and weight tickets from the entity accepting the recyclable materials, organic materials, and solid waste.
 - 2. The amount of material in cubic yards or tons transported by the generator or responsible party to each entity.
 - 3. If the material is transported to an entity that does not have scales on-site or employs scales incapable of weighing the self-hauler's vehicle in a manner that allows it to determine the weight of materials received, the self-hauler is not required to record the weight of material but shall keep a record of the entities that received the recyclable materials, organic materials, and solid waste.
- D. Self-haulers shall retain all records and data required to be maintained by this Section for no less than five (5) years after the recyclable materials, organic materials, and/or solid waste was first delivered to the facility accepting the material.
- E. Self-haulers that are commercial businesses or multi-family premises shall provide copies of records required by this Section to city if requested by the city manager and shall provide the records at the frequency requested by the city manager.
- F. A single-family waste generator or single-family responsible party that self-hauls recyclable materials, organic waste, or solid waste is not required to record or report information. Single-family generators or single-family

responsible parties are not exempt and cannot be waived from subscribing to an authorized hauler's collection service.

- G. Pursuant to 14 CCR, food waste self-haulers are required to maintain records and report to CalRecycle information on the tons of food waste self-hauled and the facilities or each use of such material. Food waste self-haulers shall provide to the city on a quarterly basis copies of all reports they are required to report to CalRecycle.**
- H. Self-Haul applicants must submit the following documentation in form and substance satisfactory to the city:**
 - 1. Invoice for Applicant's Serviced Premises. A current dated invoice from the city's authorized hauler in the customer's name, identifying the address of that customer's serviced premises and describing service subscription capacity and frequency.**
 - 2. Invoice for Another's Serviced Premises and Consent to Discard. If an applicant asserts that they (or if customer is a business, it) discards their (or its) discarded materials at another premises (such as the business belonging to an individual or a neighboring business with which the customer shares bins), the customer must provide the following:**
 - i. A current dated invoice from the city's authorized hauler identifying the address of the other serviced premises and the name of the customer at that premises, and describing service subscription capacity and frequency;**
 - ii. If the other serviced premises is a business, a copy of the business license that lists the serviced customer as one of the principals in the business; and**
 - iii. A letter signed by the owner of the other premises (on business letterhead, as applicable) under penalty of perjury, stating that the applicant is authorized to discard their discarded materials into the owner's discarded materials containers.**
 - 3. Disposal Documentation. The applicant shall demonstrate to the satisfaction of the city that the applicant disposes of discarded materials in a manner compliant with subsection 8.17.050 (B) above, e.g., a dated receipt or invoice that the applicant has disposed of solid waste generated at applicant's premises at a permitted solid-waste disposal site or transfer station.**
 - i. Applicant must provide a copy of vehicle registration to the city showing that registered owner of the vehicle used to transport discarded materials is the same person or entity as the applicant customer.**
- I. Failure to qualify for self-haul exemption. If the city manager, chief of general services, or their designee determines that the customer has not initially provided requisite collection subscription invoices, business licenses and/or statement, or that the customer does not thereafter submit requisite disposal documentation, the city manager, chief of general services or their designee shall advise the customer by regular U.S. mail that the customer does not**

qualify for the self-haul exemption and must immediately subscribe to collection and disposal service with the city's authorized hauler.

1. No leakage or littering. Persons who qualify for the self-haul exemption must prevent leakage or deposit of discarded materials upon or along any city street when transporting for disposal or processing in accordance with Section 8.17.110 of the Hawthorne City Code.
2. Self-haul exemption fee. A fee to reimburse the city for actual cost of reviewing self-haul documentation and implementing the self-haul exemption program shall be established by resolution.

8.17.160 Records and reports.

Every person who collects and transports discarded materials within the city, including anyone permitted or franchised to collect discarded materials, shall be required to maintain records and report in a format approved by city to the city manager at the time and in the manner and form required by the city, and with all information required by CalRecycle and approved by the director of public works or their designee.

8.17.170 Authorized recyclers.

- A. Franchised residential, multi-family and C & D Debris recycling. Residential recycling, multi-family recycling, and C & D debris recycling shall be performed exclusively by the city under the supervision of the city manager; and for such purpose contracts may be made or let, or agreements (including franchise agreements) entered into, with any person, with or without advertising for bids; provided, however, that the council may authorize any person to engage in the business of recycling under such terms, conditions or limitations as it may deem necessary.
- B. Permitted Commercial Recycling. Commercial recycling may be performed only by any authorized recycler holding a current and valid recycling permit. (Ord. 1770 § 2, 2003.)

8.17.180 Business licenses, recycling franchises and recycling permits.

- A. Business License. All authorized recyclers must maintain a current business license pursuant to the requirements set forth in Title 5 of this code.
- B. Recycling Franchise. Upon direction by the director, each authorized recycler holding a recycling service permit must execute a legal, valid and binding franchise agreement with the city pursuant to which the city may require payment of a franchise fee in consideration for the grant thereof.
- C. Permits. The director is authorized to issue a recycling permit to an authorized recycler under the following terms, protocol and conditions.
 1. Term. The term of a recycling permit shall be for no more than one year and shall expire on June 30th of each year.
 2. Application. Applications for recycling permits shall be made to the director on forms provided by the director, no later than the deadline

stated on the form. The application shall include the following information:

- a. The name, business address of the applicant, and addresses where all of the applicant's vehicles will be stored;
 - b. Applicant business ownership information, responsible official and contact person;
 - c. City business license;
 - d. Identification of the type of recycling permit for which the applicant is applying; dirty recyclables service permit or clean recyclables permit;
 - e. Any other information requested by the director.
3. **Conditions.** Applications for recycling permits shall be issued subject to the following conditions:
 - a. Upon request of the director, the applicant shall make available to the director a list of clients that the authorized recycler will service in the city, a map of the authorized recycler's service area, detailed information regarding recycling services offered to customers, a listing of customers currently receiving recycling services, and classification of recyclables to be collected by the applicant.
 - b. All records and facilities shall be subject to examination upon request by the director.
4. **Denial.** After review of the permit application, the director may deny the issuance of a recycling permit based on information disclosed in the permit application. Denial of a permit may be based on an incomplete application, failure to demonstrate qualifications or financial responsibility necessary to comply with the requirements of this chapter, prior failure to supply required report or other previous violations of any provisions of this chapter. Upon denial, the director shall provide the applicant written notification of the reasons therefore and shall include the effective date of such denial. Written notification of denial shall be delivered in person or certified first class mail to the applicant. An applicant may appeal the denial of a recycling permit in accordance with Section 5.16.010 of the municipal code.
5. **Transfer or Assignment—Delegation.** Authorized recyclers may not transfer or assign recycling permits or delegate obligations there under to another person. No authorized recycler shall sell, transfer, delegate, assign, hypothecate, relinquish or surrender its interest in a permit to any person or entity or allow another person or entity to use its permit in any act for which a permit is required without the prior written consent of the director.
6. **Enforcement.**
 - a. **Initiation of Action.** The director may initiate an enforcement action based on his or her own observations

of or complaints regarding a violation or violations. The director may accept complaints from any source in writing, though personal visit or telephone call. Anonymous complaints alone shall not result in an enforcement action although the director may initiate an enforcement action based on other independent information that the director received as a result of any investigation prompted by an anonymous complaint. The director may choose not to identify any complaint if his or her investigation reveals other evidence that is a sufficient basis for his or her decision that violations have occurred.

- b. **Notification.** The director shall notify the authorized recycler by mail of alleged violations by describing the nature of the offense and, if a representative of the independent commercial recycler is available, the director shall release further pertinent available details regarding the alleged violation.
 - c. **Response.** The authorized recycler shall provide the director with a written explanation of the pertinent events and circumstances relative to the alleged violation within ten city business days of the date of the director's mailed notice to the authorized recycler. The director may extend the time for the authorized recycler to provide an explanation upon a showing of reasonable cause. The director shall consider this explanation in making his or her determination whether a violation has occurred.
 - d. **Determination.** Prior to making his or her determination the director shall investigate the violation and may contact any known complainant, witness and the authorized recycler.
7. Within fifteen days of a determination by the director that a violation has not occurred, the director shall notify the authorized recycler of such determination in writing.
8. Within thirty days of a determination by the director that a violation has occurred, the director shall notify the authorized recycler of such determination in writing specifying the violation, the findings that support the violation; stating the amount of any civil penalty and deadline for payment thereof; and including information on the procedure for requesting a hearing to appeal the determination. Where the director can demonstrate an attempt to properly deliver the notice, a refusal by the offender or offender's representative to receive the notice in person, or failure of offender to accept certified mail, shall not constitute a failure by the director to fulfill the requirement for the delivery of notice.
- a. **Civil Penalties.** The director may impose a civil penalty of up to one thousand five hundred dollars per violation. An authorized

b. Suspension or Revocation. Any authorized recycler shall be required to comply with all the provisions of this chapter and failure to observe any of those conditions shall result in a summary revocation of that authorized recycler's recycling permit by the city manager. In addition, and without limiting the preceding sentence, the director may revoke or suspend a recycling permit in accordance with the procedure provided in Section 5.16.040(A) of the municipal code for breaches of any recycling contract, agreement or franchise by the authorized recycler or any other grounds provided in Section 5.16.020 of the municipal code. An authorized recycler may appeal any revocation or suspension by the city manager or the director to the city council in accordance with Section 5.16.040(C) of the municipal code. Absent appeal, the revocation or suspension shall become final and conclusive as provided in Section 5.16.040(D) of the municipal code.

- ### 8.17.190 Materials handling.

- 1. Combustible Materials.** Combustible materials must be stored in compliance with the requirements of the city fire chief.
- 2. Source Separation of Materials.** All recyclable materials shall be source separated from any other solid waste or organic materials and placed in

a designated recyclable materials container visibly marked with labelling in compliance with SB 1383.

- B. At direction of the city, authorized haulers shall sort recyclable materials, characterize, or analyze those recyclable materials by weight in a manner satisfactory to city in order to establish to satisfaction of city that they can be sold for processing into feedstock to make new materials or are residuals to be disposed of as solid waste. Disputes over whether material should be classified as solid waste shall be resolved by the director. The director's decision may be appealed to the city manager, explaining the basis of the appeal, within ten days of such decision and the payment of a fifty dollar (\$50.00) appeal fee. The burden of proof shall be on the authorized hauler challenging the director's decision. The city manager or their designee shall hear and dispute and render a written decision, which shall be final.**

- 1. Container Ownership. Recyclable materials shall be stored in containers owned by the authorized hauler, or the city.**
- 2. Storage Location. Recyclable materials shall be placed for collection in storage areas other than those required for solid waste containers, designated by the generator of the recyclables, as space on the generator's premises permits. Storage of recyclables may not interfere with regular solid waste collection and separate recyclables containers must be maintained on the premises generating the recyclables. Any recyclable materials placed for collection in the public right-of-way shall become the property of the city and shall be collected by the city or its authorized hauler for residential, commercial or multi-family solid waste collection services, as applicable.**

- C. Collection, Disposal Prohibition.**

- 1. Schedule. Authorized haulers shall collect recyclable materials on a regular schedule.**
- 2. Collection Vehicles. Collection vehicles shall comply with the requirements prescribed in Sections 8.17.130 and 8.17.140 of this code.**
- 3. Disposal Prohibited. The authorized hauler shall not transport any collected recyclable materials to any facility for disposal by landfilling, burning, incineration, or mixed waste composting, other than disposal of residue remaining after sorting, grading, cleaning, shredding, grinding, densifying or otherwise preparing, treating or converting recyclable materials for end use markets, unless authorized in writing in advance by the director. The authorized hauler must transport and market the recyclable materials it collects by delivery to a recyclables processor or broker or to an end use market. Placement of recyclable materials that have been separated and set out for recycling in any container for any length of time considered excessive by the director constitutes a violation of this requirement.**
- 4. Requirements for Facility Operators and Community Composting Operations**
 - a. Owners of facilities, operations, and activities located in the city's boundaries that recover organic waste, including, but not**

limited to, compost facilities, in-vessel digestion facilities, and publicly-owned treatment works shall, upon city request, provide information regarding available and potential new or expanded capacity at their facilities, operations, and activities, including information about throughput and permitted capacity necessary for planning purposes. Entities contacted by the city shall respond within 30 days .

- b. Community composting operators with operations located in the city's boundaries, upon city request, shall provide information to the city to support organic waste capacity planning, including, but not limited to, an estimate of the amount of organic waste anticipated to be handled at the community composting operation. Entities contacted by the city shall respond within 60 days.
- c. Owners of facilities, operations, and activities located in the city's boundaries that receive recyclable materials, organic materials, and/or solid waste shall provide to the city on a quarterly basis copies of all reports they are required to report to CalRecycle, including at minimum, those required by AB 901 and SB 1383.

D. Records and Reports.

- 1. **Records.** Authorized haulers shall retain all records necessary for preparing reports in accordance with the following subsection for a period of five (5) years, or as specified in their agreement with the city, and provide the director with copies of or access to any relevant recycling information as the director may need for the program within ten (10) working days of director's written request, or, if the director makes an inspection as provided below, during the inspection. Authorized haulers shall make records related to their collection services in the city available during the city's business hours for inspection by the director and/or his staff within one week of director's written notice.
- 2. **Reporting.**
 - a. **Dates.** Haulers,, authorized to collect recyclable materials, organic materials, and/or solid waste shall comply with education, equipment, signage, container labeling, container color, contamination monitoring, reporting, and other requirements contained within SB 1383 and their agreement with the city.
 - b. **Content.** The authorized hauler shall submit reports described in the preceding paragraph electronically and in a form approved and provided by the director,. Reports shall include the type and cumulative total weight and/or volume of recyclable materials, organic materials, and solid waste collected, locations where taken during the preceding quarter, and other information required by the city to prepare and support reports that the city is required by CalRecycle. Upon

direction of director, the authorized hauler shall not report materials that are routinely recycled without entering the solid waste stream, such as certain manufacturing and industrial wastes, as may be excluded under state law for purposes of calculating solid waste diversion in the city. If the director finds reports to be inadequate, inaccurate or incomplete, they may direct the authorized hauler to remedy or correct the inadequacy, inaccuracy or incompleteness by a specified date no less than seven days after the director requested the corrected information.

- c. **Audit or Inspection.** Upon request by the director, the authorized hauler described in the next paragraph must allow inspection, or otherwise arrange with its subcontractors or other recycling service providers for, the audit or inspection of records, operations, facilities or other matters as may be necessary to ensure compliance with this chapter.
 - d. **Violations.** Should an authorized hauler fail to timely and fully submit, correct or complete a required report, or correct information as requested by the director, then the director may send notice of that failure stating that the authorized hauler must send in the report as requested by the director, within five (5) business days of the date of the delinquent notice; and require payment of fifty dollars service charge, due and payable when the report is submitted. Should an authorized hauler fail to timely comply with the provisions of that notice, then the director may send the authorized hauler notice of a violation.
- E. **Rates, Fees and Charges.** The authorized hauler shall be solely responsible for rates, fees and charges to and/or payments required to be made by its customers. The city shall have no liability to authorized hauler or responsibility therefor. Authorized haulers (other than those required to secure donate-or-purchase recyclables service permits) must impose rates, fees and charges or other payments for recycling clean recyclables that are less than, but not equal to or greater than, rates, fees and charges or other payments for recycling dirty recyclables.
- F. **Insurance and Indemnification.**
 - 1. **Insurance.** Each authorized hauler shall furnish the city a policy or certificate of comprehensive general automobile liability insurance insuring the authorized hauler against bodily injury, property damage and automobile liability in the sum of one million dollars combined single limits. These limits shall be subject to annual review by the city for the purpose or reasonably adjusting to current insurance conditions and requirements. The insurance shall provide that the coverage is primary and that any insurance maintained by the city shall be excess insurance, shall be procured from an insurer authorized to do business in the state of California, shall name the city and its officers, employees and agents as additional insured and shall not be cancelled or modified without first

giving to the city thirty days' prior written notice. The city may waive this requirement for these authorized haulers if it determines that the liability insurance that the authorized hauler provides under another franchise agreement with the city is adequate to secure payment of these franchise fees as well as those paid under the other franchise agreement.

Indemnity. Each authorized hauler shall indemnify, defend and hold harmless the city and its officers, employees and agents against any and all claims, demands, losses, cost, expenses, obligations, liabilities, damages, recoveries and deficiencies, including, interest, penalties, and reasonable attorneys fees, that the city shall incur or suffer, which arise, result from or relate to the collection, transportation or disposal (including sale) of discarded materials by that person. (Ord. 1770 § 2, 2003.)

8.17.200 Large events and large venues.

- G.** Large events and large venues shall be responsible for ensuring and demonstrating compliance with the requirements of this chapter. In addition to other requirements in this chapter and the municipal code, each large event and large venue shall:
- H.** Segregate recyclable materials and organic materials from solid waste and ensure that employees, contractors, volunteers, customers, visitors, and other persons on site segregate recyclable materials and organic materials from solid waste.
- I.** Ensure the large event and large venue has access to an adequate number and type of containers needed for collecting and storing recyclable materials, organic materials, and solid waste.
- J.** Provide or ensure the provision of adequate containers throughout the large event and large venue location to make the segregation of recyclable materials and organic materials convenient for employees, volunteers, contractors, vendors, exhibitors, presenters, visitors, attendees, customers, and other persons on site.
- K.** Ensure that all containers used for segregating and storing recyclable materials, organic materials, and solid waste are affixed with signs or labels that display the appropriate information to enable users to accurately segregate recyclable materials, organic materials, and solid waste and to clearly differentiate which containers are used for recyclable materials, organic materials, and solid waste, to minimize container contamination.
- L.** Ensure that the contents of the containers for recyclable materials and organic materials are not delivered to solid waste containers unless they include unacceptable levels of contamination. (Ord. 2120 § 3, 2016.)

8.17.210 Provisions for self-haulers.

- A.** Nothing in this chapter shall preclude any person, solid waste customer, commercial generator, multi-family generator, or large event and large venue from self-hauling recyclable materials or organic materials generated by that entity to a recycling or organics processing facility.
- B.** Self-haulers shall:

- 1. Comply with the requirements in this chapter by delivering for recycling those items that can be recycled by local recycling facilities and establishments and shall comply by delivering for organics processing those items that are accepted by local organics processing facilities.**
- 2. Provide proof of compliance with this chapter, upon request by the city; proof includes, but is not limited to, a receipt from a recycling or organics processing facility that clearly identifies the type and quantity of material delivered and an application for exemption from the necessity for refuse collection. (Ord. 2120 § 3, 2016.)**

8.17.220 Authorized haulers.

- A. Authorized haulers shall obtain and maintain a business license with the city.**
- B. Authorized haulers shall keep separate solid waste, recyclable materials, and organic materials that have been segregated into separate containers by commercial generators, multi-family generators, residential generators, or large event and large venues.**
- C. Authorized haulers shall ensure that source separated recyclable materials are delivered to a recycling facility and that segregated organic materials are delivered to an organics processing facility, except that a container that contains unacceptable levels of contamination may be delivered for disposal if the authorized hauler notifies the city of the occurrence; the date of the occurrence; and the account name, primary contact, phone number, billing address, and service address for the solid waste customer at which the container is located. (Ord. __)**

8.17.230 Exemptions and waivers for commercial generators.

- A. City may waive a responsible party's obligation to comply with some or all recyclable materials and organic waste requirements of this chapter if the responsible party of a commercial business or multi-family premises provides documentation that the commercial business or multi-family premises meets one of the criteria in the sections below. The criteria may be met in instances including but not limited to self-hauling, on-site organics management, and/or property vacancy. For the purposes of this section the total solid waste shall be the sum of weekly container capacity measured in cubic yards for solid waste, recyclable materials, and organic materials collection service.**
- 1. The commercial business's or multi-family premises' total collection service is two (2) cubic yards or more per week and recyclable materials and organic materials subject to collection in recyclable materials container(s) or organic materials container(s) comprises less than twenty (20) gallons per week per applicable material stream of the Multi-family premises' or commercial business's total waste (i.e., recyclable materials in the recyclable materials stream are less than twenty (20) gallons per week or organic materials in the organic materials stream are less than twenty (20) gallons per week); or,**
 - 2. The commercial business's or multi-family premises' total collection service is less than two (2) cubic yards per week and recyclable materials and organic materials subject to collection in a recyclable materials container(s) or organic materials container(s) comprises less than ten (10) gallons per week per applicable material stream of the multi-family premises' or commercial business's total waste (i.e., recyclable materials in the recyclable materials stream are less than ten (10) gallons per week or organic materials in the organic materials stream are less than ten (10) gallons per week).**
- B. Physical Space Waivers. The city may waive a commercial business's or multi-family premises' obligation to comply with some or all of the recyclable materials and/or organic waste collection service requirements if the city has evidence from its own staff, an authorized hauler, licensed architect, or licensed engineer demonstrating that the premises lacks adequate space for recyclable materials containers and/or organic materials containers required for compliance with the recyclable materials and organic materials collection requirements of Section 8.17.040 as applicable.**
- C. Review and Approval of Waivers by City. Waivers shall be granted to responsible parties by city according to the following process:**
- 1. Responsible parties of premises seeking waivers shall submit a completed application form to city manager or their designee for a waiver specifying the waiver type requested, type(s) of collection services for which they are**

requesting a waiver, the reason(s) for such waiver, and documentation supporting such request.

2. Upon waiver approval, city shall specify that the waiver is valid for five (5) years.
3. Waiver holder shall notify city if circumstances change such that commercial business's or multi-family premises' may no longer qualify for the waiver granted, in which case waiver will be rescinded.
4. Any waiver holder must cooperate with the city for compliance inspections and enforcement.
5. Waiver holder shall reapply to the city manager or their designee for a waiver upon the expiration of the waiver period and shall submit any required documentation, and/or fees/payments as required by the city. Failure to submit a completed application shall equate to an automatic denial of said application.
6. City manager may revoke a waiver upon a determination that any of the circumstances justifying a waiver are no longer applicable.

8.17.240 City authority.

The city or its designee is authorized to administer and enforce the provisions of this chapter. To the extent permitted by law, the city or its designee may inspect any collection container at a commercial facility, multi-family dwelling, or large event and large venue and any authorized hauler's load for solid waste, recyclable materials, or organic materials. To the extent permitted by law, the city or its designee may also inspect the premises of any commercial facility, multi-family dwelling, or large event and large venue to determine compliance with the provisions of this chapter. (Ord. 2120 § 3, 2016.)

8.17.250 Administrative appeal.

Unless otherwise expressly provided by the Hawthorne Municipal Code, any person adversely and directly affected by any determination made or action taken by the city pursuant to the provisions of this chapter may file an administrative appeal with the city clerk. If no appeal is filed within ten days the determination of the city shall be final. (Ord. 2120 § 3, 2016.)

8.17.260 Enforcement

The city shall enforce this chapter with the goal of maximizing participation in the program and ensuring that recyclable materials and organic materials that have been properly source separated by the residential generators, commercial generators, multi-

family generators, or large event and large venue are correctly collected and delivered to recycling and organics processing facilities. The city or its designee shall conduct the following activities to enforce this chapter:

- A. Develop and disseminate public education and promotional materials relating to the importance of recycling and organics processing and the availability of recycling and organics processing opportunities available to residential generators, commercial generators, multi-family generators, and large event and large venues;
- B. Provide technical assistance and training to residential generators, commercial generators, multi-family generators, and large event and large venues to increase recycling;
- C. Enforce provisions of the franchise agreement for collection of recyclable materials, organic materials, and solid waste with the franchisee to stimulate demand for recyclable materials and organic materials collection service. (Ord. 2120 § 3, 2016.)
- D. SB 1383 process for enforcement
 - 1. City manager or any agent or person designated by the city manager, will monitor compliance with this chapter randomly and through compliance reviews, route reviews, investigation of complaints, and an inspection program (that may include remote monitoring). Section 8.17.120 establishes city's right to conduct inspections and investigations.
 - 2. City may issue an official notification to notify regulated entities of its obligations under the chapter.
 - 3. For incidences of prohibited container contaminants found in containers, city or its designee will issue a notice of contamination to any generator or responsible party found to have prohibited container contaminants in a container. Such notice will be provided via a cart tag or other communication immediately upon identification of the prohibited container contaminants. If the city or its designee observes prohibited container contaminants in a responsible party's containers on more than three (3) consecutive occasion(s), the city may assess contamination processing fees or contamination penalties on the generator.
 - 4. With the exception of violations of contaminated containers addressed above, city shall issue a notice of violation (NOV) requiring compliance within a maximum of 60 days of issuance of the notice.
 - 5. Absent compliance by the respondent within the deadline set forth in the notice of violation, city shall commence an action to impose penalties, via an administrative citation and fine, pursuant to Chapter 1.23 of this code and the requirements contained in Section 8.17.290, Table 1, List of Violations. Notices shall be sent to "owner" at the official address of the owner maintained by the tax collector for the city or if no such address is available, to the owner at the address of the multi-family premises or commercial premises or to the responsible party for the collection services, depending upon available information.

8.17.270 Enforcement for contamination.

Enforcement of this chapter regarding contaminated containers for solid waste, recyclable materials, and organic materials may be carried out by the authorized hauler. The authorized hauler will notify city of customers with excessive or ongoing contamination. Authorized haulers shall not be held liable for the failure of generators to comply with this chapter, unless specified in the franchise, contract, registration certificate, or permit issued by the city. (Ord. 2120 § 3, 2016.)

8.17.280 Penalties.

The city may issue administrative fines for violating this chapter or any rule or regulation adopted pursuant to this chapter, except as otherwise provided in this chapter. The city's procedures on imposition of administrative fines are hereby incorporated in their entirety 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. (Ord. 2120 § 3, 2016.)

8.17.290 Violations

A violation of this chapter is punishable pursuant to Section 8.17.240 and 8.17.080 of this code.

A. Penalty amounts for select administrative citations

The penalty levels for violations 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 to \$500 per violation.**

B. Factors considered in determining penalty amount

The following factors shall be used to determine the amount of the penalty for each violation within the appropriate penalty amount range pursuant to this Section.

- 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.

C. Compliance deadline extension considerations

City may extend the compliance deadlines set forth in a notice of violation issued in accordance with this section if it finds that there are extenuating circumstances beyond the control of the violator that make compliance within the deadlines impracticable, including the following:

1. Acts of God such as earthquakes, wildfires, flooding, pandemics, and other emergencies or natural disasters;
2. Delays in obtaining discretionary permits or other government agency approvals; or,
3. Deficiencies in organic waste recycling infrastructure or edible food recovery capacity and the city is under a corrective action plan with CalRecycle pursuant to 14 CCR due to those deficiencies.

D. Appeals process

Persons receiving an administrative citation containing a penalty for an uncorrected violation may seek a review of the decision by following the process prescribed in Section 1.23.208 of this code.

E. Education period for non-compliance.

Beginning January 1, 2022 and through December 31, 2023, city will conduct inspections, route reviews or waste evaluations, and compliance reviews, depending upon the type of regulated entity, to determine compliance with Hawthorne's city code, and if city determines that a generator, responsible party, self-hauler, hauler, tier one commercial edible food generator, food recovery organization, food recovery service, or other entity is not in compliance, it shall provide educational materials to the entity describing its obligations under this chapter and a notice that compliance is required by January 1, 2022, and that violations may be subject to administrative civil penalties starting on January 1, 2024. City may also conduct remote monitoring, if implemented, to determine compliance with this chapter.

F. Civil penalties for non-compliance.

Beginning January 1, 2024, if the city determines that a generator, responsible party, self-hauler, hauler, tier one or tier two commercial edible food generator, food recovery organization, food recovery service, or other entity is not in compliance with Hawthorne's city code, it shall document the noncompliance or violation, issue a notice of violation, and take enforcement action pursuant to this chapter, as needed.

G. Enforcement table

Table 1. List of Violations(Optional)

Requirement	Description of Violation
Commercial business multi-family premises responsibility requirement	Responsible party for a commercial business or multi-family premises fails to provide or arrange for organic waste collection services consistent with city requirements and as outlined in this chapter, for employees, contractors, tenants, and customers, including supplying and allowing access to adequate numbers, size, and location of containers and sufficient signage and container color.
Organic waste generator or responsible party requirement	Organic waste generator or responsible party fails to comply with requirements pursuant to this chapter.
Hauler requirement	A hauler providing single-family, multi-family or commercial collection service fails to transport discarded materials to a facility, operation, activity, or property that recovers organic waste, as prescribed by this chapter.
Hauler requirement	A hauler providing single-family, multi-family or commercial recyclable materials, organic materials, or solid waste collection service fails to obtain applicable approval issued by the city to haul recyclable materials, organic materials, or solid waste as prescribed by this chapter.
Hauler requirement	A hauler fails to keep a record of the applicable documentation of its approval by the city, as prescribed by this chapter.
Self-hauler requirement	A generator or responsible party who is a self-hauler fails to comply with the requirements of this chapter.
Commercial edible food generator requirement	Tier one commercial edible food generator fails to arrange to recover the maximum amount of its edible food that would otherwise be disposed by establishing a contract or written agreement with a food recovery organization or food recovery service and/or fails to comply with other requirements of this chapter commencing Jan. 1, 2022.
Commercial edible food generator requirement	Tier two commercial edible food generator fails to arrange to recover the maximum amount of its edible food that would otherwise be disposed by establishing a contract or written

Requirement	Description of Violation
	agreement with a food recovery organization or food recovery service and/or fails to comply with other requirements of this chapter commencing Jan. 1, 2024.
Commercial edible food generator requirement	Tier one or tier two commercial edible food generator intentionally spoils edible food that is capable of being recovered by a food recovery organization or food recovery service.
Commercial business responsible party, multi-family premises responsible party, commercial edible food generator, food recovery organization or food recovery service	Failure to provide or arrange for access to an entity's premises for any inspection or investigation.
Recordkeeping requirements for commercial edible food generator	Tier one or tier two commercial edible food generator fails to keep records, as prescribed by this chapter.
Recordkeeping requirements for food recovery services and food recovery organizations	A food recovery organization or food recovery service that has established a contract or written agreement to collect or receive edible food directly from a commercial edible food generator pursuant to 14 CCR fails to keep records, as prescribed by this chapter.

SECTION 3. Chapter 8.18 of the Hawthorne Municipal Code is hereby amended to read as follows:

Chapter 8.18 UNAUTHORIZED COLLECTION OF REFUSE PROHIBITED

8.18.010 Definitions.

Words and phrases defined in Chapter 8.16 of this municipal code shall have the same meaning when used in this chapter.

8.18.20 Prohibited.

It is unlawful for any person to gather, collect or remove any discarded materials from any place except only as to the following:

- A. The city, its agents, servants and employees while acting as such;**
- B. A contract agent of the city and its agents, servants or employees acting pursuant to the terms and conditions of a contract with the city;**
- C. Persons holding a franchise from the city to the extent allowed by their franchise;**
- D. Persons engaging in the business of gardening or landscaping as an incident to such business. (Ord. 1515, 1991.)**

SECTION 4. Chapter 15.40 of the Hawthorne Municipal Code is hereby amended to read as follows:

Chapter 15 Building and Construction

15.40.010 Adoption of California Green Building Standards Code.

Pursuant to the provisions of Government Code Sections 50022.1 to 50022.10, inclusive, and subject to the particular additions, deletions and amendments set forth in this chapter, the rules, regulations, provisions and conditions set forth in that certain Code entitled “2019 California Green Building Standards Code” including the appendices therein contained, promulgated and published by the International Code Council and the California Building Standards Commission, one full printed copy of each, printed as a code in book form were by the council ordered filed and which have been filed in the office of the city clerk, expressly incorporated herein and made a part hereof as fully and for all intents and purposes as set forth herein at length, are hereby established and adopted as the rules, regulations, and provisions and conditions to be observed and followed in the planning, design, operation, construction, demolition, use and occupancy, operations and maintenance regarding the planning and design, energy efficiency, water efficiency and conservation, material conservation and resource efficiency, and environmental quality enhancement in the city and related subjects, items and matters as set forth in said code, within the city. Subject to the additions, deletions and amendments set forth in this chapter, said codes, with said Appendices, are hereby established and adopted by reference, and the California Green Building Standards Code shall be designated, known and referred to as “Sustainable Green Building Program” of and for the city.

Nothing in this chapter shall require the applicant to use covered products, as defined in the federal Energy Policy and Conservation Act (42 U.S.C. Section 6201 et seq.), that exceed any applicable federal energy conservation standards for such products. (Ord. 2197 § 12, 2020.)

SECTION 5. Chapter 15.80 of the Hawthorne Municipal Code is hereby added to read as follows:

**Chapter 15.80 RECYCLING OF CONSTRUCTION AND DEMOLITION (C & D)
DEBRIS**

15.80.010 Authorized haulers.

Each authorized hauler who has entered into semi-exclusive franchise agreements with the city for roll-off services shall submit quarterly reports to the city in a format approved by the director on the amount of C & D debris it has collected by material type, the destination to which each of those materials were taken, and the amount of diversion documented to have been achieved at each of those destinations. (Ord. 1770 § 2, 2003.)

15.80.020 Waste minimization plan.

The city has adopted a comprehensive C & D debris waste minimization plan that details activities by city departments, all authorized haulers, and all owners, developers and contractors of C & D projects intended to increase the reuse, recycling and composting of C & D debris, which plan is incorporated into the code by reference. All references in the C & D debris waste minimization plan to future requirements for H & C disposal company shall apply to all authorized haulers. (Ord. 1770 § 2, 2003.)

15.80.030 Debris diversion requirements for private projects.

A. **Diversion Requirement.** All owners, developers and contractors of C & D projects over ten thousand square feet in gross floor area (“diversion projects”) are required to divert the maximum feasible amount of C & D debris (no less than fifty percent of C & D debris generated). The department of building and safety shall require that persons seeking construction or demolition permits submit (1) quantitative projections for C & D debris generated by diversion projects, and (2) a two hundred and fifty dollar deposit. The department shall return that deposit upon completion of the permitted project only if the permittee demonstrates that it has supplied the C & D debris reports described in subsection B and achieved waste diversion of no less than fifty percent of C & D debris generated as measured and demonstrated to satisfaction of the director.

B. **Diversion Reporting.** All developers, construction and demolition contractors, and any person hauling C & D debris from a construction or demolition project or otherwise handling C & D debris therefrom shall report the quantities diverted and disposed to the city upon completion of the project in a format approved by the director. Prior to issuing a certificate of occupancy for new construction projects, the department of building and safety must receive satisfactorily completed C & D debris reports from permittee. (Ord. 1770 § 2, 2003.)

SECTION 6. Chapter 15.85 of the Hawthorne Municipal Code is hereby added to read as follows:

Chapter 15.85 Accessible Areas for Recycling

15.85.010 Accessible areas for recycling.

As more fully described below, the building official, and permittees, shall ensure adequate space for recycling is incorporated into building plans as required by the California Code of Regulations, Title 23, the California Green Building Standards Code, Chapter 4 Residential Mandatory Measures, and Chapter 5 Nonresidential Mandatory Measures.

15.85.020 Recycling by occupants at multi-family dwellings.

Where five (5) or more multi-family dwelling units are constructed on a building site, provide readily accessible area(s) that serves all buildings on the site and are identified for the depositing, storage, and collection of non-hazardous materials for recycling, including (at a minimum) paper, corrugated cardboard, glass, plastics, organic waste, and metals, or meet a lawfully enacted local recycling ordinance, if more restrictive.

15.85.030 Recycling by occupants at commercial businesses.

Provide readily accessible areas that serve the entire building and are identified for the depositing, storage and collection of non-hazardous materials for recycling, including (at a minimum) paper, corrugated cardboard, glass, plastics, organic waste, and metals or meet a lawfully enacted local recycling ordinance, if more restrictive.

15.85.040 Additions.

All additions constructed within a twelve (12)-month period under single or multiple permits, resulting in an increase of 30 percent or more in floor area, shall provide recycling areas, including an area for organic waste collection, on site.

SECTION 7. Sections 17.89.020 and 17.89.030 of Chapter 17.89 (Water Efficient Landscaping) of the Hawthorne Municipal Code are hereby amended to read as follows:

17.89.020 Definitions.

For the purposes of this chapter and the Water Efficient Landscape Guidelines that implement this chapter, the following terms are defined:

“Applicant” means the person submitting a landscape documentation package. Applicants can be the property owner or the owner’s designee.

“Applied water” means the portion of water supplied by the irrigation system to the landscape.

“Automatic irrigation controller” means a timing device used to remotely control valves that operate an irrigation system. Automatic irrigation controllers are able to self-adjust and schedule irrigation events using either evapotranspiration (weather-based) or soil moisture data.

“Backflow prevention device” means a safety device used to prevent pollution or contamination of the water supply due to the reverse flow of water from the irrigation system.

“Certificate of completion” means the document required under Section 2.2 of the Water Efficient Landscape Guidelines.

“Certified irrigation designer” means a person certified to design irrigation systems by an accredited academic institution, a professional trade organization or other program such as the U.S. Environmental Protection Agency’s WaterSense Irrigation Designer Certification Program and Irrigation Association’s Certified Irrigation Designer Program.

“Certified landscape irrigation auditor” means a person certified to perform landscape irrigation audits by an accredited academic institution, a professional trade organization or other program such as the U.S. Environmental Protection Agency’s WaterSense Irrigation Auditor Certification Program and Irrigation Association’s Certified Landscape Irrigation Auditor Program.

“Check valve” or “anti-drain valve” means a valve located under a sprinkler head, or other location in the irrigation system, to hold water in the system to prevent drainage from sprinkler heads when the sprinkler is off.

“Common interest developments” means community apartment projects, condominium projects, planned developments, and stock cooperatives per Civil Code Section 1351.

“Compost” has the same meaning as in 14 CCR Section 17896.2(a)(4), which stated, as of the effective date of this ordinance, 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.

“Conversion factor (0.62)” means the number that converts acre-inches per acre per year to gallons per square foot per year.

“Distribution uniformity” means the measure of the uniformity of irrigation water over a defined area.

“Drip irrigation” means any non-spray low volume irrigation system utilizing emission devices with a flow rate measured in gallons per hour. Low volume irrigation systems are specifically designed to apply small volumes of water slowly at or near the root zone of plants.

“Ecological restoration project” means a project where the site is intentionally altered to establish a defined, indigenous, historic ecosystem.

“Effective precipitation (Eppt)” or “usable rainfall” means the portion of total precipitation which becomes available for plant growth.

“Emitter” means a drip irrigation emission device that delivers water slowly from the system to the soil.

“Established landscape” means the point at which plants in the landscape have developed significant root growth into the soil. Typically, most plants are established after one or two years of growth.

“Establishment period of the plants” means the first year after installing the plant in the landscape or the first two years if irrigation will be terminated after establishment. Typically, most plants are established after one or two years of growth. Native habitat mitigation areas and trees may need three to five years for establishment.

“Estimated total water use (ETWU)” means the total water used for the landscape as described in Section 2.1.B.2 of the Water Efficient Landscape Guidelines.

“ET adjustment factor (ETAF)” means a factor of 0.55 for residential areas and 0.45 for nonresidential areas, that, when applied to reference evapotranspiration, adjusts for plant factors and irrigation efficiency, two major influences upon the amount of water that needs to be applied to the landscape. The ETAF for new and existing (non-rehabilitated) special landscape areas shall not exceed 1.0. The ETAF for existing non-rehabilitated landscapes is 0.8.

“Evapotranspiration rate” means the quantity of water evaporated from adjacent soil and other surfaces and transpired by plants during a specified time.

“Flow rate” means the rate at which water flows through pipes, valves and emission devices, measured in gallons per minute, gallons per hour, or cubic feet per second.

“Flow sensor” means an inline device installed at the supply point of the irrigation system that produces a repeatable signal proportional to flow rate. Flow sensors must be connected to an automatic irrigation controller, or flow monitor capable of receiving flow signals and operating master valves. This combination flow sensor/controller may also function as a landscape water meter or submeter.

“Friable” means a soil condition that is easily crumbled or loosely compacted down to a minimum depth per planting material requirements, whereby the root structure of newly planted material will be allowed to spread unimpeded.

“Fuel Modification Plan Guideline” means guidelines from a local fire authority to assist residents and businesses that are developing land or building structures in a fire hazard severity zone.

“Graywater” means untreated wastewater that has not been contaminated by any toilet discharge, has not been affected by infectious, contaminated, or unhealthy bodily wastes, and does not present a threat from contamination by unhealthful processing, manufacturing, or operating wastes. “Graywater” includes, but is not limited to, wastewater from bathtubs, showers, bathroom washbasins, clothes washing machines, and laundry tubs, but does not include wastewater from kitchen sinks or dishwashers. Health and Safety Code Section 17922.12.

“Hardscapes” means any durable material (pervious and non-pervious).

“Hydrozone” means a portion of the landscaped area having plants with similar water needs and rooting depth. A hydrozone may be irrigated or non-irrigated.

“Infiltration rate” means the rate of water entry into the soil expressed as a depth of water per unit of time (e.g., inches per hour).

“Invasive plant species” means species of plants not historically found in California that spread outside cultivated areas and can damage environmental or economic resources. Invasive species may be regulated by county agricultural agencies as noxious species. Lists of invasive plants are maintained at the California Invasive Plant Inventory and USDA invasive and noxious weeds database.

“Irrigation audit” means an in-depth evaluation of the performance of an irrigation system conducted by a certified landscape irrigation auditor. An irrigation audit includes, but is not limited to: inspection, system tune-up, system test with distribution uniformity or emission uniformity, reporting overspray or runoff that causes overland flow, and preparation of an irrigation schedule. The audit must be conducted in a manner consistent with the Irrigation Association’s Landscape Irrigation Auditor Certification program or other U.S. Environmental Protection Agency “WaterSense” labeled auditing program.

“Irrigation efficiency (IE)” means the measurement of the amount of water beneficially used divided by the amount of water applied. Irrigation efficiency is derived from measurements and estimates of irrigation system characteristics and management practices. The irrigation efficiency for purposes of this ordinance are 0.75 for overhead spray devices and 0.81 for drip systems.

“Irrigation survey” means an evaluation of an irrigation system that is less detailed than an irrigation audit. An irrigation survey includes, but is not limited to: inspection, system test, and written recommendations to improve performance of the irrigation system.

“Irrigation water use analysis” means an analysis of water use data based on meter readings and billing data.

“Landscape architect” means a person who holds a license to practice landscape architecture in the state of California Business and Professions Code, Section 5615.

“Landscape area” means all the planting areas, turf areas, and water features in a landscape design plan subject to the maximum applied water allowance calculation. The landscape area does not include footprints of buildings or structures, sidewalks, driveways, parking lots, decks, patios, gravel or stone walks, other pervious or non-pervious hardscapes, and other non-irrigated areas designated for non-development (e.g., open spaces and existing native vegetation).

“Landscape contractor” means a person licensed by the state of California to construct, maintain, repair, install, or subcontract the development of landscape systems.

“Landscape documentation package” means the documents required under Section 17.89.060.

“Landscape project” means total area of landscape in a project as defined in “landscape area” for the purposes of this ordinance, meeting requirements under Section 17.89.030.

“Landscape water meter” means an inline device installed at the irrigation supply point that measures the flow of water into the irrigation system and is connected to a totalizer to record water use.

“Lateral line” means the water delivery pipeline that supplies water to the emitters or sprinklers from the valve.

“Local agency” means a city or county, including a charter city or charter county, that is responsible for adopting and implementing the ordinance. The local agency is also responsible for the enforcement of this chapter, including, but not limited to, approval of a permit and plan check or design review of a project.

“Local water purveyor” means any entity, including a public agency, city, county, or private water company that provides retail water service.

“Low volume irrigation” means the application of irrigation water at low pressure through a system of tubing or lateral lines and low-volume emitters such as drip, drip lines, and bubblers. Low volume irrigation systems are specifically designed to apply small volumes of water slowly at or near the root zone of plants.

“Main line” means the pressurized pipeline that delivers water from the water source to the valve or outlet.

“Master shut-off valve” is an automatic valve installed at the irrigation supply point which controls water flow into the irrigation system. When this valve is closed water will not be supplied to the irrigation system. A master valve will greatly reduce any water loss due to a leaky station valve.

“Maximum applied water allowance (MAWA)” means the upper limit of annual applied water for the established landscaped area as specified in Section 2.1.B.2 of the Water Efficient Landscape Guidelines. It is based upon the area’s reference evapotranspiration, the ET adjustment factor, and the size of the landscape area. The estimated total water use shall not

exceed the maximum applied water allowance. Special landscape areas, including recreation areas, areas permanently and solely dedicated to edible plants such as orchards and vegetable gardens, and areas irrigated with recycled water are subject to the MAWA with an ETAF not to exceed 1.0. $MAWA = (ET_o) (0.62) [(ETAF \times LA) + ((1-ETAF) \times SLA)]$.

“Median” is an area between opposing lanes of traffic that may be unplanted or planted with trees, shrubs, perennials, and ornamental grasses.

“Microclimate” means the climate of a small, specific area that may contrast with the climate of the overall landscape area due to factors such as wind, sun exposure, plant density, or proximity to reflective surfaces.

“Mined-land reclamation projects” means any surface mining operation with a reclamation plan approved in accordance with the Surface Mining and Reclamation Act of 1975.

“Mulch” means any organic material such as leaves, bark, straw, compost, or inorganic mineral materials such as rocks, gravel, or decomposed granite left loose and applied to the soil surface for the beneficial purposes of reducing evaporation, suppressing weeds, moderating soil temperature, and preventing soil erosion.

“New construction” means, for the purposes of this ordinance, a new building with a landscape or other new landscape, such as a park, playground, or greenbelt without an associated building.

“Nonresidential landscape” means landscapes in commercial, institutional, industrial and public settings that may have areas designated for recreation or public assembly. It also includes portions of common areas of common interest developments with designated recreational areas.

“Operating pressure” means the pressure at which the parts of an irrigation system are designed by the manufacturer to operate.

“Overhead sprinkler irrigation systems” or “overhead spray irrigation systems” means systems that deliver water through the air (e.g., spray heads and rotors).

“Overspray” means the irrigation water which is delivered beyond the target area.

“Parkway” means the area between a sidewalk and the curb or traffic lane. It may be planted or unplanted, and with or without pedestrian egress.

“Permit” means an authorizing document issued by the city for new construction or rehabilitated landscapes.

“Pervious” means any surface or material that allows the passage of water through the material and into the underlying soil.

“Plant factor” or “plant water use factor” is a factor, when multiplied by ET_o , estimates the amount of water needed by plants. For purposes of this chapter, the plant factor range for very low water use plants is 0 to 0.1, the plant factor range for low water use plants is 0.1 to 0.3, the plant factor range for moderate water use plants is 0.4 to 0.6, and the plant factor range for high water use plants is 0.7 to 1.0. Plant factors cited in this ordinance are derived from the publication “Water Use Classification of Landscape Species.” Plant factors may also be obtained from horticultural researchers from academic institutions or professional associations as approved by the California Department of Water Resources (DWR).

“Project applicant” means the individual or entity submitting a landscape documentation package required under Section 17.89.060, to request a permit, plan check, or design review from the city. A project applicant may be the property owner or designee.

“Rain sensor” or “rain sensing shutoff device” means a component which automatically suspends an irrigation event when it rains.

“Record drawing” or “as-builts” means a set of reproducible drawings which show significant changes in the work made during construction and which are usually based on drawings marked up in the field and other data furnished by the contractor.

“Recreational area” means areas, excluding private single-family residential areas, designated for active play, recreation or public assembly such as in parks, sports fields, picnic grounds, amphitheaters, or golf course tees, fairways, roughs, surrounds and greens.

“Recycled water,” “reclaimed water,” or “treated sewage effluent water” means treated or recycled waste water of a quality suitable for nonpotable uses such as landscape irrigation and water features. This water is not intended for human consumption.

“Reference evapotranspiration” or “ET_o” means a standard measurement of environmental parameters which affect the water use of plants. ET_o is expressed in inches per day, month, or year as represented in Appendix B of the Water Efficient Landscape Guidelines, and is an estimate of the evapotranspiration of a large field of four- to seven-inch tall, cool-season grass that is well watered. Reference evapotranspiration is used as the basis of determining the maximum applied water allowances so that regional differences in climate can be accommodated.

“Regional water efficient landscape ordinance” means a local ordinance adopted by two or more local agencies, water suppliers and other stakeholders for implementing a consistent set of landscape provisions throughout a geographical region. Regional ordinances are strongly encouraged to provide a consistent framework for the landscape Hawthorne and applicants to adhere to.

“Rehabilitated landscape” means any re-landscaping project that requires a permit, plan check, or design review, meets the requirements of Section 17.89.030, and the modified landscape area is equal to or greater than two thousand five hundred square feet.

“Residential landscape” means landscapes surrounding single- or multi-family homes.

“Run-off” means water which is not absorbed by the soil or landscape to which it is applied and flows from the landscape area. For example, run-off may result from water that is applied at too great a rate (application rate exceeds infiltration rate) or when there is a slope.

“Soil moisture sensing device” or “soil moisture sensor” means a device that measures the amount of water in the soil. The device may also suspend or initiate an irrigation event.

“Soil texture” means the classification of soil based on its percentage of sand, silt, and clay.

“Special landscape area (SLA)” means an area of the landscape dedicated solely to edible plants, recreational areas, areas irrigated with recycled water, or water features using recycled water.

“Sprinkler head” or “spray head” means a device which delivers water through a nozzle.

“Static water pressure” means the pipeline or municipal water supply pressure when water is not flowing.

“Station” means an area served by one valve or by a set of valves that operate simultaneously.

“Swing joint” means an irrigation component that provides a flexible, leak-free connection between the emission device and lateral pipeline to allow movement in any direction and to prevent equipment damage.

“Submeter” means a metering device to measure water applied to the landscape that is installed after the primary utility water meter.

“Turf” means a ground cover surface of mowed grass. Annual bluegrass, Kentucky bluegrass, Perennial ryegrass, Red fescue, and Tall fescue are cool-season grasses. Bermudagrass,

Kikuyugrass, Seashore Paspalum, St. Augustinegrass, Zoysiagrass, and Buffalo grass are warm-season grasses.

“Valve” means a device used to control the flow of water in the irrigation system.

“Water conserving plant species” means a plant species identified as having a very low or low plant factor.

“Water Efficient Landscape Guidelines” or “Guidelines” refers to the Water Efficient Landscape Guidelines, as approved by and available at the city, which describes procedures, calculations, and requirements for landscape projects subject to the Guidelines.

“Water Efficient Landscape Ordinance” means Chapter 17.89 of the Hawthorne Municipal Code.

“Water feature” means a design element where open water performs an aesthetic or recreational function. Water features include ponds, lakes, waterfalls, fountains, artificial streams, spas, and swimming pools (where water is artificially supplied). The surface area of water features is included in the high water use hydrozone of the landscape area. Constructed wetlands used for on-site wastewater treatment or stormwater best management practices that are not irrigated and used solely for water treatment or stormwater retention are not water features and, therefore, are not subject to the water budget calculation.

“Watering window” means the time of day irrigation is allowed.

“WUCOLS” means the Water Use Classification of Landscape Species published by the University of California Cooperative Extension and the Department of Water Resources 2014. (Ord. 2140 § 11, 2017.)

17.89.030 Applicability.

A. The following landscape projects in this chapter shall comply with 23 CCR, Division 2, Chapter 2.7, Sections 492.6(a)(3)(B) (C), (D), and (G) of the Model Water Efficient Landscaping Ordinance (MWEL), including sections related to use of compost and mulch:

1. New construction projects (**residential, public, institutional, or commercial**), **including anyone requiring a building or planning permit**, with an aggregate landscape area equal to or greater than five hundred square feet requiring a building or landscape permit, plan check or design review;
2. Rehabilitated landscape projects with an aggregate landscape area equal to or greater than two thousand five hundred square feet requiring a building or landscape permit, plan check, or design review;
3. Existing landscapes limited to Section 3.1 of the Water Efficient Landscape Guidelines; and
4. Cemeteries. Recognizing the special landscape management needs of cemeteries, new and rehabilitated cemeteries are limited to Sections 2.1.B.2, 2.2.A.4, and 2.2.A.5 of the Water Efficient Landscape Guidelines; and existing cemeteries are limited to Section 3.1 of the Water Efficient Landscape Guidelines.

B. Any project with an aggregate landscape area of two thousand five hundred square feet or less may comply with the performance requirements of this chapter or conform to the prescriptive measures contained in Appendix E of the Water Efficient Landscape Guidelines.

For projects using treated or untreated graywater or rainwater captured on site, any lot or parcel within the project that has less than two thousand five hundred square feet of landscape and meets the lot or parcel's landscape water requirement (estimated total water use) entirely with treated or untreated graywater or through stored rainwater captured on site is subject only to Section B.5 of Appendix E of the Water Efficient Landscape Guidelines. (Ord. 2140 § 11, 2017.)

C. The following compost and mulch use requirements that are part of the MWELo are now also included as requirements of this ordinance. Other requirements of the MWELo are in effect and can be found in 23 CCR, Division 2, Chapter 2.7.

D. Property owners or their building or landscape designers that meet the threshold for MWELo compliance outlined above shall:

a) Comply with 23 CCR, Division 2, Chapter 2.7, Sections 492.6 (a)(3)(B)(C), (D) and (G) of the MWELo, which requires the submittal of a landscape design plan with a soil preparation, mulch, and amendments section to include the following:

1. For landscape installations, compost at a rate of a minimum of four cubic yards per 1,000 square feet of permeable area shall be incorporated to a depth of six (6) inches into the soil. Soils with greater than six percent (6%) organic matter in the top six (6) inches of soil are exempt from adding compost and tilling.

2. For landscape installations, a minimum three- (3) inch layer of mulch shall be applied on all exposed soil surfaces of planting areas except in turf areas, creeping or rooting groundcovers, or direct seeding applications where mulch is contraindicated. To provide habitat for beneficial insects and other wildlife up to five percent (5%) of the landscape area may be left without mulch. Designated insect habitat must be included in the landscape design plan as such.

3. Organic mulch materials made from recycled or post-consumer materials shall take precedence over inorganic materials or virgin forest products unless the recycled post-consumer organic products are not locally available. Organic mulches are not required where prohibited by local fuel modification plan guidelines or other applicable local ordinances.

b) The MWELo compliance items listed in this section are not an inclusive list of MWELo requirements; therefore, property owners or their building or landscape designers that meet the threshold for MWELo compliance outlined shall consult the full MWELo for all requirements.

E. If, after the adoption of this ordinance, the California Department of Water Resources, or its successor agency, amends 23 CCR, Division 2, Chapter 2.7, Sections 492.6(a)(3)(B) (C), (D), and (G) of the MWELo September 15, 2015 requirements in a manner that requires City to incorporate the requirements of an updated MWELo in a local ordinance, and the amended requirements include provisions more stringent than those required in this section, the revised requirements of 23 CCR, Division 2, Chapter 2.7 shall be enforced.

SECTION 8. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

SECTION 9. This Ordinance shall take effect and be in force thirty (30) days after its passage.

SECTION 10. **CEQA.** The City Council hereby finds that adoption of this Ordinance is exempt from the California Environmental Quality Act (“CEQA”) pursuant to State CEQA Guidelines Sections 15061(b)(3) and 15308 on the grounds that it can be seen with certainty that the enhanced solid waste regulations, as provided in this Ordinance will not have a significant effect on the environment and that the new requirements, which strengthen requirements for the handling of solid waste, represents actions by a regulatory agency (the City) for the protection of the environment.

SECTION 11. Authorization To Publish Summary Of Ordinance. Pursuant to Government Code Section 36933(c)(1), the City Attorney is authorized to prepare a summary of this ordinance. The City Clerk is also authorized to publish a summary of the text of this ordinance in the Herald Tribune at least five days prior to the adoption of this ordinance. Within 15 days after adoption of the ordinance, the City Clerk is directed to publish a summary of this ordinance in the Herald Tribune.

PASSED, APPROVED AND ADOPTED THIS DAY 9 OF NOVEMBER, 2021.

ALEX VARGAS, Mayor
City of Hawthorne, California

ATTEST:

DR. PAUL JIMENEZ, City Clerk
City of Hawthorne, California

APPROVED AS TO FORM:

ROBERT M. KIM, City Attorney
City of Hawthorne, California