ORDINANCE NO. 2021-358

AN ORDINANCE OF THE TOWN OF WINDSOR AMENDING TITLE XI, CHAPTER 1, ARTICLE 1 THROUGH ARTICLE 3, OF THE CODE OF THE TOWN OF WINDSOR REGARDING "SOLID WASTE MANAGEMENT"

WHEREAS, Title XI of the Town of Windsor Code regulates certain solid waste activities within the Town; and

WHEREAS, Assembly Bill 939 ("AB 939") of 1989, the California Integrated Waste Management Act of 1989 (California Public Resources Code Section 40000, et seq., as amended, supplemented, superseded, and replaced from time to time), requires cities and counties to reduce, reuse, and recycle solid waste generated in their jurisdiction to the maximum extent feasible before any incineration or landfill disposal of waste, to conserve water, energy, and other natural resources, and to protect the environment; and

WHEREAS, Assembly Bill 341 ("AB 341") of 2011, places requirements on commercial businesses and multi-family property owners that generate a specified threshold amount of solid waste to arrange for recycling services and the Town to implement a commercial recycling program; and

WHEREAS, Assembly Bill 1826 ("AB 1826") of 2014, requires commercial businesses and multi-family property owners that generate a specified threshold amount of garbage, recyclable material and organic waste per week to arrange for recycling services, requires the Town to implement a commercial organic waste recycling program; and

WHEREAS, Senate Bill 1383 ("SB 1383"), The Short-lived Climate Pollutant Reduction Act of 2016, requires California Department of Resources Recycling and Recovery ("CalRecycle") to develop regulations to reduce organic waste in landfills as a source of methane gas. These regulations, which were adopted in 2020 ("SB 1383 Regulations"), place requirements on multiple entities including the Town, residential households, commercial businesses, commercial edible food generators, franchisees, self-haulers, food recovery organizations, and food recovery services to support achievement of statewide organic waste disposal reduction targets; and

WHEREAS, SB 1383 Regulations requires the Town to adopt and enforce an ordinance or other enforceable mechanisms to implement relevant provisions of the SB 1383 Regulations; and

WHEREAS, the Town Council desires to adopt an ordinance amending and restating Title XI in its entirety to eliminate potentially conflicting language, clarify definitions and add provisions to address the SB 1383 Regulations.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF WINDSOR DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Title XI "Solid Waste Management" of the Town of Windsor Code is hereby amended and restated in its entirety as follows:

CHAPTER 1. - IN GENERAL

Article 1. - General Provisions

11-1-100 - Public Necessity

The storage, accumulation, collection and disposal of solid waste and other discarded materials is a matter of substantial public concern in that improper regulation of such matters may create a public nuisance, air pollution, fire hazard, vermin and insect infestation and other problems affecting the public health, safety, and welfare of the Town. The public health, safety, and general welfare of the Town require that there be an exclusive franchise for the provision of solid waste collection services and one or more non-exclusive franchise for temporary construction and demolition debris collection services.

11-1-105 Definitions

"Back-haul" means generating and transporting organic waste to a destination owned and operated by the generator using the generator's own employees and equipment, or as otherwise defined in 14 CCR Section 18982(a)(66)(A).

"CalRecycle" means California's Department of Resources Recycling and Recovery, which is the Department designated with responsibility for developing, implementing, and enforcement of California Code of Regulations (CCR).

"California Code of Regulations or "CCR" means the State of California Code of Regulations. CCR references in this Chapter are preceded with a number that refers to the relevant Title of the CCR.

"Collection Services" means the collection, transportation, storage, transfer, processing and/or disposal of solid waste.

"Commercial Premises" or "Commercial" means a firm, partnership, proprietorship, joint-stock company, corporation, or association, whether for profit or nonprofit, strip mall, industrial facility, or as otherwise defined in 14 (CCR) Section 18982(a)(6). A Multi-Family Dwelling consisting of five (5) or more dwelling units is also "Commercial" for the purposes of this Chapter.

"Commercial Edible Food Generator" includes a Tier One or a Tier Two Commercial Edible Food Generator as defined in 14 CCR Section 18982(a)(73) and (a)(74).

"Composting" means the controlled biological decomposition of organic waste into a specific mixture of decayed organic matter meeting the definition of "compost" in California Public Resources Code Section 40116 and 14 CCR Section 17896.2(a)(4).

"Construction and Demolition" ("C&D") Debris means solid waste resulting from construction, remodeling, repair, demolition, or renovation operations on any pavement, house, commercial building, or other structure, or from landscaping, including, but not limited to, dirt, sand, rock, gravel, bricks, plaster, gypsum wallboard, aluminum, glass, asphalt material, plastic pipe, roofing material, carpeting, concrete, wood, masonry, rocks, trees, surplus materials, or remnants of new materials, including, but not limited to, paper, plastic, carpet scraps, wood scraps, scrap metal, building materials, packaging and rubble, whether brought on the premises for fabrication or intended for use on the premises, excluding liquid and hazardous waste.

"Container" means any box, can, barrel, bin, cart, dumpster, container or receptacle approved by the Town for collection, holding and/or storing solid waste.

"Designated Waste" means non-hazardous substances which may pose special disposal restrictions due to its potential to contaminate the environment and which may be disposed of only in a Class II Disposal Site or Class III Disposal Site pursuant to a variance issued by the California Department of Health Services. Designated waste consists of those substances classified as designated waste by the State of California, in accordance with California Code of Regulations Title 23, Section 2522 as may be amended from time to time.

"Disposal" means the management of solid waste through landfilling or transformation at a permitted facility.

"Domestic Septage" means either liquid, semi-solid, or solid material removed from a septic tank, cesspool, portable toilet, Type III marine sanitation device, or similar treatment works that receives only domestic sewage. Domestic septage does not include liquid, semi-solid, or solid material removed from a septic tank, cesspool, or similar treatment works that receives either commercial wastewater or industrial wastewater and does not include grease removed from grease trap at a food service establishment.
"Edible Food" means food intended for human consumption, or as otherwise defined in 14 CCR Section 18982(a)(18). For the purposes of this Chapter or as otherwise defined in 14 CCR Section 18982(a)(18). Edible Food is not solid waste if it is recovered and not discarded. Nothing in this chapter or in 14 CCR, Division 7, Chapter 12 requires or authorizes the Recovery of Edible Food that does not meet the food safety requirements of the California Retail Food Code.

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

"Enforcement Agency" means an entity with the authority to enforce or carry out the responsibilities of part, or all of this chapter as specified herein. Employees and agents of an Enforcement Agency may carry out inspections and enforcement activities pursuant to this chapter. Nothing in this chapter authorizing an entity to enforce its terms shall permit or require that entity to undertake such enforcement except as agreed to by that entity and the Town. The Town is an Enforcement Agency for all Sections of this chapter. The Town may

choose to additionally delegate enforcement responsibility for certain sections, to other public entities, including the Sonoma County Waste Management Agency (Zero Waste Sonoma) and the County of Sonoma. The issuance of civil penalties shall remain the authority of public agencies and shall not be delegated to a private entity.

"Exclusive Franchisee" means a person who has entered into an exclusive franchise agreement with the Town for the provision of solid waste collection services within the Town.

"Exempt Waste" means biohazardous or biomedical waste, Hazardous Waste, medical waste, regulated radioactive waste, waste that is volatile, corrosive, or infectious, waste treatment or processing sludge, contaminated soil and dirt, contaminated concrete, contaminated asphalt, automobiles, automobile parts, boats, boat parts, boat trailers, internal combustion engines, lead-acid batteries, any matter or materials which are not acceptable for disposal at a solid waste landfill as defined in AB 939 and subsequent legislation, and those wastes under the control of the Nuclear Regulatory Commission.

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

"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).

"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 Waste" means food scraps and trimmings and other putrescible waste that result from food production, preparation, cooking, storage, consumption or handling. Food waste includes, but is not limited to, meat, fish and dairy waste, fruit and vegetable waste, grain waste, acceptable food packing items such as pizza boxes, paper towels, waxed cardboard and food contaminated paper products. Food Waste does not include Exempt Waste.

"Franchise" means the right and privilege pursuant to a duly executed franchise agreement to provide collection services within the Town or a designated portion thereof.

"Franchisee" means a person who has been granted a franchise by the Town pursuant to the provisions of this title, including an Exclusive and/or Non-Exclusive Franchisee.

"Franchise Agreement" means an agreement between the Town and the franchisee governing

the provision of collection services by the franchisee.

"Garbage" means all non-recyclable packaging other waste attributed to normal activities of a premise. Garbage must be generated by and at the premise wherein the garbage is collected. Garbage does not include recyclable materials, organic waste, debris from construction and demolition, large items, e-waste, universal waste, hazardous waste, household hazardous waste or exempt waste.

"Generator" means any person whose act or process produces solid waste or whose act first causes solid waste to become subject to regulation.

"Handling" when used in connection with solid waste, means the keeping, storage, collection, transportation and processing of solid waste.

"Hazardous Waste" means any material which is defined, regulated or listed as "hazardous", "toxic", a "pollutant", or words of similar import under California or United States law or any regulations promulgated pursuant to such law, as such state or federal law or regulations may be amended from time to time; and "designated waste" as defined in California Water Code Section 13173.

"Household Hazardous Waste" ("HHW") means any hazardous waste generated at a Single-Family Residential or Multi-Family Dwelling and/or premises resulting from products purchased by the general public for household use which, because of their quantity, concentration, or physical, chemical, or infectious characteristics, may pose a substantial known or potential hazard to human health or the environment when improperly treated, disposed, or otherwise managed. HHW includes, but is not limited to, cell phones and PDAs, used motor oil, used oil filters, cooking oil, compact fluorescent light bulbs contained in a sealed plastic bag, cleaning products, pesticides, herbicides, insecticides, painting supplies, automotive products, solvents, strippers, adhesives, auto batteries, household batteries, electronic waste and universal waste.
"Inspection" means a site visit where the Town or its designated Enforcement Agency, reviews records, containers, and an entity's collection, handling, recycling, or disposal of solid waste or edible food handling, and may include collection of photographic evidence or other documentation, to determine if the entity is complying with requirements set forth in this Chapter, or as otherwise defined in 14 CCR Section 18982(a)(35).

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

"Large Venue" means a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the

venue facility. For purposes of this Chapter and implementation of 14 CCR, Division 7, Chapter 12, a venue facility includes, but is not limited to, a public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts center, fairground, museum, theater, or other public attraction facility. For purposes of this Chapter and implementation of 14 CCR, Division 7, Chapter 12, a site under common ownership or control that includes more than one Large Venue that is contiguous with other Large Venues in the site, is a single Large Venue. If the definition in 14 CCR Section 18982(a)(39) differs from this definition, the definition in 14 CCR Section 18982(a)(39) shall apply to this Chapter.

"Multi-Family Dwelling" for purposes of this Chapter, means of, from, or pertaining to residential premises with five (5) or more dwelling units. Multi-Family Dwellings do not include hotels, motels, or other transient occupancy facilities, which are considered commercial premises.

"Non-Exclusive Franchisee" means a person who has entered into a non-exclusive franchise agreement with the Town for the provision of temporary construction and demolition debris collection services within the Town.

"Organic Waste" means solid wastes containing material originated from living organisms and their metabolic waste products, including but not limited to food waste, compostable paper, plant debris, grass clippings, leaves, pruning, weeds, branches, brush, holiday trees, and other forms of vegetative waste, or as otherwise defined in 14 CCR Section 18982(a)(46). The Town Manager, in mutual agreement with the Franchisee, shall have the right to promulgate organic material subject to collection in collection containers designated for organic materials or recyclable materials.

"Organic Waste Generator" means a person or entity that is responsible for the initial creation of organic waste, or as otherwise defined in 14 CCR Section 18982(a)(48).

"Permitted Facility" means any site, facility, location or premises permitted by law to be used for the processing and/or disposal of solid waste, including but not limited to, a solid waste transfer or processing station, a landfill, a composting facility, a transformation facility or a disposal facility. A permitted facility shall be in compliance with all state, county and local agency laws and regulations.

"Person" means any individual, firm, corporation, government or governmental subdivision or agency, trust, limited liability company, partnership, association, or other legal entity.

"Premises" means any land, building and/or structure or portion thereof in the Town.

"Prohibited Container Contaminants" means: (i) discarded materials placed in the designated recycling container that are not identified as acceptable source separated recyclable materials for the Town's designated recycling container (ii) discarded materials placed in the designated organic waste container that are not identified as acceptable source separated organic waste for the Town's designated organic waste container; and (iii) discarded materials placed in the

garbage container that are acceptable source separated recyclable materials and/or source separated organic waste to be placed in Town's designated organic waste container and/or designated recycling 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).

"Recyclable Material" means materials that are separated from other waste materials for the purpose of recycling and includes, but is not limited to, newsprint (including inserts); mixed paper (including magazines, catalogs, envelopes, junk mail, corrugated cardboard, brown bags and paper, paperboard, paper egg cartons, office ledger paper, and telephone books); glass containers; aluminum beverage containers; scrap and cast aluminum (not exceeding forty (40) pounds in weight nor two (2) feet in any dimension for any single item); steel including "tin" cans, aerosol cans (empty, non-toxic products) and small scrap (not exceeding forty (40) pounds in weight nor two (2) feet in any dimension for any single item); bimetal containers; plastic bottles (#1-7); aluminum foil and pans; concrete, used motor oil and filters, and dry cell household batteries when contained in a sealed heavy-duty plastic bag. The Town Manager, in mutual agreement with the Franchisee, shall have the right to promulgate Recyclable Material subject to collection in collection containers designated for organic materials or recyclable materials.

"Recycling" means the process of collecting, sorting, cleansing, treating, and reconstituting materials that would otherwise become solid waste, and returning them to the economic mainstream in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace.

"Residential" means single-family dwellings, multi-family dwellings, and mobile homes, including apartments and condominiums, consisting of fewer than five (5) dwelling units for the purposes of this Chapter.

"Responsible Party" means the owner, tenant, lessee, occupant or other designee responsible for the day-to-day operation, or otherwise in charge of, any premises in the Town, including the proprietor or manager of any commercial premises.

"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 will be referenced as defined in 14 CCR Section.

"Self-haulers and/or Self-hauling" a person, who hauls solid waste, organic waste or recyclable material he or she has generated to another person. Self-hauling also includes a person who back-hauls waste, or as otherwise defined in 14 CCR Section 18982(a)(66).

"Single-Family Residential" for purposes of this Chapter, means of, from, or pertaining to any residential premises with fewer than five (5) units.

"Solid Waste" means all putrescible and non-putrescible solid, semi-solid, and liquid wastes including garbage, trash, refuse, paper, rubbish, ashes, recyclable materials, organic waste, industrial wastes, construction and demolition debris, 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 semisolid wastes, and other discarded solid and semisolid wastes. Solid waste does not include hazardous waste, radioactive waste, medical waste, domestic septage and such other waste as may be specifically excluded from the definition of "solid waste" set forth in California Public Resources Code Section 40191.

"Solid Waste Collection Services" means the ongoing collection, transportation, storage, transfer, processing and/or disposal by the exclusive franchisee of solid waste generated from the normal, day-to-day activities of premises that subscribe to and receive such services within the Town.

"Source Separated" means the process of removing recyclable materials and organic waste from solid waste at the place of generation, prior to collection, and placing such materials into separate containers designated for recyclable materials and organic waste, or as otherwise defined in 14 CCR Section 17402.5(b)(4).

"Temporary Construction and Demolition Debris Collection Services" means the temporary collection of construction and demolition debris by a non-exclusive franchisee by using 1-8 cubic yard bins or 8-40 cubic yard dumpster or other containers approved by the Town which are thereafter delivered to a permitted facility. Temporary construction and demolition collection services does not include collection of solid waste generated from on-going activities on a single-family residential, multi-family dwelling, or commercial premises, or collection from single-family residential, multi-family dwelling, or commercial premises that receives solid waste collection services from the exclusive franchisee.

"Tier One Commercial Edible Food Generator" means a commercial edible food generator that is one of the following as defined in 14 CCR Section 18982(a) and as amended: (1) Supermarkets with gross annual sales of $2,000,000 or more, (2) Grocery store with a total facility size equal to or greater than 10,000 square feet, (3) Food service provider, (4) Wholesale food vendor, (5) Food Distributor.

"Tier Two Commercial Edible Food Generator" means a commercial edible food generator that is one of the following as defined in 14 CCR Section 18982(a) and as amended: (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.

"Title" means Title XI "Solid Waste Management" of the Town of Windsor Code.

"Town" means the Town of Windsor.

"Town Council" means the Town Council of the Town of Windsor.

Article 2. - Collection, Storage, and Handling of Solid Waste

11-1-200 - Proper Handling of Solid Waste

a. The primary responsibility for proper handling of solid waste generated or accumulated on any premises is on the generator of the solid waste. Should the generator refuse, neglect or fail to provide for the proper handling of solid waste in accordance with this title, the owner of the premises within or upon which the solid waste has been generated or accumulated shall provide for proper handling of the solid waste in accordance with the provisions of this title.

b. All organic waste generators shall comply with the following requirements, except generators meeting the self-haul requirements in Section 11-1-210:

    1. Subscribe to the Town's organic waste collection services for all organic waste generated; and

    2. Ensure the proper source separation of solid waste and participate in the Town's collection services, as established by the Town and Franchisee, by placing each type of material in designated collection containers as follows:

        a. Generators shall place source separated organic materials in the organic materials collection container; place source separated recyclable materials in either the recyclable material collection container or organics material collection container, as established by the Town and Franchisee; and place garbage and other solid waste materials, as directed, in the approved garbage collection container.
        b. Generators shall not place prohibited container contaminants into the garbage collection container, organic materials collection container, or recyclable material collection container consistent with the requirements of the Town and Franchisee.

11-1-202 - Storage Generally.

a. Container Requirements.

    1. All persons generating solid waste on any premises within the Town shall maintain sufficient containers for receiving and holding all solid waste generated on such premises.

2. All generators subscribing to solid waste collection services or temporary construction and demolition debris collection services shall use the containers issued by the exclusive or non-exclusive franchisee, as applicable, for receiving and holding all solid waste generated on the subscriber's premises and shall keep and maintain such containers in a clean and sanitary condition.

3. All generators subscribing to solid waste collection services or temporary construction and demolition debris collection services shall not place Prohibited Container Contaminates in collection containers.

4. Containers on premises receiving solid waste collection services from the exclusive franchisee shall be nonabsorbent, watertight, vector-resistant, durable, easily cleanable, and designed for safe handling. No cardboard boxes, paper or plastic bags or other similarly nondurable receptacle may be used as a container to hold or store solid waste.

5. Containers on premises receiving temporary construction and demolition debris collection services from a non-exclusive franchisee shall be nonabsorbent, durable, easily cleanable, and designed for safe handling. No cardboard boxes, paper or plastic bags or other similarly nondurable receptacle may be used as a box, bin, or dumpster to hold or store solid waste.

6. Containers shall be of an adequate size and in sufficient numbers to contain without overflowing, all of the solid waste generated on the premises. The Town or its designated Enforcement Agency shall have the right to verify the number and size of a generator's containers to evaluate adequacy of capacity of materials; and generators shall adjust its service level for its collection services as requested by the Town. Generators may additionally manage their organic waste by preventing or reducing their organic waste, managing organic waste on site, and/or using a community composting site pursuant to 14 CCR Section 18984.9(c).

7. Containers when filled shall not exceed reasonable lifting weights for an average physically fit individual except where automated vehicles or equipment are used.

8. Containers shall at all times be kept covered or closed except when necessary to place solid waste therein or to take solid waste therefrom. Each container, including its cover, shall be kept clean from accumulating grease or decomposing matter.

9. Containers used for temporary construction and demolition debris collection services may be kept uncovered during the course of work but shall be covered while not in use.

b. Container Requirements – Commercial Organic Waste Generators shall:

1. Supply and allow access to adequate number, size and location of collection containers with sufficient labels or colors for employees, contractors, tenants, and customers, consistent with Town's collection services.

2. Annually provide information to employees, contractors, tenants, and customers about organic waste recovery requirements and about proper sorting of source separated organic waste and source separated recyclable materials.

3. Provide education information before or within fourteen (14) days of occupation of the premises to new tenants that describes requirements to keep source separated organic waste and source separated recyclable materials separate from garbage (when applicable) and the location of containers and the rules governing their use at each property.

4. Provide or arrange access for the Town or its designated Enforcement Agency to their properties during all inspections conducted in accordance with this Chapter to confirm compliance with the requirements of this Chapter.

5. Accommodate and cooperate with a franchisee's remote monitoring program for inspection of the contents of containers for Prohibited Container Contaminants, to evaluate generator's compliance.

6. Nothing in this Chapter prohibits a generator from preventing or reducing waste generation, managing organic waste on site, or using a community composting site pursuant to 14 CCR Section 18984.9(c).

7. Commercial premises that are Commercial Edible Food Generators shall comply with Food Recovery requirements, pursuant to Section 11-1-230.

c. Container Requirements - Commercial Organic Waste Generators, excluding Multi-Family Dwellings, shall:

1. Provide containers for the collection of source-separated organic waste and source separated recyclable materials in all indoor and outdoor areas where disposal containers are provided for customers, for materials generated by that commercial premise. Such containers do not need to be provided in restrooms.

2. If commercial premise does not generate any of the materials that would be collected in one type of container, then the commercial premise does not have to provide that a particular container to collect said type of waste in all areas where disposal containers are provided for customers. Pursuant to 14 CCR Section 18984.9(b), the collection containers shall have either:

   a. A body or lid that is gray or black for collection of garbage, blue for collection

of recyclable materials, and green for collection of organic waste. A commercial premise is not required to replace functional collection containers, including containers purchased prior to January 1, 2022, that do not comply with the requirements of the subsection prior to the end of the useful life of those collection containers, or prior to January 1, 2036, whichever comes first.

b. Container labels that include language or graphic images, or both, indicating the primary material accepted and the primary materials prohibited in that container, or containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the container. Pursuant 14 CCR Section 18984.8, the container labeling requirements are required on new containers commencing January 1, 2022.

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 Town's solid waste collection service.

4. Periodically inspect organic waste, recyclable materials, and garbage containers for contamination and inform employees if containers are contaminated and of the requirements to keep Prohibited Container Contaminants out of those containers pursuant to 14 CCR Section 18984.9(b)(3).

5. Commercial premises that are a commercial edible food generator shall comply with food recovery requirements, pursuant to Section 11-1-230.

11-1-203 – Placement of Containers

a. Residential Collection Services.

1. All containers located at residential premises receiving solid waste collection services from the exclusive franchisee, shall be placed curbside (except where walk-up service is provided) and at a time immediately prior to the regularly scheduled time for collection services.

2. Containers shall not be placed for pickup earlier than twenty-four (24) hours prior to the regularly scheduled collection day. Containers shall not be left out for more than twenty-four (24) hours after the regularly scheduled collection day.

3. At all other times, the containers shall be kept and maintained in a location screened from view from the public right-of-way.

b. Commercial Collection Services.

1. Every commercial premises shall designate space on the property to be used for storage of collection containers for all solid waste generated on the property. Each commercial premise with collection containers shall keep the area where the

collection container is located in good repair, a clean, safe and sanitary condition.

2. The design of any new, substantially remodeled or expanded building or other facility on a commercial premises or multifamily dwelling shall be in compliance with the California Solid Waste Reuse and Recycling Access Act (California Public Resources Code Sections 42900 through 42911), and the Town's Zoning Ordinance.

3. Storage containers shall be placed to minimize traffic, aesthetic and other problems, both on the commercial premises and for the general public.

c. Temporary Construction and Demolition Debris Collection Services.

1. Any container provided by a non-exclusive franchisee for temporary construction and demolition debris collection services that will be placed in the Town's right-of-way shall obtain an encroachment permit from the Town prior to placement.

2. Every container on premises shall be kept graffiti free and in good repair.

11-1-204 - Accumulations.

a. It is unlawful for any person to accumulate solid waste upon any premises in any amount that creates a nuisance.

b. It is unlawful for any person to allow solid waste to remain on any premises for a period in excess of one (1) calendar week, except as may be delayed by holiday closures.

c. It is unlawful for any person to keep, accumulate or permit to be accumulated, any solid waste upon any premises, or any public or private lane, place, street, alley or drive, unless such solid waste is in a container that satisfies the requirements in Section 11-1-202.

11-1-205 – Waivers.

a. De Minimis Waivers: The Town or its designated Enforcement Agency, may waive a commercial premise's obligation to comply with some or all the organic waste collection requirements of this Chapter, if the commercial premise provides documentation that the commercial premise generates below a certain amount of organic waste material as described in below. Commercial premises requesting a de minimis waiver shall:

1. Submit an application specifying the services that they are requesting a waiver from and provide documentation as noted below.

2. Provide documentation that either: (1) The commercial premise's total solid

waste collection service is two cubic yards or more per week and disposed organic waste subject to collection in the designated recycling container and designated organic waste container comprises less than 20 gallons per week per applicable container of the premises' total solid waste; or, (2) The commercial premise's total solid waste collection service is less than two cubic yards per week and disposed organic waste subject to collection in the designated recycling container and designated organic waste container comprises less than 10 gallons per week per applicable container of the premises' total solid waste. For the purpose of subsection (1) and (2) above, total solid waste collection shall be the sum of weekly garbage container volume, recyclable material container volume, and organic waste container volume, measured in cubic yards.

3. Notify the Town or designated Enforcement Agency if circumstances change such that commercial premise's disposed organic waste exceeds threshold required for waiver, in which case waiver may be rescinded.

4. Provide written verification of eligibility for de minimis waiver every five (5) years, if the Town or designated Enforcement Agency has approved de minimis waiver.

5. After reviewing the waiver request, and after an on-site review by the Town or designated Enforcement Agency, if applicable, the Town Manager and/or designated Enforcement Agency may either approve or deny the following waiver requests.

b. Physical Space Waivers: The Town or designated Enforcement Agency may waive a generator's obligations to comply with some or all of the recyclable materials and/or organic waste collection service if the Town has evidence from Town staff or designated Enforcement Agency, a franchisee, licensed architect, or licensed engineer demonstrating that the premises lack adequate space for the collection containers required for compliance with the organic waste collection requirements. A generator may request a physical space waiver through the following process:

    1. Submit an application specifying the type(s) of collection services for which they are requesting a compliance waiver.

    2. Provide documentation that the premises lack adequate space for the designated recycling containers and designated organic waste containers including documentation from the Town, its designated Enforcement Agency, or a franchisee, licensed architect, or licensed engineer.

    3. Provide written verification to the Town or designated Enforcement Agency that it is still eligible for physical space waiver every five (5) years, if the Town or designated Enforcement Agency has approved application for a physical space waiver.

11-1-206 - Inspections and Investigations.

a. The Town, its designated Enforcement Agency, and its franchisees are authorized to conduct inspections, investigations and remote monitoring, 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 organic waste generators, commercial premises, property owners, commercial edible food generators, franchisees, self-haulers, food recovery services, and food recovery organizations, subject to applicable laws. This Section does not allow the Town, or its designated Enforcement Agency or franchisee to enter the interior of a private residential property for inspection.

b. Regulated entities shall provide or arrange for access during all inspections (with the exception of interior of a private residence) and shall cooperate with the Town's employee or its designated Enforcement Agency during such inspections and investigations. Such inspections and investigations may include confirmation of proper placement of materials in containers, edible food recovery activities, records, or any other requirement of this Chapter described herein. Failure to provide or arrange for: (i) access to an entity's premises; (ii) access to records for any Inspection or investigation is a violation of this Chapter and may result in penalties described.

1. Any records obtained by the Town or its designated Enforcement Agency 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.

2. The Town and its designated Enforcement Agency 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.

3. The Town or its designated Enforcement Agency shall receive written complaints from persons regarding an entity that may be potentially non-compliant with this Chapter, including receipt of anonymous complaints.

11-1-210 – Self-Hauler or Self-Hauling Requirements.

a. Self-Haulers shall source separate all recyclable materials and organic waste (materials that Town otherwise requires generators to separate for collection in the Town's organics and recycling collection program) generated on-site from all other solid waste in a manner consistent with 14 CCR Sections 18984.1 and 18984.2 or shall haul organic waste to a High Diversion Organic Waste Processing Facility as specified in 14 CCR Section 18984.3.

b. Self-haulers shall haul their source separated recyclable materials to a facility that recovers those materials; and haul their source separated organic materials to a solid waste facility, operation, activity, or property that processes or recovers source

separated organic materials in a manner consistent with 14 CCR Sections 18984.1 and 18984.2 or shall haul organic waste to a high diversion organic waste processing facility as specified in 14 CCR Section 18984.3.

c. Self-haulers that are commercial premises shall keep a record of the amount of organic waste delivered to each solid waste facility, operation, activity, or property that processes or recovers organic waste; this record shall be subject to inspection by the Town, or its designated Enforcement Agency and self-hauler shall provide this information to Town or its designated Enforcement Agency upon request. The records shall include the following information:

    1. Delivery receipts and weight tickets from the entity accepting the waste. If the material is transported to an entity that does not have scales on-site or employs scales incapable of weighing the self-hauler's vehicle in a manner that allows it to determine the weight of materials received, the self-hauler is not required to record the weight of material but shall keep a record of the entities that received the organic waste.

    2. The amount of material in cubic yards or tons transported by the generator to each entity.

d. A residential organic waste generator that self-hauls organic waste is not required to record or report information in subsection (c) above.

11-1-220 Commercial Edible Food Generator Requirements.

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 commencing January 1, 2024, pursuant to 14 CCR Section 18991.3.

b. Large Venue or Large Event operators not providing food services, but allowing for food to be provided by others, shall require Food Facilities operating at the Large Venue or
Large Event to comply with the requirements of this section, commencing January 1, 2024.

c. Commercial Edible Food Generators shall comply with the following requirements:

    1. Arrange to recover the maximum amount of Edible Food that would otherwise be disposed.

    2. Contract, or enter into a written agreement, with Food Recovery Organizations or Food Recovery Services for: (i) the collection of Edible Food for Food Recovery; or (ii) acceptance of the Edible Food that the Commercial Edible Food Generator self-hauls to the Food Recovery

Organization for Food Recovery.

3. Shall not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery Organization or a Food Recovery Service.

4. Allow the Town's designated Enforcement Agency to access the premises either in person or virtually to review records pursuant to 14 CCR Section 18991.4.

5. Keep records that include the following information, or as otherwise specified in 14 CCR Section 18991.4:

    a. A list of each Food Recovery Service or organization that collects or receives its Edible Food pursuant to a contract or written agreement established under 14 CCR Section 18991.3(b).

    b. A copy of all contracts or written agreements established under 14 CCR Section 18991.3(b).

    c. A record of the following information for each of those Food Recovery Services or Food Recovery Organizations:
        1. The name, address and contact information of the Food Recovery Service or Food Recovery Organization.
        2. The types of food that will be collected by or self-hauled to the Food Recovery Service or Food Recovery Organization.
        3. The established frequency that food will be collected or self-hauled.
        4. 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).

11-1-230 - Food Recovery Organizations and Services Requirements.

a. Food Recovery Services collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(1):

1. The name, address, and contact information for each Commercial Edible Food Generator from which the service collects Edible Food.
2. The quantity in pounds of Edible Food collected from each Commercial Edible Food Generator per month.
3. The quantity in pounds of Edible Food transported to each Food Recovery Organization per month.
4. The name, address, and contact information for each Food Recovery Organization that the Food Recovery Service transports Edible Food to for Food Recovery.

b. Food Recovery Organizations collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(2):

1. The name, address, and contact information for each Commercial Edible Food Generator from which the organization receives Edible Food.
2. The quantity in pounds of Edible Food received from each Commercial Edible Food Generator per month.
3. The name, address, and contact information for each Food Recovery Service that the organization receives Edible Food from for Food Recovery.

c. Food Recovery Organizations and Food Recovery Services that have their primary address physically located in the Town and contract with or have written agreements with one or more Commercial Edible Food Generators pursuant to 14 CCR Section 18991.3(b) shall report to the Town the total pounds of Edible Food recovered in the previous calendar year from the Tier One and Tier Two Commercial Edible Food Generators they have established a contract or written agreement with pursuant to 14 CCR Section 18991.3(b) no later than June 1st.

d. In order to support Edible Food Recovery capacity planning assessments or other studies conducted by the County, Food Recovery Services and Food Recovery Organizations operating in the Town shall provide information and consultation to the Town or its designated Enforcement Agency, upon request, regarding existing, or proposed new or expanded, Food Recovery capacity that could be accessed by the Town and its Commercial Edible Food Generators. A Food Recovery Service or Food Recovery Organization contacted by the Town or its designated Enforcement Agency shall respond to such request for information within sixty (60) sixty days unless a shorter timeframe is otherwise specified by the Town or its designated Enforcement Agency.

11-1-240 – Facility Operators and Community Composting Operation Requirements.

a. Owners of facilities, operations, and activities that recover organic waste, including, but not limited to, compost facilities, in-vessel digestion facilities, and publicly owned treatment works shall, upon Town's or its designated Enforcement Agency's 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 Town or its designated Enforcement Agency shall respond within sixty (60) days.

b. Community composting operators, upon the Town's or its designated Enforcement Agency's request, shall provide information to the Town or its designated Enforcement Agency 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 Town or its designated Enforcement Agency shall respond within sixty (60) days.

11-1-250 - Littering.

It is unlawful for any person to discard, throw, scatter or deposit, or cause to be discarded, thrown, scattered, or deposited, any solid waste, hazardous waste, including household hazardous waste, or any other wastes upon any premises or upon any highway, street, alley, gutter, sidewalk, park, waterway, or other public place within the Town.

11-1-260 - Burning or Burying Solid Waste.

a. It is unlawful to burn, or cause to be burned, any solid waste within the Town limits.

b. It is unlawful to bury solid waste any place within the Town limits; provided, however organic waste may be composted provided that the composting:

1. Occurs at a permitted facility or occurs on the premises where the organic waste was generated; and

2. Is conducted in accordance with accepted composting practices; and

3. Is conducted in accordance with applicable federal, state and local laws and regulations; and

4. Does not generate offensive odors or provide a source of food or harborage for vermin or insects; and

5. Does not create a public or private nuisance.

11-1-270 - Ownership and Tampering.

a. Upon placement by the generator of solid waste in a container designated for collection by the exclusive or non-exclusive franchisee, such solid waste shall become the property of such franchisee; provided however, the generator shall have the right up to the point in time that the franchisee empties the container to retrieve any item discarded in error. Only upon the franchisee's proper disposal and/or recycling of

solid waste will the franchisee's ownership of said solid waste terminate.

b. No person shall access any container for the purpose of removing or taking solid waste, including but not limited to, recyclable materials placed therein for collection by the franchisee. No person other than an agent or employee of the Town, or its designated Enforcement Agency, or the franchisee shall remove or otherwise interfere with any container that has been placed in a location appropriate for storage and/or the collection of solid waste without the prior written approval of the responsible party.

c. It is unlawful and a public nuisance for any person, other than the responsible party, to tamper or meddle with any container, or to remove the contents thereof from the location where the same shall have been placed by such responsible party.

d. It is unlawful for any person to discard, throw or deposit solid waste, hazardous waste, including, but not limited to, household hazardous waste, or any other wastes into any containers that are not their own unless such container is clearly identified or labeled as a public container.

11-1-280 - Transporting Solid Waste.

a. No solid waste shall be transported on or along the streets, highways and alleys of the Town unless it is transported in a vehicle constructed or equipped so as to prevent solid waste from leaking, dripping, falling, blowing, scattering or otherwise escaping onto or upon such streets, highways and alleys.

b. The contents of vehicles transporting solid waste must be covered so as to prevent solid waste from being blown upon the streets, alleys, adjacent lands, or any public highway in the Town unless such solid waste is contained in watertight metal containers, equipped with close-fitting tarps and/or covers affixed to the containers in such a manner as to prevent solid waste from dropping, spilling or otherwise escaping from the vehicle.

c. Vehicles used by exclusive and non-exclusive franchisees for the purpose of transporting solid waste shall be permitted by the County of Sonoma, Environmental Health Department or other permitting agency as required by state or local law.

11-1-290 - Penalty for Violation.

a. A violation of any provision of this chapter shall constitute an infraction and will be grounds for issuance of a Notice of Violation and assessment of an administrative citation and penalty by the Town's Enforcement Officer or its designated Enforcement Agency.

b. Enforcement Actions under this chapter are issuance of an administrative citation and assessment of a fine. The Town's procedures on imposition of administrative citations and fines as contained in Sections 1-1-200 and 11-2-120 of this Municipal Code shall

govern the imposition, enforcement, collection, and review of administrative citations and fines issued to enforce this chapter and any rule or regulation adopted pursuant to this chapter. Any section of this chapter may be enforced by the Town or, if agreed to, by its designated Enforcement Agency.

c. A violation may be punishable by:

   1. A fine of one hundred dollars for a first violation; and

   2. A fine of two hundred dollars for a second violation of the same provision of this code within any twelve consecutive month period; and

   3. A fine of five hundred dollars for each additional violation of the same provision of this code within any twelve consecutive-month period. Any citation issued after the issuance of a third citation or violation of the same provision of this code within any twelve consecutive-month period may be charged as a misdemeanor pursuant to the provisions of Sections 1-1-200 and 11-2-120 of this Municipal Code.

d. The Town or designated Enforcement Agency may issue a Notice of Violation requiring compliance within sixty (60) days or sooner of issuance of the notice.

e. Absent compliance by the respondent within the deadline set forth in the Notice of Violation, the Town or designated Enforcement Agency shall commence an action to impose penalties, via an administrative citation and fine, pursuant to the Town's standard procedures or the standard procedures of its designated Enforcement Agency.

f. Other remedies allowed by law may be used, including civil action or prosecution as a misdemeanor or infraction. The Town or its designated Enforcement Agency may pursue civil actions in the California courts to seek recovery of unpaid administrative citations, and fines. The Town or its designated Enforcement Agency may choose to delay court action until such time as a sufficiently large number of violations, or cumulative size of violations exist such that court action is a reasonable use of Town or its designated Enforcement Agency staff and resources.

Article 3. - Franchises for Collection Services

11-1-300 - Competitive Bid Requirements.

Title. The ordinance codified in this section (This ordinance was adopted as an initiative approved by voters November 4, 1996.) may be referred to as, the "Refuse, Recycling and Composting Competitive Bid Ordinance."

Competitive Bidding for Town Solid Waste, Recycling, and Green Waste Collection Programs. All Town recycling, solid waste and green waste collection programs, whether provided through an exclusive or non-exclusive agreement, shall be subject to a competitive bid

process. This competitive bid requirement shall apply to an initial agreement and any extension of any existing agreement at any time. The Town Purchasing Agent shall establish and publish criteria that the Town shall employ to evaluate proposals submitted to the Purchasing Agent in such a competitive bid process.

Length of Agreement. All agreements which are entered into relative to the subjects specified in subsection b. of this section shall not exceed a term of ten (10) years, including any extension periods. (Ord. Adopted by initiative 11-4-1996)

11-1-305 - Exclusive Solid Waste Collection Services Franchise.

a. The Town may grant an exclusive franchise for solid waste collection services for a period not to exceed ten (10) years in accordance with the provisions of this title. The franchise shall be evidenced by a written exclusive franchise agreement approved by the Town Council. The agreement shall contain such terms and conditions as required by this Section and any additional terms and conditions as are determined by the Town Council to be in the best interests of the Town.

b. The exclusive franchisee shall be required to furnish a surety bond as specified in the agreement conditioned upon the faithful performance of the agreement and the provisions of this title. The agreement shall provide the exclusive franchisee with the sole and exclusive right to provide solid waste collection services in the Town.

c. The exclusive franchise agreement shall require the exclusive franchisee to procure and maintain for the period covered by the proposed franchise agreement general liability insurance, automobile insurance, and workers' compensation insurance.

d. Notwithstanding subsection (b) of this section, the Town Council, upon the written request of any public agency, may by motion authorize the public agency to contract for its own solid waste collection services; provided, however, that such services shall comply with all the requirements of this title.

e. The Town's exclusive franchisee providing organic waste collection services to generators within the Town's boundaries shall meet the following requirements and standards as a condition of approval of the exclusive franchise agreement with the Town to collect organic waste:

    1. Through written notice to the Town annually on or before February 1, identify the facilities to which they will transport organic waste including facilities for source separated recyclable materials and source separated organic waste.
    2. Transport source separated recyclable materials and source separated organic waste to a facility, operation, activity, or property that recovers organic waste as defined in 14 CCR, Division 7, Chapter 12, Article 2.
    3. Obtain approval from the Town to haul organic waste, unless it is transporting source separated organic waste to a community composting site or lawfully

transporting construction and demolition in a manner that complies with 14 CCR Section 18989.1.

f. The Town's exclusive franchisee with authorization to collect organic waste shall comply with education, equipment, signage, container labeling, container color, contamination monitoring, reporting, and other requirements contained within its franchise agreement entered into with Town.

11-1-310 - Solid Waste Collection Services Franchise – Rates for Collection.

a. The Council, by resolution, shall approve rates for collection of solid waste as specified in the franchise agreement.

b. The franchise agreement shall prohibit the franchisee from charging any amounts in excess of the rates specified by a resolution adopted by the Town Council.

11-1-315 - Non-Exclusive Franchise – Temporary Construction and Demolition Debris Collection Services.

a. The Town may grant one or more non-exclusive franchises for temporary construction and demolition debris collection services for a period not to exceed ten (10) years each in accordance with the provisions of this title. Each franchise shall be evidenced by a written non-exclusive franchise agreement approved by the Town Council. The agreement shall contain such terms and conditions as required by this Section and any additional terms and conditions as are determined by the Town Council to be in the best interests of the Town.

b. Each non-exclusive franchise agreement shall require the non-exclusive franchisee to provide temporary construction and demolition debris collection services in the Town, in the manner provided in this title. Each non-exclusive franchisee shall be required to furnish a surety bond as specified in the agreement conditioned upon the faithful performance of the agreement and the provisions of this title. The agreement shall grant the non-exclusive franchisee the non-exclusive right to provide temporary construction and demolition debris collection services in the Town.

c. Each non-exclusive franchise agreement shall require the non-exclusive franchisee to procure and maintain for the period covered by the proposed franchise agreement general liability insurance, automobile insurance, and workers' compensation insurance.

d. Notwithstanding subsection (b) of this section, the Town Council, upon the written request of any public agency, may by motion authorize the public agency to contract for its own temporary construction and demolition debris collection services; provided, however, that such services shall comply with the provisions of this title.

e. The Town's non-exclusive franchisee(s) providing organic waste collection services to generators within the Town's boundaries shall meet the following requirements and

standards as a condition of approval of the non-exclusive franchise agreement with the Town to collect organic waste:

1. Through written notice to the Town annually on or before February 1, identify the facilities to which they will transport organic waste including facilities for source separated recyclable materials and source separated organic waste.
2. Transport source separated recyclable materials and source separated organic waste to a facility, operation, activity, or property that recovers organic waste as defined in 14 CCR, Division 7, Chapter 12, Article 2.
3. Obtain approval from the Town to haul organic waste, unless it is transporting source separated organic waste to a community composting site or lawfully transporting C&D in a manner that complies with 14 CCR Section 18989.1.

f. The Town's non-exclusive franchisee with authorization to collect organic waste shall comply with education, equipment, signage, container labeling, container color, contamination monitoring, reporting, and other requirements contained within its franchise agreement entered into with Town.

11-1-320 - Prohibition Against Engaging in Collection Services without a Franchise.

a. Except as permitted by Section 11-1-330, it is unlawful for any person other than an exclusive franchisee to offer, provide or otherwise engage in solid waste collection services within the Town.

b. Except as permitted by Section 11-1-330, it is unlawful for any person other than a non-exclusive franchisee to offer, provide or otherwise engage in temporary construction and demolition debris collection services within the Town.

11-1-325 – Prohibition Against Contracting for Collection Services with Person other than Franchisee.

a. Except as permitted by Section 11-1-330, it is unlawful for any person to contract for solid waste collection services in the Town with any person other than an exclusive franchisee.

b. Except as permitted by Section 11-1-330, it is unlawful for any person to contract for temporary construction and demolition debris collection services in the Town with any person other than a non-exclusive franchisee.

11-1-330 - Exceptions to Franchise.

a. No provision of this title shall prevent any of the following activities:

1. Self-hauling, including self-hauling of organic waste in accordance with Section 11-1-210.

2. Composting organic waste in accordance with Section 11-1-260.

3. Secure document shredding.

4. The sale or donation by a generator of recyclable materials or construction and demolition debris generated on his or her premises to a public or private entity provided that such entity does not charge the generator a fee or service charge of any type for the materials.

5. The collection and transportation of construction and demolition debris from a premises by a licensed contractor performing gardening, landscaping, tree trimming, or other similar services provided that the collection and transportation of the material is incidental and directly related to the service being offered by the licensed contractor and that such licensed contractor collects and transports the materials at no additional or separate fee using the licensed contractor's employees and equipment to a permitted facility.

6. The collection and transportation of construction and demolition debris from a premises by a licensed and permitted construction contractor performing construction work at the premises provided that the collection and transportation of the construction and demolition debris is incidental and directly related to the service being performed, and such licensed and permitted contractor collects and transports the materials at no additional or separate fee using the licensed and permitted contractor's employees and equipment to a permitted processing facility.

b. For purposes of this section, the term "incidental to the service being performed" means that the material requiring collection and transportation is generated by the activity of the person performing the hauling.

SECTION 2. - CEQA. The Town Council finds that this Ordinance is exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15061(b)(3) of Title 14 of the California Environmental Code of Regulations because it can be seen with certainty that there is no possibility that this ordinance will have a significant negative effect on the environment. Further, the proposed Ordinance is exempt from CEQA on the separate and independent ground that it is an action of a regulatory agency (the Town) for the protection of the environment because it will strengthen the Town's regulations regarding Senate Bill 1383. Thus, this Ordinance is categorically exempt from the requirements of CEQA under Section 15308 of Title 14 of the California Code of Regulations as an action by a regulatory agency for the protection of the environment.

SECTION 3. - Severability. If any part of this Ordinance or the application thereof to any person is held invalid, the remainder of the Ordinance and the application of such provisions to other persons shall not be affected thereby.

SECTION 4. - Effective Date. This Ordinance shall take effect and be in force thirty (30) days following its adoption.

SECTION 5. - Posting. The Town Clerk of the Town of Windsor shall cause this Ordinance to be published or posted in accordance with Section 36933 of the California Government Code.

PASSED, APPROVED AND ADOPTED this 15th day of December 2021, by the following vote:

AYES:	**COUNCILMEMBERS FUDGE, REYNOZA, VICE MAYOR LEMUS AND MAYOR SALMON**
NOES:	**NONE**
ABSTAIN:	**NONE**
ABSENT:	**NONE**

SAM SALMON, MAYOR

ATTEST:

IRENE WERBY-CAMACHO, TOWN CLERK