

ORDINANCE NO. ORD-2021-013

ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA ROSA AMENDING TITLE 9 OF THE SANTA ROSA CITY CODE BY AMENDING CHAPTER 9-12 - REFUSE AND SANITATION AND CHAPTER 9-14 – CONSTRUCTION AND DEMOLITION DEBRIS BY ADDING PROVISIONS AND REQUIREMENTS OF SENATE BILL 1383 SHORT-LIVED CLIMATE POLLUTANTS: ORGANIC WASTE REDUCTIONS

WHEREAS, The Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989 (AB 939) (California Public Resources Code Section 40000, et seq.), has declared that it is in the public interest to authorize and require local agencies to make adequate provisions for solid waste handling within their jurisdictions; and

WHEREAS, the State of California has found and declared that the amount of solid waste generated in California, coupled with diminishing disposal capacity and interest in minimizing potential environmental impacts from landfilling and the need to conserve natural resources, have created an urgent need for State and local agencies to enact and implement an aggressive integrated waste management program; and

WHEREAS, the State has, through enactment of AB 939 and subsequent related legislation including, but not limited to: the Jobs and Recycling Act of 2011 (AB 341), the Event and Venue Recycling Act of 2004 (AB 2176), SB 1016 (Chapter 343, Statutes of 2008 [Wiggins, SB 1016]), the Mandatory Commercial Organics Recycling Act of 2014 (AB 1826), and the Short-Lived Climate Pollutants Bill of 2016 (SB 1383), directed the responsible State Agency, and all local agencies, to promote a reduction in landfill disposal and to maximize the use of feasible waste reduction, reuse, recycling, and composting options in order to reduce the amount of material that must be disposed; and

WHEREAS, SB 1383 Regulations require the City of Santa Rosa to adopt an enforceable ordinance requiring compliance with various SB 1383 provisions and requirements, including but not limited to: implementing collections programs, meeting processing facility requirements, conducting contamination monitoring, providing education, maintaining records, submitting reports, monitoring compliance, conducting enforcement, and fulfilling other statutory requirements; and

WHEREAS, the Council of the City of Santa Rosa determines that amending Title 9 of the Santa Rosa City Code by amending Chapter 9-12, Refuse and Sanitation is required in order to comply with SB 1383 Short-Lived Climate Pollutants: Organic Waste Reductions; and

WHEREAS, the Council of the City of Santa Rosa determines that amending Title 9 of the Santa Rosa City Code by amending Chapter 9-14, Construction and Demolition Debris is required in order to comply with SB 1383 Short-Lived Climate Pollutants: Organic Waste Reductions.

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THE PEOPLE OF THE CITY OF SANTA ROSA DO ENACT AS FOLLOWS:

Section 1. Amend Santa Rosa City Code Title 9, to replace Chapter 9-12 Refuse and Sanitation in its entirety to read and provide as follows:

**“9-12.010 Definitions.**

For the purposes of this chapter, the following words, terms and phrases shall be defined as follows:

- (A) “Act” means The California Integrated Waste Management Act of 1989 (sometimes referred to as “AB 939”), Public Resources Code § 40000 and following as it may be amended, including but not limited to, the Jobs and Recycling Act of 2011 (AB 341), SB 1016 (Chapter 343, Statutes of 2008 [Wiggins, SB 1016]), the Mandatory Commercial Organics Recycling Act of 2014 (AB 1826), and the Short-Lived Climate Pollutants Bill of 2016 (SB 1383), and as implemented by the regulations of CalRecycle.
- (B) “City” means the City of Santa Rosa, California.
- (C) “City Health Officer” means the Health Officer of the City or authorized representative. In the event that the City has no Health Officer, then “City Health Officer” means the Health Officer of the County.
- (D) “City Manager” means the City Manager of the City or designated representative.
- (E) “Collection” means the process whereby residential waste and commercial waste is removed and transported to a disposal facility, organic waste processing facility or materials recycling facility as appropriate.
- (F) “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). Food recovery organizations and food recovery services are not commercial edible food generators.
- (G) “Commercial Premises” means all premises in the City, other than single family residential premises, and City premises, where solid waste is generated or accumulated. The term "commercial premises" includes, but is not limited to, stores; offices; restaurants; boarding houses; hotels; motels; industrial and manufacturing, processing, or assembly shops or plants; hospitals, clinics, convalescent centers and nursing homes. A multi-family development that consists of five (5) or more dwelling units is “Commercial”, for the purposes of this Chapter.
- (H) “Contaminant” means any material not normally produced from gardens or landscapes such as, but not limited to, brick, rocks, gravel, large quantities of dirt, concrete, sod, non-organic wastes, oil, and wood or wood products, including but not limited to, stumps, diseased elms and other diseased trees.
- (I) “Construction and demolition debris” means used or discarded materials resulting from construction, remodeling, repair or demolition operations on any type of structure.
- (J) “Contract” means the written document and all amendments thereto, between the

City and the Contractor, governing the provision of collection services as provided herein.

- (K) “Contractor” means that person or entity that has obtained from the City a contract to provide collection services as set forth herein.
- (L) “Dwelling unit” means any individual living unit in a single family dwelling (SFD) or multifamily dwelling (MFD) structure or building intended for, or capable of being utilized for, residential living other than a hotel or motel.
- (M) “Disposal facility” means the central disposal site owned by Sonoma County, located in Sonoma County or such place or places specifically designated by the City Manager for the disposal or processing, as appropriate of residential solid waste, commercial solid waste and other materials as appropriate and acceptable.
- (N) “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 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.
- (O) “Exempt waste” means biohazardous or biomedical waste, hazardous waste, sludge, stable matter, yard trimmings or lumber that is more than five feet in length in its longest dimension or two feet in diameter, 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 the California Integrated Waste Management Act of 1989, Pub. Res. C §§ 40000 et. seq. and those wastes under the control of the Nuclear Regulatory Commission.
- (P) “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.
- (Q) “Garbage” means all non-recyclable packaging and other waste attributed to normal activities of a service unit. Garbage must be generated by and at the service unit 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.
- (R) “Hazardous waste” means any material which is defined as a hazardous waste under California or United States law or any regulations promulgated pursuant to such

law, as such law or regulations may be amended from time to time.

- (S) “Household hazardous waste” means any hazardous waste as defined in this section which is rejected by the owner or producer thereof or otherwise originates from the use of ordinary household, automotive, and yard products. Household hazardous waste includes, but is not limited to, such items as insecticides, fungicides, paint, turpentine or other paint thinner, drain cleaners, chlorine bleach, ammonia, aerosol-can products, motor oil and other hazardous automotive fluids, household and automotive batteries, and empty or partially empty containers for such items.
- (T) “Inspection” means a site visit where a jurisdiction or its designee or designated entity, reviews records, containers, and an entity’s collection, handling, recycling, or disposal of 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).
- (U) “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.
- (V) “Large venue” means a permanent venue facility that annually seats or serve an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility. For the purposes of this chapter, 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 the purposes of this chapter, 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.
- (W) “Multifamily development” or “MFD” means a residential structure or dwelling group of five or more dwelling units, including, but not limited to, apartment houses and condominiums. Multifamily development does not include residential developments consisting of single-family residences, mobile homes situated outside a mobile home park, duplexes, triplexes, or fourplexes.
- (X) “Organic waste” means solid wastes containing material originating from living organisms and their metabolic waste products, including but not limited to plant debris, such as palm, yucca and cactus, grass clippings, leaves, pruning, weeds, branches, brush, holiday trees, and other forms of vegetative waste. Organic waste also includes food waste, stable matter, and acceptable food packaging items such as pizza boxes, paper towels, waxed cardboard and food contaminated paper products. Organic waste does not include items defined herein as exempt waste.
- (Y) “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) of SB 1383.

- (Z) “Person” means a natural person, proprietorship, firm, partnership, joint venture, syndicate, trust, corporation, association, committee, public agency as defined in this section, and any other form of organization or group of persons or entities acting in concert.
- (AA) “Prohibited container contaminants” means (1) discarded materials placed in the designated recyclables container that are not identified as acceptable source separated recyclables for the city’s designated recyclables collection container; (2) discarded materials placed in the designated organic waste container that are not identified as acceptable source separated organic waste for the city’s designated organic waste collection container; and (3) discarded materials placed in the garbage container that are acceptable source separated recyclables and/or source separated organic waste to be placed in city’s designated organic waste collection container and/or designated recyclables collection container, and (4) exempt waste placed in any container.
- (BB) “Place of business” means any hotel, motel, trailer park, restaurant, market, hospital, or any business where there is any accumulation of solid waste. This may be used interchangeably with Commercial.
- (CC) “Public agency” means all governmental agencies, including, but not limited to, the federal government and its various offices, departments, agencies, boards and commissions; the state of California and its various political subdivisions, offices, departments, agencies, boards, and commissions; the county of Sonoma and its various offices, departments, agencies, boards, and commissions; and all governmental agencies formed under State law, including, but not limited to, school districts, community college districts, and special purpose districts of every kind, redevelopment agencies, and housing authorities. Public agency does not include the City.
- (DD) “Recyclable materials” means those materials which are capable of being recycled and are included in the City’s residential and commercial recycling program. Recyclable materials include, but are not limited to: newsprint (including inserts), mixed paper (including magazines, catalogs, envelopes, junk mail, corrugated cardboard, Kraft brown bags and paper, paperboard, paper egg cartons, office ledger paper, and telephone books), glass containers, aluminum beverage containers, small scrap and cast aluminum (not exceeding 40 pounds in weight nor two feet in any dimension for any single item), steel including “tin” cans and small scrap (not exceeding 40 pounds in weight nor two feet in any dimension for any single item), bimetal containers, mixed plastics such as plastic bags, plastic film, plastic containers (1-7), and bottles including containers made of HDPE, LDPE, PET, or PVC, textiles, aseptic containers, and polystyrene, and such other items as may be added by the City from time to time.
- (EE) "Residential Premises" means any residential premises with fewer than five (5) units, which utilizes one or more carts, or a bin, for the temporary accumulation and collection of solid waste. The City Manager will have sole authority to resolve any ambiguity as to whether a particular premise is a single family residential premises or a multifamily residential premises.

- (FF) “SB 1383” means the Short-Lived Climate Pollutants: Methane Emissions: Dairy and Livestock: Organic Waste: Landfills Act of 2016. Article 4 Title 14, Division 4, Chapter 12 of the California Code of Regulations.
- (GG) “Self-Hauler” means a generator that collects solid waste at their premises or place of business for the purpose of hauling those materials in their own vehicles to a permitted solid waste facility in compliance with the requirements of this chapter. Self-hauler also includes a person who back-hauls waste, or as otherwise defined in 14 CCR Section 18982(a)(66). “Back-haul” means generating and transporting organic waste to a destination owned and operated by the generator using the generator’s own employees and equipment, or as otherwise defined in 14 CCR Section 18982(a)(66)(A).
- (HH) “Solid Waste” means garbage, recyclable materials, organic waste, construction and demolition debris, bulky items, e-waste, universal waste or exempt waste, and other discarded solid and semi-solid wastes as defined in the California Public Resource Code Section 40191, as that section may be amended from time to time. Solid waste means all such materials defined in PRC 40191. Solid waste does not include any of the following wastes: (1) hazardous waste; (2) radioactive waste; and (3) medical waste regulated pursuant to the Medical Waste Management Act.
- (II) “Source separate” 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).
- (JJ) “Tier One commercial edible food generator” means a commercial edible food generator that is one of the following:
- (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, which 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.
  - (4) Wholesale food vendor, which means a business or establishment engaged in the merchant wholesale distribution of food, where food (including fruits and vegetables) is received, shipped, stored, prepared for distribution to a retailer, warehouse, distributor, or other destination.
  - (5) Wholesale food vendor, which means a company that distributes food to entities, including, but not limited to, supermarkets and grocery stores.
- (KK) “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, which means a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility. 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.
- (5) Large event, which 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.
- (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. 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).

**9-12.020 Authority—Sanitation Department—Composting program.**

- (A) The power is retained by the City Council to create at any time, by resolution or ordinance, a Sanitation Department of the City and to collect, remove and dispose of garbage, and to collect, deliver or process organic waste and recyclable materials, as a sanitary measure for the benefit of the public health.
- (B) The power is retained by the City Council to create or approve at any time, by resolution or ordinance, a composting program incorporating the curbside collection of compostable materials.

**9-12.030 Authority—Rules and Interpretations—Rates for specialized services.**

- (A) The City Manager shall have the authority to make such rules and interpretations of this terms of this chapter, consistent with the provisions of this chapter, as are necessary, reasonable, and proper to effect the proper, expedient, economical, and efficient collection and removal of garbage, organic waste and recyclable materials by the Contractor.

- (B) The City Manager shall have the authority to establish rates for certain specialized services not otherwise provided for in this chapter, provided that any such rate may be reviewed by the City Council upon the written request of the City Manager, the Contractor, or the person charged with paying such rate.

**9-12.040 Enforcement—Penalty for violation.**

- (A) The City Manager shall enforce the provisions of this chapter. The City Manager shall have the right to enter any premises to determine whether the provisions of this chapter are being violated.
- (B) Any person who violates any provision of this chapter is guilty of a misdemeanor.

**9-12.050 Littering, burning and burying prohibited.**

- (A) Except as provided in this chapter, it is unlawful for any person to litter, dump, throw, or otherwise deposit or accumulate, or cause to be deposited or accumulated, any garbage, recyclable materials, organic waste, household hazardous wastes or other hazardous wastes, debris, or other wastes in or upon any vacant lot, or in any backyard, or in or upon any highway, street, alley, gutter, sidewalk, park, waterway, or other public place within the City.
- (B) It is unlawful to burn or cause to be burned within the City any garbage, organic waste, recyclable materials, household hazardous wastes or other hazardous wastes, debris, or other wastes.
- (C) It is unlawful to bury or cause to be buried within the City any garbage, organic waste, recyclable materials, household hazardous wastes or other hazardous wastes, garbage, debris, or other wastes.

**9-12.060 Emergency removal allowed.**

Nothing in this chapter shall prohibit any person from collecting and transporting any materials considered by the City Health Officer or City Manager to constitute a health hazard of such nature as necessary to be ordered by either of such officers to be promptly removed.

**9-12.070 Collection services.**

Organic waste generators subject to the requirements of SB 1383 shall fully comply with all applicable requirements of the Act and SB 1383 or be subject to the penalties as prescribed in Section 18997.2 of SB 1383, as determined by the City Manager and/or his or her designee. Except as provided in this section, the provision of collection services shall be governed by the collection services contract.

- (A) Residential Collection Services.
  - (1) Residential Garbage Service. Each service recipient shall use only the containers, provided by the contractor, for the purpose of depositing and accumulating garbage from the premises.



- (2) Residential Recycling Service. No materials other than recyclable materials may be placed in a recycling cart, provided by the contractor.
  - (3) Residential Organic Waste Service. All organic waste must be generated by and at the service unit wherein the organic waste is collected. Only organic waste may be placed in an organic waste cart, provided by the contractor.
  - (4) All service recipients shall be automatically enrolled in garbage, recycling, and organic waste service, and shall sort recycling and organic waste and place it in the appropriate container.
- (B) Multifamily Development (MFD) Collection Services.
- (1) Each multifamily development as defined in Section 9-12.010 shall be provided with approved garbage, recycling, and organic waste cart(s) or bin(s), as required by this code, as the same now exists or may hereafter be amended. Such cart(s) or bin(s) shall be located at a central collection site or sites within the multifamily development.
  - (2) Only garbage, recyclable materials, and organics waste generated by persons occupying the multifamily development or their guests shall be placed in the garbage cart(s) or bin(s) serving the development.
  - (3) All service recipients shall be automatically enrolled in garbage, recycling, and organic waste service, and shall sort recycling and organic waste and place it in the appropriate container unless service recipient has an approved waiver as described in Section 9-12.070 F.
- (C) Mobile home Parks—Central Collection Facilities.
- (1) Each mobile home park which provides a central collection facility for the accumulation and depositing of garbage from the dwelling units in the park, shall also provide a central collection facility for the accumulation and depositing of recyclable materials and organic waste from the dwelling units in the park.
  - (2) All service recipients shall be automatically enrolled in garbage, recycling, and organic waste service, and shall sort recycling and organic waste and place it in the appropriate container unless service recipient has an approved waiver as described in Section 9-12.070 F.
- (D) Commercial Collection Services.
- (1) Each place of business as defined in Section 9-12.010 shall be provided with approved garbage, recycling, and organic waste cart(s) or bin(s), as required by this code, as the same now exists or may hereafter be amended.
  - (2) Such container size and collection frequency shall be sufficient that no garbage, recyclable materials, and organic waste need be placed outside the collection container on a regular basis.
  - (3) Only garbage, recyclable materials, and organic waste generated by the operation of the business shall be placed in the container serving that place of business.

- (4) All service recipients shall be automatically enrolled in garbage, recycling, and organic waste service, and shall sort recycling and organic waste and place it in the appropriate container unless service recipient has an approved waiver as described in Section 9-12.070 F.
- (E) General Requirements.
- (1) Commingling of organic waste with other forms of solid waste prohibited; no person may place or cause to be placed for collection organic waste in any container designated for the collection of any other form of solid waste.
  - (2) Each Commercial premise and MFD property owner shall be responsible for ensuring and demonstrating its compliance with the following requirements:
    - (i) Provide recyclable materials containers for recyclable materials in Multifamily residential complex rental units and in maintenance and work areas where recyclable materials may be collected and/or stored.
    - (ii) Prominently post and maintain one or more signs where recyclable materials and/or organic waste are collected and/or stored that set forth what materials are required to be source separated in addition to collection procedures for such materials.
    - (iii) Notify and instruct employees and tenants of applicable source separation requirements, including a list of recyclable materials and/or organic waste that are required to be source separated for recycling. A copy of such instructions shall be provided to the City Manager, and/or his or her designee upon request.
    - (iv) Ensure that recyclable materials and/or organic waste generated at their site will be taken only to a recycling facility and not to a landfill for disposal by complying with all requirements under this chapter.
    - (v) The self-haul form or other documents pertaining to this chapter, shall be available for inspection by the City Manager, and/or his or her designee, at the principal location of the covered generator during normal business hours.
    - (vi) No solid waste collector shall be held liable for the failure of its customers to comply with such regulations.
    - (vii) No organic waste generator shall be liable for the failure of their waste hauler to deliver designated recyclable materials or designated organic waste to a recycling or processing facility.
    - (viii) It shall be the responsibility of the business or MFD property owner whose garbage was not removed because it contained recyclable materials or organic waste to properly separate recyclable materials or organic waste from the uncollected garbage for proper recycling. Allowing such unseparated garbage to accumulate will be considered a violation of this chapter.

- (F) Waivers.
- (1) City or its designee may waive a commercial business' obligation, including MFDs, to comply with some or all of the organic waste requirements of this chapter if the commercial business provides documentation as described below.
  - (2) Commercial businesses requesting a de minimis waiver shall submit an application specifying the services that they are requesting a waiver from and provide documentation that either:
    - (i) The commercial business' total solid waste collection service is two cubic yards or more per week and organic waste subject to collection in a recycling containers or organic waste containers comprises less than 20 gallons per week per applicable container of the business' total waste; or,
    - (ii) The commercial business' total solid waste collection service is less than two cubic yards per week and organic waste subject to collection in a recycling containers or organic waste containers comprises less than 10 gallons per week per applicable container of the business' total waste.
  - (3) Notify City if circumstances change such that commercial business' organic waste exceeds threshold required for waiver, in which case waiver will be rescinded.
  - (4) Commercial businesses or property owners may request a physical space waiver through the following process:
    - (i) Submit an application form specifying the type(s) of collection services for which they are requesting a compliance waiver.
    - (ii) Provide documentation that the premises lack adequate space for recycling containers and/or organic waste containers including documentation from its hauler, licensed architect, or licensed engineer.
  - (5) Waivers shall apply for up to, but no longer than five (5) years, as determined by the City Manager or his or her designee.

**9-12.080 Self-Hauler Requirements.**

- (A) Self-haulers shall source separate all recyclable materials and organic waste (materials that the City otherwise requires generators to separate for collection in the City's organic waste and recycling collection program) generated on-site from solid waste in a manner consistent with 14 CCR Sections 18984.1 and 18984.2, or shall haul organic waste to a high diversion organic waste processing facility as defined in 14 CCR Section 18984.3.
- (B) Self-haulers shall haul their recyclable materials to a facility that recovers those materials; and haul their organic waste to a solid waste facility, operation, activity, or property that processes or recovers organic waste. Alternatively, self-haulers may haul organic waste to a high diversion organic waste processing facility as defined in 14 CCR Section 18984.3.
  - (1) Self-haulers that are business service units (including MFD) 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 jurisdiction. The records shall include the following information:

- (2) Delivery receipts and weight tickets from the entity accepting the waste.
  - (3) The amount of material in cubic yards or tons transported by the generator to each entity.
- (C) If the material is transported to an entity that does not have scales on-site, or employs scales incapable of weighing the self-hauler's vehicle in a manner that allows it to determine the weight of materials received, the self-hauler is not required to record the weight of material but shall keep a record of the entities that received the organic waste.

#### **9-12.090 Edible Food Recovery Required.**

- (A) Tier One commercial edible food generators shall comply with the requirements of Title 14, Division 7, Chapter 12 of the California Code of Regulations commencing January 1, 2022. Tier Two commercial edible food generators shall comply with the requirements of Title 14, Division 7, Chapter 12 of the California Code of Regulations commencing January 1, 2024.
- (B) A large venue or large event operator that does not provide food services, but allows for food to be provided, shall require food facilities operating at the large venue or large event to comply with the requirements of Title 14, Division 7, Chapter 12 of the California Code of Regulations.
- (C) Commercial edible food generators shall comply with the following requirements:
  - (1) Arrange to recover the maximum amount of edible food that would otherwise be disposed.
  - (2) Contract with, or enter into a written agreement with, food recovery organizations or food recovery services for: (i) the collection of edible food for food recovery; or, (ii) acceptance of the edible food that the commercial edible food generator self-hauls to the food recovery organization for food recovery.
  - (3) Shall not intentionally spoil edible food that is capable of being recovered by a food recovery organization or a food recovery service.
  - (4) Commercial edible food generators and food recovery organizations shall maintain a record acceptable to City Manager and in compliance with applicable law.
  - (5) Keep records that include the following information, or as otherwise specified in 14 CCR Section 18991.4.

#### **9-12.100 Receptacles—Locations for collection.**

All containers for garbage, organic waste, recyclable materials and other materials as may be collected under the terms of the contract shall be placed at least three feet apart, at or near the curb, or within another City-approved location for collection by the contractor as provided in this chapter.

Containers shall not be placed for pickup earlier than 24 hours prior to the regularly scheduled pickup day. Containers shall not be left at the curb for more than 24 hours after the regularly scheduled pickup day.

**9-12.110 Receptacles—Tampering prohibited.**

- (A) It is unlawful for any person to turn over, tamper or otherwise meddle with any garbage, organic waste, or recyclable materials container of another person.
- (B) It is unlawful for any person to remove the contents of garbage, organic waste, or recyclable materials container from the location where it has been placed by the owner or person who has lawful possession thereof, other than such owner, such lawful possessor, or the contractor.

**9-12.120 Limits on periods of refuse accumulation—Places of business.**

- (A) Every person occupying or having charge or control of a restaurant shall have all garbage and organic waste accumulated from such restaurant removed therefrom by the contractor as often as necessary in order to comply with any appropriate state or local health and safety regulations, but in no case shall such removal take place less often than once each calendar week.
- (B) Every person occupying or having charge or control of any place of business, as defined in Section 9-12.010, other than a restaurant, where there is any accumulation of garbage and organic waste, shall have such garbage and organic waste removed therefrom at least once each calendar week by the contractor.

**9-12.130 Limits on periods of refuse accumulation—All other places.**

Every person occupying or having charge or control of any place other than a place of business as defined in Section 9-12.010, where there is any accumulation of garbage, shall have such garbage removed at least once each calendar week by the contractor.

**9-12.140 City authority—To contract.**

The City shall have the authority to enter into a contract for the collection and removal of garbage, organic waste, and/or recyclable materials, in accordance with and subject to the provisions of this chapter.

**9-12.150 City authority—Supervision.**

The City Manager shall have the authority to supervise the collection and removal of garbage, organic waste, or recyclable materials by the contractor.

**9-12.160 Contract—Terms and conditions.**

- (A) Exclusive Right of Contractor. The contract authorized by Section 9-12.140 shall provide that the contractor shall have the sole and exclusive right, except as otherwise provided in this chapter, to engage in the business of collection and removal, for a fee, of all garbage, recyclable materials and/or organic waste within the City.
- (B) Additional Terms and Conditions. With regard to the contract authorized by Section 9-12.140, the City Council shall retain the power, by resolution, to provide for the inclusion in such contract of such additional terms and conditions as the Council deems necessary to protect the interests of the City.

**9-12.170 Contract—Extension.**

The City Council shall have the power to grant extensions of any contract entered into pursuant to this chapter, upon such terms and conditions as the Council deems necessary in the public interest.

**9-12.180 Exclusive right of contractor.**

Except as otherwise provided in this chapter, at any time there is in force a contract entered into by the City with any person pursuant to this chapter, it is unlawful for any person, other than the contractor and its employees and agents, to collect and/or transport for a fee, garbage, organic waste, and/or recyclable materials within the City.

**9-12.190 Interference with collection and transportation prohibited.**

It is unlawful for any person to interfere with the collection and transportation of garbage, organic waste, and/or recyclable materials by the contractor.

**9-12.200 Ownership of recyclable materials.**

- (A) When the owner of any recyclable materials has deposited such materials for collection by the contractor in such locations as provided in the collection services contract or desires to discard such materials, the contractor shall have the exclusive right to the collection, ownership, and possession thereof.
- (B) It is unlawful for any person to interfere with the right of the contractor as set forth in subsection A of this section.
- (C) Nothing in this section shall preclude a service recipient from transporting, selling or donating their recyclable materials to a public or private entity provided that such entity does not charge the service recipient a fee or service charge of any type related to the donation, sale or transportation of the recyclable materials.

### **9-12.210 Liability of responsible person.**

The person occupying or having charge or control of each and every parcel of property within the City is liable for the charges prescribed by this chapter, regardless of whether that person uses the collection service as provided in this chapter.

### **9-12.220 Vacant property.**

Where a parcel of property is vacant, whether or not improved, and produces no garbage, organic waste and/or recyclable materials whatsoever, no collection fee shall be charged to the person responsible for the day-to-day operation of that parcel.

### **9-12.230 Establishment of rates.**

All persons occupying property within the City shall pay fees for services rendered pursuant to the contract authorized by Section 9-12.140 in accordance with the rate schedules adopted by resolution of the City Council. The City Manager, in accordance with Section 9-12.030(B), is authorized to establish rates for specialized services not provided for in any rate schedule currently in effect.

### **9-12.240 Billing—Obligation for payment.**

Obligation for payment for services rendered pursuant to the contract authorized by Section 9-12.140, shall arise at the time the services are rendered or made available.

### **9-12.250 Inspections and Enforcement.**

- (A) The City Manager, the City's solid waste franchisee, or designee is authorized to conduct any inspections, remote monitoring, or other investigations as reasonably necessary to further the goals of this chapter, subject to applicable laws. This may include inspections and investigations, at random or otherwise, of any container, collection vehicle load, or transfer, processing, or disposal facility to confirm compliance with this chapter, subject to applicable laws. This section does not allow entry in a private residential dwelling unit for inspection. For the purposes of inspecting collection containers for compliance, the City Manager or the City's solid waste franchisee may conduct container inspections for prohibited container contaminants using remote monitoring, and generators shall accommodate and cooperate with the remote monitoring.
- (B) A person subject to the requirements of this chapter shall provide or arrange for access during all inspections (with the exception of a private residential dwelling unit) and shall cooperate with the City Manager, City designee, or the City's solid waste franchisee during such inspections and investigations. Such inspections and investigations may include confirmation of proper placement of materials in containers, inspection of edible food recovery activities, review of required records, or other verification or inspection to confirm compliance with any other requirement of this chapter. Failure to provide or arrange for: (i) access to the premises; (ii) installation and operation of remote monitoring

- equipment, if a remote monitoring program is adopted; or (iii) access to records for any inspection or investigation is a violation of this chapter and may result in penalties.
- (C) Any records obtained by the City Manager, the City’s solid waste franchisee, or designee, during inspections, investigations, remote monitoring and other reviews shall be subject to the requirements and applicable disclosure exemptions of the California Public Records Act as set forth in Government Code Section 6250 et seq.
  - (D) The City, the City’s solid waste franchisee or designee shall accept written complaints from persons regarding an entity that may be potentially non-compliant with this chapter.
  - (E) City Manager authorization. The City Manager is authorized to administer and enforce the provisions of this chapter. The City Manager, or anyone designated by the City Manager to be an enforcement officer, may exercise such enforcement powers. If the City Manager determines that a solid waste generator is in violation of this chapter or of any rule or regulation adopted pursuant to this chapter, the city manager may begin enforcement proceedings. Public nuisance proceedings and/or code enforcement proceedings under the city's code shall apply, in addition to the administrative penalties approved by resolution of the City Council, as modified from time to time. Enforcement proceedings may include issuing notices of violation, requiring changes in subscription service levels or assessing administrative fines.
  - (F) Administrative citations and orders. If the City Manager determines that a solid waste generator is in violation of this chapter, the City Manager may issue administrative citations or orders pursuant to Section 1-30.235 and Section 18997.2 of SB 1383 for violations of this chapter or of 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 or orders issued to enforce this chapter and any rule or regulation adopted pursuant to this chapter, provided, however, that the City Manager may adopt regulations providing for lesser penalty amounts. The City Manager has the authority to impose administrative penalties for the notices of violations.

**9-12.260 Delinquencies—Calculation of penalty.**

- (A) Fees charged for services rendered pursuant to the contract authorized by Section 9-12.140, are due and payable upon billing and shall be delinquent if not paid within 30 days of such billing.
- (B) A penalty of 10 percent per month may be imposed by the contractor on all delinquent charges as described in subsection A of this section; provided, however, that the amount of such penalty shall not exceed 50 percent of the amount of the charge due.”

Section 2. Amend Santa Rosa City Code to replace Section 9-14.050 of Chapter 9-14 Construction and Demolition Debris in its entirety to read and provide as follows:

**“9-14.050 Franchise—Terms and conditions.**



The franchise agreement authorized by Section 9-14.20 shall provide, but not be limited to:

(A) Non Exclusive Right of Franchisee. The agreement shall provide that the franchisee is granted a non-exclusive franchise to provide construction and demolition debris collection service within the City.

(B) Franchise Fee. The agreement shall provide that the franchisee shall be required to pay to the city a franchise fee in the amount of nine percent of the gross revenues generated by the franchisee from services performed within the City on the dates specified in the agreement. The Council shall retain the power, by resolution, to amend the amount of the franchise fee as the Council deems necessary to protect the interests of the City.

(C) Public Liability Insurance. The agreement shall provide that the franchisee shall carry public liability insurance in amounts determined by the City, for the death or injury of one or more persons and for property damage. Such insurance shall name the City, its officers, agents and employees as additional insureds.

(D) Recycling Requirement. The agreement shall provide that the franchisee shall be required to recycle 65 percent of all construction and demolition debris collected within the City and provide penalties for failure to comply with this provision.

(E) Performance Standards. The agreement shall specify standards of performance that the franchisee shall be required to comply with as determined by City to insure protection of the public health, safety and welfare.

(F) Additional Terms and Conditions. The Council shall retain the power, by resolution, to provide for the inclusion in such agreement of such additional terms and conditions as the Council deems necessary to protect the interests of the City.”

Section 3. Environmental Determination. The Council finds that the adoption and implementation of this ordinance are exempt from the provisions of the California Environmental Quality Act (a) under section 15061(b)3 in that the Council finds there is no possibility that the implementation of this ordinance may have significant effects on the environment; and (b) in accordance with Section 15308 of the CEQA Guidelines as action taken by a regulatory agency as authorized by state or local ordinance to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment, in that SB 1383 sets requirements to reduce waste and increase recycling and composting.

Section 4. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid and/or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

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Section 5. Effective Date. This ordinance shall take effect on the 31st day following its adoption.

This ordinance was introduced by the Council of the City of Santa Rosa on October 26, 2021.

IN COUNCIL DULY PASSED AND ADOPTED this 9th day of November, 2021.

AYES: (5) Mayor C. Rogers, Vice Mayor N. Rogers, Council Members Alvarez, Fleming, Sawyer

NOES: (0)

ABSTAIN: (1) Council Member Schwedhelm

ABSENT: (1) Council Member Tibbetts

ATTEST: \_\_\_\_\_ APPROVED: \_\_\_\_\_  
City Clerk Mayor

APPROVED AS TO FORM: \_\_\_\_\_  
City Attorney