

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
AMENDING CHAPTER 13 GARBAGE AND REFUSE , BY UPDATING
TERMINOLOGY AND DEFINITIONS, AND THE ADDITION OF SECTION 13-25
REGARDING SENATE BILL 1383 REGULATIONS AND ENFORCEMENT**

WHEREAS: On February 15, 2022, the City Council at its regularly scheduled meeting, held a public hearing to consider amendments to the Garbage and Refuse Ordinance;

WHEREAS: state organics recycling law, Senate Bill 1383 of 2016, the Short-lived Climate Pollutant Reduction Act of 2016, took effect on January 1, 2017 and set Statewide Organic Waste disposal reduction targets of 50 percent by 2020 and 75 percent by 2025, based on the 2014 organics waste disposal baseline, set forth in Section 39730.6 of the Health and Safety Code, and requires California's Department of Resources Recycling and Recovery (CalRecycle) to develop regulations to reduce organics in landfills as a source of methane ("SB 1383 Regulations"); and

WHEREAS: the SB 1383 Regulations place requirements on multiple entities, including counties, cities, residential households, Commercial Businesses (including Multi-Family Residential Dwellings), Commercial Edible Food Generators, haulers, Self-Haulers, Food Recovery Organizations, and Food Recovery Services to support achievement of statewide Organic Waste disposal reduction targets with compliance required beginning January 1, 2022; and

WHEREAS: by January 1, 2022, the SB 1383 Regulations require jurisdictions to adopt and enforce an ordinance or other enforceable mechanism to implement relevant provisions of the SB 1383 Regulations concerning regulation of organic waste collection services, generators of organic waste, waste haulers, and generators and processors of edible food, together with enforcement mechanisms and administrative civil penalties for violations of local regulations; and

WHEREAS: this Ordinance will also help reduce food insecurity by requiring Commercial Edible Food Generators to arrange to have the maximum amount of their Edible Food, that would otherwise be disposed, be recovered for human consumption; and

WHEREAS: other changes besides the addition of Section 13-25, includes updating language to industry standard terminology and corresponding definitions thereof;

WHEREAS: Pursuant to State and local environmental regulations, the proposed amendment to regulations contains new requirements based on the provisions of SB 1383 that are intended to strengthen requirements for handling of solid waste, do not involve or authorize any construction activities or the relaxation of standards that could lead to degradation of the environment, and consists solely of an action by a regulatory agency (the City) for the protection of the environment. Accordingly, the City Council finds and determines that adoption of Ordinance No. ____ is exempt from the California Environmental Quality Act under CEQA Guidelines Section 15038, Actions by Regulatory Agencies for Protection of the Environment.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Porterville as follows:

SECTION 1: Chapter 13 of the Porterville Municipal Code is hereby amended as follows:

CHAPTER 13
GARBAGE AND REFUSE

SECTION:

- 13-1: Declaration Of Policy
- 13-2: Definitions
- 13-3: Rules Established
- 13-4: Unlawful Acts
- 13-5: Mandatory Service
- 13-6: Unlawful Disposition Of Solid Waste Generally
- 13-7: Residential Solid Waste Collection Service
- 13-8: Solid Waste Receptacles
- 13-9: Reserved
- 13-10: General Provisions
- 13-11: Bin Container Pads And Enclosures
- 13-12: Special Pick Up, Disposal And Collection Event Services
- 13-13: Enforcement; Powers And Duties Of City Manager Or His Designee
- 13-14: Charges For Collection; Time And Manner Of Payment
- 13-15: Building Design Requirements
- 13-16: Unlawful To Burn Solid Waste
- 13-17: Penalty For Contamination Of Yard Waste
- 13-18: Collection Of Recyclable Materials
- 13-19: Recycling Hauler Permit Requirement And Application
- 13-20: Refusal To Issue Permit
- 13-21: Term And Renewal
- 13-22: Reporting Requirements
- 13-23: Home Generated Sharps Waste Management Program
- 13-24: Penalty For Violation
- 13-25: Compliance With The Act And SB 1383 Regulatory Compliance

13-1: DECLARATION OF POLICY:

It is hereby declared to be the purpose of this chapter to regulate the collection, transport, and disposal of solid waste in order to protect the public safety, health and welfare and to enhance the environment of the people of Porterville. Further, it is the purpose of this chapter to regulate the collection and disposition of recyclables generated within the city and to establish reporting requirements and guidelines that shall be followed by licensees to minimize the amount of such recyclables deposited into landfills. (Ord. 1494A, 7-20-1993)

13-2: DEFINITIONS:

For the purpose of this chapter, the following words and phrases shall have the meanings given herein unless their use in the text of this chapter clearly demonstrates a different meaning:

ACT: 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, and as implemented by the regulations of CalRecycle.

ALLEY SERVICE: Such service where solid waste containers are placed at the property line in through alleys.

BIN CONTAINER SERVICE: A stationary container supported on casters or skids and approved by the city manager or his designee for mechanical handling by the collection trucks.

CALRECYCLE: The California Department of Resources Recycling and Recovery, or its successor agency.

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).

COMPACTED WASTE: Solid waste which is mechanically compressed to reduce the dimensions of the waste.

CONSTRUCTION AND DEMOLITION WASTES: Shall mean and include the waste building materials, packaging, and rubble resulting from construction, remodeling, repair, and demolition of pavements and structures.

CURB SERVICE: Such service where the solid waste containers are picked up by the city at the front curb line of the customer's property.

DISCARDED: Thrown away, abandoned, worthless, or having lack of economic value.

EDIBLE FOOD: 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.

FOOD RECOVERY ORGANIZATION: 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:

- A. A food bank as defined in Section 113783 of the Health and Safety Code;
- B. A nonprofit charitable organization as defined in Section 113841 of the Health and Safety code; and
- C. A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.

FOOD RECOVERY SERVICE: An entity that collects and transports edible food from a commercial edible food generator to a food recovery organization or other entities for food recovery.

HAULER: A person who collects material from a generator and delivers it to a reporting entity, end user, or a destination outside of the state. “Hauler” includes public contract haulers, private contract haulers, food waste self-haulers, and self-haulers. A person who transports material from a reporting entity to another person is a transporter, not a hauler.

HOUSEHOLD HAZARDOUS WASTE: Those wastes 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. The city manager or his designee shall determine those substances deemed hazardous for the purpose of the city's disposal system.

INDUSTRIAL WASTE: Solid wastes or waste material resulting or left over from industrial processes and manufacturing operations, including, but not limited to, fibers, fabrics, plastics, styrofoam, rubber, resins, metals, slag, wood products such as sawdust and shavings, packing materials, putrescible material from food processing plants and slaughterhouses, condemned foods, cinders and ashes from power plants and incinerators, and miscellaneous manufacturing wastes. Such industrial waste is distinguished from ordinary commercial refuse or so called trade wastes which emanate from stores, hotels, restaurants, and markets.

MULTIPLE-FAMILY DWELLING: A building designed for residential occupancy and shall include duplexes, triplexes, apartments of four (4) or more units, bungalows in a bungalow court, apartment houses, flats, condominium units, and mobile homes.

ORGANIC MATERIALS, ORGANICS, and ORGANIC WASTE: Food scraps and trimmings from food preparation, including but not limited to: meat, fish and dairy waste, fruit and vegetable waste, grain waste, stable matter, and acceptable food packaging items such as pizza boxes, paper towels, waxed cardboard, food-contaminated paper products, plant debris, such as palm, yucca and cactus, ivy, grass clippings, leaves, pruning, weeds, branches, brush, and holiday trees. Classification of materials subject to change pending Refuse Contractor processing capability.

ORGANIC WASTE GENERATOR: 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.

RECYCLABLES: Shall include those materials that have value and can be diverted from landfill disposal. "Recyclables" can further be defined as those materials that by collecting, sorting, cleansing, treating, reconstituting, and processing can be returned to the economic mainstream in the form of raw materials for new, reused, or reconstituted products.

REFUSE or GARBAGE: Rags, household ashes, wearing apparel, household goods and such worthless, useless, unused, rejected and cast off matter produced by and as the result of human habitation and the transaction of business within the city, that can be properly and safely collected and transported in a collection vehicle.

RESIDENTIAL PREMISES: All residentially zoned lots used for residential purposes, excluding premises with multi-family structures consisting of five or more units.

SB 1383: 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.

SELF-HAULER: 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.

SINGLE-FAMILY DWELLING: Any detached building used exclusively for occupancy by one family, excluding bungalows in a bungalow court, residential condominium units, and mobile homes.

SOLID WASTE: All putrescible and non-putrescible solid and semisolid wastes; including garbage, trash, refuse, paper, ashes, industrial wastes, demolition and construction

wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes. "Solid waste" does not include hazardous, low level radioactive, or medical wastes. "Solid waste" as herein defined shall not include materials source-separated by the generator for the purpose of recycling, reuse, repair or composting.

SPECIAL PICK UP: The collection of solid waste that exceeds the scope of standard residential or commercial service as set forth in this chapter, or any material not defined in this section as solid waste.

STANDARD RESIDENTIAL CONTAINER: Roll out container(s) provided by city.

TIER ONE COMMERCIAL EDIBLE FOOD GENERATOR: A commercial edible food generator that is one of the following:

- A. Supermarkets with gross annual sales of \$2,000,000 or more.
- B. Grocery store with a total facility size equal to or greater than 10,000 square feet.
- C. Food service provider.
- D. Wholesale food vendor.

SB 1383 Tier 1 commercial edible food generators are required to comply with SB 1383 regulations by January 1, 2022 or face significant financial penalties as prescribed in 14 CCR Section 18997.2, City Code Chapter 13-24 (Penalty for Violation), or City Code Chapter 2 Article XIV (Administrative Citations) as determined by the City Manager and/or his or her designee.

TIER TWO COMMERCIAL EDIBLE FOOD GENERATOR: A commercial edible food generator that is one of the following:

- A. Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.
- B. Hotel with an on-site food facility and 200 or more rooms.
- C. Health facility with an on-site food facility and 100 or more beds.
- D. Large venue.
- E. Large event.
- F. 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.
- G. A local education agency facility with an on-site food facility.

SB 1383 Tier 2 Commercial edible food generators are required to comply with SB 1383 regulations by January 1, 2024 or face significant financial penalties as prescribed in 14 CCR Section 18997.2, City Code Chapter 13-24 (Penalty for Violation), or City Code Chapter 2 Article XIV (Administrative Citations), or any other applicable enforcement provision of this Code, as determined by the City Manager and/or his or her designee.

WASTE MATTER: Solid waste such as heavy or bulk materials which can be properly and safely collected and transported by special pick up vehicles. The city manager or his designee shall determine those materials suitable for special pick up service.

YARD WASTE: Lawn clippings, tree and shrubbery trimmings, and leaves that can be properly and safely collected and transported in a collection vehicle. (Ord. 1615, 10-1-2002)

13-3: RULES ESTABLISHED:

The following rules, as contained in this chapter, covering the handling of accumulations of garbage, refuse, yard waste, and waste matter to be observed by the occupants of places of

residence and places of business in the city are hereby established. (Ord. 1494A, 7-20-1993; Ord. 1615, 10-1-2002)

13-4: UNLAWFUL ACTS:

A. Prohibitions:

1. Solid Waste Accumulations: It shall be unlawful for any person, owner or occupant of any building, lot or premises in the city to suffer, allow or permit the accumulation of solid waste of any description to become or remain offensive, unsightly or unsafe to public health or hazardous from fire, or to deposit, transport, keep, accumulate or permit or cause any solid waste to be deposited, placed or accumulated upon any lot or parcel of land, or any public or private container, place, street, land, alley or driveway except in the manner prescribed in this chapter.

2. Illegal Use Of Containers: It shall be unlawful for any person to deposit refuse into containers, bins, or roll off containers which are not assigned to the property at which the refuse is generated.

3. Illegal Collection Or Removal Of Recyclables: It shall be unlawful for any person, other than the city or the city's designee, to collect or remove materials which have been segregated for the purpose of recycling and placed in a designated recycling receptacle.

4. Placing Prohibited Materials In Recycling Receptacles: It shall be unlawful for any person to willingly place any materials in the recycling receptacles that do not meet the criteria defined under section 13-2 of this chapter.

5. Taking Or Pilfering Of Recyclables Or Any Other Item: It shall be unlawful for any person to take or pilfer, for his/her own use or benefit:

- a. The recyclables of any other person.
- b. The recyclables from any city operated drop off facilities. Recyclables donated to the drop off facility are considered the property of the city.
- c. Any item placed into any city owned trash receptacle designated for disposal.

6. Refuse Disposal Into Or Near Recycling Drop Off Facilities: It shall be unlawful for any person to dispose of "refuse", as defined under section 13-2 of this chapter, into or around city operated drop off facilities.

B. Nuisance Declared: Each and all of the conditions specified in subsection A of this section constitute a public nuisance, and are unlawful, in violation of this chapter and are subject to immediate abatement by any officer of this city. Any costs associated with enforcement and abatement which the city incurs may be charged to the offending party or property owner for reimbursement.

C. Recycling Location An Individual Choice: Nothing herein shall prohibit a person from selling, giving away, or otherwise legally diverting their own recyclable materials to a location of their choice. (Ord. 1494A, 7-20-1993; Ord. 1615, 10-1-2002)

13-5: MANDATORY SERVICE:

It shall be mandatory for every property owner within the city to receive city disposal service and billing therefor, except those industrial businesses whose volume of waste might exceed what services the city could offer. Minimum levels of city residential, commercial, and industrial refuse service shall be determined by city council and set by resolution. City refuse service above the minimum level may be required to protect public safety, health, and welfare, as required by this chapter. The necessity of such increased levels of service shall be

determined by the city manager or his designee. (Ord. 1494A, 7-20-1993; Ord. 1615, 10-1-2002)

13-6: UNLAWFUL DISPOSITION OF SOLID WASTE GENERALLY:

It shall be unlawful for any person to engage in or carry on the business of hauling or removing garbage, refuse or waste matter within the city without written permission from city manager. Any person engaging in or carrying on the business of hauling or removing recyclables must have the written permission of the city manager as set forth in section 13-19 of this chapter. Disputes over whether material should be classified as recyclable or solid waste will be resolved by the city manager or his designee. (Ord. 1494A, 7-20-1993; Ord. 1615, 10-1-2002)

13-7: RESIDENTIAL SOLID WASTE COLLECTION SERVICE:

A. Frequency, Amount, And Location Of Collection: The city shall provide collection service from all dwelling units in the city at frequencies and amounts to be determined by city council and set by resolution. Residential service shall be at curbside unless otherwise authorized by the city manager or his designee.

B. Responsibilities Of Curb Service Customers: All curb service customers shall place their solid waste containers at the curb or property line and shall remove the empty containers in accordance with time schedules as determined by the city manager or his designee.

C. Alley Service Customers; Placement Of Containers: Alley service will only be provided if criteria developed by the city manager or his designee is met, and such service is compatible with overall collection service objectives. Customers receiving alley service shall place their solid waste containers at the property line in through alleys and shall remove the empty containers in accordance with time schedules as determined by the city manager or his designee.

D. Container Service: Bin container service may be used in residential areas for apartments and multiple dwellings and for single-unit dwellings if approved by the city manager or his designee. (Ord. 1494A, 7-20-1993; Ord. 1537 § B45, 8-6-1996; Ord. 1615, 10-1-2002)

13-8: SOLID WASTE RECEPTACLES:

The occupant, tenant or lessee of any house, dwelling, flat, apartment building, mobile home, motel, hotel, restaurant or other place of business or residence within the city where solid waste is produced or accumulated and where individual container service is authorized shall keep, in a place where it will not constitute a nuisance, a city approved container for receiving and holding all of the solid waste which accumulates on the premises between the time of successive collections. (Ord. 1494A, 7-20-1993; Ord. 1615, 10-1-2002)

13-9: RESERVED:

(Ord. 1537 § B46, 8-6-1996; Ord. 1615, 10-1-2002)

13-10: GENERAL PROVISIONS:

A. Where commercial collections are made from private alleys and access ways, said approaches shall be maintained in such a manner as not to be a hazard to collection personnel

and equipment, and provide a safe and convenient entrance to and through the premises for the purpose of collecting refuse.

B. The approach to containers furnished by the city must be kept clear. An inaccessible container will not be dumped at the scheduled time. There will be an extra charge to dump a container other than at the regularly scheduled time, or if it is necessary to return to the collection site due to inaccessibility of the collection container.

C. Overfilled containers and excess trash on top of containers pose a hazard to collection vehicles and personnel and may not be dumped at the scheduled time. If an overfilled container is able to be dumped, it shall constitute a special haul and will require an extra charge.

D. Compacted commercial waste requires special handling due to increased weight associated with compaction. Compacted waste will be subject to increased collection charges and may require restrictions on the volume of waste accumulated between collection days.

E. All persons or businesses utilizing city owned containers are responsible for the sanitary conditions of each container or receptacle and the proximity thereof and must keep lids and doors closed when not in use. A charge may be assessed when steam cleaning of containers is requested by customers. All persons and businesses will be responsible for burned or damaged containers due to other than normal wear and tear and will be charged for necessary repairs. Bin containers may be fitted with lid locks at the request of the customer. A charge will be assessed for installation and repair of such locks.

F. Items that are likely to cause damage to regular city containers or the collection vehicles will not be regularly picked up. Such examples are, but are not limited to, timbers or tree trunks larger than four inches (4") in diameter or longer than five feet (5'), engine blocks, heads, transmissions, axles, spring assemblies, tires or draft shafts, all of which shall constitute a special haul. (Ord. 1494A, 7-20-1993; Ord. 1615, 10-1-2002)

13-11: BIN CONTAINER PADS AND ENCLOSURES:

A. All bin container services shall require a concrete bin pad to ensure that the bin can be conveniently serviced. Each bin type container, regardless of the cubic yard capacity, shall require a concrete pad six inches (6") thick and six feet by ten feet (6' x 10') for each bin. The bin container pad shall be poured to the existing ground level, ensuring that the pad is neither too high nor too low, creating collection problems. There shall be a fence erected around the bin pad storage area. Such fencing shall conform with city specifications as specified by the city manager or his designee.

B. Temporary bin service may be provided at a residential or commercial site at the request of the customer for short term cleanup activities and do not require a bin enclosure. Temporary bin service shall not be utilized in lieu of permanent disposal service. Temporary bin location and on site duration may be limited so as not to constitute a public nuisance. Temporary bins determined to constitute a public nuisance may be immediately removed at the discretion of the city manager or his designee. (Ord. 1537 § B47, 8-6-1996; Ord. 1615, 10-1-2002; Ord. 1801, 12-3-2013)

13-12: SPECIAL PICK UP, DISPOSAL AND COLLECTION EVENT SERVICES:

A. The removal of dirt, sod, tree stumps, stones, broken concrete, furniture and appliances and other building materials is not considered to be normal household solid waste service. Periodic collection of accumulations of excess solid waste within the city, in addition

to that provided for above, shall be made on the request of a resident. These services will be handled on a special pick up basis for which an extra charge is made. Tree and shrub trimmings which cannot be accommodated in the city provided yard waste cart shall be handled on a special pick up basis for which an extra charge will be made.

B. The following services are considered "special requests" and will be charged an additional fee as determined by city council and set by resolution. "Special requests" include, but are not limited to: extra pick up of residential, commercial, and industrial containers; same day delivery, emptying, or removal of temporary bins; same day delivery, emptying, removal or relocation of temporary or permanent roll off containers; standby time of collection personnel at customer request or to accommodate customer needs; same day return to empty a container or bin that was inaccessible, overfilled, or contaminated.

C. The disposal of substances determined to be household hazardous materials shall be restricted to special collection events or sites as approved by city council.

D. The city manager or his designee shall determine those waste materials suitable for special pick up service. (Ord. 1537 § B48, 8-6-1996; Ord. 1615, 10-1-2002)

13-13: ENFORCEMENT; POWERS AND DUTIES OF CITY MANAGER OR HIS DESIGNEE:

A. The city manager or his designee shall supervise the collection and removal of all solid waste by the city and shall enforce the provisions of this chapter. He shall have the right to inspect any and all premises for the purpose of determining whether the provisions of this chapter are being observed. Any person denying or obstructing such inspection shall be subject to the penalties herein provided.

B. The city manager or his designee shall establish routes and days for collection and may change same from time to time. When such routes and days are established or changed, he shall give such notice thereof as he may deem advisable.

C. In all cases where he shall find practical difficulty in complying with the requirements of this chapter as to the placing of refuse for collection by the city, he shall designate where such solid waste shall be placed or kept for collection by the city and the conditions under which it shall be collected.

D. The city manager or his designee, with the approval of the city manager, shall make such rules and regulations not inconsistent with the provisions of this chapter as may be necessary, reasonable and proper to effect the expeditious, economical and efficient collection and removal of solid waste by the city. Such rules and regulations may also relate to the required frequency of refuse collection at various locations, the type and number of refuse containers required, and the vehicles used in making such collections. The determination of the city manager or his designee shall be conclusive. (Ord. 1537 § B49, 8-6-1996; Ord. 1615, 10-1-2002)

13-14: CHARGES FOR COLLECTION; TIME AND MANNER OF PAYMENT:

A. Fees and charges for the collection and disposal of solid waste collection by the city will be fixed by resolution of the city council.

B. Solid waste collection charges shall be included in the regular city utility bill to customers who also have city water service. When the solid waste customer does not have city water service, a separate bill for solid waste service shall be mailed to the customer who owns or controls the premises serviced.

C. All charges for solid waste service included on utility bills, or if not a part of the city utility bill, shall be due and payable at the same time as other utility charges. If a bill for solid waste is not paid within thirty (30) days after billing date, a charge of ten percent (10%) as a penalty for said delinquency shall be made and added to the amount and become a part of said delinquent utility bill; and the city may discontinue all city utility service to the premises if the bill should remain delinquent on the forty fifth day after billing.

D. All solid waste service charges are the responsibility of the customer whose name appears on the utility billing for the service. If unpaid by the customer billed who controls the premises, they shall be secured at any time by filing for record in the office of the county recorder of any county, a certificate specifying the amount of such charges and the name and address of the customer liable therefor. From the time of recordation of the certificate, the amount required to be paid, together with interest and penalty, constitutes a lien upon all real property in the county owned by the customer or afterwards, and before the lien expires, acquired by him. The lien has the force, priority, and effect of and shall be regarded as a judgment lien, which may be extended, if unpaid, by the recording of a renewal certificate before the expiration of ten (10) years of the previously recorded certificate. (Ord. 1494A, 7-20-1993; Ord. 1615, 10-1-2002)

13-15: BUILDING DESIGN REQUIREMENTS:

The design of any new, substantially remodeled or expanded building or other facility shall provide for proper storage or handling which will accommodate solid waste and recyclable material removal or collection. The design shall demonstrate to local land use and building permit issuing authorities that it includes the required provisions. (Ord. 1494A, 7-20-1993; Ord. 1615, 10-1-2002)

13-16: UNLAWFUL TO BURN SOLID WASTE:

It shall be unlawful for any person to dispose of any solid waste by burning the same within the limits of the city. (Ord. 1494A, 7-20-1993; Ord. 1615, 10-1-2002)

13-17: PENALTY FOR CONTAMINATION OF YARD WASTE:

Any customer whose yard waste container is contaminated with items other than "yard waste" as defined in section 13-2 of this chapter may be assessed an additional charge, the amount of which is set by resolution by the city council. (Ord. 1494A, 7-20-1993; Ord. 1615, 10-1-2002)

13-18: COLLECTION OF RECYCLABLE MATERIALS:

The city may establish a separate collection service for recyclable materials, including compostable wastes, and establish specific guidelines for such service, which are consistent with the rules and regulations contained within this chapter. The city may also establish a permit for the collection of recyclable wastes. (Ord. 1494A, 7-20-1993; Ord. 1615, 10-1-2002)

13-19: RECYCLING HAULER PERMIT REQUIREMENT AND APPLICATION:

In order to more effectively regulate, control, and monitor the amount of recyclables being deposited in landfills and document the amount diverted from the solid waste stream, it is in the best interest of the city to require those persons desiring to gather, collect, transport,

or otherwise dispose of recyclables to obtain from the city a permit to do so. Said permit to gather, collect, transport, or otherwise dispose of recyclables shall be nonexclusive. Each permit awarded hereunder shall specifically describe the type of recyclable material to be collected and disposed of. Any person desiring to obtain a recycling hauler permit to collect, gather, transport, or otherwise dispose of recyclables shall pay a fee and make an application as set forth in guidelines determined by the city manager or his designee. (Ord. 1494A, 7-20-1993; Ord. 1615, 10-1-2002)

13-20: REFUSAL TO ISSUE PERMIT:

Nothing in this chapter shall be deemed to prevent the city manager or his designee from refusing to grant or renew any application for a recycling hauler permit when it appears that such permittee's proposed services are inconsistent with the intent of this chapter as defined in section 13-1 of this chapter, or do not serve the best interest of the people of Porterville. (Ord. 1494A, 7-20-1993; Ord. 1615, 10-1-2002)

13-21: TERM AND RENEWAL:

The term of the permit shall become effective upon notification by the granting authority, and shall be through the end of the calendar year it was awarded. A recycling hauler permit may be renewed with the hauler's business license according to terms set forth by the city manager or his designee. (Ord. 1494A, 7-20-1993; Ord. 1615, 10-1-2002)

13-22: REPORTING REQUIREMENTS:

To assist the city in meeting its diversion goals as specified by the California integrated waste management act of 1989 (AB 939) and other state or local laws, the permittee shall maintain records including the following information:

A. The description and nature of the material (e.g., bottles, cardboard, grease, etc.) collected.

B. The name(s) and address(es) of each collection site within the city of Porterville, including amount, weight, or tonnage of the recyclables collected at each site.

C. Name and address of the site(s) where the above recyclables were disposed.

The permittee shall maintain such records for a period of five (5) years and shall, upon reasonable request, make such records available for the city's inspection.

The permittee shall also supply additional information when requested by the city manager or his designee. (Ord. 1494A, 7-20-1993; Ord. 1615, 10-1-2002)

13-23: HOME GENERATED SHARPS WASTE MANAGEMENT PROGRAM:

A. Purposes: The city of Porterville finds and declares all of the following purposes for this section:

1. To achieve the mandates imposed by the integrated waste management act of 1989 (AB 939) on a regional basis;

2. To enact a comprehensive and innovative system for the proper and legal management of home generated "sharps" waste, as defined in subsection B of this section in the city of Porterville in accordance with section 118286 of the California Health And Safety Code;

3. To enact a law that establishes a program that is convenient for consumers and the public to return and ensure the safe and environmentally sound disposal of home generated sharps waste, and to provide a "no cost" system for consumers for the return of home generated sharps waste;

4. To assure that the costs associated with the handling and disposal of home generated sharps waste are the responsibility of the producers and retailers of home generated sharps waste, and not local governments or their service providers, state or local government, or taxpayers;

5. To reduce the likelihood of the illegal disposal of home generated sharps waste;

6. To ensure that all costs associated with the proper management of home generated sharps waste are internalized by the producers and retailers of home generated sharps waste at or before the point of purchase, and not at the point of discard;

7. To assure that manufacturers and retailers of sharps, while working to achieve the goals and objectives of this section, shall have the flexibility to partner with each other, with governmental programs, and with private and nonprofit business enterprises that provide collection and processing services, to develop and promote a safe and effective home generated sharps waste management system; and

8. To provide for the safe and convenient collection and disposal of one hundred percent (100%) of the home generated sharps waste discarded in the city of Porterville at no cost to the consumer and to comply with the requirements pursuant to state Health And Safety Code prohibiting the disposal of home generated sharps waste in trash, recycling, yard waste, or landfills as of August 1, 2014.

B. Definitions:

CONSUMER: An individual who has purchased sharps for personal use for humans or animals.

CONTAINED: All home generated "sharps" (as defined herein) waste is properly secured in a "receptacle" (as defined herein) prior to delivery to a retailer for disposal.

DISTRIBUTOR: A person who sells sharps to a retailer.

HOME GENERATED: All "sharps" as defined herein derived from a household, including a multi-family residence, or a single- family residence.

PORTERVILLE AREA: The geographic area that includes the boundaries of the city of Porterville, California.

PROPER DISPOSAL OF HOME GENERATED SHARPS WASTE: Disposal in compliance with the applicable provisions of the California Health And Safety Code by means of an approved/certified medical waste disposal company.

RECEPTACLE: An FDA approved, rigid and puncture resistant container with a sealable lid that is designed specifically for transporting sharps for disposal.

RETAILER: Any entity, including, but not limited to, a person or business, or whatever form of organization, which sells sharps to a consumer, including a manufacturer of sharps who sells directly to a consumer.

SHARPS: Hypodermic needles, pen needles, intravenous needles, lancets, and other devices that are used to penetrate the skin for the delivery of medications, to humans or animals.

C. Sharps Management:

1. By August 1, 2014, every retailer of sharps sold in the city of Porterville shall establish, within the retail outlet, a system for the acceptance and collection of home generated sharps waste for proper disposal.

2. Each system established by a retailer for the acceptance and collection of home generated sharps waste that is enclosed in sealed, puncture resistant receptacles during the retailer's normal hours of operation, for proper disposal shall, at a minimum, include all of the following elements:

a. A convenient location within the retail establishment for the "take back" from the consumer of home generated sharps waste at no cost to that consumer.

b. Appropriate signage, prominently displayed within five feet (5') of any entrance to the retail establishment and easily visible to the consumer, indicating that the retail establishment accepts and collects contained home generated sharps waste from consumers.

c. An appropriately secured receptacle or receptacles for the collection of contained home generated sharps waste within the retail establishment. The retailer shall assure that all home generated sharps waste is properly contained in a sharps receptacle and placed in a secured drop off location.

d. Assurance that the collected home generated sharps wastes are disposed within the time period established by applicable state law, as determined, from time to time by the Tulare County environmental health service department, acting as the local enforcement agency.

e. Comply with all applicable provisions of the California medical waste management act, Health And Safety Code section 117600 et seq.

3. A retailer who is required to accept contained home generated sharps waste shall, at a minimum, provide the following take back services:

a. The take back from the consumer of contained home generated sharps waste that the retailer sold or previously sold to the consumer, at no cost to that consumer. In that event, the retailer may require proof of purchase of the prior sales. The retailer shall only be required to accept contained home generated sharps waste in an amount not to exceed the amount previously sold to the consumer.

b. The take back of contained home generated sharps waste from a consumer purchasing sharps from the retailer, at no cost to the consumer. In that event, the retailer shall only be required to accept contained home generated sharps waste in an amount not to exceed the amount being purchased.

c. The take back from the consumer of contained home generated sharps waste that the retailer did not sell or previously sell to the consumer, at no cost to that consumer. The retailer shall only be required to accept contained home generated sharps waste in an amount not to exceed the equivalent of one 2-quart size sharps container per week, per consumer, from any consumer who resides in the city of Porterville area. (Ord. 1814, 6-17-2014)

13-24: PENALTY FOR VIOLATION:

Any person violating any of the provisions of this chapter or wilfully and knowingly refusing to comply with the rules, regulations and determination of the city manager shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine not to exceed one thousand dollars (\$1,000.00) or by imprisonment in the county jail for a period not to exceed six (6) months, (or as otherwise specified in the Section 1-9 of this Municipal

Code), or by both fine and imprisonment. (Ord. 1494A, 7-20-1993; Ord. 1615, 10-1-2002; Ord. 1814, 6-17-2014)

13-25: COMPLIANCE WITH THE ACT AND SB 1383 REGULATORY COMPLIANCE

A. Compliance with the Act: All residential premises, multifamily residential complexes, commercial customers, franchised haulers, generators, haulers, licensed haulers, and all other entities subject to the requirements of the Act shall fully comply with the Act and all other applicable law or be subject to any applicable penalties as prescribed in 14 CCR Section 18997.2, City Code Chapter 13-24 (Penalty for Violation), or City Code Chapter 2 Article XIV (Administrative Citations), or any other applicable enforcement provision of this Code, as determined by the City Manager and/or his or her designee.

B. SB 1383 Regulatory Compliance: Organic waste generators, haulers, and all other entities subject to the requirements of SB 1383 shall fully comply with all applicable requirements, including those summarized below, or be subject to the penalties as prescribed in 14 CCR Section 18997.2, City Code Chapter 13-24 (Penalty for Violation), or City Code Chapter 2 Article XIV (Administrative Citations), or any other applicable enforcement provision of this Code, as determined by the City Manager and/or his or her designee.

1. Organic waste generators.

SB 1383 requirements that apply to organic waste generators include, but are not necessarily limited to the following:

- a. All residential premises shall be automatically enrolled in the City's three-container collection services for garbage, recyclable materials, and organic waste including food waste.
- b. All commercial premises (including all multifamily residential complexes with five (5) or more units) must make arrangements for the diversion of recyclable materials and organic waste, either through a collection service with a solid waste franchised hauler, or by self-hauling to a permitted facility meeting the requirements specified in 14 CCR Section 18984.3. The City shall have the right to review the number and size of a generator's containers and frequency of collection, to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and commercial premises shall adjust their service level for their collection services as required by the City.
- c. Generator shall place organic waste, including food waste, in the designated organic waste container; recyclable materials in the designated recycling container; and garbage in the designated garbage container. Generators shall not place materials designated for the garbage container into the organic waste container or recycling container.
- d. Each commercial premise and multifamily residential complex property owner shall be responsible for ensuring and demonstrating its compliance with the following requirements:
 - i. Supply and allow access to adequate number, size, and location of collection containers with sufficient labels or colors (conforming with requirements described below) for employees, contractors, tenants, and customers, consistent with the City's collection service or, if self-

- hauling in compliance with self-hauling requirements in Section B.c. herein.
- ii. Excluding multifamily residential complexes, provide containers for the collection of organic waste and recyclable materials in all indoor and outdoor areas where disposal containers are provided for customers, for materials generated by that business. Such containers do not need to be provided in restrooms. If a commercial premises does not generate any of the materials that would be collected in one type of container, then the business does not have to provide that particular container in all areas where disposal containers are provided for customers. Pursuant to 14 CCR Section 18984.9(b), the containers provided by the business shall have either:
 - 1. A body or lid that conforms with the container colors provided through the collection service provided by the City's franchised hauler, with either lids conforming to the color requirements or bodies conforming to the color requirements, or both lids and bodies conforming to color requirements. A commercial premises is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the requirements of the subsection prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first.
 - 2. 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 to 14 CCR Section 18984.8, the container labeling requirements are required on new containers commencing January 1, 2022.
 - 3. Multifamily residential complexes are not required to comply with container placement requirements or labeling requirements in this Section pursuant to 14 CCR Section 18984.9(b).
 - iii. 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.
 - iv. Provide education information before or within fourteen (14) days of occupation of the premises by new tenants that describes requirements to keep source separated organic waste and source separated recyclable materials separate from garbage and the location of containers and the rules governing their use at each property.
 - v. Provide or arrange access for the City or its representative to their properties during all inspections conducted in accordance with SB 1383 to confirm compliance with the requirements of this Chapter.

- vi. Commercial premises, but not multifamily residential complexes, are also required to:
 - 1. To the extent practical through education, training, inspection, and/or other measures, prohibit employees from placing materials in a container not designated for those materials per the City's collection service.
 - 2. Periodically inspect organic waste, recycling, and garbage containers for contamination and inform employees if containers are contaminated and of the requirements to keep contaminants out of those containers pursuant to 14 CCR Section 18984.9(b)(3).
 - vii. 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).
- e. Waivers for Generators
- i. City may waive a commercial customer's obligation (including a multifamily residential complex) to comply with some or all of the organic waste requirements of SB 1383 if the commercial customer provides documentation as described below, and the City finds that documentation supports the granting of a waiver.
 - 1. Commercial customers requesting a de minimis waiver shall submit an application specifying the services that they are requesting a waiver from and provide documentation that either:
 - a. The commercial customer's total solid waste collection service is two cubic yards or more per week and organic waste subject to collection in a blue container or green container comprises less than 20 gallons per week per applicable container of the business' total waste; or,
 - b. The commercial customer's total solid waste collection service is less than two cubic yards per week and organic waste subject to collection in a blue container or green container comprises less than 10 gallons per week per applicable container of the business' total waste.
 - c. Notify City if circumstances change such that commercial customer's organic waste exceeds threshold required for waiver, in which case waiver will be rescinded.
 - 2. Commercial customers or property owners may request a physical space waiver through the following process:
 - a. Submit an application specifying the services that they are requesting a waiver from.
 - b. Provide documentation that the premises lacks adequate space for blue containers and/or green containers

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

- ii. Waivers shall apply for up to, but no longer than five (5) years, as determined by the Director and/or his or her designee.

2. Other entities

SB 1383 requirements that apply to other entities include, but are not necessarily limited to the following:

a. Commercial edible food generators

- i. Tier one commercial edible food generators shall comply with the requirements of 14 CCR Section 18991 commencing January 1, 2022. Tier two commercial edible food generators shall comply with the requirements 14 CCR Section 18991.3 commencing January 1, 2024.
- ii. 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 14 CCR Section 18991.3.
- iii. 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. Shall keep records as specified in 14 CCR Section 18991.4.
 - 5. Shall provide to the City a copy of any of the information they are required to track per Section 18991.4 within 30 days of request by the City.

b. Food recovery organizations and services

- i. Shall maintain records as specified in 14 CCR Section 18991.5, and shall provide a copy of those records to the City within 30 days of request by the City.

c. Self-hauler Requirements

- i. Any party wishing to self-haul material must apply for and receive written approval from the City.
- ii. Self-haulers shall source separate all recyclable materials and organic waste 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 specified in 14 CCR Section 18984.3.
- iii. Self-haulers shall haul their source separated recyclable materials to a facility that recovers those materials; and haul their source separated green

container organic waste to a solid waste facility, operation, activity, or property that processes or recovers source separated organic waste. Alternatively, self-haulers may haul organic waste to a high diversion organic waste processing facility.

1. Self-haulers that are commercial customers (including multifamily residential complexes) 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 City. The records shall include the following information:
 - a. Delivery receipts and weight tickets from the entity accepting the waste.
 - b. 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.
- d. Inspections and Investigations by the City
 - i. The City's representatives, its designated entity, and/or designees are authorized to conduct inspections and investigations, at random or otherwise, of any collection container, collection vehicle loads, or transfer, processing, or disposal facility for materials collected from generators, or source separated materials to confirm compliance with this ordinance by organic waste generators, commercial premises (including multifamily residential complexes), property owners, commercial edible food generators, haulers, self-haulers, food recovery services, and food recovery organizations, subject to applicable laws. This section does not allow the City to enter the interior of a private residential property for inspection.
 - ii. A regulated entity shall provide or arrange for access to their properties during all inspections and shall cooperate with the City's employee or its designated entity/designee 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 ordinance described herein. Failure to provide or arrange for access to an entity's premises or access to records for any Inspection or investigation is a violation of this Chapter and may result in penalties described.
 - iii. Any records obtained by the City during its inspections 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.

- iv. The City's representatives, its designated entity, and/or designees are authorized to conduct any inspections, remote monitoring, or other investigations as reasonably necessary to further the goals of this ordinance, subject to applicable laws.
- v. The City shall receive written complaints from persons regarding an entity that may be potentially non-compliant with SB 1383 regulations, including receipt of anonymous complaints.

SECTION 2: This ordinance shall be in full force and effect thirty (30) days from and after its publication and passage.

PASSED, APPROVED, AND ADOPTED this 15th day of February, 2022.

Adrian Monte Reyes, Mayor

ATTEST:
John D. Lollis, City Clerk

By _____
Patrice Hildreth, Chief Deputy City Clerk