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ORDINANCE NO. 5164

AN ORDINANCE ESTABLISHING THE REGULATIONS AND REQUIREMENTS FOR THE COUNTY, GENERATORS AND OTHER ENTITIES TO BE IN COMPLIANCE WITH SB 1383 (LARA) FOR THE REDUCTION OF ORGANIC WASTE

THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO DOES ORDAIN AS FOLLOWS:

Section 1. Purpose and Findings

The County of El Dorado finds and declares:

- A.** Assembly Bill 1826 of 2014, which added Chapter 12.9 (commencing with Section 42649.8) to Part 3 of Division 30 of the Public Resources Code, requires businesses and Multi-Family property owners that generate a specified threshold amount of Solid Waste, Recycling, and Organic Waste per week to arrange for recycling services for that waste, requires local jurisdictions to implement a recycling program to divert Organic Waste from businesses subject to the law, and requires local jurisdictions to implement a mandatory Commercial Organics Recycling program.
- B.** Senate Bill 1383, the Short-lived Climate Pollutant Reduction Act of 2016, set statewide methane emissions reduction targets and required CalRecycle to develop regulations to reduce organics in landfills as a source of methane (SB 1383 Regulations).
- C.** SB 1383 Regulations, require local jurisdictions to adopt and enforce an ordinance or similarly enforceable mechanism to implement relevant provisions of SB 1383 Regulations.
- D.** For consistency and to develop a comprehensive ordinance for organic waste reduction in the County, this ordinance implements requirements from AB 1826 and SB 1383.
- E.** 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.

F. Requirements in this ordinance are consistent with other adopted goals and policies of the County of El Dorado including:

1. The Solid Waste Management Plan (Plan). The Plan was designed to assist the County in reaching a future 75% landfill diversion goal in the most cost-effective, systematic, cohesive, and strategic manner. The Plan provides a strategic roadmap to use in planning for: coordinated, countywide, jurisdiction cooperation and initiating near, intermediate, and long-term program and infrastructure strategies.
2. The County Solid Waste Management Ordinance, Chapter 8.42, establishes requirements for the storage, handling, and disposal of Solid Waste within the unincorporated areas of the County.
3. The County Construction and Demolition Debris Recycling Ordinance, Chapter 8.43, which establishes requirements for the recycling of construction and demolition (C&D) debris generated within the unincorporated area of the County.

Section 2.

A new Chapter 8.45 entitled “Organic Waste Disposal and Diversion Ordinance” is hereby added to Title 8 of the El Dorado County Ordinance Code to read as follows:

Section 8.45.010 – Title

This chapter may be referred to and cited as the County Organic Waste Disposal and Diversion Ordinance.

Section 8.45.020 – Definitions

Whenever the following terms are used in this chapter, they shall have the following meanings, except where the context clearly indicates a different meaning:

1. *CalRecycle* means California's Department of Resources Recycling and Recovery, which is the Department designated with responsibility for developing, implementing, and enforcing applicable SB 1383 Regulations.
2. *California Code of Regulations* or *CCR* means the State of California Code of Regulations. CCR references in this chapter are preceded with a number that refers to the relevant Title of the CCR (e.g., “14 CCR” refers to Title 14 of CCR).
3. *Collection* means the operation of gathering and transporting to the point of disposal or processing any garbage, refuse, rubbish, Solid Waste, recyclable, transformable or compostable waste materials.
4. *Commercial business* or *Commercial* means a firm, partnership, proprietorship, joint-stock company, corporation, or association, whether for-profit or nonprofit, strip mall, industrial facility, or a Multi-Family Residential Dwelling, or as otherwise defined in 14 CCR Section 18982(a)(6).

5. *Commercial Edible Food Generator* includes a Tier One, or a Tier Two Commercial Edible Food Generator as defined in Section 8.45.020 (61) and (62) of this chapter or as otherwise defined in 14 CCR Section 18982(a)(73) and (a)(74). For the purposes of this definition, Food Recovery Organizations and Food Recovery Services are not Commercial Edible Food Generators pursuant to 14 CCR Section 18982(a)(7).
6. *Community Composting* means any activity that composts green material, agricultural material, food material, and vegetative food material, alone or in combination, and the total amount of feedstock and Compost on-site at any one time does not exceed 100 cubic yards and 750 square feet, as specified in 14 CCR Section 17855(a)(4); or, as otherwise defined by 14 CCR Section 18982(a)(8).
7. *Compliance Review* means a review of records by the County of El Dorado to determine compliance with this chapter.
8. *Compost* has the same meaning as in 14 CCR Section 17896.2(a)(4), which stated, as of the effective date of this chapter, that “Compost” means the product resulting from the controlled biological decomposition of organic Solid Wastes that are Source Separated from the municipal Solid Waste stream, or which are separated at a centralized facility.
9. *Compostable Plastics* or *Compostable Plastic* means plastic materials that meet the ASTM D6400 standard for compostability, or as otherwise described in 14 CCR Section 18984.1(a)(1)(A) or 18984.2(a)(1)(C).
10. *Container Contamination* or *Contaminated Container* means a container, regardless of color, that contains Prohibited Container Contaminants, or as otherwise defined in 14 CCR Section 18982(a)(55).
11. *Construction and Demolition Debris* or *C&D* means
 - a) Used or discarded materials generally considered to be not water soluble and non-hazardous in nature as defined in California Health and Safety Code § 25100 et seq. Such materials include, but are not limited to steel, copper, aluminum, glass, brick, concrete, asphalt material, pipe, gypsum, wallboard, roofing materials and lumber from the construction or demolition of a structure as part of a construction or demolition project or from the renovation of a structure and/or landscaping, including rocks, soils, tree remains, trees, and other vegetative matter that normally results from land clearing, landscaping and development operations for a construction project;
 - b) Remnants of new materials including, but not limited to, cardboard, paper, plastic, wood, and metal scraps from any construction and/or landscape project.
 - c) Other non-hazardous wastes that are generated at construction or demolition projects provided such amounts are consistent with best management practices of the industry.
12. *County* means County of El Dorado.
13. *Department* means the Department of Environmental Management or its successor.
14. *Designee* means an entity that the County contracts with or otherwise arranges to carry out any of the County’s responsibilities of this chapter as authorized in 14 CCR Section

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

15. *Director* means the County Director of Environmental Management or designee.
16. *Edible Food* means food intended for human consumption, or as otherwise defined in 14 CCR Section 18982(a)(18). For the purposes of this chapter 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.
17. *Enforcement* means an action of the County to address non-compliance with this chapter including, but not limited to, issuing administrative citations, fines, penalties, or using other remedies.
18. *Excluded Waste* means:
 - a) Hazardous substances, including but not limited to hazardous waste, infectious waste, designated waste, volatile, corrosive, and regulated radioactive waste
 - b) Special handling non-hazardous waste generated by industrial facilities or processes including but not limited to asbestos, sewage sludge, tires, water treatment sludge, drilling mud, grease wastes, contaminated soils, shredder waste, agricultural wastes, filter cake/dewatered sludge, scrap metal, spent catalyst fines, refinery ash and byproducts
 - c) Biomedical waste including but not limited to: infectious, pathological or biohazardous, originating from hospitals, public or private medical clinics, departments of research laboratories, pharmaceutical industries, blood banks, forensic medical departments, mortuaries, veterinary facilities and other similar facilities and includes (without limitation) equipment, instruments, utensils, fomites, laboratory waste (including pathological specimens and fomites attendant thereto), surgical facilities, equipment, bedding and utensils (including pathological specimens and disposal fomites attendant thereto), sharps (hypodermic needles, syringes, etc.), dialysis unit waste, chemotherapeutic waste, animal carcasses, offal and body parts, biological materials (vaccines, medicines, etc.), and other similar materials.
 - d) Excluded waste does not include used motor oil and filters, household batteries, universal wastes, and/or latex paint when such materials are defined as allowable materials for collection and the generator or customer has properly placed the materials for collection pursuant to instructions provided County or its Designee for collection services.
19. *Food Distributor* means a company that distributes food to entities including, but not limited to, Supermarkets and Grocery Stores, or as otherwise defined in 14 CCR Section 18982(a)(22).
20. *Food Facility* has the same meaning as in Section 113789 of the Health and Safety Code.
21. *Food Recovery* means actions to collect and distribute Edible Food that otherwise would be disposed, or as otherwise defined in 14 CCR Section 18982(a)(24).

22. *Food Recovery Organization* means an entity or person 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.

A Food Recovery Organization is not a Commercial Edible Food Generator for the purposes of this chapter and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7).

If the definition in 14 CCR Section 18982(a)(25) for Food Recovery Organization differs from this definition, the definition in 14 CCR Section 18982(a)(25) shall apply to this chapter.

23. *Food Recovery Service* means a person or entity that collects and transports Edible Food from a Commercial Edible Food Generator to a Food Recovery Organization or other entities for Food Recovery, or as otherwise defined in 14 CCR Section 18982(a)(26). A Food Recovery Service is not a Commercial Edible Food Generator for the purposes of this chapter and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7).
24. *Food Scraps* means all food such as, but not limited to, fruits, vegetables, meat, poultry, seafood, shellfish, bones, rice, beans, pasta, bread, cheese, and eggshells. Food Scraps excludes fats, oils, and grease when such materials are Source Separated from other Food Scraps
25. *Food Service Provider* means an entity primarily engaged in providing food services to institutional, governmental, Commercial, or industrial locations of others based on contractual arrangements with these types of organizations, or as otherwise defined in 14 CCR Section 18982(a)(27).
26. *Food-Soiled Paper* is compostable paper material that is currently able to be recycled in a technologically, economically, and culturally practical manner; as determined by the Department, that has come in contact with food or liquid, such as, but not limited to, compostable paper plates, paper coffee cups, napkins, pizza boxes, and milk cartons.
27. *Food Waste* means Food Scraps, Food-Soiled Paper, and Compostable Plastics that are currently able to be recycled in a technologically, economically, and culturally practical manner as determined by the Department.
28. *Franchisee* means any person that has entered into a franchise agreement with the County to collect, remove, transport, process or dispose of solid waste or recyclables or compostables, or to operate any solid waste facility.
29. *Grocery Store* means a Food Facility primarily engaged in the retail sale of canned food; dry goods; fresh fruits and vegetables; fresh meats, fish, and poultry; and includes any

area that is not separately owned within the store where the food is prepared and served, including a bakery, deli, and meat and seafood departments, or as otherwise defined in 14 CCR Section 18982(a)(30).

30. *Hauler Route* means the designated itinerary or sequence of stops for each segment of the County's collection service area, or as otherwise defined in 14 CCR Section 18982(a)(31.5).
31. *High Diversion Organic Waste Processing Facility* means a facility that is in compliance with the reporting requirements of 14 CCR Section 18815.5(d) and meets or exceeds an annual average Mixed Waste organic content Recovery rate of 50 percent between January 1, 2022 and December 31, 2024, and 75 percent after January 1, 2025, as calculated pursuant to 14 CCR Section 18815.5(e) for Organic Waste received from the "Mixed waste organic collection stream" as defined in 14 CCR Section 17402(a)(11.5); or, as otherwise defined in 14 CCR Section 18982(a)(33).
32. *Large Venue* means a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility. For purposes of this chapter and implementation of 14 CCR, Division 7, Chapter 12, a venue facility includes, but is not limited to, a public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts center, fairground, museum, theater, or other public attraction facility. For purposes of this chapter and implementation of 14 CCR, Division 7, Chapter 12, a site under common ownership or control that includes more than one Large Venue that is contiguous with other Large Venues in the site, is a single Large Venue. If the definition in 14 CCR Section 18982(a)(39) differs from this definition, the definition in 14 CCR Section 18982(a)(39) shall apply to this chapter
33. *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).
34. *Non-Compostable Paper* includes but is not limited to paper that is coated in a plastic material that will not breakdown in the composting process, or as otherwise defined in 14 CCR Section 18982(a)(41).
35. *Non-Local Entity* means the following entities that are not subject to the County's enforcement authority as determined by the Director or their Designee, or as otherwise defined in 14 CCR Section 18982(a)(42): Special districts, federal facilities, state parks, public universities, county fairgrounds, and state agencies.
36. *Non-Organic Recyclables* means non-putrescible and non-hazardous materials that are capable of being recycled, as that term is defined in 14 CCR Section 18815.2(a)(43), including but not limited to bottles, cans, metals, plastics, and glass.
37. *Notice of Violation (NOV)* means a notice issued by the Director that a violation of this chapter has occurred that includes a compliance date to avoid an action to seek penalties, or as otherwise defined in 14 CCR Section 18982(a)(45) or further explained in 14 CCR Section 18995.4.

38. *Organic Waste* means Solid Wastes containing material originated from living organisms and their metabolic waste products, including but not limited to food, green material, landscape and pruning waste, organic textiles and carpets, lumber, wood, Paper Products, Printing and Writing Paper, manure, biosolids, digestate, and sludges or as otherwise defined in 14 CCR Section 18982(a)(46). Biosolids and digestate are as defined by 14 CCR Section 18982(a).
39. *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).
40. *Paper Products* include, but are not limited to, paper janitorial supplies, cartons, wrapping, packaging, file folders, hanging files, corrugated boxes, tissue, and toweling, or as otherwise defined in 14 CCR Section 18982(a)(51).
41. *Person* includes an individual, firm, association, co-partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever.
42. *Printing and Writing Papers* include, but are not limited to, copy, xerographic, watermark, cotton fiber, offset, forms, computer printout paper, white wove envelopes, manila envelopes, book paper, note pads, writing tablets, newsprint, and other uncoated writing papers, posters, index cards, calendars, brochures, reports, magazines, and publications, or as otherwise defined in 14 CCR Section 18982(a)(54).
43. *Processing facility* means the place, site or equipment franchised by the Board where or by which solid wastes are processed. The term "processing facility" does not include commercial and home garbage disposal units, which are used to process food wastes and are part of the sewage system, or hospital incinerators, crematoriums, paper shredders in commercial establishments, or equipment used by a drop-off recycling or buy-back center.
44. *Prohibited Container Contaminants* means the following: (i) discarded materials placed in the inappropriate container, and (ii) Excluded Waste placed in any container.
45. *Recovery* means any activity or process described in 14 CCR Section 18983.1(b), or as otherwise defined in 14 CCR Section 18982(a)(49).
46. *Recycle* or *recycling* means the process of collecting, sorting, cleansing, treating, and reconstituting materials that would otherwise become solid waste, and returning them to the economic mainstream in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace.
47. *Recycling area* means space allocated for collecting and loading of Recyclable Materials. Such areas shall have the ability to accommodate receptacles for Recyclable Materials. Recycling areas shall be accessible and convenient for those who deposit as well as those who collect and load any Recyclable Materials therein.
48. *Recycling container* means a container which is provided to a residential, commercial, or industrial waste collection customer for the sole purpose of containing Recyclable Materials that are source separated from the non-recyclable portion of the waste stream.

49. *Restaurant* means an establishment primarily engaged in the retail sale of food and drinks for on-premises or immediate consumption, or as otherwise defined in 14 CCR Section 18982(a)(64).
50. *Route Review* means a visual Inspection of containers along a Hauler Route for the purpose of determining Container Contamination and may include mechanical Inspection methods such as the use of cameras, or as otherwise defined in 14 CCR Section 18982(a)(65).
51. *SB 1383* means Senate Bill 1383 of 2016 (Lara, Chapter 395, Statutes of 2016), approved by the Governor on September 19, 2016, which added Sections 39730.5, 39730.6, 39730.7, and 39730.8 to the Health and Safety Code, and added Chapter 13.1 (commencing with Section 42652) to Part 3 of Division 30 of the Public Resources Code, establishing methane emissions reduction targets in a statewide effort to reduce emissions of short-lived climate pollutants as amended, supplemented, superseded, and replaced from time to time.
52. *SB 1383 Regulations*” or “*SB 1383 Regulatory*” means or refers to, for the purposes of this chapter, the Short-Lived Climate Pollutants: Organic Waste Reduction regulations developed by CalRecycle and adopted in 2020 that created 14 CCR, Division 7, Chapter 12 and amended portions of regulations of 14 CCR and 27 CCR.
53. *Self-Hauler* means a person, who hauls Solid Waste, Organic Waste, excluded waste or recyclable material he or she has generated to another person. 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).
54. *Single-Family* means of, from, or pertaining to any residential premises with fewer than five (5) units.
55. *Solid Waste* or *refuse* means all putrescible and non-putrescible solid, semi-solid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition, and construction wastes, discarded home and industrial appliances, manure, vegetable or animal solid and semi-solid wastes, and other discarded solid and semi-solid wastes, with the exception that Solid Waste does not include any of the following wastes:
 - a) Hazardous waste, as defined in the State Public Resources Code Section 40141.
 - b) Radioactive waste regulated pursuant to the State Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the State Health and Safety Code).
 - c) Medical waste regulated pursuant to the State Medical Waste Management Act (Part 14 (commencing with Section 117600) of Division 104 of the State Health and Safety Code). Untreated medical waste shall not be disposed of in a Solid Waste landfill, as defined in State Public Resources Code Section 40195.1. Medical waste that has been treated and deemed to be Solid Waste shall be regulated pursuant to Division 30 of the State Public Resources Code.

56. *Source Separating* means the separation of materials by the generator, property owner, property owner's employee, property manager, or property manager's employee into different containers for the purpose of collection.
57. *Source Separated* means materials, including commingled recyclable materials, that have been separated or kept separate from the Solid Waste stream, at the point of generation, for the purpose of additional sorting or processing those materials for recycling or reuse in order to return them to the economic mainstream in the form of raw material for new, reused, or reconstituted products, which meet the quality standards necessary to be used in the marketplace, or as otherwise defined in 14 CCR Section 17402.5(b)(4).
58. *Source Separated Organic Waste* means Organic Wastes that is placed by the generator in a container that is specifically intended for the separate collection of organic waste).
59. *State* means the State of California.
60. *Supermarket* means a full-line, self-service retail store with gross annual sales of two million dollars (\$2,000,000), or more, and which sells a line of dry grocery, canned goods, or nonfood items and some perishable items, or as otherwise defined in 14 CCR Section 18982(a)(71).
61. *Tier One Commercial Edible Food Generator* means a Commercial Edible Food Generator that is one of the following, or as otherwise defined in 14 CCR Section 18982(a)(73):
- (a) Supermarket.
 - (b) Grocery Store with a total facility size equal to or greater than 10,000 square feet.
 - (c) Food Service Provider.
 - (d) Food Distributor.
 - (e) Wholesale Food Vendor.
62. *Tier Two Commercial Edible Food Generator* means a Commercial Edible Food Generator that is one of the following, or as otherwise defined in 14 CCR 18982(a)(74):
- (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
63. *Wholesale Food Vendor* means a business or establishment engaged in the merchant wholesale distribution of food, where food (including fruits and vegetables) is received,

shipped, stored, prepared for distribution to a retailer, warehouse, distributor, or other destination, or as otherwise defined in 14 CCR Section 189852(a)(76).

64. *Yard Waste* means leaves, grass clippings, prunings, pine needles and other natural organic matter discarded from public, commercial, or residential landscapes.

8.45.030 - Interpretation

This chapter shall be construed with reference to chapter 8.42 and chapter 8.43 of the County Code. In the event of a conflict that cannot be reconciled, the provisions of this chapter shall take precedence.

Section 8.45.040 - Requirements for Single Family Organic Waste Generators

Single-Family Organic Waste Generators shall comply with the following requirements:

- A. Unless the generator has been exempted by the County or is located in an area where a waiver has been issued or obtained, subscribe to the Organic Waste collection services provided in the generator's service area by an authorized County franchisee or meet the Self-Haul Requirements in Section 8.45.060
- B. Unless exempted by the County, participate in the County's Organic Waste collection service(s) by placing designated materials in designated containers, and not place Prohibited Container Contaminants in collection containers.
- C. Nothing in this section prohibits a generator from managing their Organic Waste by preventing or reducing waste generation, managing Organic Waste on-site, or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).

Section 8.45.050 - Requirements for Commercial Business Organic Waste Generators

Commercial Business Organic Waste Generators shall:

- A. Unless the generator has been exempted by the county, or a waiver has been issued or obtained, subscribe to Organic Waste collection services provided in the generator's service area by an authorized County franchisee, or meet the Self-Hauler requirements in Section 8.45.060.
- B. Unless exempted, participate in the County's Organic Waste collection service(s) by placing designated materials in designated containers, and not place Prohibited Container Contaminants in collection containers.
- C. Supply and allow access to an adequate number, size, and location of collection for employees, contractors, tenants, and customers.
- D. Provide containers for the collection of Organic Waste and non-organic Recyclable Materials in all indoor and outdoor areas where disposal containers are provided for customers for

materials generated by that business, except for restrooms. Multi-Family Residential Dwellings are excluded from this requirement.

- E. Unless exempted, generators must meet the applicable customer container requirements for the collection of organic waste, pursuant to 14 CCR Section 18984.9(b) and Public Resources Code Section 42649.91(d). Multi-Family Residential Dwellings are excluded from this requirement.
- F. 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 or, if self-hauling, per the Commercial Businesses' instructions to support its compliance with its self-haul program. Multi-Family Residential Dwellings are excluded from this requirement.
- G. Periodically inspect 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). Multi-Family Residential Dwellings are excluded from this requirement.
- H. Annually provide information to employees, contractors, tenants, and customers about Organic Waste Recovery requirements and about proper sorting of materials, if applicable.
- I. Provide education information before or within fourteen (14) days of the occupation of the premises to new tenants that describes requirements to separate materials from mixed waste (when applicable) and the location of containers and the rules governing their use (where required) at each property.
- J. Provide or arrange access for the County or its agent to their properties during all Inspections conducted in accordance with Section 8.45.130 to confirm compliance with the requirements of this chapter.
- K. Nothing in this Section 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).
- L. Commercial Businesses that are Tier One or Tier Two Commercial Edible Food Generators shall comply with Food Recovery requirements pursuant to Section 8.45.090.

Section 8.45.060 - Self-Hauler Requirements

- A. 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 or a transfer station that transports waste to a High Diversion Organic Waste Processing Facility as specified in 14 CCR Section 18984.3.
- B. Self-Haulers shall haul their Source Separated Organic Waste to a facility, operation, activity, or property that processes or recovers those materials. Alternatively, Self-Haulers may haul Organic Waste to a High Diversion Organic Waste Processing Facility.

- C. Self-Haulers that are Commercial Businesses (including Multi-Family Residential Dwellings) 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 County or Designee. The records shall include the following information:
1. Delivery receipts and weight tickets from the entity accepting the waste.
 2. The amount of material in cubic yards or tons transported by the generator to each entity.
 3. If the material is transported to an entity that does not have scales on-site or employs scales incapable of weighing the Self-Hauler's vehicle in a manner that allows it to determine the weight of materials received, the Self-Hauler is not required to record the weight of material but shall keep a record of the entities that received the Organic Waste.
- D. A residential Organic Waste Generator that self-hauls Organic Waste is not required to comply with the requirements of Section 8.45.060 (C).

A generator located in an area that received a waiver by CalRecycle under 14 CCR Section 18984.12 and is not a business subject to the requirements of Public Resources Code Section 42649.81 is not required to comply with the requirements of this section unless hauling waste to a County approved disposal facility.

Section 8.45.070 - Requirements for Haulers

Franchise haulers and permitted haulers providing residential, commercial, or Organic Waste collection services to generators within the County boundaries shall meet the following requirements and standards as a condition of approval of a contract, agreement, or other authorization with the County to collect Organic Waste:

- A. Through written notice to the County annually on or before June 30, identify the facilities to which they will transport Organic Waste including facilities for Source Separated Recyclable Materials, Source Separated Organic Waste, and Mixed Waste.
- B. Transport Source Separated Recyclable Materials, Source Separated Organic Waste, and Mixed Waste to a facility, operation, activity, or property that recovers Organic Waste as defined in 14 CCR, Division 7, Chapter 12, Article 2.
- C. Obtain approval from the County to haul Organic Waste, unless it is transporting Source Separated Organic Waste to a Community Composting site or lawfully transporting C&D in a manner that complies with 14 CCR Section 18989.1, and the County's C&D chapter.
- D. Franchised haulers and permitted haulers that have authorization to collect Organic Waste shall comply with education, equipment, signage, container labeling, container color, contamination monitoring, reporting, and other requirements contained within its franchise agreement, permit, license, or other agreement entered into with County.

Section 8.45.080 - Requirements for Facility Operators and Community Composting Operations

A. Owners of facilities, operations, and activities that recover Organic Waste, including, but not limited to, Compost facilities, in-vessel digestion facilities, and publicly owned treatment works shall, upon County request, provide information regarding available and potential new or expanded capacity at their facilities, operations, and activities, including information about throughput and permitted capacity necessary for planning purposes. Entities contacted by the County shall respond within sixty (60) days.

B. Community composting operators, upon County request, shall provide information to the County to support Organic Waste capacity planning, including, but not limited to, an estimate of the amount of Organic Waste anticipated to be handled at the Community Composting operation. Entities contacted by the County shall respond within sixty (60) days.

Section 8.45.090 - Requirements for Commercial Edible Food Generators

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

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

C. Commercial Edible Food Generators shall comply with the following requirements

1. Arrange to recover the maximum amount of Edible Food that would otherwise be disposed.
2. Contract 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. Allow County or its designated entity to access the premises and review records pursuant to 14 CCR Section 18991.4.
5. Keep records, for a period of no less than five years, that include the following information, or as otherwise specified in 14 CCR Section 18991.4:
 - a. A list of each Food Recovery Service or organization that collects or receives its Edible Food pursuant to a contract or written agreement established under 14 CCR Section 18991.3(b).
 - b. A copy of all contracts or written agreements established under 14 CCR Section 18991.3(b).

- c. A record of the following information for each of those Food Recovery Services or Food Recovery Organizations:
 - i. The name, address and contact information of the Food Recovery Service or Food Recovery Organization.
 - ii. The types of food that will be collected by or self-hauled to the Food Recovery Service or Food Recovery Organization.
 - iii. The established frequency that food will be collected or self-hauled.
 - iv. The quantity of food, measured in pounds recovered per month, collected or self-hauled to a Food Recovery Service or Food Recovery Organization for Food Recovery.
- d. Nothing in this chapter shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share table and school food donation guidance pursuant to Senate Bill 557 of 2017 (approved by the Governor of the State of California on September 25, 2017, which added Article 13 [commencing with Section 49580] to Chapter 9 of Part 27 of Division 4 of Title 2 of the Education Code, and to amend Section 114079 of the Health and Safety Code, relating to food safety, as amended, supplemented, superseded and replaced from time to time).

Section 8.45.100 - Requirements for Food Recovery Organizations and Services

- A. Food Recovery Services collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(1):
 - 1. The name, address, and contact information for each Commercial Edible Food Generator from which the service collects Edible Food.
 - 2. The quantity in pounds of Edible Food collected from each Commercial Edible Food Generator per month.
 - 3. The quantity in pounds of Edible Food transported to each Food Recovery Organization per month.
 - 4. The name, address, and contact information for each Food Recovery Organization that the Food Recovery Service transports Edible Food to for Food Recovery.
- B. Food Recovery Organizations collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(2):
 - 1. The name, address, and contact information for each Commercial Edible Food Generator from which the organization receives Edible Food.

2. The quantity in pounds of Edible Food received from each Commercial Edible Food Generator per month.
 3. The name, address, and contact information for each Food Recovery Service that the organization receives Edible Food from for Food Recovery.
- C. Food Recovery Organizations and Food Recovery Services that have their primary address physically located in the County and contract with or have written agreements with one or more Commercial Edible Food Generators pursuant to 14 CCR Section 18991.3(b) shall report to the County the total pounds of Edible Food recovered in the previous calendar year from the Tier One and Tier Two Commercial Edible Food Generators they have established a contract or written agreement with pursuant to 14 CCR Section 18991.3(b) no later than June 30.
- D. In order to support Edible Food Recovery capacity planning assessments or other studies conducted by the County or its Designee, Food Recovery Services and Food Recovery Organizations operating in the County shall provide information and consultation to the County, upon request, regarding existing, or proposed new or expanded, Food Recovery capacity that could be accessed by the County and its Commercial Edible Food Generators. A Food Recovery Service or Food Recovery Organization contacted by the County shall respond to such request for information within 60 days unless a shorter timeframe is otherwise specified by the County.

Section 8.45.110 - Waivers, exemptions for generators

- A. The County may issue waivers pursuant to 14 CCR Section 18984.11, obtain waivers from CalRecycle pursuant to 14 CCR Section 18984.12, or grant exemptions pursuant to Public Resources Code Section 42649.82(e)(3), for residential or commercial generators to comply with some or all organic waste reduction requirements. The County may review generator's qualifications for waivers and exemptions and will rescind the waivers or exemptions if the generator no longer qualifies.
- B. The County may act pursuant to 14 CCR 18984.13 to obtain waivers or grant exemptions from some or all the requirements of this chapter for emergency circumstances, abatement, quarantined materials, and federally regulated waste. Conditions eligible for waivers or exemptions may include temporary equipment or operational failure, disasters, sediment debris from flood control infrastructure, homeless encampments, or illegal disposal sites as part of an abatement activity, or for other circumstances pursuant to 14 CCR 18984.13.
- C. The Director shall establish the procedures and guidelines for applications for waivers. Applications for waivers shall be submitted to the Director for review and approval. Only the Director has the authority to issue a waiver consistent with the requirements of this chapter.
- D. De Minimis Waiver for Commercial Business and Multi Family Residential Dwellings. The Director may waive a responsible party's obligation to comply with some or all the Organic Waste requirements of this chapter if the responsible party provides documentation that the Commercial Business or Multi Family Residential Dwellings meets one of the criteria below:

1. The Commercial Business' total Solid Waste collection service is two (2) cubic yards or more per week and the Organic Waste subject to collection in Organic Waste containers comprises less than twenty (20) gallons per week per applicable container of the business' total waste; or,
 2. The Commercial Business' total Solid Waste collection service is less than two (2) cubic yards per week and the Organic Waste subject to collection in Organic Waste comprises less than ten (10) gallons per week per applicable container of the business' total waste.
- E. Physical Space Waiver for Commercial Business and Multi Family Residential Dwellings. The Director may waive a responsible party's obligation to comply with some or all the Organic Waste requirements of this chapter if the County has evidence from its own staff, a hauler, licensed architect, or licensed engineer demonstrating that the premises lacks adequate space for the collection containers required for compliance with the Organic Waste collection requirements of this chapter.
- F. Review and approval of De Minimis and Physical Space Waivers. The waivers shall be granted to responsible parties according to the following process:
1. Submit a completed application form to the Director for a waiver, specifying the type of waiver requested, type of collection services for which a waiver is being requested, the reason for such waiver, and documentation requesting such request.
 2. If approved, the waiver is valid for five (5) years.
 3. Waiver holder shall notify County if circumstances such that Commercial Business or Multi Family Residential Dwellings are no longer qualified for the waiver granted, in which case the waiver will be rescinded.
 4. Waiver holder must cooperate with County or Designee for any on-site assessment or inspection of the appropriateness of the waiver.
 5. Waiver holder may reapply to the Director for a waiver upon expiration of the waiver period and shall submit any required documentation and fees if any. Failure to submit a completed application shall constitute a denial of said application.
 6. The Director may revoke a waiver upon a determination that any of the circumstances justifying the waiver are no longer applicable.

Section 8.45.120 - Compliance with CALGreen Recycling Requirements

- A. Persons applying for a permit from the County for new construction and building additions and alternations shall comply with the requirements of this Section and all required components of the California Green Building Standards Code, 24 CCR, Part 11, known as CALGreen, as amended, if its project is covered by the scope of CALGreen. If the requirements of CALGreen are more stringent then the requirements of this Section, the CALGreen requirements shall apply.
- B. Project applicants shall refer to the County's building and/or planning code for complete CALGreen requirements.

- C. For projects covered by CALGreen or more stringent requirements of the County, the applicants must, as a condition of the County's permit approval, comply with the following:
1. Where five (5) or more Multi-Family dwelling units are constructed on a building site, provide readily accessible areas that serve occupants of all buildings on the site and are identified for the storage and collection of Blue Container and Green Container materials, consistent with the three-, three-plus, or two-container collection program offered by the County, or comply with provision of adequate space for recycling for Multi-Family and Commercial premises pursuant to Sections 4.408.1, 4.410.2, 5.408.1, and 5.410.1 of the California Green Building Standards Code, 24 CCR, Part 11 as amended provided amended requirements are more stringent than the CALGreen requirements for adequate recycling space effective January 1, 2020.
 2. New Commercial construction or additions resulting in more than 30% of the floor area shall provide readily accessible areas identified for the storage and collection of materials, consistent with the collection program offered by the County, or shall comply with provision of adequate space for recycling for Multi-Family and Commercial premises pursuant to Sections 4.408.1, 4.410.2, 5.408.1, and 5.410.1 of the California Green Building Standards Code, 24 CCR, Part 11 as amended provided amended requirements are more stringent than the CALGreen requirements for adequate recycling space effective January 1, 2020.
 3. Comply with CALGreen requirements and applicable law related to management of C&D, including diversion of Organic Waste in C&D from disposal. Comply with the County's C&D chapter, Section 8.43 of County's municipal code, and all written and published County policies and/or administrative guidelines regarding the collection, recycling, diversion, tracking, and/or reporting of C&D.

Section 8.45.130 - Inspections and Investigations

- A. County representatives or its 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 chapter by Organic Waste Generators, Commercial Businesses (including Multi-Family Residential Dwellings), 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 County to enter the interior of private residential property for Inspection.
- B. Entities regulated by this chapter shall provide or arrange for access during all Inspections (except for residential property interiors) and shall cooperate with the County employee or its Designee during such Inspections and investigations. Such inspections and investigations may include confirmation of proper placement of materials in containers, an inspection of Edible Food Recovery activities, review of required records, or any other verification or inspection to confirm compliance with any requirement of this chapter. Failure of a responsible party to

provide or arrange for: (i) access to an entity's premises; or (ii) access to records for any inspection or investigation is a violation of this chapter and may result in penalties described in Section 8.45.130.

- C. Any records obtained by the County or its Designee 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.
- D. County representatives or Designee are authorized to conduct any inspections or other investigations as reasonably necessary to further the goals of this chapter, subject to applicable laws.
- E. The County or its designee shall receive written complaints from persons regarding an entity that may be potentially non-compliant with SB 1383 Regulations, including receipt of anonymous complaints.
 - 1. Complaints shall be entered into Environmental Management's computer database system and assigned a unique complaint number. The complaint shall include all specified information regarding the complaint.
 - 2. Complaints will be forwarded to the appropriate staff for investigation.

Section 8.45.140 – Enforcement

- A. A violation of any provision of this chapter shall constitute grounds for issuance of a Notice of Violation and assessment of a fine by the County. Enforcement Actions under this chapter are the issuance of an administrative citation and the assessment of a fine. The County's procedures on imposition of administrative fines as set forth in Chapter 9.02 of the County Code are hereby incorporated in their entirety, as modified from time to time, and shall govern the imposition, enforcement, collection, and review of administrative citations issued to enforce this chapter and any rule or regulation adopted pursuant to this chapter, except as otherwise indicated in this chapter.
- B. A violation of this chapter is hereby declared to be unlawful and a public nuisance and may be abated pursuant to applicable law, including but not limited to Chapter 9.02 of the County Code.
- C. Responsible Entity for Enforcement. The Director shall enforce the provisions of this chapter. The Director is authorized to coordinate with other agencies and entities, as needed, to facilitate the implementation and enforcement of this chapter. The Director may delegate enforcement responsibilities to a Designee to the extent permitted by SB 1383 Regulations and other applicable law. The Director shall establish guidelines and requirements that are consistent with this chapter to implement and enforce this chapter.
- D. Process for Enforcement
 - 1. The Director will monitor compliance with the chapter through Compliance Reviews, Route Reviews, investigation of complaints, and an Inspection program.

2. County may issue an official notification to notify regulated entities of its obligations under this chapter.
3. County or Designee will issue a Notice of Violation to any generator found to have Prohibited Container Contaminants in a container. Such notice will be provided via a cart tag or other communication immediately upon identification of the Prohibited Container Contaminants or within 30 days after determining that a violation has occurred. If the County observes Prohibited Container Contaminants in a generator's containers on 3 or more consecutive occasion(s), the County may assess contamination processing fees or contamination penalties on the generator.
4. With the exception of violations of generator contamination of container contents addressed under Section 8.45.140 above, the County shall issue a Notice of Violation requiring compliance within 30 days of issuance of the notice.
5. Absent compliance by the respondent within the deadline set forth in the Notice of Violation, the County shall commence an action to impose penalties, via an administrative citation and fine, pursuant to chapter 9.02 of the County Code.
6. Notices shall be sent to "owner" at the official address of the owner maintained by the County tax collector or if no such address is available, to the owner at the address of the Multi-Family Residential Dwelling or Commercial property or to the party responsible for paying for the collection services, depending upon available information

E. Penalty Amounts for Types of Violation

1. The penalty levels are as follows as prescribed by 14 CCR Section 18997.2:
 - a. For a first violation, the amount of the base penalty shall be \$50 to \$100 per violation.
 - b. For a second violation, the amount of the base penalty shall be \$100 to \$200 per violation.
 - c. For a third or subsequent violation, the amount of the base penalty shall be \$250 to \$500 per violation.

F. Factors Considered in Determining Penalty Amount.

1. The following factors shall be used to determine the amount of the penalty for each violation within the appropriate penalty amount range:
 - a. The nature, circumstances, and severity of the violation(s).
 - b. The violator's ability to pay.
 - c. The willfulness of the violator's misconduct.
 - d. Whether the violator took measures to avoid or mitigate violations of this chapter.

- e. Evidence of any economic benefit resulting from the violation(s).
- f. The deterrent effect of the penalty on the violator.
- g. Whether the violation(s) were due to conditions outside the control of the violator.

G. Compliance Deadline Extension Consideration

1. The County may extend the compliance deadlines set forth in a Notice of Violation issued in accordance with this section if it finds that there are extenuating circumstances beyond the control of the respondent that make compliance within the deadlines impracticable, including the following.
 - a. Acts of God such as earthquakes, wildfires, flooding, and other emergencies or natural disasters.
 - b. Delays in obtaining discretionary permits or other government agency approvals; or,
 - c. Deficiencies in Organic Waste recycling infrastructure or Edible Food Recovery capacity and the County is under a corrective action plan with CalRecycle pursuant to 14 CCR Section 18996.2 due to those deficiencies.
 - d. Hardships related to serious medical impairment or death of either the responsible parties or their direct family members
 - e. Hardships related to encampments and unauthorized use by unauthorized individuals trespassing.

H. Appeals Process

1. Persons receiving an administrative citation containing a penalty for an uncorrected violation may request a hearing to appeal the citation. A hearing will be held only if it is requested within the time prescribed and consistent with the County's procedures in the County's codes for appeals of administrative citations. Evidence may be presented at the hearing. The County will appoint a hearing officer who shall conduct the hearing and issue a final written order

I. Education Period for Non-Compliance

Beginning upon the effective date of this chapter and through December 31, 2023, the County will conduct Inspections, Route Reviews or waste evaluations, and Compliance Reviews, depending upon the type of regulated entity, to determine compliance, and if the County determines that Organic Waste Generator, Self-Hauler, hauler, Tier One Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance, it shall provide educational materials to the entity describing its obligations under this chapter and a notice that compliance is required, and that violations may be subject to administrative civil penalties starting on January 1, 2024.

J. Civil Penalties for Non-Compliance

Beginning January 1, 2024, if the County determines that an Organic Waste Generator, Self-Hauler, hauler, Tier One or Tier Two Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance with this chapter, it shall document the noncompliance or violation, issue a Notice of Violation, and take Enforcement Action pursuant to Section 16, as needed.

K. Civil Action and Civil Penalties.

The County may bring a civil action against any Person that violates any provision of this chapter, including but not limited to a civil action seeking an injunction.

Section 3. Effective Date. Pursuant to California Government Code section 25123, this ordinance shall become effective thirty (30) days from the date of final passage by the Board of Supervisors.

PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held on the 30th day of August 2022, by the following vote of said Board:

Ayes: Hidahl, Turnboo, Thomas, Parlin, Novasel

Noes: None

Absent: None

ATTEST

KIM DAWSON

Clerk of the Board of Supervisors

Deputy Clerk

Lori Parlin, Chair, Board of Supervisors

**APPROVED AS TO FORM
DAVID LIVINGSTON
COUNTY COUNSEL**

By: _____

David Livingston
County Counsel