

DRAFT ORDINANCE

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS
AMENDING CHAPTER 1, ARTICLE III, "ADMINISTRATIVE CITATIONS," CHAPTER 11,
"GARBAGE, REFUSE, AND WEEDS," AND CHAPTER 16, "NOISE" OF THE TOWN CODE**

WHEREAS, in September 2016, Governor Jerry Brown signed into law Senate Bill 1383 (SB 1383), establishing methane emissions reduction targets in a statewide effort to reduce emissions of short-lived climate pollutants; and

WHEREAS, SB 1383 established targets to achieve 50 percent reduction in the level of statewide disposal of organic waste from 2014 levels by 2020 and a 75 percent reduction by 2025; and

WHEREAS, an Ordinance in compliance with SB 1383 requirements was adopted by the Town Council on November 10, 2021; and

WHEREAS, the Town is a member of the West Valley Solid Waste Management Authority; and

WHEREAS, the Solid Waste Management Authority has recommended that the Town update its Town Code provisions related to the collection of construction and demolition debris and organic waste; and

WHEREAS, Chapter 1, Article III, "Administrative Citations," Chapter 11, "Garbage, Refuse, and Weeds," and Chapter 16, "Noise" are recommended for modification to provide for a non-exclusive process for construction and demolition debris removal process, to update enforcement penalty amounts for non-compliance, and to remove redundancies;

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Los Gatos as follows:

SECTION I. Subsection (a) of Section 1.30.025, "Amounts of Penalties," of Article III, "Administrative Citations," of Chapter 1, "General Provisions," of the Town Code is amended to read as follows:

- (a) The amounts of the penalties for code violations imposed pursuant to this Article shall be set forth in the schedule of penalties established by resolution by the Town Council.

SECTION II. Subsection (a) of Section 1.30.035, "Hearing Request," of Article III, "Administrative Citations," of Chapter 1, "General Provisions," of the Town Code is amended to read as follows:

- (a) Any recipient of an administrative citation may contest the citation by completing a request for hearing form and returning it to the Town within thirty (30) days from the date of the administrative citation, together with an advance deposit of the total penalty amount or an advance deposit hardship waiver application form as described in Section 1.30.070.

SECTION III. Chapter 11, “Garbage, Refuse, and Weeds,” of the Town Code is amended to read as follows:

DISCARDED MATERIALS, CONSTRUCTION AND DEMOLITION DEBRIS, EXCLUDED WASTE, AND WEEDS¹

ARTICLE I. IN GENERAL

SECTION 11.10.010 DEFINITIONS.

For the purposes of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

Approved Construction and Demolition Debris Processing Facility means any of the facilities, used to process construction and demolition debris, that have been approved by the Regional agency.

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).

CalRecycle means the California's Department of Resources Recycling and Recovery, which is the Department designated with responsibility for developing, implementing, and enforcing SB 1383 Regulations with regard to cities, counties, special districts, and other regulated entities.

Commercial business or commercial means a non-residential premises including a firm, partnership, proprietorship, joint- stock company, corporation, or association where business activity is conducted including, but not limited to, retail sales, services, wholesale operations, manufacturing, and industrial operations, but excluding businesses conducted upon residential

¹Cross reference(s)—Animals and fowl, Ch. 4; buildings and building regulations, Ch. 6; fire protection, Ch. 9; food and food establishments, Ch. 10; health and sanitation, Ch. 13; licenses and miscellaneous business regulations, Ch. 14; nuisances, Ch. 17; planning, Ch. 20; sewers and sewage disposal, Ch. 22; streets and sidewalks, Ch. 23; removal of material and refuse upon completion of construction of sidewalks, driveways, curbs and gutters, § 23.40.035; subdivision regulations, Ch. 24; utilities, Ch. 27; zoning regulations, Ch. 29.

State law reference(s)—Garbage and refuse disposal generally, Health and Safety Code § 4100 et seq.; authority to contract for collection and removal of garbage, etc., § 4250.

property that are permitted under applicable zoning regulations and are not the primary use of the property, whether for-profit or nonprofit, strip mall, or industrial facility, or as otherwise defined in 14 CCR Section 18982(a)(6), with the exception that multi-family is excluded from the definition of commercial business.

Commercial edible food generator includes a Tier one or a Tier two commercial edible food generator as defined in 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).

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).

Compliance review means a review of records by the Town to determine compliance with this Article.

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.

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

Container(s) mean bins, carts, and roll-off boxes.

Container contamination or contaminated container means a container, regardless of color, that contains prohibited container contaminants, or as otherwise defined in 14 CCR Section 18982(a)(55).

County means the County of Santa Clara, California.

County agency enforcement official means an authorized designee of the County of Santa Clara in the Public Health Department or other departments who is/are partially or whole responsible for enforcing this Chapter.

Customer means the person who receives the collection contractor's services and to whom the contractor/Town submits its billing invoice to and collects payment from for collection services provided to a premises. The customer may be either the occupant, owner, or designated responsible party by the owner of the premises, as allowed by the Town Code.

Construction and demolition debris or C&D debris means discarded building materials, packaging, debris, and rubble resulting from construction, alteration, remodeling, repair or demolition operations on any pavements, excavation projects, houses, commercial buildings, or other structures, excluding excluded materials and universal waste. C&D debris includes rocks, soils, tree remains, and other yard trimmings that result from land clearing or land development operations in preparation for construction.

C&D hauler means the collection contractor that has been granted the exclusive or non-exclusive rights to collect C&D debris in the Town through the agreement entered into by the collection contractor and the Regional Agency.

Covered project means and includes any project that meets the thresholds set forth in Section 11.60.010.

Dead animals means those animals that die naturally, from disease, or are accidentally killed, but shall not mean condemned animals or parts of animals from slaughterhouses or similar places.

Designee means an entity that the Town contracts with or otherwise arranges to carry out any of the Town's responsibilities pursuant to 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.

Discarded materials means recyclable materials, organic materials, and solid waste discarded by a generator for the purpose of collection and/or self-hauling, excluding excluded waste.

Disposal or dispose (or any variation thereof) means the final disposition of solid waste, or processing residue at a disposal facility.

Dwelling unit means any individual living unit in a single-family dwelling, multi-family dwelling, structure or building, mobile home, or motor home located on a permanent site intended for, or capable of being utilized for, residential living other than a hotel or motel.

Edible food means food intended for human consumption, or as otherwise defined in 14 CCR Section 18982(a)(18). For the purposes of this Chapter or as otherwise defined in 14 CCR Section 18982(a)(18), "edible food" is not solid waste if it is recovered and not discarded. Nothing in this Chapter or in 14 CCR, Division 7, Chapter 12 requires or authorizes the recovery of edible food that does not meet the food safety requirements of the California Retail Food Code.

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

Enforcement entity means an appointed designee for the enforcement of this Chapter. A designee may be the Town enforcement official, Regional agency's enforcement official, county enforcement official, other designee, or a combination of those entities.

Excluded waste means hazardous substance, hazardous waste, infectious waste, designated waste, volatile, corrosive, medical waste, infectious, regulated radioactive waste, and toxic substances or material that facility operator(s), which receive materials from the Town and its generators, reasonably believe(s) would, as a result of or upon acceptance, transfer, processing, or disposal, be a violation of local, State, or Federal law, regulation, or ordinance, including: land use restrictions or conditions, waste that cannot be disposed of in Class III landfills or accepted at the facility by permit conditions, waste that in Town's, its designee's, or Regional agency's reasonable opinion would present a significant risk to human health or the

environment, cause a nuisance or otherwise create or expose the Town, its designee, or Regional agency's to potential liability; but not including de minimis volumes or concentrations of waste of a type and amount normally found in single-family or multi-family solid waste after implementation of programs for the safe collection, processing, recycling, treatment, and disposal of batteries and paint in compliance with Sections 41500 and 41802 of the California Public Resources Code. Excluded waste does not include used motor oil and filters, and household batteries when such materials are defined as allowable materials for collection through the Town's collection programs and the generator or customer has properly placed the materials for collection pursuant to instructions provided by Town, Regional agency, or exclusive hauler for collection services.

Exclusive hauler means the collection contractor that has been granted the exclusive rights to collect recyclable materials, organic materials, and solid waste, in the Town through the agreement entered into by the collection contractor and the Regional agency.

Food distributor means a company that distributes food to entities including, but not limited to, supermarkets and grocery stores, or as otherwise defined in 14 CCR Section 18982(a)(22).

Food facility has the same meaning as in Section 113789 of the Health and Safety Code.

Food recovery means actions to collect and distribute food for human consumption that otherwise would be disposed, or as otherwise defined in 14 CCR Section 18982(a)(24).

Food recovery organization means an entity that engages in the collection or receipt of edible food from commercial edible food generators and distributes that edible food to the public for food recovery either directly or through other entities. "Food recovery organization" includes, but is not limited to:

- (1) A food bank as defined in Section 113783 of the Health and Safety Code;
- (2) A nonprofit charitable organization as defined in Section 113841 of the Health and Safety code; and,
- (3) A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.

A food recovery organization is not a commercial edible food generator for the purposes of this 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.

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.

Food scraps means those discarded materials that will decompose and/or putrefy including: (i) all kitchen and table food waste; (ii) animal or vegetable waste that is generated during or results from the storage, preparation, cooking or handling of food stuffs; (iii) discarded paper

(including paper containers and cartons) that is contaminated with food scraps and compostables; (iv) fruit waste, grain waste, dairy waste, meat, and fish waste; and, (v) vegetable trimmings, houseplant trimmings and other compostable organic waste common to the occupancy of residential dwellings. Food scraps are a subset of food waste. Food scraps excludes fats, oils, and grease when such materials are source separated from other food scraps.

Food service provider means an entity primarily engaged in providing food services to institutional, governmental, commercial, or industrial locations of others based on contractual arrangements with these types of organizations, or as otherwise defined in 14 CCR Section 18982(a)(27).

Food-soiled paper is compostable paper material 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. Food-soiled paper is a subset of food waste.

Food waste includes food scraps and food-soiled paper, and includes compostable plastics, unless Town, its designee, Regional agency, or exclusive hauler excludes compostable plastics in the organic materials containers. Food waste is a subset of organic materials.

Generator means any person whose act first causes discarded materials to become subject to regulation under this Chapter of the Town code or under federal, State, or local laws or regulations.

Green waste means tree trimmings, grass cuttings, dead plants, leaves, branches and dead trees (not more than three (3) inches in diameter), garden and tree fruits and vegetables, and similar materials generated and Source Separated from other materials at the Premises.

Grocery store means a store primarily engaged in the retail sale of canned food; dry goods; fresh fruits and vegetables; fresh meats, fish, and poultry; and any area that is not separately owned within the store where the food is prepared and served, including a bakery, deli, and meat and seafood departments, or as otherwise defined in 14 CCR Section 18982(a)(30).

Hauler route means the designated itinerary or sequence of stops for each segment of the Town's collection service area, or as otherwise defined in 14 CCR Section 18982(a)(31.5).

Health Facility has the same meaning as in Section 1250 of the Health and Safety Code.

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).

Hotel has the same meaning as in Section 17210 of the Business and Professions Code.

Inspection means a site visit where a Town, its designee, or Regional agency reviews records, containers, and an entity's collection, handling, recycling, or landfill disposal of organic waste or

edible food handling to determine if the entity is complying with requirements set forth in this Chapter, or as otherwise defined in 14 CCR Section 18982(a)(35).

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

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

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

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

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

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

Non-local entity means an entity that is an organic waste generator but is not subject to the control of a jurisdiction's regulations related to solid waste. These entities may include, but are not limited to, special districts, federal facilities, prisons, facilities operated by the state parks system, public universities, including community colleges, county fairgrounds, and state agencies.

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

Occupant means the person who occupies a premises.

Organic materials means green waste, food waste, lumber, and wood waste.

Organic materials container has the same meaning as in 14 CCR Section 18982.2(a)(29) and shall be used for the purpose of storage and collection of source separated organic materials.

Organic waste means solid wastes containing material originated from living organisms and their metabolic waste products, including but not limited to food, green material, landscape and pruning waste, green 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).

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).

Overage means discarded materials exceeding the container's intended capacity such that the container's lid is lifted by at least one (1) inch (or would be lifted by at least one (1) inch if there was a lid); or, (ii) discarded materials placed on top of or in the immediate vicinity of the container, excluding allowed cardboard.

Owner means the person(s) holding legal title to real property and/or any improvements thereon and shall include the person(s) listed on the latest equalized assessment roll of the county assessor, or as otherwise defined in 14 CCR Section 18982(a)(57).

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).

Premises means any land or building in the Town where recyclable materials, organic materials, solid waste, or C&D are generated or accumulated.

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).

Process or processing (or any variation thereof) means the controlled separation, recovery, volume reduction, conversion, or recycling of source separated recyclable materials or source separated organic materials including, but not limited to, organized, manual, automated, or mechanical sorting, the use of vehicles for spreading of waste for the purpose of recovery, and/or includes the use of conveyor belts, sorting lines, or volume reduction equipment, or as otherwise defined in 14 CCR Section 17402(a)(20).

Prohibited container contaminants means the following: (i) discarded materials placed in the recyclable materials container that are not identified as acceptable source separated recyclable materials for the Town's recyclable materials container; (ii) discarded materials placed in the organic materials container that are not identified as acceptable source separated organic materials for the Town's organic materials container; (iii) discarded materials placed in the solid waste container that are acceptable source separated recyclable materials and/or source

separated organic materials to be placed in Town's organic materials container and/or recyclable materials container; and, (iv) excluded waste placed in any container.

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

Recovery means any activity or process described in 14 CCR Section 18983.1(b), or as otherwise defined in 14 CCR Section 18982(a)(49).

Recyclable materials means materials that are intended for the purposes of being reused or recycled. The particular materials eligible to be recycled through the Town's programs shall be specified from time to time by the Regional agency.

Recyclable materials container has the same meaning as in 14 CCR Section 18982.2(a)(5) and shall be used for the purpose of storage and collection of source separated recyclable materials.

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

Regional agency means the West Valley Solid Waste Management Authority.

Regional agency enforcement official means a designated enforcement official from the Regional agency or other Regional or county agency, designated by the Town with responsibility for enforcing the Chapter in conjunction or consultation with Town enforcement official.

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

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

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).

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).

Salvage means the controlled removal of C&D debris from a covered project, for the purpose of reuse or storage for later reuse.

SB 1383 means Senate Bill 1383 of 2016 approved by the Governor on September 19, 2016, which added Sections 39730.5, 39730.6, 39730.7, and 39730.8 to the Health and Safety Code, and added Chapter 13.1 (commencing with Section 42652) to Part 3 of Division 30 of the Public

Resources Code, establishing methane emissions reduction targets in a Statewide effort to reduce emissions of short-lived climate pollutants as amended, supplemented, superseded, and replaced from time to time.

SB 1383 regulations or SB 1383 regulatory means or refers to, for the purposes of this Chapter, the short-lived climate pollutants: organic waste reduction regulations developed by CalRecycle that created 14 CCR, Division 7, Chapter 12 and amended portions of regulations of 14 CCR and 27 CCR.

Self-hauler means a person, who hauls solid waste, organic waste or recyclable material they have generated to another person. Self-hauler also includes a 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). Self-hauler also includes a landscaper.

Share table has the same meaning as in Section 114079 of the Health and Safety Code.

Single-family means of, from, or pertaining to any residential premises with fewer than five (5) units.

Solid waste has the same meaning as defined in State Public Resources Code Section 40191, which defines solid waste as all putrescible and non putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, C&D debris, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semi-solid wastes, and other discarded solid and semisolid wastes, with the exception that solid waste does not include any of the following wastes:

- (1) Hazardous waste, as defined in the State Public Resources Code Section 40141.
- (2) Radioactive waste regulated pursuant to the State Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the State Health and Safety Code).
- (3) Medical waste regulated pursuant to the State Medical Waste Management Act (Part 14 (commencing with Section 117600) of Division 104 of the State Health and Safety Code). Untreated medical waste shall not be disposed of in a solid waste landfill, as defined in State Public Resources Code Section 40195.1. Medical waste that has been treated and deemed to be solid waste shall be regulated pursuant to Division 30 of the State Public Resources Code.

Solid waste materials container has the same meaning as in 14 CCR Section 18982.2(a)(28) and shall be used for the purpose of storage and collection of solid waste.

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). For the purposes of the Chapter, source separated shall include 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 such that source separated materials are separated from solid waste for the purposes of collection and processing.

Source separated organic materials means source separated organic materials that can be placed in an organic materials container that is specifically intended for the separate collection of organic waste.

Source separated recyclable materials means source separated recyclables materials that can be placed in a recyclable materials containers that is specifically intended for the separate collection of recyclable materials.

State means the State of California.

Supermarket means a full-line, self-service retail store with gross annual sales of two million dollars (\$2,000,000.00), or more, and which sells a line of dry grocery, canned goods, or nonfood items and some perishable items, or as otherwise defined in 14 CCR Section 18982(a)(71).

Tier one commercial edible food means a commercial edible food generator that is one (1) of the following, as defined in this Chapter:

- (1) Supermarket.
- (2) Grocery store with a total facility size equal to or greater than ten thousand (10,000) square feet.
- (3) Food service provider.
- (4) Food distributor.
- (5) Wholesale food vendor.

If the definition in 14 CCR Section 18982(a)(73) of tier one commercial edible food generator differs from this definition, the definition in 14 CCR Section 18982(a)(73) shall apply to this Chapter.

Tier two commercial edible food generator means the following:

- (1) Restaurant with two hundred fifty (250) or more seats, or a total facility size equal to or greater than five thousand (5,000) square feet.
- (2) Hotel with an on-site food facility and two hundred (200) or more rooms.
- (3) Health facility with an on-site food facility and one hundred (100) or more beds.
- (4) Large venue.
- (5) Large event.
- (6) State agency with a cafeteria with two hundred fifty (250) or more seats or total cafeteria facility size equal to or greater than five thousand (5,000) square feet.

(7) A local education agency facility with an on-site food facility.

If the definition in 14 CCR Section 18982(a)(74) of tier two commercial edible food generator differs from this definition, the definition in 14 CCR Section 18982(a)(74) shall apply to this Chapter.

Town means the Town of Los Gatos, California, a political subdivision of the State of California, and its duly authorized representatives.

Town Enforcement Official means the Town manager, or other executive in charge or their authorized Designee(s) who is/are partially or whole responsible for enforcing the ordinance.

Transportation or transport means the act of conveying collected materials from one location to another.

Universal waste means waste defined by 22 CCR subsections 66273.1 through 66273.9, including, but not limited to batteries, fluorescent light bulbs, mercury switches, and E-waste.

West Valley Clean Water Authority means the stormwater pollution prevention authority for the cities of Campbell, Monte Sereno, Saratoga, and the Town of Los Gatos.

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.

(Ord. No. 2324 , § II, 11-16-21)

Sec. 11.10.015. Determinations.

Pursuant to Government Code Section 66757, the Town hereby makes the following determinations:

- (1) The following aspects of solid waste handling are of local concern: frequency of collection, means of collection and transportation, level of services, charges and fees, and nature, location, and extent of providing solid waste handling services.
- (2) The public health, safety and well-being require that discarded materials handling services be provided by a wholly exclusive franchise and C&D debris handling services be provided by an exclusive or non-exclusive C&D debris collection services franchise agreement. The terms of franchise shall be set forth in a franchise agreement approved by resolution of the Town Council or entered into by the Regional agency if the Town's solid waste program is managed by a joint powers authority.

(Code 1968, § 14-2)

Sec. 11.10.020. Collection and disposal of discarded materials and C&D debris by private persons.

- (a) No person, except as provided in Section 11.10.015, shall collect or gather or cause to be collected or gathered, discarded materials or C&D debris within the Town, or carry,

convey or transport, or cause to be carried, conveyed or transported, discarded materials or C&D debris through any of the streets, alleys or public places of the Town.

- (b) No person shall collect C&D Debris produced, kept, or accumulated within the Town, unless such person holds a valid and current contract with the Regional agency or is an agent or employee of the Town acting within the course and scope of their employment.
- (c) This Section shall not apply to the following:
 - (1) Persons carrying, conveying or transporting discarded materials or C&D debris owned by them to an authorized disposal site.
 - (2) Persons collecting or gathering, or carrying, conveying or transporting, discarded materials or C&D debris to be salvaged.
 - (3) Persons collecting or gathering, or carrying, conveying or transporting, discarded materials or C&D debris to an authorized disposal site upon an irregular or occasional basis.
 - (4) Gardeners or tree surgeons collecting or gathering, or carrying, conveying or transporting, tree branches, yard trimmings, grass clippings, weeds and leaves from premises where such gardeners or tree surgeons have performed services resulting in such discarded materials, to an authorized disposal site.
- (d) This Section shall not apply to the following for the collection of discarded materials:
 - (1) Collection and transport of recyclable materials and organic materials other than edible food that have been source separated from solid waste by the generator and that: (1) generator sells or donates to any other person, provided that there is no net payment made by the generator to such other person; or, (2) have a value equal to or more than the cost of collection.
 - (2) Commercial business owner or resident collection and transportation of discarded materials for processing generated in or on their own premises with their own vehicle. However, the owner or resident shall be required to subscribe to and pay for the minimum required level of discarded materials collection service provided by the exclusive hauler.
 - (3) Any items which are source separated at any premises by the generator and sold or donated to other persons, including youth, civic, or charitable organizations.
 - (4) Edible food that is collected from a generator by other person(s), such as a person from a food recovery organization or food recovery service, for the purposes of food recovery, or that is transported by the generator to another person(s), such as a person from a food recovery organization, for the purposes of food recovery, regardless of whether the generator donates, sells, or pays a fee to the other person(s) to collect or receive the edible food from the generator.

- (5) Food scraps that are separated by the generator and used by the generator or distributed to other person(s) for lawful use as animal feed, in accordance with 14 CCR Section 18983.1(b)(7). Food scraps intended for animal feed may be self-hauled by generator or hauled by another party.
- (6) Containers delivered for recycling under the California Beverage Container Recycling and Litter Reduction Act, Section 14500, et seq. California Public Resources Code.
- (7) Discarded materials removed from a premises by a contractor (e.g., gardener, landscaper, tree-trimming service, construction contractor, residential clean-out service) as an incidental part of the service being performed, rather than as a separately contracted or subcontracted hauling service; or if such contractor is providing a service that is not provided by the exclusive hauler.
- (8) Organic materials composted on a residential premises or otherwise legally managed at the site where they are generated or at a community composting site.
- (9) Animal waste and remains from slaughterhouse or butcher shops, or grease.
- (10) By-products of sewage treatment, including sludge, sludge ash, grit, and screenings.
- (11) Excluded materials regardless of their source.
- (12) Materials generated by State and County facilities located in the Town, including but not limited to public schools, provided that the facility self-hauls, has arranged services with other persons, or has arranged services with the contractor through a separate agreement.

(Code 1968, § 14-3)

Sec. 11.10.025. Disposal by Town, compliance with collection services franchise agreement required.

- (a) Except as otherwise expressly provided in this Chapter, it shall be unlawful for any person to dispose of discarded materials or C&D debris, except through the service provided by the Town, its agents, servants, or employees, or by persons who shall contract with the Town or the Regional agency to gather and collect and to dispose of such discarded materials or C&D debris.
- (b) Any person who collects and disposes of discarded materials in the Town shall do so in compliance with the exclusive franchise agreement approved by resolution of the Town Council or the Regional agency.

(Code 1968, § 14-4)

Sec. 11.10.030. Contracting for collection services

All discarded materials collection services in the Town shall be collected in accordance with the exclusive hauler franchise agreement.

- (a) For the collection and transport of C&D debris, an exclusive or non-exclusive contract may be entered into by the Town or Regional agency in accordance with the terms and conditions of this Chapter. The Regional agency may impose a limit on the number of non-exclusive C&D haulers.
- (b) Nothing shall prevent a generator from hauling their own C&D debris to a disposal or approved C&D processing facility.

(Code 1968, § 14-5)

Sec. 11.10.035. Discarded materials and C&D debris containers—Required.

- (a) No person shall deposit, keep or accumulate, or cause to be deposited, kept or accumulated, any discarded materials in or about any lot or parcel of land, or any public or private drive, alley or street, or any house, store, restaurant or other place in the Town, unless the same is enclosed in a container of the type described in this Article. The exclusive hauler for collection of discarded materials is granted by the Town the rights to encroach on the public right of way, including if necessary, bike lanes, for that period during which containers are permitted to be placed by the exclusive hauler's customers in such right of way for curbside collection from a residential or commercial premises during specific times of collection as prescribed in the agreement entered into by the exclusive hauler and the Regional agency.
- (b) No person shall deposit, keep or accumulate, or cause to be deposited, kept or accumulated, any C&D debris in or about any lot or parcel of land or private drives, unless the same is kept, deposited, or allowed to accumulate in a roll-off containers. Such containers shall be kept in a suitable location upon such premises, readily accessible to the collector. C&D debris containers shall not be placed on a public right-of-way or private alley.

(Code 1968, § 14-6)

Sec. 11.10.040. Collection containers—Size, material, etc.

- (a) The container for discarded materials required by Section 11.10.035 shall be watertight, equipped with a close fitting cover, and shall meet the specifications as required by an exclusive franchise agreement or non-exclusive franchise agreement.

(b) Larger containers, such as roll-off boxes, may be utilized under terms and conditions prescribed in regulations approved in a C&D debris collection services franchise agreement.

(Code 1968, § 14-7)

Sec. 11.10.045. Accumulations of combustible materials prohibited in certain areas; exception.

No person shall keep any combustible materials in any office, commercial, industrial or large multiple housing area (eight (8) units or more) of the Town for a period longer than twenty-four (24) hours, without placing such rubbish in a metal container satisfactory to the Fire Chief.

(Code 1968, § 14-9)

Sec. 11.10.050. Burying, burning prohibited.

No person shall bury in or burn upon any lot, piece or parcel of land, or in or upon any street, way or alley within the Town any discarded materials, C&D debris or excluded waste.

(Code 1968, § 14-10)

Sec. 11.10.055. Dumping of discarded materials or C&D debris restricted to authorized disposal site.

No person shall dump any discarded materials or C&D debris upon any lot, piece or parcel of land not owned by such person or upon any public street, way, alley or place within the Town.

(Code 1968, § 14-11)

Sec. 11.10.060. Leaving of dead animals, etc., on streets, public places, private lands, etc.

No person shall put the carcass of any dead animal or the offal from any dead animal, whether slaughtered or not, or the offal from any slaughterhouse, pen, corral or butcher shop in any creek, pond, street, alley, highway or public grounds; or shall leave the same to decompose or decay upon the person's private land upon the surface of the ground; or shall allow any animal owned by the person which shall have died from any cause to remain upon any street, alley or highway, or upon any public or private grounds, to decay and create an offensive smell; or shall attempt to destroy such animal or offal by fire within the Town.

(Code 1968, § 14-12)

Sec. 11.10.070. Hauler and facility operator requirements.

(a) Requirements for haulers:

(1) The exclusive hauler providing single-family, multi-family residential dwellings, and commercial recyclable materials, organic waste, and solid waste collection services to generators within the Town's boundaries shall meet the following requirements and standards:

(A) Transport:

- (i) Source separated recyclable materials to a facility that recovers recyclable materials;
- (ii) Source separated organic materials to a facility, operation, activity, or property that recovers organic waste as defined in 14 CCR, Division 7, Chapter 12, Article 2; and
- (iii) Solid waste to a disposal facility; and all facilities shall be approved by the Regional agency through the exclusive hauler's collection agreement with the Regional agency.

(2) The exclusive hauler authorized to collect Source separated materials and solid waste shall comply with education, equipment, signage, container labeling, container color, contamination monitoring, reporting, and other requirements contained within its franchise agreement entered into by the exclusive hauler and the Regional agency.

(3) The C&D hauler providing C&D collection services to generators within the Town's boundaries shall comply with all requirements contained within its agreement entered into by the C&D hauler and Regional agency.

(b) Requirements for facility operators and community composting operations.

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

(Ord. No. 2324 , § II, 11-16-21)

Sec. 11.50.080. Self-hauler requirements.

(a) Self-haulers shall Source separate all materials in a manner consistent with 14 CCR Sections 18984.1 and 18984.2, or shall haul organic waste that is mixed with Solid 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 materials to facilities that recover those materials. Alternatively, self-haulers may haul organic waste that is mixed with solid waste to a high diversion organic waste processing facility.
- (c) Self-haulers that are owners or property managers of commercial businesses and multi-family residential dwellings shall keep a record of the amount of recyclable materials and organic waste delivered to each solid waste facility, operation, activity, or property that processes or recovers recyclable materials and/or organic waste. This record shall be subject to Inspection by the Town, its designee, or Regional agency. The records shall include the following information:
 - (1) Delivery receipts and weight tickets from the entity accepting the recyclable materials, organic waste, or solid waste.
 - (2) The amount of discarded material in cubic yards or tons transported by the generator to each entity.
 - (3) If the discarded material is transported to an entity that does not have scales on-site, or employs scales incapable of weighing the self-hauler's vehicle in a manner that allows it to determine the weight of materials received, the self-hauler is not required to record the weight of material but shall keep a record of the entities that received the recyclable materials, organic waste, or solid waste.
- (d) Self-haulers that are owners or property managers of commercial businesses and multi-family self-haulers shall provide information collected in 11.50.45(c) to Town, its designee, or Regional agency, if requested.
- (e) A single-family generator that self-hauls recyclable materials, organic waste, or solid waste is not required to record or report information in 11.50.45(c) and (d).

(Ord. No. 2324 , § II, 11-16-21)

SECTION IV. Article III, “Recyclable Materials,” of Chapter 11, “Garbage, Refuse, and Weeds,” of the Town Code is repealed.

SECTION V. Article V, “Organic Waste,” of Chapter 11, “Garbage, Refuse, and Weeds,” of the Town Code is amended to read as follows:

ARTICLE V. DISCARDED MATERIALS DISPOSAL REDUCTION

Sec. 11.50.015. Single-family requirements.

- (a) Owner, occupant, or property manager of single-family premises, except those that meet the self-hauler requirements in this Chapter shall subscribe to the Regional agency's discarded materials collection services for all recyclable materials, organic materials, and

solid waste generated as described below in Section (b). Town, its designee, or Regional agency shall have the right to review the number and size of a recyclable materials containers, organic materials containers, and solid waste containers to evaluate adequacy of capacity, to avoid Overage, provided for each type of collection service for proper separation of discarded materials and containment of materials; and, owner, occupant, or property manager of single-family premises shall adjust its service level for its collection services as requested by the Town, its designee, or Regional agency. Owner, occupant, or property manager may additionally manage their discarded materials by preventing or reducing their discarded materials, by managing organic waste on site, and/or using a community composting site pursuant to 14 CCR Section 18984.9(c).

- (b) Generators shall participate in the Regional agency's discarded materials collection service(s) by placing designated materials in designated containers as described below, and shall not place prohibited container contaminants in collection containers.
- (c) Generators shall place source separated organic materials, including food waste, in the organic materials container; source separated recyclable materials in the recyclable materials container; and solid waste in the solid waste container. Generators shall not place materials designated for the solid waste container into the recyclable materials container or organic materials container.

(Ord. No. 2324 , § II, 11-16-21)

Sec. 11.50.020. Commercial and multi-family requirements.

- (a) Commercial businesses and multi-family residential dwellings shall comply with the following requirements:
 - (1) Subscribe to Regional agency's discarded materials collection services and comply with requirements of those services as described in this Chapter, except commercial businesses and multi-family residential dwellings that meet the self-hauler requirements in this Chapter. Town, its designee, or Regional agency shall have the right to review the number and size of a commercial business's or multi-family residential dwellings' discarded materials containers and frequency of collection to evaluate adequacy of capacity, to avoid Overage, provided for each type of collection service for proper separation of discarded materials and containment of materials; and, owner, occupant, or property manager of commercial businesses and multi-family residential dwellings shall adjust their service level for their collection services as requested by the Town, its designee, or Regional agency. If the commercial businesses and multi-family residential dwellings do not increase their service level as requested by the Town, its designee, or Regional agency, the Town, its designee, or Regional agency may require the exclusive hauler to increase their service level and bill the commercial businesses and multi-family residential dwellings for the increased

service level required to prevent Overages if included in the hauler's agreement with the Town or Regional agency

- (2) Except commercial businesses and multi-family residential dwellings that meet the self-hauler requirements in this Chapter, participate in the Regional agency's discarded materials collection service(s) by placing designated materials in designated containers. Commercial and multi-family generators shall place source separated organic materials, including food waste, in the organic materials container; source separated recyclable materials in the recyclable materials container; and solid waste in the solid waste containers generator shall not place materials designated for the solid waste container into the organic materials container or recyclable materials container.
- (3) Supply and allow access to adequate number, size, and location of collection containers with sufficient labels or colors (conforming with Sections b(1)(i) and b(1)(ii) for employees, exclusive haulers, tenants, and customers, consistent with Regional agency's discarded materials collection service or, if self-hauling, in a manner to support its compliance with its self-haul program, in accordance with this Chapter.
- (4) Annually provide information to employees, exclusive haulers, tenants, and customers about organic waste recovery requirements and proper sorting of source separated materials.
- (5) Provide education information before or within fourteen (14) days of occupation of the premises to new tenants that describes requirements to keep source separated materials and separate from solid waste and the location of containers and the rules governing their use at each property.
- (6) Provide or arrange access for Town, its designee, or Regional agency to their properties during all Inspections conducted in accordance with this Chapter to confirm compliance with the requirements of this Chapter.
- (7) Accommodate and cooperate with Town's, its designee's, or Regional agency's remote monitoring program for Inspection of the contents of containers for prohibited container contaminants, which may be implemented at a later date, to evaluate generator's compliance with this Chapter. The remote monitoring program shall involve installation of remote monitoring equipment on or in the discarded materials containers.
- (8) At commercial business's or multi-family residential dwelling's option and subject to any approval required from the Town, its designee, or Regional agency, implement a remote monitoring program for Inspection of the contents of its discarded materials containers for the purpose of monitoring the contents of containers to determine appropriate levels of service and to identify prohibited container contaminants. Generators may install remote monitoring devices on or in the discarded materials

containers subject to written notification to or approval by the Town, its designee, or Regional agency.

- (9) If a commercial business or multi-family residential dwelling wants to self-haul, meet the self-hauler requirements in Sec. 11.50.045 of this Chapter.
- (b) Commercial businesses shall also comply with the following requirements:
- (1) Provide containers for the collection of source separated materials in all indoor and outdoor areas where containers for solid waste are provided for customers, for materials generated by that commercial business. Such containers do not need to be provided in restrooms. If a commercial business does not generate any of the materials that would be collected in one type of container, then the commercial business does not have to provide that particular container in all areas where solid waste containers are provided for customers. Pursuant to 14 CCR Section 18984.9(b), the containers provided by the commercial business shall have either:
 - (i) A body or lid that conforms with the container colors provided through the collection service agreement provided by the Town's Regional agency, 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 business 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.
 - (ii) Existing containers shall be clearly marked with educational signage indicating the appropriate discarded material types to be placed in each container in accordance with requirements of the Regional agency's collection program. Commencing January 1, 2022, new containers shall have container labels that include language or graphic images, or both, indicating the primary material accepted and the primary materials prohibited in that container, or containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the container pursuant 14 CCR Sections 18984.8 and 18984.9.
 - (2) To the extent practical through education, training, Inspection, and/or other measures, shall prohibit employees from placing discarded materials in a container not designated for those materials per the Regional agency's separated source and solid waste collection service or, if self-hauling, in a manner to support its compliance with its self-haul program, in accordance with this Chapter.
 - (3) Periodically inspect separated source and solid waste 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).

- (4) For commercial businesses that are Tier one or Tier two commercial edible food generators, comply with food recovery requirements in this Chapter.
- (c) 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).

(Ord. No. 2324 , § II, 11-16-21)

Sec. 11.50.025. Waivers for residential and commercial generators.

- (a) *De minimis waivers.* The Town or Regional agency may waive a commercial business' or multi-family residential dwellings' obligation to comply with some or all of the source separated material requirements of this Chapter if the commercial business or multi-family residential dwellings provides documentation that it generates below a certain amount of recyclable materials and organic materials as described below. Commercial Businesses or multi-family residential dwellings requesting a de minimis waiver shall:
 - (1) Submit an application to the Town, Regional agency, or exclusive hauler specifying the services that they are requesting a waiver from and provide documentation as noted below.
 - (2) Provide documentation that either:
 - (A) The commercial business' or multi-family residential dwellings' total solid waste collection service is two (2) cubic yards or more per week and organic waste subject to collection in a recyclable materials container and/or organic materials container comprises less than twenty (20) gallons per week per applicable container of the Commercial business's or multi-family residential dwellings' total waste; or,
 - (B) The commercial business' or multi-family residential dwellings' total solid waste collection service is less than two (2) cubic yards per week and organic waste subject to collection in a recyclable materials container and/or organic materials comprises less than ten (10) gallons per week per applicable container of the commercial business's or multi-family residential dwellings' total waste.
 - (3) Notify Town or Regional agency if circumstances change such that commercial business's or multi-family residential dwelling's organic waste exceeds threshold required for waiver, in which case waiver will be rescinded.
 - (4) Provide written verification of eligibility for de minimis waiver every five (5) years, or other interval deemed appropriate by the Town or Regional agency for special circumstances, if Town or Regional agency has approved de minimis waiver.
 - (5) Pay any applicable application fee, which may be established by resolution of the Town Council or Regional agency.

- (b) *Physical space waivers.* Town or Regional agency may waive a commercial business's or multi-family residential dwelling's or property owner's obligations to comply with some or all of the Recyclable materials and/or organic waste collection service requirements if the Town has evidence from its own staff, the Regional agency's exclusive 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 Article.

A commercial business or multi-family residential dwelling owner or property owner may request a physical space waiver through the following process:

- (1) Submit an application form specifying the type(s) of collection services for which they are requesting a compliance waiver.
 - (2) Provide documentation that the premises lacks adequate space for recyclable materials containers and/or organic materials containers including documentation from its exclusive hauler, licensed architect, or licensed engineer.
 - (3) Provide written verification to Town or Regional agency that it is still eligible for physical space waiver every five (5) years, or other interval deemed appropriate by the Town or Regional agency for special circumstances, if Town or Regional agency has approved application for a physical space waiver.
 - (4) Pay any applicable application fee, which may be established by resolution of the Town Council or Regional agency.
- (c) The Department of Public Works will review and approve of waivers by Town or Regional agency.

(Ord. No. 2324 , § II, 11-16-21)

Sec. 11.50.030. Commercial edible food generators requirements.

- (a) Tier one commercial edible food generators must comply with the requirements of this Section commencing January 1, 2022, and Tier two commercial edible food generators must comply commencing January 1, 2024 pursuant to 14 CCR Section 18991.3.
- (b) Large venue or large event operators not providing food services, but allowing for food to be provided by others, shall require food facilities operating at the large venue or large event to comply with the requirements of this Section, commencing January 1, 2024.
- (c) Commercial edible food generators shall comply with the following requirements:
 - (1) Arrange to recover the maximum amount of edible food that would otherwise be disposed.
 - (2) Contract 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 the enforcement entity to access the premises and review records pursuant to 14 CCR Section 18991.4.
 - (5) Keep records that include the following information, or as otherwise specified in 14 CCR Section 18991.4:
 - (A) A list of each food recovery service or organization that collects or receives its edible food pursuant to a contract or written agreement established under 14 CCR Section 18991.3(b).
 - (B) A copy of all contracts or written agreements established under 14 CCR Section 18991.3(b).
 - (C) A record of the following information for each of those food recovery services or food recovery organizations:
 - (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) Tier one commercial edible food generators shall submit food recovery reports, as defined below, to the enforcement entity according to the following schedule:
 - (1) On or before August 1, 2022, Tier one commercial edible food generators shall submit a food recovery report for the period of January 1, 2022 through June 30, 2022.
 - (2) On or before May 1, 2023, and on or before May 1st each year thereafter, Tier one commercial edible food generators shall submit a food recovery report for the period covering the entire previous calendar year.
 - (e) Tier two commercial edible food generators shall submit food recovery reports, as defined below, to the enforcement entity according to the following schedule:
 - (1) On or before May 1, 2025, and on or before May 1st each year thereafter, Tier two commercial edible food generators shall submit a food recovery report for the period covering the entire previous calendar year.

- (f) Food recovery reports submitted by Tier one and Tier two commercial edible food generators shall include the following information:
 - (1) The name and address of the commercial edible food generator;
 - (2) The name of the person responsible for the commercial edible food generator's edible food recovery program;
 - (3) A list of all contracted food recovery services or food recovery organizations that collect edible food from the commercial edible food generator;
 - (4) The total number of pounds of edible food, per year, donated through a contracted food recovery organization or food recovery service.
- (g) 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).

(Ord. No. 2324 , § II, 11-16-21)

Sec. 11.50.035. Requirements for food recovery organizations and services.

- (a) Food recovery services and 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)(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 and food recovery services shall inform Generators about California and Federal Good Samaritan Food Donation Act protection in written communications, such as in their contract or agreement established under 14 CCR Section 18991.3(b).

- (c) Food recovery organizations and food recovery services that have their primary address physically located in the Town and contract with or have written agreements with one or more Tier one or Tier two commercial edible food generators pursuant to 14 CCR Section 18991.3(b) shall submit food recovery reports, as defined below, to the enforcement entity according to the following schedule:
 - (1) On or before August 1, 2022, food recovery organizations and food recovery services shall submit a food recovery report for the period of January 1, 2022 through June 30, 2022;
 - (2) On or before May 1, 2023, and on or before May 1st each year thereafter, food recovery organizations and food recovery services shall submit a food recovery report for the period covering the entire previous calendar year.
- (d) Food recovery reports submitted by food recovery services or organizations shall include the following information:
 - (1) Total pounds of edible food recovered in the previous calendar year from Tier one and Tier two edible food generators they have established a contract or written agreement with pursuant to 14 CCR Section 18991.3(b).
 - (2) 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 within Santa Clara County.
- (e) In order to support edible food recovery capacity planning assessments or other studies conducted by the county, Town, its designee, or Regional agency, food recovery services and food recovery organizations operating in the Town shall provide information and consultation to the Town or Regional agency, upon request, regarding existing, or proposed new or expanded, food recovery capacity that could be accessed by the Town and its commercial edible food generators. A food recovery service or food recovery organization contacted by the enforcement entity shall respond to such request for information within sixty (60) days, unless another timeframe is otherwise specified by the Town or Regional agency.

(Ord. No. 2324 , § II, 11-16-21)

Sec. 11.50.055. Non-local entities and local education agency requirements.

- (a) Non-local entities and local education agencies shall comply with requirements 14 CCR Chapter 12, Article 5 to prevent and reduce the generation of organic waste.
- (b) Local education agencies with on-site food facility shall comply with food recovery requirements of this Chapter.

(Ord. No. 2324 , § II, 11-16-21)

Sec. 11.50.060. Inspections and investigations by Town.

- (a) The enforcement entity is authorized to conduct inspections and investigations, at random or otherwise, of any collection container, collection vehicle loads, or transfer, processing, or disposal facility for discarded materials collected from generators, or source separated materials to confirm compliance with this Chapter by single-family generators, commercial businesses, multi-family residential dwellings, property owners, commercial edible food generators, haulers, self-haulers, food recovery services, and food recovery organizations, and other entities regulated hereunder subject to applicable laws. This Section does not allow the enforcement entity to enter the interior of a private residential property for Inspection. For the purposes of inspecting Commercial Business and multi-family residential dwellings containers for compliance of this Chapter, Town may conduct container inspections for prohibited container contaminants using remote monitoring, and commercial businesses and multi-family residential dwellings shall accommodate and cooperate, if applicable, with the remote monitoring pursuant to this Chapter.
- (b) Regulated entity shall provide or arrange for access during all inspections (with the exception of residential property interiors) and shall cooperate with the enforcement entity's employee during such Inspections and investigations. Such inspections and investigations may include confirmation of proper placement of materials in containers, edible food recovery activities, records, or any other requirement of this Chapter described herein. Failure to provide or arrange for: (i) access to an entity's premises; (ii) installation and operation of remote monitoring equipment; or (ii) access to records for any Inspection or investigation is a violation of this Chapter and may result in penalties described.
- (c) Any records obtained during inspections, remote monitoring, and other reviews shall be subject to the requirements and applicable disclosure exemptions of the Public Records Act as set forth in Government Code Section 7920 et seq.
- (d) The enforcement entity shall receive written complaints from persons regarding an entity that may be potentially non-compliant with this Chapter, including receipt of anonymous complaints.

(Ord. No. 2324 , § II, 11-16-21)

Sec. 11.50.065. Enforcement.

- (a) Violation of any provision of this Chapter shall constitute grounds for issuance of a notice of violation followed by an administrative citation in addition to any other remedies authorized by the Town Code or state law, . The responsible entity for enforcement may pursue civil actions in the California courts to seek recovery of unpaid administrative citations. The enforcement entity may choose to delay court action until such time as a sufficiently large number of violations, or cumulative size of violations exist such that court action is a reasonable use of entity's resources.

(b) *Responsible entity for enforcement:*

- (1) Enforcement pursuant to this Chapter may be undertaken by the Town enforcement official, Regional agency enforcement official, county agency enforcement official, exclusive hauler, or combination thereof, as defined in this Chapter.
 - a. The enforcement entity will interpret this Chapter; determine the applicability of waivers, if violation(s) have occurred; implement enforcement actions; and, determine if compliance standards are met.
 - b. The enforcement entity's procedures on imposition of administrative fines are hereby incorporated in their entirety, as modified from time to time, and shall govern the administrative citations issued to enforce this Chapter and any rule or regulation adopted pursuant to this Chapter, except as otherwise indicated in this Chapter.

(c) *Process for enforcement:*

- (1) The enforcement entity will monitor compliance with the Chapter randomly and through compliance reviews, route reviews, investigation of complaints, and an inspection program (that may include remote monitoring). This Chapter establishes Town's right to authorize inspections and investigations.
- (2) The enforcement entity may issue an official notification to notify regulated entities of its obligations under this Chapter.
- (3) For incidences of prohibited container contaminants found in containers, the enforcement entity 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. If the enforcement entity observes prohibited container contaminants in a generator's containers on more than three (3) consecutive occasion(s), the enforcement entity or exclusive hauler may assess fines or penalties on the generator.
- (4) With the exception of violations of generator contamination of container contents addressed under 6.04.290(c)(3), the enforcement entity shall issue a notice of violation requiring compliance within sixty (60) days of issuance of the notice.
- (5) Absent compliance by the respondent within the deadline set forth in the notice of violation, the enforcement entity shall issue an administrative citation, pursuant to the Town Code Sections 1.30.010, Administrative Citations. The enforcement entity shall retain the ability to impose fines or penalties in accordance with any other Town Code or state law provisions.

Notices shall be sent to owner at the official address of the owner maintained by the tax collector for the Town or if no such address is available, to the owner at the address of the dwelling or commercial property or to the party responsible for paying for the collection services, depending upon available information.

- (d) *Penalty amounts.* The criminal citation penalty amounts are set forth in Town Code Section 1.10.040. The administrative citation penalty amounts are adopted by resolution of the Town Council.
- (e) *Compliance deadline extension considerations.* The enforcement entity may extend the compliance deadlines set forth in a notice of violation if it finds that there are extenuating circumstances beyond the control of the respondent that make compliance within the deadlines impracticable, including the following:
 - (1) Acts of God such as earthquakes, wildfires, flooding, and other emergencies or natural disasters;
 - (2) Delays in obtaining discretionary permits or other government agency approvals; or,
 - (3) Deficiencies in organic waste recycling infrastructure or edible food recovery capacity and the Town is under a corrective action plan with CalRecycle pursuant to 14 CCR Section 18996.2 due to those deficiencies.
- (f) *Appeals process.* Persons receiving a penalty for an uncorrected violation may request an appeal hearing in accordance with Town Code Sections 1.30.035 and following. A hearing will be held consistent with Town's procedures in the Town Code Sections 1.30.040 and following.
- (h) *Education period for non-compliance.* Beginning January 1, 2022 and through December 31, 2023, the enforcement entity will conduct inspections, remote monitoring, route reviews or waste evaluations, and compliance reviews, depending upon the type of regulated entity, to determine compliance, and if the enforcement entity 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 by January 1, 2022 and that violations may be subject to administrative civil penalties starting on January 1, 2024.
- (j) *Penalties for non-compliance.* If the enforcement entity 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 this Chapter, as needed.

(Ord. No. 2324 , § II, 11-16-21)

SECTION VI. A new Article V, “Construction and Demolition Debris Disposal Reduction,” of Chapter 11, “Garbage, Refuse, and Weeds,” of the Town Code to read as follows:

ARTICLE VI. CONSTRUCTION AND DEMOLITION DEBRIS DISPOSAL REDUCTION

Sec. 11.60.010. Covered projects.

- (a) Persons applying for a permit from the Town for new construction, building renovation, remodel, additions or alterations and demolition projects shall comply with the requirements of this Section and all required components of the California Green Building Standards Code, 24 CCR, Part 11 (CALGreen), as amended, if its project is covered by the scope of CALGreen and other applicable requirements of the Town. If the requirements of CALGreen, as amended, are more stringent than the requirements of this Section, the CALGreen requirements shall apply.
- (b) All projects within the Town, including Town-sponsored projects, shall be subject to the Waste Management Plan requirement of Section 6.12.70.
- (c) All new construction and demolition projects within the Town, including Town-sponsored projects, shall comply with this Chapter and shall submit a Waste Management Plan required by Section 11.60.050 prior to the beginning of any construction and demolition activities.
 - (1) Newly constructed buildings and demolition.
 - (2) Non-residential renovation, remodel, addition, or alterations to an existing structure within the Town, as determined by the building official.
 - (3) Residential renovation, remodel, addition, or alternations that increase the structure’s conditioned area, volume, or size, as determined by the building official.

Sec. 11.60.020 Requirement to divert Construction and Demolition debris.

This Section sets forth that all covered projects must comply with the following provisions of the most current California Green Building Standards Code (CALGreen) Sections:

- (a) 4.408.1 Construction Waste Management Residential (recycling requirements)
- (b) 5.408.1 Construction Waste Management Non-Residential (recycling requirements)
- (c) 4.410.2 Recycling by Occupants Residential (recycling enclosure requirements)
- (d) 5.410.1 Recycling by Occupants Non-Residential (recycling enclosure requirements)

It is required that at least sixty-five (65%) percent of waste tonnage and one hundred (100%) percent of excavated soil from new construction, demolition, or existing construction such as addition, alteration, or repair projects shall be diverted from disposal.

Sec. 11.60.030 - Deconstruction, salvage and recovery.

- (a) Contractors are encouraged to make every structure planned for demolition available for deconstruction, salvage, and recovery prior to demolition; and to recover the maximum feasible amount of salvageable designated recyclable and reusable materials prior to demolition.
- (b) Recovered and salvaged designated recyclable and reusable materials from the deconstruction phase shall be counted towards the diversion requirements of this Chapter.

Sec. 11.60.040 Approved Construction & Demolition Debris processing facilities.

- (a) The Regional agency is authorized to designate and approve C&D debris processing facilities. The Regional agency shall issue an approval only if the owner or operator of the facility submits documentation satisfactory to the Regional agency and shall obtain third party certification for mixed C&D debris processing.
- (b) A mixed C&D processing facility is required to obtain third party certification prior to registration with the Regional agency. The Regional agency will apply the standards described in the then-current facility certification program, consistent with the procedures set forth in this Chapter, to determine whether a facility qualifies for approval of registration. Any facility certified under a terminated certification program must reapply and receive certification under the then-current program.
- (c) C&D debris processing facilities shall, as a condition of their approval, agree to terms and conditions set forth by the Regional agency.

Sec. 11.60.050 Reporting.

- (a) No later than thirty (30) days following the completion of a Covered project, the contractor shall, as a condition of final approval and for issuance of any certificate of occupancy, certify C&D debris was recycled at the diversion rate set by California's Green Building Standard Code and referenced in Section 6.120.010 and submit documentation to the Building department that demonstrates compliance with the requirements of this Chapter.
- (b) The documentation shall be submitted in a form consistent with Town requirements and consist of receipts and weight tags or other records of measurement or equivalent documentation from recycling and processing companies, deconstruction contractors, and landfill and disposal companies.
- (c) Progress reports during construction may be required.
- (d) All documentation submitted pursuant to this Section is subject to verification by Town.
- (e) It is unlawful for any person to submit documentation to Town under this Section that a person knows to contain any false statements, including but not limited to false statements regarding tonnage of materials recycled or diverted, or to submit any false or fraudulent receipt of weight tags or other record of measurement.

SECTION VII. Article II, "Noise Limits," of Chapter 16, "Noise," of the Town Code is amended to read as follows:

ARTICLE II. NOISE LIMITS

Sec. 16.20.010. Curfew noise disturbance.

- (a) Except for any professional refuse collection agency acting pursuant to a franchise agreement with the Town or Regional agency, no persons shall between the hours of 10:00 p.m. and 8:00 a.m. make, cause, suffer or permit to be made any noise disturbance which:
 - (1) Is made within one hundred (100) feet of any building or place regularly used for sleeping purposes; or
 - (2) Disturbs any person(s) within hearing distance of such noise.
- (c) No persons shall make, cause, suffer or permit to be made any noise or sounds which:
 - (1) Are unreasonably disturbing or physically annoying to people of ordinary sensitivity or which are so harsh or prolonged or unnatural or unusual in their use, time or place as to cause physical discomfort to a person(s); or
 - (2) Are not necessary in connection with an activity which is otherwise lawfully conducted.

(Ord. No. 1852, § II(11.30.010), 5-20-91)

Sec. 16.20.055. Motor vehicles.

- (a) *Motor vehicles.* It shall be the policy of the Town to enforce those Sections of the Vehicle Code of the State of California regarding motor vehicle noise emission limits and equipment problems which create noise problems, motor vehicle horns, sound levels emitted from off highway vehicles operating off the public right-of-way, and the successors thereof.
- (b) *Refuse collection vehicles.*
 - (1) Except as authorized by contract with the Town or Regional agency, no person shall collect refuse with a refuse collection vehicle between the hours of 6:00 p.m. and 6:00 a.m. the following day in a residential area.
 - (2) No person authorized to engage in waste disposal service or garbage collection shall operate any truck-mounted waste or garbage loading and/or similar device in any manner so as to create any noise exceeding state or federal standards.
- (c) *Vehicle, motorboat and aircraft repairs and testing.* No person shall repair, rebuild, modify or test any motor vehicle, motorboat or aircraft in such a manner as to create a noise disturbance across a residential property plane or at any time to violate the provisions of Article II of this Chapter.

- (d) *Standing motor vehicles.* No person shall operate or permit the operation of any motor vehicle with a Gross Vehicle Weight Rating (GVWR) in excess of ten thousand (10,000) pounds, including refrigeration and/or heating units attached to any vehicle weighing in excess of five thousand (5,000) pounds, or any auxiliary equipment attached to same, for a period of fifteen (15) minutes in any hour while the vehicle is stationary, for reasons other than traffic congestion, within one hundred fifty (150) feet of a residential area or designated noise sensitive zone, between the hours of 10:00 p.m. and 7:00 a.m. of the following day.
- (e) *Motorized recreational vehicles operating off public rights-of-way.* No person shall operate or cause to be operated any motorized recreational vehicle off a public right-of-way in such a manner that the sound levels emitted therefrom violate the provisions of this Chapter. This paragraph shall apply to all motorized recreational vehicles, whether or not duly licensed and registered including, but not limited to, commercial or noncommercial racing vehicles, motorcycles, go-carts, amphibious craft, campers and dune buggies, but not including motorboats.

(Ord. No. 1852, § II(11.30.055), 5-20-91)

SECTION VIII. Severability.

In the event that a court of competent jurisdiction holds any Section, subsection, paragraph, sentence, clause, or phrase in this Ordinance unconstitutional, preempted, or otherwise invalid, the invalid portion shall be severed from this Section and shall not affect the validity of the remaining portions of this Section. The Town hereby declares that it would have adopted each Section, subsection, paragraph, sentence, clause, or phrase in this Section irrespective of the fact that any one or more Sections, subsections, paragraphs, sentences, clauses or phrases in this Section might be declared unconstitutional, preempted, or otherwise invalid.

SECTION IX. CEQA.

Adopting this Ordinance is not a project subject to CEQA because it can be seen with certainty that it will not impact the environment (CEQA Guidelines Section 15378).

SECTION X. Publication.

The Town Council hereby directs the City Clerk to cause this Ordinance or a summary thereof to be published or posted in accordance with Section 36933 pf the Government Code of the State of California.

SECTION XI. Effective Date.

In accordance with Section 63937 of the Government Code of the State of California, this Ordinance takes effect 30 days from the date of its passage. This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the ___ day of _____ 20 , and adopted by the Town Council of the Town of Los Gatos at its regular meeting on the _____ day of _____ 20 , by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

ATTEST:

TOWN CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA
DATE: _____