

CITY OF YUBA CITY
STAFF REPORT

Date: March 1, 2022
To: Honorable Mayor & Members of the City Council
From: Public Works Department
Presentation By: Ben Moody, Public Works & Development Services Director

Summary

Subject: SB 1383 Ordinance Updates Second Reading
Recommendation: Adopt an Ordinance of the City Council of the City of Yuba City adding Section 7-10.03 of Chapter 10 of Title 7, adding Chapter 18 (Model Water Efficient Landscape Ordinance) of Title 7, amending Chapter 3 (Mandatory Refuse Collection Services) of Title 6, and amending Section 6-4.03 of Chapter 4 of Title 6 of the Yuba City Municipal Code to comply with Senate Bill 1383 by title only and waive the second reading
Fiscal Impact: Staff time to develop and coordinate implementation of SB 1383 regulations and enforcement. Potential citation revenues to offset enforcement costs.

Purpose:

To meet the SB 1383 Short-lived Climate Pollutant Reduction Act of 2016 (SB 1383) compliance regulations for local jurisdictions by enacting changes to the Yuba City Municipal Code.

Council's Strategic Goal:

This item addresses the City Council's Strategic Goal of Infrastructure by providing for organic waste disposal and water-efficient landscaping.

Background:

In September 2016, SB 1383 established statewide methane emissions reduction targets in an effort to reduce emissions of short-lived climate pollutants in various sectors of California's economy; it includes statewide goals to reduce the disposal of organic waste and recover edible food for human consumption.

SB 1383 regulations include a requirement for local jurisdictions, including the City of Yuba City, to adopt specific ordinance sections to implement and enforce SB 1383 within the jurisdiction, including administrative penalties for violation. While the compliance date for the City was January 1, 2022, full implementation and enforcement by the City on local entities will not begin until January 1, 2024.

The City also operates within a regional agency, known as the Yuba-Sutter Regional Waste

Management Authority (RWMA), for state diversion tracking and reporting purposes. On November 1, 2021, the six regional partners of RWMA entered into an amended Joint Powers Agreement which increased the authority of the RWMA to take responsibility for many of the SB 1383 activities and requirements. This regional approach will allow for significant time and cost savings for the City, as the City will not be required to independently provide the staffing and funding for many of the implementation and enforcement tasks, including some of those in the proposed Ordinance.

The Ordinance was introduced on February 15, 2022, and a Resolution which will add an Administrative Civil Penalties fee schedule consistent with the SB 1383 regulations to the City's User Fee Schedule was adopted at that time.

Analysis:

The proposed Ordinance, developed in coordination with RWMA to be adopted by each of the regional partners, updates three areas of the Municipal Code in accordance with the SB 1383 regulations, as described below.

Section 7-10.03 – Addition

While the City already has adopted the California Green Building Standards (CALGreen) Code as a whole per Section 7-10.01 of Chapter 10 (California Green Building Standards, (CALGreen) Code) of Title 7 (Building Regulations), SB 1383 regulations include particular language which highlights the standards and conditions within the CALGreen Code that the City will enforce regarding disposal of construction debris during building and the planning for adequate areas for recycling and organic waste disposal, which are to be added to Chapter 10 of Title 7 as Section 7-10.03 (Compliance with CALGreen Building Standards recycling requirements).

Chapter 18 of Title 7 – Addition

The Model Water Efficient Landscape Ordinance (MWELo) was originally adopted by the State of California in 2015, and the City reports annually to the Department of Water Resources on compliance with its design requirements by building permittees in the City. SB 1383 regulations include amendments to the MWELo to elaborate on the use of organic materials as part of a water-efficient landscape plan, which encourages the recycling and reuse of organic waste. Chapter 18 (Model Efficient Landscape Ordinance) is to be added to Title 7 (Building Regulations) in order to formally adopt these amendments.

Chapter 3 of Title 6 – Amendment

SB 1383 requires local jurisdictions to inspect and enforce compliance by commercial businesses, property owners, contractors, and other applicable entities with SB 1383 regulations. Requirements include employing proper solid waste collection services; appropriate disposal of refuse, recycling, and organic waste; and recordkeeping and reporting. The proposed Ordinance includes the process for issuing Notices of Violation, penalties, and the appeals process. Noncompliant entities will be provided with education materials describing their SB 1383 obligations until December 31, 2023, and full enforcement including administrative penalties will begin on January 1, 2024.

Although Chapter 3 (Mandatory Refuse Collection Services) of Title 6 (Public Works) was briefly amended in November 2019 to modify permitted methods of garden refuse disposal, the majority of the Chapter has not been amended since 1999. The proposed Ordinance includes minor edits and clarifications to the chapter to address changes in practices by the City and Recology Yuba-Sutter since that time in addition to the new Section 6-3.19 and changes in organic waste definitions and guidance required by SB 1383.

Section 6-4.03 – Amendment

Section 6-4.03 (Placement of garden refuse) currently refers to Section 6-3.11 (Cuttings) for direction on appropriate disposal of garden refuse. According to the SB 1383 definition of organic waste, the description in Section 6-3.11 is obsolete and its contents have been deleted in the amendment described above. Section 6-4.03 has been updated to refer to Chapter 3 of Title 6 as a whole for appropriate disposal direction.

Fiscal Impact:

Staff time and/or professional services may be required to adopt and implement the SB 1383 programs and policies which have not been delegated to the RWMA. Beginning January 1, 2024, Administrative Citation Penalties revenue may offset some of the costs of staff inspection and enforcement.

Alternatives:

There are no alternatives to compliance with SB 1383. Should the City choose not to enact these Municipal Code updates, the City will be subject to the consequences of violating SB 1383, including fines and imposed timelines for correction.

Recommendation:

Adopt an Ordinance of the City Council of the City of Yuba City adding Section 7-10.03 of Chapter 10 of Title 7, adding Chapter 18 (Model Water Efficient Landscape Ordinance) of Title 7, amending Chapter 3 (Mandatory Refuse Collection Services) of Title 6, and amending Section 6-4.03 of Chapter 4 of Title 6 of the Yuba City Municipal Code to comply with Senate Bill 1383 by title only and waive the second reading.

Attachments:

1. Ordinance - SB 1383 Compliance

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ATTACHMENT 1

ORDINANCE NO. _____

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YUBA CITY ADDING SECTION 7-10.03 OF CHAPTER 10 OF TITLE 7, ADDING CHAPTER 18 (MODEL WATER EFFICIENT LANDSCAPE ORDINANCE) OF TITLE 7, AND AMENDING CHAPTER 3 (MANDATORY REFUSE COLLECTION SERVICES) AND SECTION 6-4.03 OF CHAPTER 4 OF TITLE 6 OF THE YUBA CITY MUNICIPAL CODE TO COMPLY WITH SB 1383 SHORT-LIVED CLIMATE POLLUTANT REDUCTION ACT OF 2016

WHEREAS, the City Council of Yuba City (“City”) is authorized by the California Constitution, Article XI, Section 7 to make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws; and

WHEREAS, the City Council has adopted the Yuba City Municipal Code, which it periodically updates to protect the public health, safety, and welfare; and

WHEREAS, California Senate Bill (SB) 1383, the Short-lived Climate Pollutant Reduction Act of 2016, requires the City to adopt and enforce an ordinance or enforceable mechanism to implement relevant provisions of the SB 1383 Regulations, including:

- A. Compliance with the construction and demolition debris diversion requirements of CALGreen;
- B. The provision of readily accessible areas for depositing, storage and collection of non-hazardous materials for recycling in Multi-Family Residential Dwellings and commercial construction projects as required by CALGreen; and,
- C. Compliance with specified provisions of the Model Water Efficient Landscape Ordinance (MWELO) established by Title 23 California Code of Regulations, Division 2, Chapter 2.7; and

WHEREAS, Effective November 1, 2021, that certain “Fourth Amended and Restated Joint Powers Agreement” was executed by the Regional Waste Management Authority (“Authority”), a duly formed joint powers authority pursuant to Government Code §6500 et seq., to confirm the Authority’s joint membership, including the City’s membership thereto. Authority has been, and continues to be, the responsible agency for the preparation and submission of regional planning documents and annual reports and coordination of waste diversion programs pursuant to Assembly Bill 939 and the corresponding regulations in Title 14 of the California Code of Regulations, Division 7, Chapter 9; and

WHEREAS, Pursuant to the Fourth Amended and Restated Joint Powers Agreement, the Authority has assumed the duties of the responsible authority to coordinate, administer and/or implement compliance with and enforcement of Senate Bill 1383, as specified therein, on behalf of each joint powers member, including the City; and

WHEREAS, City Council desires to update and amend the Yuba City Municipal Code in order to comply with and implement in coordination with the Authority the relevant provisions and programs of SB 1383.

NOW THEREFORE, the City Council of the City of Yuba City does ordain as follows:

Section 1.

The above recitals are all true and correct and are hereby adopted as findings.

Section 2.

The proposed ordinance was assessed in accordance with the authority and criteria contained in CEQA, the State CEQA Guidelines (“CEQA Guidelines”), and the environmental regulations of the City. The City Council finds and determines that the proposed ordinance is not a “project” for the purposes of CEQA and consistent with CEQA Guidelines Section 15378, as it promotes environmental conditions by providing environmentally sound processes and procedures and provides for administrative enforcement of the same, and will not result in direct or indirect substantial, adverse physical changes in the environment as compared to the current baseline. Additionally, the City Council finds and determines for the same reasons that even if the proposed ordinance were a project for the purposes of CEQA, there is no possibility that this project may have a significant adverse effect on the environment pursuant to CEQA Guidelines, Section 15061(b)(3). Therefore, the proposed ordinance is not subject to CEQA.

Section 3.

Section 7-10.03 of Chapter 10 (California Green Building Standards, (CALGreen) Code) of Title 7 (Building Regulations) of the Yuba City Municipal Code is hereby added to read as follows:

Sec. 7-10.03. Compliance with CALGreen Building Standards recycling requirements.

- (a) Persons applying for a building permit from the City for new construction and building additions and alterations shall comply with the construction and demolition debris diversion requirements pursuant to Sections 4.408 and 5.408, as applicable, of the California Green Building Standards Code, Title 24 of the California Code of Regulations (CCR), Part 11, known as CALGreen, as may be amended, if its project is covered by the scope of CALGreen. For projects covered by the scope of CALGreen, project applicants shall also comply with all written and published City policies and/or administrative guidelines regarding the provision of a construction waste management plan; construction waste management plan acknowledgment by the project contractor and subcontractors; and, construction waste management plan compliance documentation.
- (b) Project applicants shall refer to Title 7 (Building Regulations) and Title 8 (Planning and Zoning) of this Code for complete CALGreen requirements.
- (c) For projects covered by CALGreen, as may be amended, applicants must, as a condition of the City’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 that are identified for the storage and collection of nonhazardous materials for recycling, including recyclable materials and organic waste materials collected in the City’s solid waste collection program, in compliance with provision of adequate space for recycling for Multi-Family premises pursuant

to Section 4.410.2 of the California Green Building Standards Code, 24 CCR, Part 11.

- (2) New Commercial (excluding Multi-Family premises) construction or additions resulting in an increase of 30% or more of the floor area shall provide readily accessible areas identified for the storage and collection of nonhazardous materials for recycling, including recyclable materials and organic waste materials collected in the City's solid waste collection program, in compliance with provision of adequate space for recycling for Commercial premises pursuant to Sections 5.410.1 and 5.410.1.2 of the California Green Building Standards Code, 24 CCR, Part 11 as may be amended provided amended requirements are more stringent than the CALGreen requirements for adequate recycling space effective January 1, 2020. Section 5.410.1.2 of the California Green Building Standards Code, 24 CCR, Part 11 references the space allocation sample ordinance developed pursuant to Chapter 18, Part 3, Division 30 of the California Public Resources Code, known as the California Solid Waste Reuse and Recycling Access Act of 1991, which took effect in the City September 1, 1993 as the City did not adopt an alternate ordinance.

Section 4.

Chapter 18 (Model Water Efficient Landscape Ordinance) of Title 7 (Building Regulations) of the Yuba City Municipal Code is hereby added to read as follows:

Sec. 7-18.01. Model Water Efficient Landscape Ordinance requirements.

- (a) "Model Water Efficient Landscape Ordinance" or "MWELO" refers to the Model Water Efficient Landscape Ordinance, 23 CCR, Division 2, Chapter 2.7, which is adopted herein by reference, as is now in effect or may hereafter be amended.
- (b) Property owners or their building or landscape designers, including anyone requiring a building or planning permit, plan check, or landscape design review from the City, who are constructing a new (Single-Family, Multi-Family, public, institutional, or Commercial) project with a landscape area greater than 500 sq. ft, or rehabilitating an existing landscape with a total landscape area greater than 2,500 sq. ft, shall comply with Sections 492.6(a)(3), (B), (C), (D), and (G), as may be amended, of the MWELO as delineated in this Section.
- (c) The following soil amendment, compost, and mulch use requirements that are part of the MWELO are now also included as requirements of this ordinance. Other requirements of the MWELO are in effect and can be found in 23 CCR, Division 2, Chapter 2.7.
- (d) Property owners or their building or landscape designers that meet the threshold for MWELO compliance outlined in Section 7-18.01(b) above shall comply with Sections 492.6 (a)(3), (B), (C), (D), and (G), as may be amended, of the MWELO, which requires the submittal of a landscape design plan with a soil preparation, mulch, and amendments section to include the following:
 - (1) For landscape installations, soil amendments shall be incorporated according to recommendations of the soil management report per Section 492.5 of the MWELO and what is appropriate for the plants selected.

- (2) For landscape installations, compost at a rate of a minimum of 4 cu. yd per 1,000 sq. ft of permeable area shall be incorporated to a depth of 6 in into the soil. Soils with greater than 6 percent organic matter in the top 6 in of soil are exempt from adding compost and tilling.
 - (3) For landscape installations, a minimum 3-in layer of mulch shall be applied on all exposed soil surfaces of planting areas except in turf areas, creeping or rooting groundcovers, or direct seeding applications where mulch is contraindicated. To provide habitat for beneficial insects and other wildlife up to 5 percent of the landscape area may be left without mulch. Designated insect habitat must be included in the landscape design plan as such.
 - (4) Organic mulch materials made from recycled or post-consumer materials shall take precedence over inorganic materials or virgin forest products unless the recycled post-consumer organic products are not locally available. Organic mulches are not required where prohibited by local fuel modification plan guidelines or other applicable local ordinances.
- (e) The MWELo compliance items listed in this Section are not an inclusive list of MWELo requirements; therefore, property owners or their building or landscape designers that meet the threshold for MWELo compliance outlined in Section 7-18.01(b) shall consult the full MWELo for all requirements.

Section 5.

Chapter 3 (Mandatory Refuse Collection Services) of Title 6 (Public Works) of the Yuba City Municipal Code is hereby amended to read in its entirety as follows:

CHAPTER 3. MANDATORY REFUSE COLLECTION SERVICES

Sec. 6-3.01. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (a) "Collector" shall mean the refuse disposal company with whom the City has contracted to provide the residents and property owners of the City with refuse collection services. There may be more than one collector for said services.
- (b) "Director" shall mean the ~~Administrative Services~~Public Works Director of the City of Yuba City, or his/her authorized agent(s).
- (c) "Nuisance" shall mean the accumulation and existence of refuse on any private premises, on, in, or upon any street, alley, or other public place within the City may be declared to be a nuisance. No person who owns, controls, or occupies any premises in the City shall cause, permit or allow any such nuisance to exist thereon.
- (d) "Organic Waste" means wastes containing material originating 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).

(ed) "Owner" shall mean and shall conclusively be deemed to be the legal owner of any property subject to this chapter.

(ef) "Refuse" shall mean garbage and other refuse including, without limitation:

(1i) Accumulations of animal, fruit, or vegetable matter, including fats, oils, and grease, that attend the preparation, use, cooking, dealing in, or storage of meat, fish, fowl, fruits, or vegetables, which may collectively be known as "organic waste and containers originally used for foodstuffs;"

(2ii) Lawn and garden refuse such as leaves, grass cuttings, roots, and weeds from which the soil has been removed, trimmings from trees or shrubs, plants, and similar materials;

(3iii) Rubbish and trash such as paper, rags, cardboard, fiber, metal, glass, cartons, containers, boxes, bottles or jars, containers originally used for foodstuffs, and other articles or materials of a similar nature normally discarded as household or business refuse; and

(4iv) Other trash and rubbish other than debris which has resulted from the construction activities or demolition of structures. Debris resulting from construction or demolition shall be disposed of in accordance with Section 6-3.16.sod, rocks, concrete, bricks and similar solid material, plaster or dirt.

"Refuse" shall not include large appliances or furniture or chemicals of a type which must be disposed of in a Class I landfill.

(gf) "Refuse collection area" shall mean that space on the premises where refuse is deposited by occupants and where said refuse is stored until it is transferred into or onto a collection vehicle and removed from the premises.

~~(g) "Standard container" shall mean a can made of metal or other nonbreakable watertight material with a close fitting cover, cover handle and side handles, of not more than 35 gallons net capacity.~~

~~(h) "Cart" shall mean an 85-gallon or larger container with wheels supplied by the collector(s).~~

(hi) "Report" shall mean the report of delinquent accounts compiled by the collector(s) and submitted to the Director on a ~~monthly~~ annual basis, ~~and~~ consisting of all delinquent accounts; ~~all accounts~~ not less than 30 days delinquent.

(i) "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, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge that is not Hazardous Waste, manure, vegetable or animal solid and semisolid 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.

(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.

- (4) Recyclable Materials, Construction and Demolition (C&D) debris, Organic Waste, or other salvageable materials only when such materials are Source Separated from Solid Waste at the site of generation.

Sec. 6-3.02. Collection by the City.

All refuse accumulated in the City shall be collected, conveyed, and disposed of by the City, its duly authorized agents and employees, or by the collector(s) with whom the City may contract or have contracted for the collection, conveyance, and disposal of refuse. The City and such contractor or contractors and their employees shall, except as otherwise provided in this chapter, have the exclusive right to collect, convey, and transport in all refuse, along or over the public streets, alleys, and highways in the City ~~all refuse~~. This section shall not prohibit transportation of refuse over public ways within the City by collectors authorized by the Sutter County Health Officer to serve County areas adjacent to the City limits or as permitted for self-haul.

Sec. 6-3.03. Use of City's collection service required.

The periodic collection of refuse from all places in the City benefits all occupants of places and premises in the City and promotes and protects the health, safety, and welfare of all residents of the City. Therefore, refuse collection services provided by the collector(s), City, or its authorized agents, are mandatory for all owners of property within the City in or from which refuse is created, accumulated, or produced; ~~provided~~, however, ~~that~~ there may be joint or multiple use of refuse containers in certain circumstances.

It is unlawful for any person other than the collector(s) or employees of the City to collect, remove, or dispose of refuse within the City on a regularly scheduled basis for compensation; ~~provided~~, however, ~~that~~ nothing contained herein shall prevent the use of garbage disposal devices as provided in the Uniform Plumbing Code.

- (a) Fats, oils, and grease shall not be disposed of through the use of garbage-disposal devices nor shall they be permitted to enter the City's wastewater-collection system.

Sec. 6-3.04. Appeals.

- (a) An owner may appeal the mandatory collection of refuse in accordance with Section 6-3.03 by filing with the Director a written request within 15 days of receiving notice from the City or its authorized agent or collector(s) that refuse service is required on the owner's property. The appeal shall set forth a statement of the action desired by owner and list the reasons for the desired action.
- (b) Qualifying criteria for an appeal will include an alternative legal method of disposing of refuse or complete recycling of all existing refuse. Sections 6-3.06 and 6-3.14 of this chapter shall also be included as part of the criteria in evaluating an appeal from mandatory collection.
- (c) The disposal of refuse via an alternative method shall not include hauling to a landfill, nor disposing of refuse at another person's property or a place of business/employment (unless the owner's address serves as both his/her residence and business location).

~~(d) Accommodation for Physical handicaps/disabilities which are~~ interfering with transporting refuse containers to the curbside shall be worked out with the collector.

~~(a)(e) Sections 6-3.06 and 6-3.14 of this chapter shall also be included as part of the criteria in evaluating an appeal from mandatory collection.~~ The appeal shall be acted upon by the Director within ten (10) days after the date of filing. The Director's determination shall be final and cannot be appealed.

Sec. 6-3.05. Owner responsible for refuse collection.

The owner of any property within the City in or from which refuse is created, accumulated, or produced shall subscribe to and pay for refuse collection service rendered to such property by the collector(s) and shall provide ~~at a location specified in the City's agreement with the collector(s)~~ an adequate container or containers for deposit of refuse at a location specified in the City's agreement with the collector(s). The necessity for and type of refuse collection service required, the type of containers to be utilized/provided, and the rates to be charged for refuse collection services shall be established by agreement between the City and the collector(s) or by Rresolution adopted by the City Council.

Nothing in this section is intended to prevent an arrangement, or the continuance of an existing arrangement, under which payments for refuse collection service are made by a tenant, ~~or~~ tenants, or any agent, on behalf of the owner; h. However, any such arrangement will not affect the owner's obligation to the City or to the collector(s) for the payment for such service.

Sec. 6-3.06. Prohibition.

- (a) No person who owns, controls, or occupies any premises shall permit refuse to accumulate for a period in excess of the period provided in this chapter or in rules and regulations adopted pursuant hereto, and no such person shall, following notice thereof, fail, decline, or neglect to place refuse within refuse containers as provided in this chapter and in accordance with the rules and regulations established pursuant to this chapter.
- (b) No person shall throw, deposit, or leave any refuse, or permit the same to be thrown, deposited, or left on the property or premises of another without the knowledge and prior permission of the owner thereof.
- (c) No owner of real property located in the City shall knowingly permit or countenance his/her tenants while in occupation of such property to throw, deposit, or leave any refuse upon the property or premises of another.
- (d) No person shall throw, deposit, or leave any refuse, or, being in possession or control of any refuse, shall permit the same to be thrown, buried without being properly licensed to do so, deposited, or left in or upon any street or other public place in violation of this chapter or the rules and regulations established pursuant to this chapter.
- (e) No person shall use burning as a method of refuse disposal except in accordance with Feather River Air Quality Management District requirements and procedures where a permit has been obtained as provided in Title 4, Chapter 5, Section 4-5.02 of the Yuba City Municipal Code.

Sec. 6-3.07. Responsibility for providing container.

The collector shall make available, and Eevery owner, occupant, manager, or person in control of the premises of any dwelling unit or units, or of any place of business or institution

within the City where refuse accumulates, shall provide or cause to be provided a sufficient number of containers of adequate size to accommodate all refuse accumulated on the premises between collection days. The occupant, manager, or person in control of the premises shall be primarily responsible for providing the required containers of adequate size. Making arrangements with the collector(s) to provide for a container shall meet the requirement of this section.

Sec. 6-3.08. Failure to initiate service or to provide sufficient refuse containers.

When an owner fails to request adequate refuse collection service within 15 days of occupancy of a property, the collector(s) will give the owner written notification that such service is required. If service is not requested by the owner within 15 days from the date of the mailing of the notice, the collector(s) may initiate and continue refuse service for said property at the owner's expense.

When, in the judgment of the collector(s), additional refuse containers are required, they shall be provided at the owner's cost upon written notification from the collector(s). If the required additional containers are not requested by the owner within 30 days from the date of the mailing of the notice, the collector(s) may provide the required containers at a cost established pursuant to agreement between the City and the collector(s) or pursuant to rules and regulations adopted hereunder. Such cost may be added to the collection fees.

Sec. 6-3.09. Garbage and refuse container requirements.

~~All containers and carts for refuse shall be in accordance with the City- and collector agreement and shall be supplied by the collector(s) so that they shall be capable of being emptied by standard collection equipment. All containers shall comply with the requirements of Senate Bill 1383 (Health and Safety Code §§ 39730.5, 39730.6, 39730.7, and 39730.8 and Public Resources Code Chapter 13.1, Part 3 of Division 30, "SB 1383"). The color, labelling, type and character of all such containers shall be compliant with the requirements of SB 1383, and the provision of such containers shall be performed by the City or its designated collector(s) in compliance with implementation timeframes specified in SB 1383.(a) — Any one standard container to accommodate refuse shall not exceed 35 gallons in capacity and 50 pounds in weight, including contents. Carts may be 85 gallons or larger in capacity and up to 200 pounds in weight including the contents and shall be supplied by the collector(s), so that they shall be capable of being emptied by standard cart equipment. Standard containers and carts shall be constructed of metal or other durable watertight materials, and shall be equipped with handles and a cover sufficient to prevent odors from escaping the container, flies and other insects from reaching or coming in contact with refuse, and the contents from being blown away.~~

~~(b) Refuse may, with Sutter County Health Officer approval, be placed for collection in sturdy, grease-resistant, waterproof, nonreturnable bags which are specifically designed for refuse disposal. Said bags shall be securely tied to prevent spillage.~~

~~(c) Refuse bins, drop boxes and proprietary containers, any of which may vary in capacity from one to 50 yards, shall conform to the following requirements:~~

~~(1) Containers shall be constructed of substantial materials such as rolled steel, forms and plate.~~

~~(2) Containers where putrescible waste is deposited shall have self-closing doors or covers which are flyproof and such doors or covers shall remain closed except during loading and unloading.~~

~~(3) Containers where refuse is deposited and which are equipped with covers shall remain closed except during loading and unloading. Containers which are not equipped with covers should be stored in a refuse collection area screened from view from the public streets and from adjacent property by a sight barrier of not less than six ft. high or not less than the height of the container, whichever is greater. This sight barrier may be met by locating the refuse collection area completely within a building or by erecting a structure such as a wall or fence especially for this purpose. The intent of this subsection is to safeguard health and public welfare by preventing refuse from scattering and being blown away.~~

~~(d) The use of oil drums as refuse containers is prohibited.~~

Sec. 6-3.10. Placement of containers for collection.

Containers shall be placed at street-side for collection at ground level of the property, not within the right-of-way of a street or alley, and accessible to and not more than 2 two-ft. from the curb or sidewalk on the side of the street from which collection is to be made. Containers are to be placed at street-side for collection within 12 hours of the time of collection and shall be removed within 12 hours after collection service is rendered.

Sec. 6-3.11. ~~Cuttings[Reserved]. Tree limbs, branches, hedge cuttings, leaves, and similar materials may also be disposed of by placing them in refuse containers in such a manner that the lid can be secured and contents may be readily emptied. Larger branches from tree and shrub trimmings may also be placed on the ground at the place of collection, providing they are neatly stacked and securely tied into bundles three 3 ft. or less in length and not more than 50 pounds in weight. In addition, said materials may be bagged and placed beside the garden refuse container.~~

Sec. 6-3.12. Content of containers.

Contents of containers shall be limited to refuse as defined in Section 6-3.01 herein, except as hereinafter qualified. Refuse disposal shall be in accordance with the City and collector agreement(s) and all applicable state regulations.

- (a) ~~GarbageOrganic Waste.~~ Organic Wastes which are specifically accepted at the collector's approved organic materials processing facility. Food wastes or animal feces must be thoroughly drained and securely wrapped to prevent leakage, odor, and access to flies and animals.
- (b) ~~RefuseSolid Waste.~~ As defined in California Public Resources Code, Division 30, Part 1, Chapter 2, §40191 and regulations promulgated hereunder. Excluded from the definition of Solid Waste are exempt waste, source separated construction and demolition debris, Recyclable Materials, Organic Materials, and radioactive waste. Feathers and ashes must be dampened and securely wrapped, and vacuum cleaner sweepings must likewise be securely wrapped.
- (c) ~~CuttingsRecyclable Materials.~~ Those materials which are capable of being recycled, which shall include, but not be limited to: newspaper (including inserts); mixed paper (including magazines, catalogs, envelopes, junk mail, corrugated cardboard, brown bags and paper, paperboard, paper egg cartons, office ledger paper, and telephone books); glass containers; aluminum beverage containers; pie tins; tin cans; bi-metal containers; and #1-7

plastics (except for plastic bags, film plastic, packaging peanuts, and foam packaging).~~Grass, trees, shrub and flower trimmings, leaves and weeds must be contained as set forth in Section 6-3.11.~~

Sec. 6-3.13. Prohibited materials.

Unless written approval is granted by the Sutter County Health Officer, the following materials are prohibited in refuse set out for collection: ammunition,¹ explosives,¹ industrial wastes,¹ chemicals,¹ pathological,¹ toxic,¹ and radioactive waste,¹ acids,¹ drugs,¹ medicines,¹ ~~human feces~~, unwrapped ~~animal feces~~,¹ and items too large for the collection equipment or which may damage the collection machinery such as large pieces of metal, machine parts, logs,¹ and tree stumps.

Sec. 6-3.14. Accumulation limitation.

No person who owns, controls,¹ or occupies any premises shall permit refuse to accumulate for a period in excess of one (1) calendar week, or fail, refuse,¹ or neglect to place such refuse for collection in accordance with schedules established therefor and,⁷ the provisions of this chapter and rules and regulations established pursuant thereto.

Sec. 6-3.15. Administration of collection service.

The Director shall administer the provisions of this chapter. In carrying out this responsibility, the Director~~he/she~~ shall have the following powers and duties:

- (a) Establish rules and regulations consistent with this chapter governing storage, collection,¹ and disposition of refuse, including the determination of standards and specifications for approved containers and placement of containers.¹ The rules may permit special containers or bins where the quantity or nature of the material to be collected so requires.
- (b) Establish additional rules and regulations consistent with this chapter as may be necessary, reasonable,¹ and proper to effect the sanitary, expedient, economical,¹ and efficient collection, removal,¹ and disposal of refuse.
- (c) Establish the routes, hours,¹ and days of collection;¹ ~~and he/she~~ the Director may change the same as he/she~~the Director~~ deems necessary and shall give notice of such routes, hours, days,¹ and changes as seems advisable.

Sec. 6-3.16. Removal of building scraps.

All owners, contractors,¹ and builders of structures shall,¹ both during construction and demolition and upon the completion of construction or demolition of any such structure,¹ gather up and haul away at their sole cost and expense all refuse of every nature, description,¹ or kind which has resulted from the construction activities or demolition of structures, including all lumber scraps, shingles, plaster, brick, stone, concrete,¹ and other building materials, and shall return the lot and all nearby premises utilized in connection with such construction activities ~~to~~ a sightly condition. Whenever possible, said materials shall be separated for recycling and disposal per CALGreen Building Standards.

Sec. 6-3.17. Payment for services rendered.

- (a) All billing for refuse collection shall be coordinated and administered by the collector(s); all charges shall become delinquent if not paid within 30 days after the date due (as stated on the refuse collection bill).
- (b) If the bill remains unpaid after the date of delinquency, the collector(s) shall be entitled to a delinquency fee. However, said delinquency fee shall not be assessed until 15 days after notification of the delinquency to the owner and recipient of service. The form and content of the delinquency notice sent by the collector(s) and the delinquency fee shall be approved by the City. Said notice shall notify the owner of the fees imposed and the process for collection of delinquent charges. If a tenant is delinquent, the owner shall receive all such delinquency notifications.
- (c) Collector(s) may assign to the City at expiration of the 30-day period any delinquent bills for hearing and lien proceedings. The collector(s) will compile said assignments into a report of delinquent accounts which will be submitted to the Director on an annual-monthly basis~~annual basis~~.
- (d) Upon receipt by City of the report from the collector(s), and at the convenience of the City, the Finance Director shall fix a time, date, and place for holding a hearing with respect to the report and any appeals, protests, or objections thereto. The City Clerk shall cause notice of the time and place of the hearing to be mailed to the owner not less than ten (10) days prior to the date of the hearing. At the hearing, the Director shall hear and consider all appeals, objections, and protests, if any, to said report referred to in said notice. Upon conclusion of the hearing, the Director may adopt, revise, change, reduce, or modify any charge or charges or overrule any or all objections and shall make a determination upon the charge or charges as described in said report. The Director's determination shall be final and cannot be appealed.
- (e) After the conclusion of the hearing process, and upon confirmation of the report by the Finance Director, the Finance Director shall initiate proceedings to create a lien on the real property to which the refuse collection has been rendered according to Government Code § 25831. The Finance Director is authorized by these provisions to declare that delinquency charges and penalties on refuse collection accounts, as set forth in the report by the collector(s), when recorded shall, after notice and hearing provided herein, be collected on the property tax roll. An administrative fee may be added to the lien amount in accordance with the "Fee and Service Charge—Revenue/Cost Comparison System" of the Yuba City Municipal Code, Chapter 8 (User Fee Recovery System) of Title 3 (Finance) of this Code.

Sec. 6-3.18. Agreements, rules, and regulations.

The City Council may, by agreement with the collector(s) or by separate Resolution, implement rules and regulations to carry out and promote the provisions of this chapter. Such agreements, rules, and regulations may set forth the time of collection of refuse, the rates to be charged for such collection, the time for payment of such rates, the size of containers to be utilized, the manner in which such containers or bundles of refuse are to be placed for collection and such other matters as may be necessary or appropriate to effect the provisions of this chapter.

Sec. 6-3.19. SB 1383 inspections and enforcement.

(a) Definitions. The following words, terms and phrases, only when used in this Chaptersection, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) "City Enforcement Official" shall mean the City Manager, department director, or other executive in charge or their authorized Designee(s) who is/are partially or wholly responsible for enforcing this ordinance.
- (2) "Commercial Business" or "Commercial" shall mean 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). A multi-family residential dwelling that consists of fewer than five (5) units is not a Commercial Business for purposes of implementing this section.
- (3) "Compliance Review" shall mean a review of records by the City to determine compliance with this section.
- (4) "Designee" shall mean an entity that the City contracts with or otherwise arranges to carry out any of the City's responsibilities of this section as authorized in 14 CCR Section 18981.2. A Designee may be a government entity, a private entity, or a combination of those entities.
- (5) "Enforcement Action" shall mean an action of the City to address non-compliance with this section including, but not limited to, issuing administrative citations, fines, penalties, or using other remedies.
- (6) "Inspection" shall mean a site visit where the City reviews records, containers, and an entity's collection, handling, recycling, or landfill disposal of materials to determine if the entity is complying with requirements set forth in this section.
- (7) "Multi-Family Residential Dwelling" or "Multi-Family" shall mean of, from, or pertaining to residential premises with five (5) or more dwelling units.
- (8) "Notice of Violation (NOV)" shall mean 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.
- (9) "SB 1383" shall mean 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 California Health and Safety Code, and added Chapter 13.1 (commencing with Section 42652) to Part 3 of Division 30 of the California 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.
- (10) "SB 1383 Regulations" shall mean or refer to, for the purposes of this section, 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.

(11) "Single-Family" shall mean of, from, or pertaining to any residential premises with fewer than five (5) units.

(b) Inspections and investigations by the City.

(1) City representatives and/or City-designated entities, including Designees, are authorized to conduct inspections and investigations, at random or otherwise, of any project site, collection container, or collection vehicle loads to confirm compliance with this section by Commercial Businesses (including Multi-Family Residential Dwellings), property owners, building/demolition/landscaping contractors, or any other entities subject to applicable laws. This section does not allow City representatives and/or City-designated entities, including Designees, to enter the interior of a private residential property for inspection (e.g., a fenced or gated private property yard or area).

(2) Regulated entity shall provide or arrange for access during all inspections (with the exception of residential property interiors) and shall cooperate with the City's employee or its designated entity/Designee during such inspections and investigations. Such inspections and investigations may include confirmation of proper solid waste collection services, proper placement of materials in containers, records, or any other requirement of this section described herein. Failure 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 section and may result in penalties described in Section 6-3.19(c).

(3) Any records obtained by the City during its inspections and other reviews shall be subject to the requirements and applicable disclosure exemptions of the Public Records Act as set forth in Government Code Section 6250 et seq.

(4) City representatives, City-designated entities, and/or Designees are authorized to conduct any inspections or other investigations as reasonably necessary to further the goals of this section, subject to applicable laws.

(5) The City shall receive written complaints from persons regarding an entity that may be potentially non-compliant with this section, including receipt of anonymous complaints.

(c) Enforcement.

(1) Violation of any provision of this section shall constitute grounds for issuance of a Notice of Violation and assessment of a fine by a City Enforcement Official or representative. Enforcement Actions under this section are issuance of an administrative citation and assessment of a fine in accordance with Chapter 8 (Nuisances) of Title 4 (Public Safety) of this Code. The City's procedures on nuisance enforcement and administrative penalties 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 section and any rule or regulation adopted pursuant to this section, except as otherwise indicated in this section. Administrative penalties shall be as per the fee schedule established in Section 6-3.19(c)(4).

(2) Other remedies allowed by law may be used, including civil action or prosecution as misdemeanor or infraction. The City may pursue civil actions in the California courts to seek recovery of unpaid administrative citations. The City 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 City staff and resources.

(3) Responsible entity for enforcement.

(i) Enforcement pursuant to this section may be undertaken by the City Enforcement Official(s) or their designated entity, legal counsel, or combination thereof.

(ii) City Enforcement Official(s) will interpret the Code, determine if violation(s) have occurred, implement Enforcement Actions, and determine if compliance standards are met.

(iii) City Enforcement Official(s) may issue Notices of Violation(s).

(4) Penalty amounts for violations.

The penalty levels are as follows:

(i) For a first violation, the amount of the base penalty shall be \$50 per violation.

(ii) For a second violation, the amount of the base penalty shall be \$100 per violation.

(iii) For a third or subsequent violation, the amount of the base penalty shall be \$250 per violation.

(6) Education period for noncompliance. Upon adoption and enactment of this section by the City and through December 31, 2023, City will conduct inspections and Compliance Reviews, depending upon the type of regulated entity, to determine compliance. If the City determines that a Commercial Business (including Multi-Family Residential Dwellings), property owner, building/demolition/landscaping contractor, or other entity is not in compliance, it shall provide educational materials to the entity describing its obligations under this section and a notice that compliance is required by adoption and enactment of this section and that violations may be subject to administrative civil penalties starting on January 1, 2024.

(7) Civil penalties for noncompliance. Beginning January 1, 2024, if the City determines that a Commercial Business (including Multi-Family Residential Dwellings), property owner, building/demolition/landscaping contractor, or other entity is not in compliance with this section, it shall document the noncompliance or violation, issue a Notice of Violation, and take Enforcement Action pursuant to this section, as warranted.

Sec. 6-3.~~2019~~. Violation a misdemeanor.

Every person, firm, or corporation violating any of the provisions of this chapter ~~may~~ shall be deemed guilty of a misdemeanor and shall be subject to the penalty provision set forth in ~~Chapter 2~~, Section 1-2.01 of ~~the Yuba City Municipal~~ this Code.

Sec. 6-3.21. Delegation of duties to Regional Waste Management Authority; incorporation of Authority's SB 1383 program implementation; interpretation.

The Regional Waste Management Authority ("Authority") is a duly formed joint powers authority pursuant to Government Code §6500 et seq. of which the City is a member. The Authority serves as (i) the responsible agency the preparation and submission of regional planning documents and annual reports and coordination of waste diversion programs pursuant to Assembly Bill 939 and the corresponding regulations in Title 14 of the California Code of Regulations, Division 7, Chapter 9, and (ii) the responsible agency to coordinate, administer and/or implement compliance with and enforcement of SB 1383 on behalf of each joint powers member, including the City.

The Authority is hereby designated as the City's "Designee" to carry out any of the City's responsibilities under SB 1383 as authorized in 14 CCR Section 18981.2, to the extent such responsibilities are further specified and delegated to Authority pursuant to its formational instruments, resolutions, ordinances and policies, as may be amended from time-to-time ("Authority Programs"). The Authority Programs are hereby adopted by reference into this Chapter and made a part hereof.

In interpreting this Chapter in conjunction with the Authority Programs, in the event of any conflict between this Chapter and Authority Programs that cannot be reasonably harmonized through the application of lawful principles of statutory or contract construction, the terms of the Authority Programs shall control with respect to all issues specific to the regulation of organic and food waste collection and disposal.

~~Sec. 6-3.20. Repeal.~~

~~All ordinances inconsistent with the provisions of this ordinance are hereby repealed. Such repeal is to be effective concurrent with and simultaneous with the effective date of this chapter.~~

Section 6.

Section 6-4.03 of Chapter 4 (Obstructions in Gutters and Ditches) of Title 6 (Public Works) of the Yuba City Municipal Code is hereby amended to read as follows:

Sec. 6-4.03. - Placement of garden refuse.

No person shall deposit in the public right-of-way any garden refuse, including tree trimmings, shrub trimmings, grass clippings, and similar materials. Garden refuse shall be disposed of in accordance with ~~Chapter 3 of Title 6 Municipal Code Section 6-3.11 - Cuttings.~~

Section 7.

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance and each section,

subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions thereof may be declared invalid or unconstitutional.

Section 8.

This Ordinance shall take effect and be in full force and effect from and after thirty (30) calendar days after its final passage and adoption. Within fifteen (15) calendar days after its adoption, the Ordinance, or a summary of the Ordinance, shall be published once in a newspaper of general circulation.

Introduced and read at a regular meeting of the City Council of the City of Yuba City on the 15th day of February, 2022, and passed and adopted at a regular meeting held on the 1st day of March, 2022.

AYES:_
NOES:_
ABSENT:
ABSTAIN:

Dave Shaw, Mayor

ATTEST:

Ciara Wakefield, Deputy City Clerk

APPROVED AS TO FORM
COUNSEL FOR YUBA CITY

SHANNON CHAFFIN, City Attorney
Aleshire & Wynder, LLC