

ORDINANCE NO. 936 (2022)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAKEPORT AMENDING CHAPTER 8.16 OF THE LAKEPORT MUNICIPAL CODE TO ESTABLISH EDIBLE FOOD RECOVERY PROGRAM REGULATIONS AND ENHANCE EXISTING SOLID WASTE REGULATIONS

WHEREAS, the City of Lakeport presently supports and promotes a variety of recycling programs through implementation of requirements established by the State of California and the California Department of Resources Recycling and Recovery (“CalRecycle”); and

WHEREAS, SB 1383 (Chapter 395, Statutes of 2016) directed CalRecycle to adopt regulations to reduce organic waste by 50 percent from its 2014 baseline level by 2020 and 75 percent by 2025; and

WHEREAS, SB 1383 also requires the regulations to recover, for human consumption, at least 20 percent of edible food that is currently thrown away; and

WHEREAS, CalRecycle promulgated regulations as directed in SB 1383 in Chapter 12 (Short-Lived Climate Pollutants) of Division 7 of Title 14 of the California Code of Regulations (“SB 1383 Regulations”); and

WHEREAS, the SB 1383 Regulations took effect January 1, 2022, and requires the City of Lakeport to adopt an ordinance to enforce the SB 1383 Regulations; and

WHEREAS, in April 2022, the City of Lakeport undertook a thorough review of the existing solid waste regulations outlined in Lakeport Municipal Code Ch. 8.16 and determined a need to clarify and enhance regulations related to self-hauling activities and other solid waste activities and definitions; and

WHEREAS, the City Council desires to amend Chapter 8.16 (Solid Waste, Garbage Collection and Disposal) of the Lakeport Municipal Code to comply with the SB 1383 Regulations and improve waste diversion data collection efforts.

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

SECTION 1. Title 8, Chapter 8.16 of the Lakeport Municipal Code is hereby amended as set forth in Exhibit A, incorporated by this reference.

SECTION 2. Severability: Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions hereof are severable.

SECTION 3. CEQA. The adoption of this Ordinance is exempt from review under the California Environmental Quality Act (CEQA) pursuant to 14 CCR Section 15308 (actions by regulatory agencies for protection of the environment).

SECTION 4. Effective Date. This ordinance shall take effect thirty (30) days after adoption as provided by Government Code section 36937.

SECTION 5. Certification. The City Clerk shall certify to the passage and adoption of this Ordinance and shall give notice of its adoption as required by law. Pursuant to Government Code section 36933, a summary of this Ordinance may be published and posted in lieu of publication and posting the entire text.

INTRODUCED and first read at a regular meeting of the City Council on the 17th day of May, 2022, by the following vote:

AYES: Mayor Mattina, Council Members Froio, Green, Parlet, and Turner

NOES: None

ABSTAIN: None

ABSENT: None

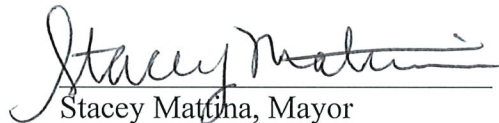
FINAL PASSAGE AND ADOPTION by the City Council of Lakeport occurred at a meeting thereof held on the 7th day of June, 2022, by the following vote:

AYES: Mayor Mattina, Council Members Froio, Green, Parlet, and Turner

NOES: None

ABSTAIN: None

ABSENT: None


Stacey Mattina, Mayor

ATTEST:


Kelly Buendia, City Clerk
City of Lakeport

Lakeport Municipal Code

Chapter 8.16 SOLID WASTE, GARBAGE COLLECTION AND DISPOSAL

Sections:

- 8.16.010 Purpose.
- 8.16.020 Definitions.
- 8.16.030 Solid waste accumulations.
- 8.16.040 Solid waste containers.
- 8.16.050 Placement of containers.
- 8.16.060 Interference with solid waste.
- 8.16.070 Scavenging - Prohibition
- 8.16.080 Contract and payment for solid waste collection service.
- 8.16.090 Solid waste collection.
- 8.16.100 Franchises for solid waste collection.
- 8.16.110 Collection and transportation times and days.
- 8.16.120 Solid waste disposal.
- 8.16.130 Self-Hauler Requirements
- 8.16.140 Requirements for Commercial Edible Food Generators.
- 8.16.150 Requirements for Food Recovery Organizations and Services.
- 8.16.160 Requirements for Facility Operators.
- 8.16.170 Inspections and Investigations.
- 8.16.180 Violations and Penalties.

8.16.010 Purpose.

The California Integrated Waste Management Act of 1989 (Public Resources Code Sections 40000 through 49620), created by AB 939 (chaptered as 1095) of the 1989 Legislative Session, declares that "the amount of solid waste generated in the state coupled with diminishing landfill space and potential adverse environmental impacts from landfilling constitutes an urgent need for state and local agencies to enact and implement an aggressive new integrated waste management program."

The purpose of this chapter is to provide for the collection and transportation of solid waste to a city-designated disposal site. The city has determined that public health and safety require the collection, transportation and disposal of solid waste, including recyclable materials, to be controlled and regulated. This chapter also establishes regulations related to an edible food recovery program required by SB 1383 (Chapter 395, Statutes of 2016).

8.16.020 Definitions.

For purposes of this chapter the following words and phrases shall mean as follows:

"Act" means the California Integrated Waste Management Act of 1989 (California Public Resources Code Section 40000 et seq.), as it may be amended from time to time.

"Bin" means a solid waste container satisfying the requirements of subsection (C) of Section [8.16.040](#).

"Bulky items" means and includes, but not by way of limitation, discarded items such as white goods (i.e. major household appliances), water heaters, furniture, tires, carpets, mattresses and similar large items which have weights or volumes greater than the capacity of an allowed covered container but excluding construction waste and special waste.

"California Code of Regulations" or "CCR" means the California Code of Regulations.

"CalRecycle" means the California Department of Resources Recycling and Recovery.

"City" means the city of Lakeport.

"City Council" means the City Council of Lakeport, California.

"City manager" means the city manager of Lakeport.

"Collection" means the act of collecting solid waste at the place of waste generation by an approved commercial collector and is distinguished from "removal."

"Collection vehicle or equipment" includes any vehicle or equipment used in the Collection of residential refuse or commercial solid waste.

"Commercial collector" means any person or persons, natural or legal, other than as an employee, authorized by license, franchise, contract, operations agreement or otherwise with the city to collect, transport and dispose of solid waste from commercial customers within the city.

"Commercial Edible Food Generator" includes a Tier One or a Tier Two Commercial Edible Food Generator as defined in this Chapter or as otherwise defined in 14 CCR § 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 § 18982(a)(7).

"Commercial occupant" means any person or persons, natural or legal, who owns property used for commercial, industrial or school purposes or developed as an apartment or a duplex, triplex, condominium or townhome complex or mobile home park for which the conditions, covenants and restrictions or operating documents of such complex or park require bin service. A commercial occupant shall mean the owner of such property. For the purposes of this chapter, an apartment shall contain four or more units. With the city manager's approval, a residential occupant who owns a business within the city and disposes of residentially generated solid waste at the business shall be deemed a part of the commercial occupant and not a residential occupant. A commercial occupant shall be deemed a commercial customer.

"Composting" includes a controlled microbial degradation of organic wastes yielding a safe and nuisance free product.

"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 § 17855(a)(4); or, as otherwise defined by 14 CCR § 18982(a)(8).

"Compliance Review" means a review of records by the city or its designated Enforcement Agency to determine compliance with this chapter.

"Container" means any receptacle used for collecting solid waste, recyclable materials, and organic waste for removal by an authorized collector.

"County" means the County of Lake, California.

"Discards" means all putrescible and non-putrescible waste materials which have been abandoned or discarded and placed for collection by residential or commercial customers including all trash; refuse; rubbish; animal feces; food waste; organic waste; wastepaper; garbage; household goods; ashes; wearing apparel; and all worthless, useless, unused, rejected or cast-off solid or semi-solid matter, including street sweeping waste; construction waste; and any other material not otherwise defined in this chapter.

"Disposal site" means any recycle center, materials recovery facility, intermediate processing center, incineration facility or landfill where solid waste may be taken for intermediate processing or final disposal-as approved by the city manager.

"Drop box" means a solid waste container satisfying the requirements of subsection (C) of Section [8.16.040](#).

"Drop box transporter" means any person or persons, natural or legal, other than as an employee, authorized by license, franchise, contract, operations agreement or otherwise with the city to rent drop boxes for use in the city.

"Dwelling" means a residence, including any flat, apartment, or other facility intended to be and permitted to be used for housing one or more persons, except "Dwelling" does not include hospitals, hotels, motels, nursing homes or convalescent centers.

"Edible Food" means food intended for human consumption, or as otherwise defined in 14 CCR § 18982(a)(18). Edible Food is not solid waste if it is recovered and not discarded. Nothing in this Chapter 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 city to address non-compliance including, but not limited to, issuing administrative citations, fines, penalties, or using other remedies.

"Enforcement Agency" means the city director, city manager, County administrative official, chief operating officer, executive director, public works director or other executive in charge or their authorized designees who is/are partially or wholly responsible for enforcing this chapter.

"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 § 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 Edible Food to the public for Food Recovery, either directly or through other entities or as otherwise defined in 14 CCR § 18982(a)(25), including, but not limited to:

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

"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 § 18982(a)(26). A Food Recovery Service is not a Commercial Edible Food Generator.

"Food scraps" means all food such as, but not limited to, fruits, vegetables, meat, poultry, seafood, shellfish, bones, rice, beans, pasta, bread, cheese, and eggshells. "Food scraps" excludes fats, oils, and grease when such materials are source separated from other food scraps.

"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).

"Garbage" means and includes that refuse resulting from preparation, cooking and consumption of edible foodstuffs, or resulting from the decay, dealing in, or storage of meat, fish, fowl, fruit or vegetable matter. As used in this Chapter 8.16, garbage is sometimes used to broadly describe refuse, rubbish, swill, solid waste and organic waste.

"Generator" means any person or other entity who is responsible for the initial creation of solid waste.

"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 § 18982(a)(30).

"Hazardous waste" means any waste, substance, or mixture of wastes defined as a "hazardous substance" or "hazardous waste" pursuant to the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6901 et seq., the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. 9601 et seq., the California Health and Safety Code and all future amendments, or as defined by the California Integrated Waste Management Board, or its successor, and any consumer product with the characteristics of a hazardous substance. Where there is a conflict in the definitions employed by two or more agencies having jurisdiction over hazardous or solid waste, the term "hazardous waste" shall be construed to have the broader, more encompassing definition.

"Health Officer" includes the health officer or other agent of the health department of County and shall include duly authorized personnel of the State Department of Health Services in the enforcement of applicable State law, city ordinance, or State or County rule or regulation in aid thereof.

"Inspection" means an onsite visit or electronic review where the city or its designee 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 § 18982(a)(35).

"Junk" includes, but shall not be limited to, waste matter, debris, rubble, asphalt, concrete, plaster, tile, rocks, bricks, soil, crates, cartons, containers, boxes, discarded, unusable, broken or inoperable machinery or parts thereof, scrap metal and other pieces of metal whether ferrous or nonferrous, used in building or construction materials, dead plants and trees, trimmings from plants and trees, cans, bottles, barrels, bones, rags, used rubber or used rope, unusable objects or equipment such as appliances, furniture, stoves, hot water heaters, refrigerators, freezers, furnishings, sporting equipment or inoperable vehicles, and all other items commonly known as junk.

"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.

"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.

"Litter" includes any post-consumer solid waste which is not deposited in:

- An authorized solid waste disposal site;
- Appropriate and serviced storage containers; or
- In other areas designated for disposal of solid wastes.

"Local Education Agency" means a school district, charter school, or County office of education that is not subject to the control of city or County regulations related to solid waste, or as otherwise defined in 14 CCR § 18982(a)(40).

"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. Non-local entities within the boundaries of the city include:

- (1) Mendocino Community College Lake Center
- (2) Lake County Fairgrounds (49th District Agricultural Association)

"Notice of Violation" or "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 § 18982(a)(45) or further explained in 14 CCR § 18995.4.

"Nuisance" includes anything which is injurious to human health or is indecent or offensive to the senses and interferes with the comfortable enjoyment of life or property and affects at the same time an entire community or neighborhood or any considerable number of persons, although the extent of annoyance or damage inflicted upon the individual may be unequal, and which occurs as a result of the storage, removal, transport, processing, or disposal of solid waste.

"Organics," "Organic Waste," and "Organic Material" means solid wastes containing material originated from living organisms and their metabolic waste products, including, but not limited to, Food Waste, Green Waste, non-Hazardous wood waste, and unwaxed, food-soiled paper.

"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 § 18982(a)(48).

"Person" includes an individual, firm, association, co-partnership, political subdivision, governmental agency, municipality, industry, public or private corporation or any other entity whatsoever.

"Place" or "premises" means every Dwelling house; Dwelling unit; apartment house or multiple Dwelling building; trailer or mobile home park; store; restaurant; rooming house; hotel; motel; office building; department store; manufacturing, processing, or assembling shop or plant; and every place or premises where any person resides, or any business is carried on or conducted within the city or any other site upon which solid waste is produced or accumulates.

"Putrescibles" includes wastes that are capable of being decomposed by microorganisms with sufficient rapidity as to cause nuisances because of odors, gases, or other offensive conditions, and include materials such as food scraps, food waste, organic waste, offal, and dead animals.

"Receptacle" means a solid waste container satisfying the requirements of subsection (A) of Section [8.16.040](#).

"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 § 18982(a)(60).

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

"Recyclable materials" means discarded materials set aside, handled, packaged, or offered for collection in a manner different from solid waste for the purpose of recycling. No discarded materials shall be considered recyclable materials unless such material is separated from organic materials and solid waste. "Recyclable materials" shall include, but not be limited to, newspaper (including inserts, coupons, and store advertisements), mixed paper (including office paper, computer paper, magazines, junk mail, catalogs, brown paper bags, colored paper legal pad backings, shoe boxes, cereal, and other similar food boxes), chipboard, corrugated cardboard, glass containers of any color (including brown, clear, and green), aluminum (including beverage containers and small pieces of scrap metal), steel, tin, or bi-metal cans, suitable plastics, and those materials added by the city or its franchise hauler from time to time.

"Recycling" means the process of collecting, sorting, cleansing, treating and reconstituting solid waste that would otherwise be disposed of, and returning them to the economic mainstream in the form of products which meet the quality standards necessary to be used in the marketplace.

"Refuse" includes garbage, junk, trash and rubbish.

"Removal" means the act of taking solid wastes from the place of waste generation either by an approved commercial or residential collector or by a person in control of the premises.

"Residential" means any residential dwelling or apartment house.

"Residential collector" means any person or persons, natural or legal, other than as an employee, authorized by license, franchise, contract, operations agreement or otherwise with the city to collect, transport and dispose of solid waste from residential customers within the city.

"Residential occupant" means any person or persons, natural or legal, who owns a dwelling unit, notwithstanding the fact that there is a valid home occupation permit issued to the address of the dwelling unit. A dwelling unit is a single-family dwelling or a duplex, triplex, condominium or townhome or mobile home for which the conditions, covenants, and restrictions or other operation documents of the complex or park do not require bin service. A residential occupant shall mean the owner of such property regardless of whether such person or persons resides at such property. If approved by the city manager, occupants of a duplex or triplex on one parcel may share solid waste collection services, as long as the weekly set-out capacity does not exceed the single-family service limitations identified in the resolution setting residential collection fees, and if so approved shall be deemed one residential occupant. A residential occupant shall be deemed a residential customer.

"Resource recovery" means the reclamation or salvage of wastes for reuse, conversion to energy or recycling.

"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).

"Rubbish" includes nonfood and nonputrescible waste materials such as ashes, paper, cardboard, tin cans, large or heavy yard trimmings, wood, glass, bedding, discarded furniture, crockery, plastics, rubber byproducts or litter.

"SB 1383" means Senate Bill 1383 (Chapter 395, Statutes of 2016).

"SB 1383 Regulations" means 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.

"Scavenging" means the uncontrolled or unauthorized removal of Solid Waste materials, including Organic Waste.

"Self-hauler" means a Generator who hauls organic waste, construction & demolition debris, recyclable materials, or other solid waste he or she has generated to another person, provided such hauling is undertaken through the use of the self-hauler's own equipment and employees. Self-hauling does not include the contracting or subcontracting of hauling services with any third party, including, but not limited to, any solid waste enterprise that is not franchised to perform any variety of solid waste handling services within the city of Lakeport. Self-hauler also includes a person who back-hauls waste, or as otherwise defined in 14 CCR § 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 § 18982(a)(66)(A).

"Solid Waste" has the same meaning as defined in California Public Resources Code Section [40191](#), which defines solid waste as all putrescible and non-putrescible solid, semisolid and liquid wastes, such as refuse, garbage, rubbish, paper, ashes, industrial wastes, demolition, and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semisolid wastes and other discarded solid and semisolid wastes, and also includes liquid wastes disposed of in conjunction with solid waste disposal sites; but excludes:

- (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.

"Special waste" means but is not limited to, flammable waste; containerized waste (e.g., a drum, barrel, portable tank, box, pail, etc.); waste transported in a bulk tanker; liquid waste; sewage sludge; waste from a pollution control process; residue and debris from the cleanup of a spill or release of chemical substances, or reclamation; dead animals; waste water; explosive substances; radioactive materials; materials which have been exposed to highly infectious or contagious diseases; hazardous materials; and hazardous waste.

"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), 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 § 18982(a)(71).

"Tier One Commercial Edible Food Generator" means a Commercial Edible Food Generator that is one of the following:

1. Supermarket.
2. Grocery Store with a total facility size equal to or greater than 10,000 square feet.
3. Food service provider.
4. Food distributor.
5. Wholesale Food Vendor.

"Tier Two Commercial Edible Food Generator" means a Commercial Edible Food Generator that is one of the following:

1. Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.
2. Hotel with an on-site food facility and 200 or more rooms.
3. Health facility with an on-site food facility and 100 or more beds.
4. Large Venue.
5. Large Event.
6. State agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet.
7. Local Education Agency facility with an on-site food facility.

"Toter" means a solid waste, green waste or recycling container satisfying the requirements of subsection (A) of Section [8.16.040](#).

"Trash" means any junk; discards; scrap building materials; scrap wood, or any abandoned item of personal property.

"Vector" includes any insect or other arthropod, rodent or other animal capable of transmitting the causative agents of human disease or disrupting the normal enjoyment of life by adversely affecting the public health and well-being.

"Wholesale Food Vendor" means a business or establishment engaged in the merchant wholesale distribution of food, where food (including fruits and vegetables) is received, shipped, stored, prepared for distribution to a retailer, warehouse, distributor, or other destination, or as otherwise defined in 14 CCR § 18982(a)(76).

"Yard waste" means materials generated from the maintenance or alteration of public, commercial or residential landscapes, including grass clippings, tree and shrubbery trimmings and pruning, vegetative cuttings, leaves, brush, weeds and related compostable materials. (Ord. 827 §1(part), 2003)

8.16.030 Solid waste accumulations.

A. No person, natural or legal, shall accumulate, keep or deposit solid waste upon any sidewalk, street, roadway, alley or driveway or upon any real property, whether public or private, other than in bins, totes, drop boxes or receptacles and in accordance with Sections [8.16.040](#) and [8.16.050](#). Solid waste shall be kept free of all hazardous materials and special wastes, and placed in a closed toter, receptacle, bin or drop box.

B. No person, natural or legal, shall place or cause to be placed solid waste in any toter, bin, drop box or receptacle located on any sidewalk, street, roadway, alley or driveway or upon any real property, whether public or private, other than real property owned or leased by such person.

- C. No person, natural or legal, shall set out or cause to be set out for collection any solid waste other than solid waste originating on the abutting premises.
- D. No person, natural or legal, shall dispose of solid waste in or near litter receptacles placed by the city in public places for the incidental use of pedestrian or motorists.
- E. No person, natural or legal, shall accumulate, keep or deposit any solid waste in such a manner that a public nuisance is created, including, but not limited to, allowing fires, mosquitoes or rodents to breed therein. (Ord. 827 §1(part), 2003)

8.16.040 Solid waste containers.

- A. Receptacles (toters) shall be made of metal or plastic if barrels, or plastic if bags, and of sufficient strength to prevent them from being broken under ordinary conditions. They shall have a maximum capacity of thirty-two gallons for solid waste and ninety-five gallons for recyclables, unless issued by the commercial collector, in which case they may have a maximum capacity as approved by the hauler. Receptacles (toters) shall be equipped with a vermin and animal resistant cover or seal, which shall be utilized at all times. Receptacles shall be in a condition such that their contents can be fully enclosed and such that they shall stand upright and leave no sharp, jagged or otherwise dangerous corners or edges.
- B. Bins which shall be utilized at all times, the top of which shall not exceed sixty inches in height from the surface of the ground. They shall have a capacity of at least one cubic yard but not more than six cubic yards. Bins shall be constructed of metal or other material as approved by the city. All bins must be rented or purchased from the city or a commercial collector or residential collector.
- C. Drop boxes shall have a capacity of at least ten cubic yards. They shall be constructed of metal or other material as approved by the city. All drop boxes must be rented or purchased from the city of a commercial collector or residential collector or from a drop box transporter.
- D. Receptacles, toters, drop boxes and bins shall be maintained in a clean, safe and sanitary condition. Customer will be responsible for general and routine cleaning of receptacles (toters).
 - 1. Inspection of Receptacles, Toters, Bins or Drop Boxes. The Health Officer shall cause to be inspected at regular intervals, the receptacles, toters, drop boxes or bins used in depositing solid waste in the city and such inspector shall be the sole judge of the condition of such receptacles, as to their fitness for such use.
 - 2. The Health Officer shall cause red tags to be placed on each and every receptacle which he deems inadequate, either by reason of its condition or size, to hold the solid waste in the prescribed manner for any of the other reasons set forth in this chapter.
 - 3. The residential or commercial collector or drop box transporter shall replace the tagged receptacle within five days for residential toters with a suitable replacement receptacle. The time period for a suitable replacement of commercial bins is thirty days.
 - 4. The city may assess a penalty fee to the residential or commercial collector or drop box transporter for failure to replace a tagged receptacle in the allotted time as outlined in this chapter. (Ord. 827 §1(part), 2003)

8.16.050 Placement of containers.

- A. Any bin or drop box shall be placed for collection on any street, roadway or alley only as provided in this chapter.
- B. Any receptacle or toter shall be placed for collection on a sidewalk, parkway or alley only on the day established for the collection of solid waste on the particular route or after five-thirty p.m. on the day immediately prior to such collection, and shall not remain on the street, parkway or alley for more than eighteen hours after it has been emptied.
- C. Any receptacle or toter placed for collection on a sidewalk or parkway shall be placed between the curb line and the property line as close to the curb line or edge of the street or roadway as practicable.
- D. Any receptacle, toter, bin or drop box placed for collection in any alley shall be placed as close to the property line as practicable.

E. Any bin or drop box placed in any street, roadway or alley shall require an encroachment permit from the city pursuant to this code, with the exception of a temporary drop box or bin.

F. No receptacle, toter or bin shall be stored in any required side yard that abuts any public street or in any required front yard. Every receptacle or bin shall be stored in a manner such that it is screened from public view and not visible from the sidewalk, street, roadway or alley. The only exception would be a temporary roll-off drop box or bin for the purposes of clean up. (Ord. 827 §1(part), 2003)

8.16.060 Interference with solid waste.

No person other than a residential or commercial collector, or customer shall interfere in any manner with any receptacle, toter bin or drop box or the contents thereof, remove any receptacle, toter, bin or drop box from the location where it was placed by the residential or commercial collector or customer, or remove the contents of any receptacle, toter, bin or drop box. (Ord. 827 §1(part), 2003)

8.16.070 Scavenging -- Prohibition

Scavenging as defined in Section 8.16.020 is prohibited on any premises, public or private.

8.16.080 Contract and payment for solid waste collection service.

A. The city shall provide for the weekly collection, transportation and disposal of solid waste generated on private property in the city. Every commercial occupant and residential occupant shall contract for solid waste collection service (mandatory service) at the service level commensurate with their needs as determined by the city and its franchise waste hauler. With the city manager's approval, the obligation to contract for solid waste collection service may be waived or reduced due to extraordinary financial costs or as a result of physical access limitations. Owners or occupants shall not be required to contract for solid waste collection service where such owner or occupant accumulates no solid waste or rubbish, or who has an agreement with the city whereby the solid waste or rubbish is being collected at least as often as the municipal collection in accordance with the provisions of this chapter, and who complies with all health requirements. In order to receive such exemption, the owner or occupant shall be required to file with the city manager, or his/her designee, an annual application stating the reasons for exemption from the payment of such fees. The city manager or his or her designee shall make such investigation as he or she deems necessary to determine if the applicant should be granted an annual exemption. If the city manager or designate finds that the applicant does not qualify for such exemption, he or she shall immediately notify the applicant of his or her findings and determination. Every commercial occupant and residential occupant who is required to contract for solid waste collection service shall pay a collection fee, established by resolution of the city council, for the maximum amount of solid waste to be collected at any one time from the subject property without the imposition of additional service charges. The collection fee shall be a civil debt owing to the city, except that if the city provides for solid waste collection by means of a license, franchise or contract then the civil debt shall be owed to the licensee, franchisee or contractor. It shall be unlawful for any commercial occupant or residential occupant to fail to pay the collection fee within the time period specified on the billing statement, which time period shall not be less than thirty days from the date notice is mailed.

B. The failure of any occupant to promptly remit the collection fee when due and payable shall entitle the city or, in the case of a license, franchise, or contract, the licensee, franchisee or contractor to collect a late fee from that occupant. Any partial payment by a customer shall be deemed to be a payment toward the overall service meaning water, sewer and solid waste and applied likewise. The maximum amount of the late fee shall be established by resolution of the city council. The maximum amount of solid waste to be collected at any one time from the property of commercial and residential occupants without the imposition of any additional service charges shall be determined by resolution of the city council. The occupant shall be charged an additional service charge for all solid waste in excess of the above limits on any given collection day.

C. Pursuant to applicable government and health and safety codes, and upon the direction of the city council, any debt and all penalties may be collected and annually transferred to the county auditor for inclusion on the next year's tax bill of the respective property owner. An action in the name of the city may be commenced in any court of competent jurisdiction for the amount of any delinquent fees or charges and if legal action is brought by the city or its designee to enforce the collection of any amount charged and due under this section, any judgment rendered in favor of the city shall include costs of suit incurred

by the city or its designee including a reasonable attorney's fee if allowable by statute. (Ord. 829 §1, 2004; Ord. 827 §1(part), 2003)

8.16.090 Solid waste collection.

No person or persons, natural or legal, other than as an employee, shall collect, enter into an agreement to collect or provide for the collection, transportation or disposal of solid waste, unless such person or persons is authorized by the city to operate within the city by means of a license, franchise, contract, operations agreement or otherwise. (Ord. 827 §1(part), 2003)

8.16.100 Franchises for solid waste collection.

The city reserves the right to grant an exclusive or nonexclusive license, franchise, contract, operations agreement or otherwise for the collection, transportation or disposal of solid waste from sources and for the rental of drop boxes within the city under such terms and conditions as are contained in this chapter and as may be prescribed by the city council. The city may require monetary compensation from commercial and residential collectors and drop box transporters, in exchange for the license, franchise, contract, operations agreement or otherwise. A written agreement between the city and the commercial or residential collector or drop box transporter shall be required when the city exercises its right to license, franchise or otherwise contract for the collection, transportation, and disposal of solid waste. (Ord. 827 §1(part), 2003)

8.16.110 Collection and transportation times and days.

A. No residential collector or drop box transporter servicing a residential customer shall collect solid waste in the city or pick up or deliver drop boxes except between the hours of five a.m. and six p.m., Monday through Friday, nor at any time on Saturdays or Sundays except as provided in subsection (D) of this section.

B. No commercial collector or drop box transporter servicing a commercial customer shall collect solid waste in the city except between the hours of five a.m. and six p.m., Monday through Friday and between the hours of seven a.m. and three p.m., on Saturdays, nor at any time on Sundays except as provided in subsection (D).

C. No residential or commercial collector or drop box transporter shall collect or transport solid waste within two hundred feet of a public or private elementary, middle or high school during the one-half hour before the commencement of the regular school day and one-half hour following the conclusion of the regular school day. It shall be the responsibility of the collector or drop box transporter to ascertain the various starting and ending times for schools in the city.

D. Whenever a holiday recognized by the city or any disposal site falls upon a regularly scheduled collection day, the solid waste scheduled for collection that day, and for the remainder of the week, may be picked up one day later than scheduled. The collector or drop box transporter shall provide the city with at least seven days prior written notice of the collection schedule for each applicable holiday and the collector shall place advertisements in one daily newspaper servicing the city notifying customers of the change. (Ord. 827 §1(part), 2003)

8.16.120 Solid waste disposal.

A. The city shall approve where solid waste generated in the city is transported for disposal. No collector or drop box transporter shall dispose of solid waste at a disposal site owned or controlled by the collector or its parent or holding company unless expressly granted by the city.

B. No person, including a collector or drop box transporter, shall burn any solid waste within the city at any time, except as otherwise permitted by law.

C. No person, including a collector or drop box transporter, shall bury or dump any solid waste within the city, except at a designated disposal site and then only in accordance with the rules and regulations governing the use of such disposal site.

D. No residential collector shall provide less than weekly collection of solid waste from residential customers in the city when such solid waste is properly placed for collection on the day of collection.

E. No commercial collector or drop box transporter shall fail to collect solid waste accumulated by each customer, as many times as requested by the customer or once per week, whichever is more frequent.

F. No residential collector collection or transporting solid waste within the city shall create noise levels in excess of sixty-five decibels. No commercial collector or box transporter collecting or transporting solid waste within the city shall create noise levels in excess of seventy decibels.

G. No collector or drop box transporter shall fail to maintain bins, totes and boxes other than in good repair. (Ord. 827 §1(part), 2003)

8.16.130 Self-Hauler Requirements

- A. Self-Haulers that have received an approved annual Self-Haul Trash Permit from the city manager or designee shall keep a record of the amount of Solid Waste and Recyclables delivered to each Solid Waste facility, operation, activity, or property that processes or recovers Solid Waste. These records shall be submitted to the city no later than July 1 of each year. The records shall include the following information:
 - 1. Delivery receipts and weight tickets from the entity accepting the waste.
 - 2. The amount of material in cubic yards or tons transported by the generator to each entity.
 - 3. If the material is transported to an entity that does not have scales on-site or employs scales incapable of weighing the Self-Hauler's vehicle in a manner that allows it to determine the weight of materials received, the Self-Hauler is not required to record the weight of material but shall keep a record of the entities that received the Solid Waste.
- B. Approved Self-Haulers shall source separate all recyclable materials and haul the recyclables to a facility that recovers and processes those materials.
- C. Self-Haulers must apply for and receive all required permits. In conjunction with construction projects, contractor self-haul permit applicants must comply with California Green Building Standards Code requirements and submit a waste reduction plan as required by Section 15.32.020 of this Code and subsequently submit all waste disposal and diversion tickets associated with their project(s) at the time prescribed. Failure to submit the required waste reduction plan and all associated weight tickets shall subject the permittee to enforcement actions and penalties outlined in Section 8.16.180 of this Chapter.

8.16.140 Requirements for Commercial Edible Food Generators.

- 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. Tier One and Tier Two 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:
 - a. The collection of Edible Food for Food Recovery; or
 - b. 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 city's designated Enforcement Agency or designated third party Enforcement Agency to access the premises and to review records pursuant to 14 CCR § 18991.4.
 - 5. Maintain, and retain for five years, records that include the following information, or as otherwise specified in 14 CCR § 18991.4:

- a. A list of each Food Recovery Service or Food Recovery Organization that collects or receives its Edible Food pursuant to a contract or written agreement established under 14 CCR § 18991.3(b).
 - b. A copy of all contracts or written agreements established under 14 CCR § 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 Edible Food that will be collected by, or Self-hauled to, the Food Recovery Service or Food Recovery Organization.
 - iii. The established frequency that Edible Food will be collected or Self-hauled.
 - iv. The quantity of Edible Food, measured in pounds recovered per month, collected or Self-hauled to a Food Recovery Service or Food Recovery Organization for purposes of Food Recovery.
- D.** Tier One Commercial Edible Food Generators physically located in the city shall submit Food Recovery Reports, as defined below, to the city according to the following schedule:
- 1. On or before August 1, 2022, for the period of January 1, 2022 through June 30, 2022.
 - 2. On or before May 1, 2023, and on or before May 1 each year thereafter, for the period covering the preceding calendar year.
- E.** Tier Two Commercial Edible Food Generators physically located in the city shall submit Food Recovery Reports, as defined below, to the city according to the following schedule:
- 1. On or before May 1, 2025, and on or before May 1 each year thereafter, for the period covering the preceding 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 or persons 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; and
 - 4. The total number of pounds of Edible Food donated through a contracted Food Recovery Organization or Food Recovery Service during the reporting period.
- 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, Chapter 557, Statutes of 2017 (approved by the Governor of the State of California on September 25, 2017, which added Cal. Education Code Article 13 [commencing with § 49580] to Chapter 9 of Part 27 of Division 4 of Title 2, and to amend Cal. Health and Safety Code § 114079, relating to food safety, as amended, supplemented, superseded and replaced from time to time).

8.16.150 Requirements for Food Recovery Organizations and Services.

- A.** Food Recovery Services collecting or receiving Edible Food directly from Commercial Edible Food Generators via a contract or written agreement established under 14 CCR § 18991.3(b) shall maintain the following records, or as otherwise specified by 14 CCR § 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 for which the Food Recovery Service transports Edible Food for Food Recovery.

B. Food Recovery Organizations collecting, receiving, or coordinating the collection of Edible Food directly from Tier One or Tier Two Commercial Edible Food Generators via a contract or written agreement established under 14 CCR § 18991.3(b) shall maintain, and retain for five years, the following records, or as otherwise specified by 14 CCR § 18991.5(a)(2):

1. The name, address, and contact information for each Commercial Edible Food Generator from which the Organization receives Edible Food;
2. The quantity in pounds of Edible Food collected from each Commercial Edible Food Generator per month; and
3. The name, address, and contact information for each Food Recovery Service from which the Organization receives Edible Food for Food Recovery.

C. Food Recovery Organizations and Food Recovery Services that have their primary address physically located in the city and contract or have written agreements with one or more Tier One or Tier Two Commercial Edible Food Generators pursuant to 14 CCR § 18991.3(b) shall submit Food Recovery Reports to the city or designated Enforcement Agency according to the following schedule:

1. On or before August 1, 2022, for the period of January 1, 2022 through June 30, 2022.
2. On or before May 1, 2023, and on or before May 1 each year thereafter, for the period covering the preceding calendar year.

D. Food Recovery Reports submitted by Food Recovery Organizations or Services shall include the following information:

1. Total pounds of edible Food recovered during the reporting period from Tier One and Tier Two Commercial Edible Food Generators physically located in the city with whom the reporting entity has a contract or written agreement pursuant to 14 CCR § 18991.3(b).

E. Food Recovery Capacity Planning. In order to support Edible Food Recovery capacity planning assessments and/or other studies conducted by the County of Lake, Food Recovery Services and Food Recovery Organizations operating in the city shall, upon request, provide information and consultation to the County of Lake or city regarding existing or proposed new or expanded Food Recovery capacity that could be accessed by the city and its Tier One and Tier Two Commercial Edible Food Generators. A Food Recovery Service or Food Recovery Organization contacted by the County of Lake or city shall provide the requested information within 60 days, unless a shorter time period is specified, or the County or city agree to a longer time period.

8.16.160 Requirements for Facility Operators.

A. 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 request of the city or designated Enforcement Agency, 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 city or designated Enforcement Agency shall respond in writing within sixty (60) days.
2. Community Composting operators, upon request of the city or designated Enforcement Agency, shall provide information to the city or designated Enforcement Agency to support Organic Waste capacity planning, including, but not limited to, an estimate of the amount of

Organic Waste handled or anticipated to be handled at the Community Composting operating. Entities contacted by the city or designated Enforcement Agency shall respond in writing within sixty (60) days.

8.16.170 Inspections and Investigations.

- A. City representatives and/or its designated Enforcement Agency, including designees, are authorized to conduct compliance reviews, Inspections and investigations, at random or otherwise, of any collection container; collection vehicle loads; or transfer, processing, or disposal facilities for materials collected from generators, or source separated materials, to confirm compliance with this chapter by Tier One and Tier Two Commercial Edible Food Generators, haulers, Food Recovery Services, and Food Recovery Organizations, subject to applicable laws. This section does not allow the city or its designated Enforcement Agency to enter the interior of a private Residential property for Inspection.
- B. Regulated entities shall provide or arrange for access during all compliance reviews and Inspections (with the exception of Residential property interiors) and shall cooperate with the city's employees or employees of its designated Enforcement Agency during such Inspections and investigations. Such Inspections and investigations may include in-person or electronic review of proper placement of materials in containers, Edible Food Recovery activities, records, or any other requirement described herein. Failure to provide or arrange for access to an entity's premises or access to records for any Inspection or investigation is a violation of this chapter and may result in penalties described in Section 8.16.180.
- C. Any records obtained by the city or its designated Enforcement Agency during Inspections and other compliance reviews shall be subject to the requirements and applicable disclosure exemptions of the Public Records Act as set forth in Government Code § 6520 et seq.
- D. Representatives of the city or its designated Enforcement Agency are authorized to conduct any Inspections or other investigations as reasonably necessary to further the goals of this chapter, subject to applicable laws.
- E. The city shall receive written complaints, including anonymous complaints, regarding entities that may be non-compliant with this Chapter or other applicable SB 1383 Regulations. Complaints shall include the name and contact information of the complainant, if the complainant is not anonymous; the identity of the alleged violator, if known; a general description of the alleged violation including the location(s) and other relevant facts known to the complainant; any relevant photographic or documentary evidence to support the allegations in the complaint; and the identity of witnesses, if known.

8.16.180 Violations and Penalties.

- A. Violation of any provision of this Chapter shall constitute grounds for issuance of a Notice of Violation and assessment of a fine by the city or designated Enforcement Agency. Enforcement Actions under this chapter include issuance of an administrative citation and assessment of a fine in accordance with Chapter 8.30 of the Lakeport Municipal Code.
- B. Education Period for Non-Compliance. Beginning January 1, 2022, and through December 31, 2023, the city or designated Enforcement Agency will conduct Inspections, route reviews, waste evaluations, and compliance reviews, depending on the type of regulated entity, to determine compliance. If the city or designated Enforcement Agency determines that self-hauler, hauler, Tier One Commercial Edible Food Generator, Tier Two Commercial Edible Food Generator, Food Recovery Service, Food Recovery Organization, 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 as of January 1, 2022, and that violations may be subject to administrative civil penalties starting on January 1, 2024.
- C. Civil Penalties for Non-Compliance. Beginning January 1, 2024, if the city or designated Enforcement Agency determines that a self-hauler, hauler, Tier One or Tier Two Commercial Edible Food Generator, Food Recovery Service, Food Recovery Organization, 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.

- D. This chapter shall be interpreted to be consistent with the city's regulatory authority and shall only apply to Local Education Agencies and other entities to the extent permitted by law, including SB 1383 Regulations.