Winters Regular Council Meeting

Tuesday, November 16, 2021 @ 6:30 PM
AGENDA

Members of the City Council

Wade Cowan, Mayor
Bill Biasi, Mayor Pro-Tempore
Harold Anderson
Jesse Loren
Pierre Neu

COVID Disclaimer
The Winters City Council meeting will be conducted pursuant to AB 361.

1.The meeting will be held via teleconference
2. If you are joining the meeting via Zoom and wish to make a comment on an item, press the "raise a hand" button. If you are joining the meeting by phone, press *9 to indicate a desire to make a comment. The chair will call you by name or phone number when it is your turn to comment. Speakers will be limited to 3:00 minutes.
3. If you choose not to observe the City Council meeting but wish to make a comment on a specific agenda item, please submit your comment via email by 5:00 p.m. on the Monday prior to the City Council meeting. Please submit your comment to the City Clerk at cityclerk@cityofwinters.org. All public comments submitted to the City Clerk will be summarized and read into record but will not be read verbatim due to time limitations.
4. If you are watching/listening to the live stream of the City Council meeting and wish to comment on a specific item as it is being heard, you may also submit your comment, limited to 250 words or less, to the City Clerk at cityclerk@cityofwinters.org. All public comments submitted to the City Clerk will be summarized and read into record but will not be read verbatim due to time limitations.
Council Chambers are located at 318 First Street, Winters, meeting location may vary. Please see agenda.

Zoom Instructions

Zoom Link:
https://us02web.zoom.us/j/86205973361?pwd=d1YyYmVxeldXcEpjbDUxeFR5MFhoQT09

Meeting ID: 862 0597 3361
Passcode: 036514

1. ROLL CALL

2. PLEDGE OF ALLIEGENCE

3. APPROVAL OF THE AGENDA

4. COUNCIL/STAFF COMMENTS

5. PUBLIC COMMENTS
At this time, any member of the public may address the City Council on matters, which are not listed on this agenda. Citizens should reserve their comments for matters listed on this agenda at the time the item is considered by the Council. An exception is made for members of the public for whom it would create a hardship to stay until their item is heard. Those individuals may address the item after the public has spoken on issues that are not listed on the agenda. Presentations may be limited to accommodate all speakers within the time available. Public comments may also be continued to later in the meeting should the time allotted for public comment expire.

6. CONSENT CALENDAR
All matters listed under the consent calendar are considered routine and noncontroversial, require no discussion and are expected to have unanimous Council support and may be enacted by the City Council in one motion in the form listed below. There will be no separate discussion of these items. However, before the City Council votes on the motion to adopt, members of the City Council, staff, or the public may request that specific items be removed from the Consent Calendar for separate discussion and action. Items(s) removed will be discussed later in the meeting as time permits.

   A. Minutes of the Regular Meeting of the Winters City Council Held via Teleconference (Zoom) on November 2, 2021
      Minutes_1102_2021
   B. Resolution No. 2021-78 Renewing Authorization and Making Findings and Determinations Under AB 361 for Continued Virtual Meetings.
      Staff_Report_Renewal_of_Findings_AB361
      Resolution2021_78
   C. Update on Unfunded Employee Liabilities
      Staff_Report_Unfunded_Liability_Review
      Policy_on_Pension_and_Unfunded_Liabilities

7. PRESENTATIONS

8. DISCUSSION ITEMS

   A. Senior Center Naming Rights
      Staff_Report_Senior_Center_Naming_Rights
   B. Resolution No. 2021-77 Establishing the Climate Action Commission and Mayoral appointments to a Council ad hoc committee to interview applicants to the Commission
      Staff_Report_Climate_Action_Formation
      Resolution2021_77
   C. Main Street Closure Schedule for the Winter Months

Staff_Report_Main_Street_Closure
Resolution2021_80

D. Legislative Update Regarding SB 9 and SB 10
Staff_Report_SB9_SB10
Att1_Senate_Bill_9
Att2_Senate_Bill_10
Att3_Figure_1_Single_Family_Residential_Zones_Excluded_from_SB9
Att4_COW_Prime_Farmland_Farmland_Statewide_Importance
Att5_COW_Designated_Wetlands_Map
Att6_COW_Special_Flood_Hazard_Area_Map

E. Presentation of SB 1383 Requirements and First Reading of Ordinance 2021-04 Amending Chapter 8.04 of, and Adding Chapter 8.72 to, Title 8 of the Winters Municipal Code Relating to Solid Waste and Organic Waste Disposal Reduction
Staff_Report_SB1383
Att1_Ord2021_04
Att2_Redline_of_Chapter8.04and8.72

9. CITY MANAGER REPORT

10. INFORMATION ONLY

A. Letter to Solano County Regarding Green River Tap Room.
Letter_Solano_County_GRB

B. Letter to the Yolo County Board of Supervisors Regarding the 2021 Redistricting of Yolo County
Letter_to_Yolo_County_Board_of_Supervisors_Redistricting

C. Letter to the California Redistricting Commission Regarding State Senate Boundaries for Redistricting 2021.
Letter_to_CRC_State_Senate

D. Letter to the California Redistricting Commission Regarding Congressional District Boundaries for Redistricting 2021.
Letter_to_CRC_Congressional

E. Letter to the California Redistricting Commission Regarding State Assembly Boundaries for Redistricting 2021.
Letter_to_CRC_State_Assembly

11. ADJOURNMENT

I declare under penalty of perjury that the foregoing agenda for the regular meeting of the Winters City Council was posted on the City of Winters website at www.cityofwinters.org and Councilmembers were notified via e-mail of its' availability. A copy of the foregoing agenda was also posted on the outside public bulletin board at City Hall, 318 First Street , and made available to the public during normal business hours.

_____
Shelly Gunby, City Clerk
Winters City Council Agenda

Questions about this agenda - Please call the City Clerk's Office (530) 794-6702. Agendas and staff reports are available on the city web page at http://www.cityofwinters.org/city-council-meetings_/

General Notes: Meeting facilities are accessible to persons with disabilities. To arrange aid or services to modify or accommodate persons with disability to participate in a public meeting, contact the City Clerk.

Staff recommendations are guidelines to the City Council. On any item, the Council may take action, which varies from that recommended by staff.

The city does not transcribe its proceedings. Anyone who desires a verbatim record of this meeting should arrange for attendance by a court reporter or for other acceptable means of recordation. Such arrangements will be at the sole expense of the individual requesting the recordation.

How to obtain City Council Agendas and Agenda Packets:

View on the internet: http://www.cityofwinters.org/city-council-meetings_/

City Council agenda packets and any attachments to the agenda that are not available online may be viewed at the City Clerk's Office at City Hall - 318 First Street.

Email Subscription: You may contact the City Clerk's Office to be placed on the list. An agenda summary is printed in the Winters Express newspaper.

A recording of any streamed City Council meeting can be viewed later at http://www.cityofwinters.org/city-council-meeting-recordings/.

Minutes of the Regular Meeting of the Winters City Council Held via Teleconference (Zoom) on November 2, 2021

Mayor Cowan called the meeting to order at 6:30PM

Present: Council Members Harold Anderson, Jesse Loren, Pierre Neu, Mayor Pro Tem Bill Biasi, Mayor Wade Cowan

Absent: None

Staff: City Manager Kathleen Trepa, Director of Financial Management Shelly Gunby

Council Member Loren led the Pledge of Allegiance.

APPROVAL OF AGENDA:

Motion by Council Member Neu, second by Council Member Loren to approve the agenda as is. Motion carried with the following roll call vote:

AYES: Council Members Anderson, Loren, Neu, Mayor Pro Tem Biasi, Mayor Cowan

NOES: None

ABSENT: None

ABSTAIN: None

COUNCIL/STAFF COMMENTS:

Verbal updates were provided by Council Members.

PUBLIC COMMENTS:

Kate Laddish commented her appreciation for Public Works recent road work. She additionally requested that the meeting be recorded.

CONSENT CALENDAR:

A. Minutes of the Regular Meeting of the Winters City Council Held via Teleconference (Zoom) on October 19, 2021

B. Resolution No. 2021-74 Renewing Authorization and Making Findings and Determinations Under AB 361 for Continued Virtual Meetings.

C. Resolution 2021-73 Recognizing November as Native American Heritage Month

D. Resolution No. 2021-75 Authorizing the City Manager to Execute Agreements for On-Call Mapping Services with Bennett Engineering Services Inc. And Clear Path Land Evolvement, Inc., Each in The Not-O-Exceed Amount Of $90,000 For A Three-Year Term.

E. Resolution 2021-76 Approving A Construction Contract with Ample Electric, Inc. For The Installation of Pathway Lighting At Blue Oak Park in The Not To Exceed Amount Of $53,395 And Authorizing The City Manager To Approve Change Orders Up To $5,000

City Manager Trepa provided an overview of the consent calendar items, Motion by Council Member Loren, second by Council Member Neu to approve the Consent Calendar. Motion carried with the following roll call vote:

AYES: Council Members Anderson, Loren, Neu, Mayor Pro Tem Biasi, Mayor Cowan

NOES: None

ABSENT: None

ABSTAIN: None

PRESENTATION:

A. Video by Yocha Dehe Tribe for Native American Heritage Month (Oral introduction / No staff report): The video was not submitted by the Tribe.

B. El Rio Villas – Public Housing Repositioning by Sandra Sigrist, Interim Executive Director of Yolo County Housing Authority

Mayor Cowan thanked Sandra Sigrist for her presentation and acknowledged that Winters community recognizes El Rio Villas as a part of the community.

The councilmembers asked clarifying questions and Sandra Sigrist provided additional information.

DISCUSSION ITEMS:

A. County, State, and Federal Redistricting Maps 2021

City Manager Trepa introduced the item. She noted the proposed maps have changed since the packet was posted, including the addition of the El Concilio Map.

Mayor Pro Tem Biasi shared that the evening before the County Advisory Committee narrowed down the proposed maps to maps 2, 4A, and the El Concilio, which were forwarded to the Board of Supervisors.

Mayor Cowan decided each redistricting jurisdiction would be discussed separately. Related to the Yolo County Board of Supervisors, the Council discussed different perspectives related to remaining within District 2 and with Davis, or a preference for returning to the larger, rural and agricultural area more closely associated with District 5.

- Kate Laddish thanked council for the discussion and identified the need to keep Winters and its outlying areas whole.
- Corrine Martinez agreed that Winters' interests align with district 5 and encouraged the City Council to support that outcome.

The Council majority identified map 2 as the preferred outcome. Councilmember Loren cautioned about the tone of the letter.

Related to the proposed State Senate boundaries, the Council agreed that the proposed map is comparable to the current boundaries and the Council supported the current proposed boundaries.

Related to the proposed State Assembly boundaries for the Winters area, Councilmembers expressed concern that Winters was being grouped with unlike communities and should be remain with its Yolo County communities and other adjacent rural counties.

- Chris Turkovich commented that Winters belongs with communities of interest on all levels.
- Kate Laddish appreciated the conversation and noted the proposed State Senate and Congressional maps were improvements, the result of many voices advocating that Yolo County remain whole, and Yolo County and Solano County should be grouped together. She requested that council not mention in any letter that Yolo have nothing in common with Solano County.
- Corrine Martinez commented that carving Winters out of Yolo County should be corrected and that Yolo County better aligns with Napa and Lake Counties rather than Solano County, similar to the State Senate proposed boundaries.

Regarding the proposed Congressional map, Councilmembers noted that Winters was included in a district that reached south into central Contra Costa County and the Bay

Area. The Councilmembers concurred with the desire to be closer to Solano, Yolo, Lake, and Napa Counties.

- Chris Turkovich commented that this map needed to be improved upon and Winters needed to be included with communities of interest, and identified economic and cultural alignment with Yolo and Solano counties.
- Kate Laddish noted the interactive features of the map function on the CRC website. She noted the proposed boundaries are much improved compared to the previous maps, and identified the need to keep Yolo County whole which the current map does. She also noted the lack of communities of interest with Contra Costa County and the need to be linked with Napa because of decisions on Lake Berryessa.

Mayor Cowan appointed Mayor Pro Tem Biasi and Council Member Loren to review advocacy letters drafted by City Manager Trepa.

B. Council Code of Conduct

City Manager Trepa introduced the item.
Council Member Loren noted her appreciation for the work and supported signing the document. Mayor Pro Tem Biasi echoed Council Member Loren's comments.
Council Member Anderson showed concern with the concept of signing the Code of Conduct. Council Member Neu agreed with having the Code of Conduct implemented and emphasized the need to have members adhere to the Code of Conduct.
Mayor Cowan agreed with its simplicity and appreciated the work done.

Assistant City Attorney Gin stated that the norms are meant to be a guideline for actions by members and would be the starting point if a council member was not following it. She stated a majority motion was needed to adopt.

Council Member Loren motioned to approve and adopt the Council Code of Conduct, second by Mayor Pro Tem Biasi.

Motion carried with the following roll call vote:

AYES: Council Members Loren, Neu, Mayor Pro Tem Biasi, Mayor Cowan

NOES: Council Member Anderson

ABSENT: None

ABSTAIN: None

Related to other Council operational items mentioned in the staff report, including moving the election, council stipends, and council appointments, a majority of the Council concurred that all items should return as agenda items at a future meeting.

CITY MANAGER REPORT:

City Manager Trepa recognized Charley Wallace and the Cuberos family who donated the tractor at the Putah Creek Bridge. She noted the Climate Action Commission formation will be on the next agenda and that she has an upcoming meeting with Domas regarding the architectural plans for the Senior Center.

INFORMATION ONLY:

ADJOURNMENT:

8:51 PM

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Wade Cowan, MAYOR

ATTEST:

_____

Shelly Gunby, City Clerk

CITY COUNCIL
STAFF REPORT

TO: Honorable Mayor and Councilmembers

DATE: November 16, 2021

FROM: Kathleen Salguero Trepa, City Manager

SUBJECT: Resolution No. 2021-78 Renewing Authorization and Making Findings and Determinations Under AB 361 for Continued Virtual Meetings.

RECOMMENDATION:

Adopt Resolution No. 2021-78 Renewing Authorization and Making Findings and Determinations Under AB 361 for Continued Virtual Meetings.

BACKGROUND:

AB 361 allows the City Council and all commissions, committees and other legislative bodies of the City of Winters to meet virtually or telephonically without meeting certain Brown Act posting requirements, identifying each teleconference location, requiring each teleconference location to be publicly accessible, or requiring a quorum of the legislative body to be physically present within the City. Virtual public meetings still require standard meeting agendas and notices and the ability for the public to provide public comment.

At its October 5, 2021 meeting, the City Council adopted Resolution No. 2021-65 making findings and determinations under AB 361 for continued virtual meetings. To continue virtual meetings, the Council must make findings every 30 days that 1) it has reconsidered the circumstances of the ongoing COVID-19 pandemic state of emergency and 2) either the state of emergency continues to directly impact the ability of the public to meet safely in person, or state or local officials continue to impose or recommend measures to promote social distancing.

DISCUSSION:

AB 361 into law, which allows virtual public meetings to continue through January 1, 2024, provided that:

1. The Council holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing; or
2. The Council holds a meeting during a proclaimed state of emergency and determines or has determined by majority vote that as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

At its October 5, 2021 City Council meeting, Council adopted Resolution No. 2021-65 making the initial findings and determinations under AB 361 for continued virtual meetings under AB 361. The City Council has reconsidered the circumstances of the state emergency and finds that state of local officials continue to impose or recommend measures to promote social distancing. The approval of Resolution No. 2021-71 and its renewal would apply to the City Council and all commissions, committees, and other legislative bodies of the City of Winters.

This item will be placed on the agenda as a recurring consent item for every future City Council meeting as long as a state emergency exists and the City Council desires to hold a teleconference meeting (including hybrid meetings). This is because AB 361 requires the Council to renew its every 30 days after teleconferencing for the first time under AB 361. The City Council regularly meets on the first and third Tuesdays of the month. The number of days between one first Tuesday of the month to the next, or one third Tuesday of the month to the next, could be more than 30 days for some intervals. Placing the item on the agenda as a recurring consent item ensures that there will not be a lapse in satisfying the renewal requirements under AB 361.

AB 361 does not require in-person meetings if the City Council decides to continue with remote or Zoom meetings during the state emergency. AB 361 also does not require the City Council to hold remote or Zoom meetings during the state emergency. However, any in-person attendance would still need to comply with health orders related to masking or social distancing, as applicable.

Council provided staff direction at the October 5, 2021, meeting to implement a hybrid system that allows for both in-person and remote access to public meetings for either councilmembers, staff or the public. Two people are required to manage a hybrid system: one to manage the Zoom platform and the other to manage the Granicus system. Staff is

currently in the process of making modifications to finish implementing the hybrid system. Once implemented, a hybrid meeting would also be an option for the City Council.

A copy of AB 361 is available at https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB361.

FISCAL IMPACT:
There is no fiscal impact.

ATTACHMENTS:
1. Resolution 2021-78
2. Yolo County Health Officer's Memo Regarding Remote Public Meetings

RESOLUTION NO. 2021-78

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WINTERS RENEWING AUTHORIZATION AND MAKING FINDINGS AND DETERMINATIONS UNDER AB 361 FOR CONTINUED VIRTUAL MEETINGS

WHEREAS, the Ralph M. Brown Act (Gov. Code § 54950 *et seq.*) generally requires local agencies meeting via teleconference, including through other virtual or electronic means, to provide public access at each location in which members of the legislative body are teleconferencing; and

WHEREAS, the Legislature recently enacted Assembly Bill 361, Chapter 165, Statutes of 2021 ("AB 361"), which amended Government Code section 54953 to allow local agencies to meet fully virtually during a proclaimed state of emergency if state or local officials have imposed or recommended measures to promote social distancing; and

WHEREAS, the Governor issued a proclamation declaring a state of emergency on March 4, 2020, due to the COVID-19 pandemic, pursuant to section 8625 of the California Emergency Services Act, and this proclaimed state of emergency currently remains in effect; and

WHEREAS, the City Council of the City of Winters has reconsidered the circumstances of the state of emergency; and

WHEREAS, state or local officials continue to recommend measures to promote social distancing; and

WHEREAS, according to the Yolo County Health Officer, the grounds for the social distancing recommendation include the unique characteristics of public governmental meetings, including the increased mixing associated with bringing together people from across the community, the need to enable those who are immunocompromised or unvaccinated to be able to safely continue to fully participate in public governmental meetings, and the challenges of ensuring compliance with safety requirements and recommendations at such meetings; and

WHEREAS, the continuation of virtual meetings will allow for full participation by members of the public until social distancing recommendations are lifted; and

WHEREAS, the City Council of the City of Winters desires to continue to hold virtual meetings pursuant to AB 361 and Government Code section 54953(e).

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of Winters as follows:

1. The above recitals and true and correct and shall be the findings of the City Council of the City of Winters.

2. The City Council of the City of Winters and all commissions, committees and other legislative bodies of the City of Winters shall continue to meet virtually in accordance with Government Code section 54953(e) and without compliance with section 54953(b)(3) based upon the findings and determinations hereby made by the City Council.

PASSED AND ADOPTED at the regular meeting of the City Council of the City of Winters held on November 16, 2021, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
Wade Cowan, Mayor

ATTEST:

_____
Shelly Gunby, City Clerk

CITY COUNCIL
STAFF REPORT

TO: Honorable Mayor and Councilmembers

DATE: November 16, 2021

THROUGH: Kathleen S. Trepa, City Manager

FROM: Shelly A. Gunby, Director of Administrative Services

SUBJECT: Unfunded Liabilities

RECOMMENDATION:
Receive Report and File.

BACKGROUND:
An ongoing issue facing local governments throughout the State has been the looming costs of retirement benefits and unfunded liabilities. From a fiscal management standpoint, the City of Winters has been addressing these issues in an incremental and proactive manner to avoid future impacts

The City of Winters currently has 3 unfunded liabilities:

1. Accrued Leave Balances (also known as compensated absences)
2. Other Post-Employment Benefits (OPEB)
3. Net Pension Liability

Accrued leave balances are the amount of vacation and compensatory time off that is earned but remains unused during the fiscal year. Typically, we calculate the value of that unused time at the end of each fiscal year. The dollar amount of the accrued leave balance is impacted by the number of hours unused as leave, and the pay rate of the individual employee.

Postemployment benefits are the CalPERS required minimum payment for retiree health insurance. The City of Winters allows retired employees to continue health

insurance coverage under their CalPERS policy, with the understanding that the City will only pay the minimum payment, and the employee will pay all remaining costs of the insurance. This liability is impacted by the number of retired employees electing to remain covered under the CalPERS policy, and the rate CalPERS selects as the minimum amount.

Net pension liability is the amount that CalPERS has determined through an actuarial process that the City of Winters is underfunded on each of the 7 retirement plans the City of Winters has in place. The amount of the liability is affected by the earnings on investment of funds invested by CalPERS, the amount of payroll on which contributions are made, and the pay rate of employees.

DISCUSSION

Accrued Leave Balances

Vacation is a compensable benefit. Employees accrue leave throughout the fiscal year at a rate based on years of service with the City. In 2016, the City of Winters implemented a 500-hour limit on vacation accruals at June 30 of each year. Additionally, management is monitoring use of vacation time and requiring that all employees take a minimum of 5 consecutive days of vacation time each year. Adhering to this policy will help control the amount of unused leave liability which accrues on the City balance sheet.

Unused Comp time in Lieu of Overtime is another area that creates an unfunded liability for the City of Winters. Beginning in 2019-2020, for all employee associations except for the Winters Police Officer Association (WPOA), all overtime worked is paid at the time the overtime is earned; compensatory time off is not allowed to be accrued. This requirement impacts the current budget but allows for the time to paid at the hourly rate the extra time was worked and not in the future at a higher rate of pay upon if cashed out upon separation.

For the WPOA, there is a provision in the MOU that comp time be paid out every June to prevent the excess accumulation of comp time and the escalation in the amount due for the comp time based on future pay rates. These changes in comp-time policies helps reduce the value of compensated absences (earned but not used) balance at year end.

For example, the balance of Compensated Absences decreased from $486,284 on June 20, 2020, to $404,566 on June 30, 2021, a 16% reduction.

Staff recommends no changes to the above policies related to accrued time off.

Postemployment Benefits

“Post-employment” benefits are payments which accrue to persons who have retired from the City of Winters as members of the California Public Employees Retirement

System (CalPERS). In Winters, there is one post-employment benefit, the mandated contribution by the City toward health benefits as required by our participation in the CalPERS Health Program.

As a member of the CalPERS Health Program, the City provides health benefits for employees and their families through CalPERS. CalPERS requires the City to make a minimum contribution toward retiree medical premiums. The City provides the minimum contribution each month for retired employees. In 2021 that minimum contribution is $143 per month per retiree and will increase to $149 per month per retiree beginning January 2022.

The liability is comprised of an actuarial computation that looks at each individual employee and applies certain actuarial statistics and values to that employee to create an estimate of what the liability for paying the costs of retired employee health insurance in the future will be. Currently, the estimate is that the annual cost for the Postemployment benefit is approximately $27,400 to be able to have funds set aside for future retiree health insurance. The Balance of the Actuarial Unfunded Liability was $1,722,815 on June 30, 2020, the last valuation data available.

The post-employment benefit amounts are predictable. Annual cost is determined by the number of retired employees and the rate that CalPERS sets for the minimum monthly amount. Currently, the yearly amount is $18,876 for 11 retired employees. The City pays the current year premiums on a monthly basis (known as pay as you go) to CalPERS.

The City Council approved the establishment of a Section 115 Trust for funded future premiums on May 19, 2020. The Establishment of the Section 115 Trust allows the City to set aside the Funds to pre-fund the OPEB unfunded liability.

Since the inception of the Section 115 Trust for OPEB pre-funding the City of Winters has made the following Contributions:

City of Winters Contributions to Section 115 Trust			
	2020-2021	2021-2022	Total Contributions
Fund	Contribution Amount	Authorized Contribution Amount	To Date
General Fund	$ -	$ 66,000	$ 66,000
Water Fund	$ 55,218	$ 38,984	$ 94,202
Sewer Fund	$ 840	$ 64,148	$ 64,988
Total Contributions	$ 56,058	$ 169,132	$ 225,190

The contributions to date total 13% of the unfunded liability of $1,722,815, which will

reduce the unfunded liability to $1,497,625 by June 30, 2022.

Staff recommends continuing to fund the Section 115 Trust by including contributions in the annual budget, as stated in our Pension and OPEB policy until such time as the unfunded liability is close to zero.

Net Pension Liability

The final piece of the unfunded liability issue is the liability for the CalPERS retirement plan. All full- time employees are members of the CalPERS retirement system. As a result, CalPERS charges employees and employers a contribution rate that is supposed to be sufficient to fund the cost of paying the retirement benefits to the employees as they retire.

The City of Winters has 7 active CalPERS plans. Based on the most recent valuation, dated June 30, 2020by CalPERS, the chart below shows the plan, the employer rate for 2021-2022, 2022-2023 and 2023-2024, including the yearly payment for the unfunded liability. The table also has the estimated unfunded liability as of 6-30-20 and the percent of the plan funded and the estimated cost to pay off the unfunded liability using one of 3 amortization periods.

TABLE ON NEXT PAGE

Plan	Rate	Rate	Rate	Liability Pmt	Liability Pmt	Liability Pmt	Estimated Unfunded liability	Percent Funded	Total Cost 30 Year	Total Cost 20 year	Total Cost 15 year
	21-22	22-23	23-24	21/22	22/23	23/24	6/30/2020	6/30/2020	Amortizaton	Amortizaton	Amortizaton
Police Pepra	13.130%	12.78%	12.80%	$ 5,670	$ 6,662	$ 7,200	$ 81,731	88.4%	$ 134,939	$ 129,747	$ 112,165
Misc Pepra	7.590%	7.470%	7.500%	$ -	$ 501	$ 810	$ 54,796	90.6%	$ 31,733	$ 29,711	$ 25,920
Fire	18.190%	18.170%	18.200%	$ 11,497	$ 15,063	$ 18,000	$ 211,346	81.9%	$ 386,416	$ 349,567	$ 302,204
Fire Pepra	13.130%	12.780%	12.800%	$ 28	$ 208	$ 210	$ 795	97.3%	$ 1,039	$ -	$ -
Police Classic Tier 2	18.190%	18.170%	18.200%	$ 3,185	$ 3,834	$ 4,200	$ 48,657	90.1%	$ 82,114	$ 77,965	$ 67,402
Misc Classic	10.880%	10.870%	10.900%	$ 206,076	$ 249,787	$ 271,000	$ 3,214,758	75.5%	$ 5,720,009	$ 5,165,454	$ 4,465,574
Police Classic	20.64%	20.64%	20.60%	$ 267,359	$ 308,817	$ 230,000	$ 2,937,124	71.2%	$ 4,858,333	$ 4,470,229	$ 3,864,546
				$ 493,815							
Total Estimated Unfunded Liability as of 6-30-20							$ 6,549,207				
Estimated unfunded liability as of 6-30-19							$ 5,943,668				
Increase from 6-30-19 to 6-30-20							$ 605,539				
Total Estimated cost to Payoff Unfunded Liability									$ 11,214,583	$ 10,222,673	$ 8,837,811
Savings by shortening amortization period										$ 991,910	$ 1,384,862

The plans are evaluated at the end of each year, and the unfunded liability adjusts each year depending on the following factors:

1. Any deviation from the estimated discount (earnings rate) to the actual earnings rate on investment of plan assets. A lower rate of return than expected will cause an increase in the unfunded liability whereas a higher rate of return will cause a decrease in the unfunded liability.
2. Any deviation in the payroll. When CalPERS sets the rate for each year, it estimates what the payroll in each plan will be, if raises are given, then that increases the unfunded liability, because a certain amount of payroll was used to determine what the future needs are for paying the retired employees.

Changes in assumptions in developing the unfunded liability. In past years, such changes have included lowering the discount rate from 7.75% to 7.0% and changing the demographics used to calculate funding needed for paying out retiree benefits to reflect the fact that people are living longer.

Current Actions to Reduce CalPERS unfunded liability:

The City has adopted a Pension and OPEB Policy (Attachment 1) to provide a long-term solution for easing the impacts of future pension liabilities now because the costs are significantly less and generate considerable savings toward the future.

> *The concept is similar to expediting a home mortgage, where a household begins adding additional payments gradually toward the principal payment on a home. Eventually, you turn a 30-year mortgage into a 20 year with considerable savings on interest costs.*

The Pension and OPEB Policy is a strategic solution to begin an increased and incremental funding mechanism which creates a way to “smooth” future impacts by pre-funding future costs in the present day. Thus, the City allocates future costs within existing allocation programs, pre-funding future payments. This strategy helps spread and fund future costs over a significantly longer time-period, lessening impacts on the future and establishing a constant funding source. The result will be a lower cost; gradual funding which will inevitably reduce liabilities and stabilize pension costs for the future. In many respects, we will begin funding the future costs for current employees now instead of later, thus avoid “kicking the can down the road”.

Since adoption of the Pension and OPEB Policy, the City of Winters has made the following Additional Discretionary Payments (ADP):

City of Winters Additional Discretionary Payments (ADP) CalPERS			
	2020-2021	2021-2022	Total ADP
Plan	Contribution Amount	Authorized Contribution Amount	To Date
Miscellaneous Pepra	$ 38,369	$ 15,656	$ 54,025
Miscellaneous Classic	$ 17,689	$ 87,476	$ 105,165
Fire Pepra		$ 847	$ 847
Police Tier 2		$ 47,092	$ 47,092
Police Classic		$ 52,061	$ 52,061
Fire Classic			$ -
Total ADP	$ 56,058	$ 203,132	$ 259,190

The application of the additional discretionary payment detailed in the table above will accomplish the following:

- Reduce the unfunded liability for the following plans to zero per the City's policy as of the date of payment for
    - Miscellaneous PEPRA
    - Police Tier 2
    - Fire PEPA
- Provide additional payments to both Miscellaneous and Police Classic Plans of at least $50,000 per the City's policy.

Staff recommends continuing to provide Additional Discretionary payments by including such payments in the annual budget.

Regardless of the policies put into place, and the additional payments made, the unfunded liability will never remain at zero. The amount changes every year, and decisions are made by the CalPERS board that are out of our control. However, having policies and plans in place allows the City of Winters to address this issue yearly, and should prevent the City of Winters from having catastrophic increases in rates and unfunded liability payments in the future.

Reducing the unfunded liabilities of the City will remain an on-going priority. However, with a policy and plan in place, the City will be able to more effectively protect both the services for the Winters community, as well as protect the retirement benefits of the staff that have served the community for many years.

FISCAL IMPACT:
None as a result of this report. Approvals for 2021-2022 contributions were made with the adoption of Resolution 2021-64.

ATTACHMENTS:
Policy on Pension and OPEB (Other Post Employment Benefits) Liabilities Amended 12/17/19.

POLICY ON PENSION AND OPEB (Other Post Employment Benefit) LIABILITIES
Amended 12-17-19

Purpose:

The purpose of this policy is to ensure an adequate and appropriate approach to the monitoring and payment of the Pension (CalPERS) unfunded liabilities and OPEB (Other Post Employment Benefits) unfunded liabilities of the City of Winters. These procedures and guidelines are designed to provide an approach to the payment of pension liabilities and OPEB unfunded liabilities to maintain the City of Winters CalPERs retirement and health care plans for current and former employees.

Policy:

It is the policy of the City of Winters that the payment of pension and OPEB unfunded liabilities is a priority for the City of Winters and that a proactive approach to funding these liabilities is a prudent financial practice.

Policy related the payment of CalPERS Pension liabilities are as follows:

1. The City of Winters shall remit to CalPERS the required amounts per the Annual Valuation Report issued by CalPERS each year and each pay period as required by CalPERS.
2. Beginning Fiscal Year 2019-2020, the City of Winters will pay the "Employer payment of unfunded liability" each year in one lump sum payment in July of each year in order to maximize the savings in interest charged by CalPERS, thereby, minimizing the required payment each year.

3. Beginning in Fiscal Year 2019-2020 the City of Winters will include in the annual budget and remit to CalPERS, yearly, an additional amount for the Tier 2 Police Safety Plan, the Fire Safety Plan, the Miscellaneous PEPRA Plan, the Police Safety PEPRA Plan and the Fire Safety PEPRA plan, to pay the entire amount of the unfunded Accrued Liability (UAL) as shown on the most recently dated Annual Valuation Report (the amount on the report dated typically 2 years prior to the beginning of the fiscal year (example July 30, 2017 for Fiscal Year 2019-2020)
4. In Fiscal Year 2020-2021 The City of Winters will include in the annual budget, and remit to CalPERS, $100,000 for an additional discretionary payment for the Miscellaneous Classic ($50,000) and Police Safety Classic ($50,000) Plans .
5. In Fiscal Year 2021-2022 The City of Winters will include in the annual budget, and remit to CalPERS, $150,000 for an additional discretionary for the Miscellaneous Classic ($75,000) and the Police Safety Classic ($75,000) Plans.
6. In Fiscal Year 2022-2023 and succeeding years thereafter, until the unfunded actuarial valuation each year is less than $100,000 per Classic plan, The City of Winters will include in the annual budget, and remit to CalPERS, $200,000 for an additional discretionary payment the Miscellaneous Classic ($100,000) and Police Safety Classic ($100,000) Plans.
7. Once the unfunded actuarial valuation has fallen below $100,000 per Classic plan, the City of Winters will include in the annual budget and remit to CalPERS, yearly, an additional amount for the Miscellaneous Classic and the Police Safety Classic Plan, to pay the entire amount of the unfunded accrued liability (UAL) as shown on the most recently dated Annual Valuation Report. (see item #4 above)
8. In addition to the above stated policies, it shall be the policy of the City of Winters to review the extent of revenues in excess of expenditures for the General Fund each year and remit 25% of the revenues in excess of expenditures to additional discretionary payments to CalPERS for application to the unfunded liabilities for Miscellaneous Classic Plan and the Police Safety Plan until such time as the unfunded liability has reached -0-.
9. In addition to the above stated policies, it shall be the policy of the City of Winters to review the extent of net revenues in excess of required bond covenants for the Water fund each year and remit 25% of the net revenues in excess of bond covenants to additional discretionary payments to CalPERS for application to the unfunded liabilities for Miscellaneous Classic Plan until such time as the unfunded liability has reached -0-.

Policy related to the payment of OPEB unfunded liabilities are as follows:

1. Other post-employment benefits (OPEB) for the City of Winters refers “only” to the employer share of retired employee health insurance premiums.

2. The rates for the employer share of retired employee health insurance premiums are set by CalPERs only.
3. The City of Winters shall remit to CalPERS on a monthly basis as billed, the full amount due for all health insurance premiums, including the premiums for the employer share of retired employee health insurance benefits.
4. The City of Winters shall enter into an agreement with an appropriately selected provider of Section 115 Trust (A trust set up by local governments to fund essential governmental functions such as retiree healthcare, or pensions) for pre funding OPEB liabilities.
5. Beginning 2020-2021 the City will include in the annual City Budget, and remit to the CERBT, the amount equal of $66,000. This contribution amount will remain in effect until such time that the total Funds in the CERBT equal the amount of the OPEB liability.
6. Once the CERBT amount is less than the OPEB liability by less than $66,000, then the annual contribution to be remitted to the CERBT will be equal to the difference between the OPEB Liability and the CERBT.
7. In addition to the above stated policies, it shall be the policy of the City of Winters to review the extent of revenues in excess of expenditures for the General Fund each year and remit 25% of the revenues in excess of expenditures to additional discretionary payments to CERBT for application to the OPEB liabilities for until such time as the unfunded liability has reached -0-.
8. In addition to the above stated policies, it shall be the policy of the City of Winters to review the extent of net revenues in excess of required bond covenants for the Water and Sewer fund each year and remit 25% of the net revenues in excess of bond covenants to additional discretionary payments to CERBT for application to the unfunded OPEB liabilities until such time as the unfunded liability has reached -0-.

CITY COUNCIL
STAFF REPORT

TO: Honorable Mayor and Councilmembers

DATE: November 16, 2021

FROM: Kathleen Salguero Trepa, City Manager

SUBJECT: Senior Center Naming Rights

RECOMMENDATION:
Approve by motion, naming rights for donors who contribute the specified amounts below in connection with the Senior Center:

Senior Center Naming Opportunitites		
ITEM	AMOUNT	
Community / Main Room	$	250,000
Commercial Kitchet	$	100,000
Outdoor Patio & Landscaping	$	100,000
180 Chairs / 35 Tables	$	85,000
Preparation Kitchen / Meals on Wheels	$	75,000
Lobby / Library	$	50,000
Recreation Room	$	50,000
Kitchen Storage Area	$	25,000
Administrative Office	$	25,000
Recycling Area	$	25,000
Secure Bike Storage	$	10,000
Green Thumb - Garden Storage	$	10,000
Pool Table & Accessories	$	10,000
Outdoor Benches (5)	$	7,500
Commemorative Bricks - $100 each	$	10,000
	$	832,500

BACKGROUND:
The City Council appointed a fundraising committee to fund raise in support of the acquisition of furniture and fixtures for the new Senior Center. The committee has been hard at work for a year organizing a campaign strategy, marketing materials, and donation management options. Recently, the group has solicited the assistance of a professional campaign manager who has volunteered her time to help finetune the campaign strategy.

DISCUSSION:
The City was recently awarded a $4.2 million Community Development Block Grant (CDBG) by the State of California to fund the construction of the Senior Center. The grant will only cover the construction of the facility, and not any of the contents (for example, furniture and dishes) or any operating costs for the center (utilities, staffing, programming, and / or material and supplies). Given escalating construction costs, there is a concern that the CDBG grant may not cover all of the hard and soft costs associated with bringing this new facility online. Therefore, the fundraising committee has established an ambitious goal of raising $1,000,000 in support of the new Senior Center to help supplement grant funding and to ensure the facility is not only outfitted but launched with funds to support operations and programming.

As is common with capital campaigns to support the construction of new facilities, naming rights are an important strategy to recognize donors who make significant contributions. The fundraising committee has developed the list noted above, and recommends Council approval, so they may finalize their campaign material and begin outreach to key corporate and philanthropic potential donors. The items were identified on the construction plans as key locations or high-cost items in need for the center. The donors would be recognized with engraved plaques above each room or area or at the entrance of the Senior Center. The commemorative bricks would be incorporated into the outdoor patio or entryway of the Center. If 100 are sold, brick sales would raise an estimated $10,000.

All proceeds would be held by the Yolo Community Foundation in the City's name expressly in support of the Senior Center project. Staff recently transferred $12,190 the City had received to the Foundation and retained $1,000 to support efforts by the fundraising committee with minor purchases. To date, the Foundation holds $12,261for the Senior Center.

Project Update
The State of California executed the grant agreement last summer, allowing the City to incur eligible costs related to the construction. For a number of months, City staff has been working toward completing the separation of the senior center project from the Blue Mountain Terrace project, which became necessary when the developer, Domas, was unable to secure adequate financing to complete both projects as proposed. With the land dedicated back to the City, the senior center project is now considered a Public Works project under State procurement codes and must be competitively bid. Staff is

working with Domas to acquire the plans, which must be updated to meet current code requirements. Staff is also working to contract with the original architect directly to update the plans and incorporate an emergency generator, which has been separately funded through two OES grants. While this process has been slower than anticipated, because of the volatility of construction costs this last year, which are now stabilizing, staff is hopeful that project costs will be more stable in 2022 than 2021. Additional updates will be provided as next steps are accomplished.

FISCAL IMPACT:

The naming rights will allow for over $830,000 in donations toward the construction, outfitting and initial operation of the Senior Center.

CITY COUNCIL
STAFF REPORT

TO: Honorable Mayor and Councilmembers

DATE: November 16, 2021

FROM: Kathleen Salguero Trepa, City Manager

SUBJECT: Resolution No. 2021-77 Establishing the Climate Action Commission and Mayoral appointments to a Council ad hoc committee to interview applicants to the Commission

RECOMMENDATION:

1) Adopt Resolution No. 2021-77 establishing the Climate Action Commission, and
2) Recommend Mayor appoint two councilmembers to a Council ad hoc committee to interview applicants to the Commission

BACKGROUND:

On March 17, 2020, the City Council appointed 5 members and 1 alternate to a Climate Action Plan Development Board (Board) to finish drafting the City's Climate Action Plan (CAP), which was adopted on July 20, 2021. As part of the Board's work, the Board also prepared a proposal for a new Climate Action Commission to monitor and advise on the implementation of the CAP, as discussed by the Council at the time the Board was created. The City Council approved the formation of a Climate Action Commission on July 20, 2021. Resolution No. 2021-77 creates this commission and sets forth the membership and meeting requirements as well as the mission of the new commission.

DISCUSSION:

Consistent with the Board's recommendation to Council, the Climate Action Commission shall consist of five members drawn from a broad cross-section of the residents and stakeholders of the city, and that the Commission advise the Council in the following areas:

- Monitor the implementation of the adopted Climate Action Plan;
- Identify opportunities and funding to bring climate-friendly projects and

businesses to Winters, and funding for upgrades to existing infrastructure;

- Serve as a resource for City staff, residents and businesses to advise them on how to make ongoing or proposed activities as climate-friendly as possible, while keeping the unique cultural and social values that make Winters the place it is; and
- Coordinate community outreach and education efforts to increase awareness of ongoing efforts and opportunities to make better choices for the future livability of the region and the planet, while also making Winters more livable and attractive.

Because many of the projects and programs that relate to climate action goals are land used based, the senior planner will staff the Commission. To avoid redundant and potentially overlapping efforts, projects that require Planning Commission consideration will be directed to the Planning Commission. Similarly, staff will determine if a business item is more appropriately directed to either the Commission or the Natural Resources Commission rather than bringing a business item to multiple commissions.

As such, the Commission will be primarily a working committee developing its own work plan, unless considering a business item brought by staff. It will focus on supplementing staff resources by conducting research, outreach, educational activities, and grant funding support. Therefore, similar to other working committees, once the commission is seated, staff shall brief the Commission on the Climate Action Plan and then assist the Commission with preparing an annual work plan for presentation to and consideration by the City Council.

Once the Commission is formally established, staff will open a recruitment soliciting members for the commission. The interviews can be conducted by an ad hoc committee established by the Mayor with commission appointments made by the full Council.

FISCAL IMPACT:
No direct costs other than staff time to support the commission.

ATTACHMENT:
Resolution No. 2021-77

RESOLUTION NO. 2021-77

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WINTERS ESTABLISHING THE CLIMATE ACTION COMMISSION

WHEREAS, the State of California enacted AB 32, the Global Warming Solutions Act of 2006, establishing a statewide target for reducing Green House Gas (GHG) emissions to 1990 levels by 2020; and

WHEREAS, Governor Schwarzenegger signed Executive Order S-3-05 requiring GHG reductions of 80% below 1990 levels by 2050; and

WHEREAS, in April 2008 the City Council adopted Resolution No. 2008-27, stating a long-term commitment to increasing energy efficiency and reducing GHG emissions within municipal operations and on a community-wide basis, and committed the City of Winters to join the Yolo County Climate Change Compact to coordinate energy efficiency and emission reduction strategies on a regional basis; and

WHEREAS, the City of Winters has indicated its commitment to address the detrimental impacts of climate change through the adoption of a Climate Action Plan on July 20, 2021 and expressed its intent to establish a Climate Action Commission to assist with overseeing the implementation of the Climate Action Plan.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Winters that:

Section 1. The City hereby finds and determines that the foregoing recitations are true and correct and are incorporated herein by this reference.

Section 2. The City hereby creates the Climate Action Commission to achieve the following:

1. PURPOSE

   The Climate Action Commission (the "Commission") shall perform the following functions:

   A. Act as an advisory body to the City Council related to the implementation of the Climate Action Plan, and relevant regulatory and scientific research; and

   B. Serve as a body of technical expertise in the area of climate change to City staff and the community; and

C. Develop and implement public information programs related to increasing awareness of and promoting the need to reduce climate impacts, such as developing a speakers' bureau on topics and assisting with disseminating public information;

D. Assist with supporting staff as a "force multiplier" for staff assigned projects and program areas related to mitigating the effects of climate change by conducting research, preparing reports, and developing recommendations; and,

E. Prepare an annual work plan for Council consideration, listing previous year accomplishments and goals for the coming year.

2. MEMBERSHIP

The Commission shall consist of five (5) voting members who represent technical expertise in a field associated with the study of climate change, the majority of whom must reside within the City of Winters or have a Winters address. All voting members of the Commission shall be appointed by the City Council.

The Commission is strongly encouraged to maintain connections with other related entities either regionally or locally, such as the Winters Natural Resources Commission and the Yolo County Climate Action Commission.

The Commission is strongly encouraged to maintain connections with other City advisory bodies and may appoint liaisons to and from those advisory bodies as part of its work.

The Commission may also be assigned a Council liaison as appointed by the City Council.

The City Manager will assign a staff member to support the Commission.

3. TERMS OF OFFICE

Each Commissioner shall serve a term of four (4) years. At the onset of the Commission, three commissioners shall be appointed for four-year terms and two shall be initially appointed for two-year terms and then subsequently for four-year terms; thus, commissioner terms shall stagger.

4. TERMINATION OF APPOINTMENT

The term of any member of the Commission who has been absent from three (3) consecutive regular or special meetings, or who has missed more than 1/3 of the meetings in a 12-month period, without the approval of the City Council,

shall automatically terminate. The Council shall then appoint a new commissioner.

A commissioner's term will terminate after four (4) years), or until a successor is appointed. A commissioner may be re-designated and appointed to serve multiple terms by the Council.

Members of the Commission serve at the pleasure of the City Council and may be removed from office by a majority vote of the City Council.

5. VACANCIES

Vacancies on the Commission shall be filled for the unexpired term in the same manner in which regular appointments are otherwise made, via recruitment or off an eligibility list from a previous recruitment.

6. OFFICERS OF THE COMMISSION

The members of the Commission shall annually select one (1) of its members as Chairperson and one (1) of its members as Vice Chairperson. No Chairperson or Vice Chairperson shall serve more than two (2) consecutive years as chair. The Commission may also select a Secretary to assist with preparing agendas and minutes.

a. The Chairperson of the Commission shall call the meetings to order at the appointed time; appoint all committees, subject to approval of the Commission; have all the powers and duties of the presiding officer as described in Rosenberg's Rules of Order; and perform such other duties as may from time to time be prescribed by the Commission.

b. The Vice Chairperson of the Commission shall have all the powers and perform all the duties of the Chairperson in the case of absence or inability of the Chairperson to act. The Vice Chairperson shall perform such other duties as may from time to time be prescribed by the Commission or the Chairperson.

c. The Secretary assists with preparing agendas and minutes, working closing with the assigned staff member to ensure Brown Act compliance.

7. MEETINGS OF THE COMMISSION

The Commission shall establish a regular time and place of meeting and shall hold regular meetings. Special meetings of the Commission may be called by the Chairperson, or by any four (4) or more voting members of the Commission, with permission of the City Council. Personal notice of a special meeting must be given to all members of the Commission. If personal notice

cannot be given, written notice must be mailed to such members at least twenty-four (24) hours prior to said meeting, unless said notice requirement is waived in writing by said member.

8. QUORUM

   For the purpose of transacting business, a quorum of the Commission shall consist of three (3) of the five (5) members.

9. OPEN GOVERNMENT

   All meetings and deliberations of the Commission shall be conducted openly and publicly in accordance with the requirements of the Ralph M. Brown Act.

PASSED AND ADOPTED at the regular meeting of the City Council of the City of Winters held on November 16, 2021, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Wade Cowan, Mayor

ATTEST:

Shelly Gunby, City Clerk

CITY COUNCIL
STAFF REPORT

TO: Honorable Mayor and Councilmembers

DATE: November 16, 2021

FROM: Kathleen Salguero Trepa, City Manager

SUBJECT: Main Street Closure Schedule During the 2022 Winter Months

RECOMMENDATION:
Adopt Resolution No. 2021-80 ending the Main Street weekend closure schedule effective December 13, 2021.

BACKGROUND:
When the COVID-19 pandemic began in March 2020, the City and Main Street businesses established a temporary outdoor gathering area on Main Street, closing Main Street from Railroad Avenue to the mid-block crossing. With the installation of the barricades to protect outdoor diners, on December 1, 2020, the City Council authorized the reopening of Main Street during the week to allow for two-way circulation from Monday morning to Friday afternoon. Main Street was closed Friday afternoons to Monday morning for pedestrian and visitor safety. At the time, only outdoor dining was permissible under local Health Officer orders.

This weekend closure schedule has remained in effect since December 2020, as re-authorized by the City Council in April 2021 and again on October 19, 2021.

DISCUSSION:
During the October 19, 2021, Council meeting, Council discussed whether the need to close Main Street remained a priority since indoor dining is now allowed under local health orders.

The benefits of maintaining the weekend closure schedule include:

- The public is accustomed to the schedule and people regularly walk between the barricades to cross the street;

- Drivers are accustomed to seeking alternative routes around Main Street on the weekends;

However:

- Indoor dining with no occupancy limitations is now permissible; therefore, fewer people are expected to eat outside during colder and inclement weather;
- Fewer people gathering outside on Main Street compared to the start of the pandemic as more dining and entertainment options are available;
- Closing Main Street is considered a negative impact by some businesses, and does require drivers who park on the southside of Main Street to do a multi-point turn to exit westbound on Main Street because of the bollards; and
- The closure increases traffic on Russell and Abbey Streets as drivers use alternate routes.

The Downtown Business Association (DBA) Board met November 9 and voted to support lifting the weekend closure schedule, effective Monday, December 13, 2021, following the Holiday Bazaar event on December 11. A separate resolution adopted by Council would be required to re-instate the closure in the spring if so desired.

The Downtown Business Association is also considering a special event program, that will be discussed as part of the special event working committee the City Manager is initiating, in coordination with Visit Yolo for marketing purposes. Thoughts include opening the tourism season with a spring event and closing the season with a harvest festival. Because a consistent schedule is important for both public and business planning purposes, the DBA will return in the winter with a recommendation to implement a program that includes closing Main Street on the weekends for a set period (e.g. six months) to support programming in the downtown area.

FISCAL IMPACT:
None by this action

ATTACHMENT(S):
Resolution No. 2021-80

RESOLUTION NO. 2021-80

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WINTERS LIFTING THE CLOSURE OF MAIN STREET BETWEEN RAILROAD AVENUE AND THE MID BLOCK CROSSWALK EFFECTIVE DECEMBER 13, 2021

WHEREAS, the State of California ("State") and Yolo County (the "County") have taken actions to slow the spread of the novel coronavirus (COVID-19) to protect the public health and safety of the residents of the City of Winters; and

WHEREAS, the measures previously taken by the State and County limited public and private gatherings, particularly indoor gatherings, which drastically impacted local businesses forcing them to significantly scale back their business operations to comply with social distancing protocols to limit spread of COVID-19, and while businesses have opened up without limitations on indoor capacity, health officials still strongly recommend dining and socializing outside when multiple households are present; and

WHEREAS, the City has been providing assistance to local businesses facing economic hardship by encouraging the public to patronize local restaurants and businesses in a safe manner, and by providing for the closure of, and public seating within, the area of Main Street between Railroad Avenue and First Street, so the public can patronize local restaurants and eat at the publicly available seating; and

WHEREAS, the City Council has the authority under Vehicle Code Section 21101(e) and Winters Municipal Code section 12.04.020 to approve the temporary closing of a portion of any street for local special events and other purposes when, in the opinion of the City Council the closing is necessary for the safety and protection of persons who are to use that portion of the street during the temporary closing.

WHEREAS, since the local health orders have been lifted allowing for unrestricted indoor dining and retail activities and as a result fewer pedestrians are expected to socialize in the outdoor gathering areas during the colder months and inclement weather;

NOW, THEREFORE BE IT RESOLVED, that the City Council of the City of Winters does hereby cancel the weekend closure schedule for the portion of Main Street from Railroad Avenue to the Mid-Block Crosswalk towards First Street effective December 13, 2021.

PASSED AND ADOPTED this 16th day of November 2021 by the following roll call vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Wade Cowan, Mayor

ATTEST:

Shelly A. Gunby, City Clerk

CITY COUNCIL
STAFF REPORT

TO: Honorable Mayor and Council Members

DATE: November 16, 2021

THROUGH: Kathleen Salguero Trepa, City Manager

FROM: Kirk Skierski, Senior Planner

SUBJECT: Legislative Update SB 9 and SB 10

RECOMMENDATION:
Review and discuss staff report. The Council may provide staff direction if warranted.

BACKGROUND:
At the September 7, 2021, City Council meeting, Council requested an update of two bills that were pending before the California Legislature, Senate Bills 9 and 10 (SB 9 and SB 10), to help address the state's affordable housing crisis. Since then, the Legislature has approved both bills and the Governor has signed these bills into law. Both bills take effect January 1, 2022.

This staff report is intended to provide a high-level discussion of SB 9 and SB 10, and the specific implications to the City of Winters. This staff report provides background information relating to the bills, limitations to the City's authority, and items for Council to consider.

Senate Bill 9
Senate Bill 9 contains two different allowances relating to residential development. SB 9 requires local governments to ministerially approve the following, both of which are discussed further below:

- A housing development containing up to two residential units within a single-family residential zone, if certain criteria are met; and

- Urban lot splits, if certain criteria are met.

Development of Two Residential Units
First, SB 9 provides a path to allow private property owners to construct two residential units within a single-family residential zone if certain criteria are met. The criteria are

discussed further in detail below. Essentially, the City would be required to ministerially approve, without discretion or a hearing, two residential units within all single-family residential zoning districts. A single-family residential zone is considered to be any zoning district that allows a single-family residence by-right. This means that the following zoning districts could construct two residential units: General Agricultural (A-1); Rural Residential (R-R); Single-Family, 7,000 square foot average minimum, (R-1); and Single-Family, 6,000 square foot average minimum (R-2). It should be noted that SB 9 is not the same as current state law pertaining to Accessory Dwelling Units (ADUs), and the City is not required to permit ADUs on properties that construct two residential units in accordance with SB 9. Property owners could either construct a primary dwelling with an ADU or two residential dwelling units. This is important because ADUs are subject to size restrictions and have different building permit fees, including impact fees, than residential units.

As previously mentioned, properties within single-family residential zones could be allowed to construct two residential units subject to certain requirements and exclusions outlined within SB 9. In order for a property owner to construct two residential units, the following criteria would need to be met:

- The property satisfies the requirements specified in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of California Government Code Section 65913.4;
    - These requirements are outlined in the “Exclusions” subsection below and excluded properties are generally depicted in Figure-1 below.

- The development does not require demolition or alternation of the following:
    - Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.
    - Housing that is subject to any form of rent or price control through a public entity’s valid exercise of its police power.
    - Housing occupied by a tenant (market-rate or affordable) in the past 3 years.

- The development does not allow the demolition of more than 25% of the existing exterior structural walls, unless an ordinance allows it or the site has not been occupied by a tenant in the past 3 years;

- The development does not include housing that was withdrawn from rent within the last 15 years;

- The development is not located within a historic district or property included on the State Historic Resources Inventory; and

- Both residential units shall not be rented for a period less than 30 days.

Exclusions
While SB 9 provides allowances relating to residential development, certain conditions

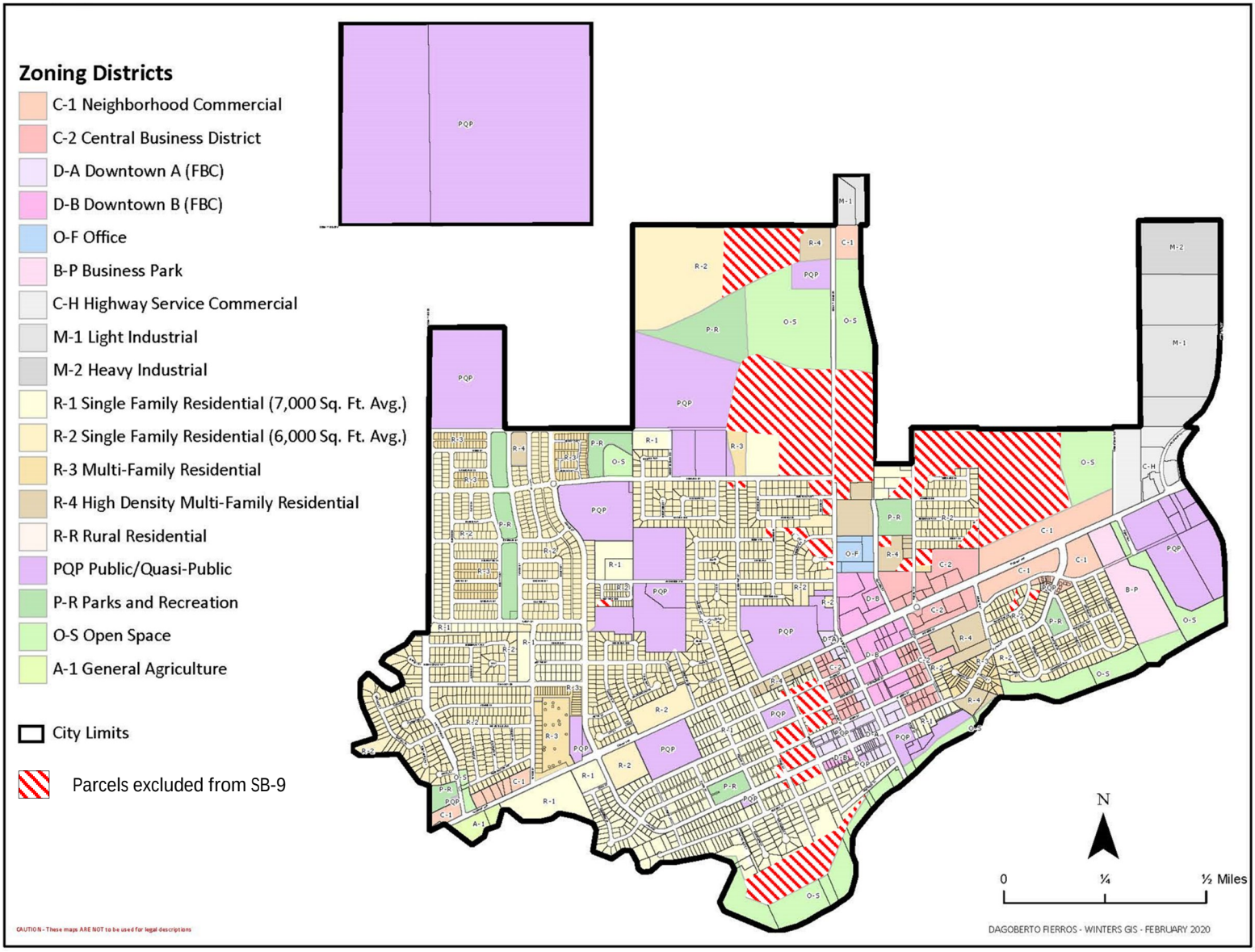
can preclude a single-family residentially zoned property from developing two residential units. These exclusions are specified in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of California Government Code Section 65913.4. The following is a brief description of conditions applicable to the City of Winters that would exclude single-family residentially zoned property from developing two residential units:

- Property designated as either prime farmland or farmland of statewide importance;
- Property within a designated wetland; and
- Property within a special flood hazard area.

Figure-1 below shows all the City of Winters zoning districts and a general location of properties subject to exclusions identified above. Figure-1 is also included in Attachment #3. The below figure is intended for discussion purposes only as it provides general locations of excluded properties. Staff would need to verify specific properties that are excluded from SB 9, which can be done upon request. In addition, Attachments #4 - #6 include maps depicting prime farmland or farmland of statewide importance, designated wetlands, and areas of special flood hazards to provide additional information relating to their boundaries. Please be advised that only A-1, R-R, R-1, and R-2 zoning districts are subject to SB 9, and the figure below shows all zoning districts and only properties zoned A-1, R-R, R-1, and R-2 that would be excluded from the allowances of SB 9.

See Exhibit on Next Page

Figure-1: Single-Family Residential Zones Excluded from SB 9



Limitations to the City's Authority

SB 9 provides the ability for single-family residential zoned properties to construct two residential units as outlined above. The intention of SB 9 is to assist in meeting State housing goals by increasing potential housing units and creating a streamlined process for their development. In order to streamline residential development, SB 9 limits the authority of local governments in four key areas relating to constructing two residential units:

1. Local governments cannot require a hearing or discretionary approval;

2. Local governments may only impose objective zoning standards, objective subdivision standards, and objective design review standards;

    a. Local governments cannot impose objective zoning standards, objective

subdivision standards, or objective design standards that would have the effect of physically precluding the construction of up to two units at least 800 square feet in floor area;

3. Local government may only require one off-street parking space per unit (unless parking requirements are otherwise prohibited altogether, as specified); and

4. Local governments may only impose a maximum four-foot side and rear yard setback for new development.

    a. Local governments may not impose any setbacks for the conversion of an existing structure into a residential unit (e.g. a garage converted into a residential unit within the existing footprint).

Typically, within the City of Winters, the construction of new residential housing units or significant modifications to existing residential units is required to be scheduled for a Design Review hearing in front of the Planning Commission, in which the Commission reviews the site plan, site improvements, landscaping, and parking of the residential development. However, due to SB 9, the City could not require a Design Review hearing in front of the Planning Commission for new residential units proposed in accordance with SB 9.

In addition, the City staff could only enforce objective design standards for residential units proposed in accordance with SB 9. Due to SB 9 requiring ministerial approval, objective design review would likely occur during the building permit process. Objective design standards mean standards that involve no personal or subjective judgment and the standards have been codified within an adopted policy document (e.g. City Ordinance; General Plan; Planned Development; etc.). However, there may be times when the City cannot enforce an objective design standard or objective zoning standard if it would have the effect of physically precluding the construction of up to two units at least 800 square feet in floor area. For example, the City may be prevented from enforcing a setback if a property owner can clearly demonstrate that by enforcing such a requirement, it would physically preclude the construction of two 800 square foot units.

Lastly, SB 9 significantly limits the City's authority to enforce side and rear yard setbacks. Under SB 9, the City may only impose a maximum four-foot side and rear yard setback for new residential development, and the City cannot require setbacks for the conversion or rebuild of existing structures within the existing footprint. Table-1 below shows the City's current side and rear yard setback requirements for the A-1; R-R; R-1; and R-2 zoning districts.

Table-1 Building Setback

	A-1	R-R	R-1	R-2
Side yard Setback	20'	15'	5'/10'	5'/10'
Rear Yard Setback	15'	25'	25'	20'

The City could deny a development if the building official makes a written finding, based upon a preponderance of the evidence, that the proposed development would have a specific, adverse impact upon the public health or safety or the physical environment, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, as defined in Government Code section 65589.5(d)(2).

Urban Lot Splits
SB 9 also provides a path for private property owners to subdivide residentially zoned parcels if certain criteria are met. The criteria are discussed further in detail below and the exclusions outlined above also apply to properties proposing an urban lot split. It should be noted that the exclusions are not restated in this subsection. Essentially, the City would be required to ministerially approve, without discretion or a hearing, the subdivision of a single-family residential zoned parcel into two lots, creating one new parcel, also known as an "urban lot split".

As previously mentioned, properties within single-family residential zones could be subdivided (split) subject to certain requirements and exclusions outlined within SB 9. In order for a property to propose an urban lot split, the following criteria would need to be met:

- The parcel map subdivides an existing parcel to create no more than two parcels of approximately equal lot area provided that one parcel shall not be smaller than 40 percent of the lot area of the original parcel proposed for subdivision;

- Both newly created parcels are no smaller than 1,200 square feet, unless the City adopts an ordinance allowing for the creation of smaller parcels;

- The parcel has not been previously subdivided (split) in accordance with SB 9;

- Neither the owner of the parcel being subdivided nor any person acting in concert with the owner has previously subdivided an adjacent parcel using an urban lot split as provided for in this section;

- Uses allowed on a lot created under SB 9 be limited to residential uses;

- The property owner signs an affidavit stating that he or she intends to occupy one of the housing units as their principal residence for a minimum of three years;

- The property satisfies the requirements specified in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of California Government Code Section 65913.4;
    - These requirements are outlined in the "Exclusions" subsection above and excluded properties are generally depicted in Figure-1 above.

- The urban lot split does not require demolition or alternation of the following:

- Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.
- Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.
- Housing that was withdrawn from rent within the last 15 years.
- Housing occupied by a tenant (market-rate or affordable) in the past 3 years.

- The urban lot split is not located within a historic district or property included on the State Historic Resources Inventory; and

- Any residential unit created through an urban lot split shall not be rented for a period less than 30 days.

Limitations to the City's Authority
SB 9 provides the ability for single-family residentially zoned properties to split their parcel as outlined above. The intention of SB 9 is to assist in meeting State housing goals by increasing potential housing units and creating a streamlined process for their development. In order to streamline residential development, SB 9 limits the authority of local governments in several areas as it pertains to urban lot splits:

1. Local governments cannot require a hearing or discretionary approval;

2. Local governments shall not require dedications of rights-of-way or the construction of offsite improvements for the parcels being created;

3. Local governments may only impose objective zoning standards, objective subdivision standards, and objective design review standards;

    a. Local governments cannot impose objective zoning standards, objective subdivision standards, or objective design standards that would have the effect of physically precluding the construction of two units on either of the resulting parcels or that would result in a unit size of less than 800 square feet.

4. Local governments may only impose a maximum four-foot side and rear yard setback for new development;

5. Local governments may not impose any setbacks for an existing structure, or a structure constructed in the same location and to the same dimensions as an existing structure;

6. Local governments shall not require, as a condition of approval, the correction of non-conforming zoning conditions; and

7. Local governments may require the following conditions for a proposal of an urban

lot split:

a. Easements required for the provision of public services and facilities.
b. The parcels have access to, provide access to, or adjoin the public right-of-way.
c. One off-street parking space per unit (unless parking requirements are otherwise prohibited altogether, as specified).

Within the City of Winters, Parcel Maps are reviewed and approved by the Planning Commission at a public hearing. A Parcel Map is required for the subdivision of four or fewer parcels, which includes "lot splits". However, due to SB 9, the City could not require a public hearing for Parcel Map approval for urban lot splits proposed in accordance with SB 9.

In addition, SB 9 grants single-family residential zoned parcels the ability to create two 1,200 square foot parcels, which is significantly smaller than what the City currently requires. Table-2 below shows the minimum lot size for newly created lots within the A-1; R-R; R-1; and R-2 zoning districts. As shown below, SB 9 significantly reduces the minimum lot size or area that the City can enforce for urban lot splits proposed in accordance with SB 9.

Table-2 Lot Dimension Standards

ZONE	MINIMUM LOT AREA (SQ. FT. OR ACRES)	MINIMUM LOT WIDTH OR DEPTH (IN FEET)
A-1	5 acres	300'
R-R	1 acre	100'
R-1	7,000 sf average min. with a 6,000 sf absolute min.	60'
R-2	6,000 sf average min. with a 5,000 sf absolute min.	50'

As identified previously – similar to the construction of two residential units' allowance in SB 9, the City could only enforce up to a four-foot side and rear yard setback for urban lot splits, but cannot require any setbacks for an existing structure or a structure constructed in the same location and to the same dimensions as an existing structure.

The City could deny an urban lot split if the building official makes a written finding, based upon a preponderance of the evidence, that the proposed development would have a specific, adverse impact upon the public health or safety or the physical environment, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, as defined in Government Code section 65589.5(d)(2).

Items for Council Consideration
Under SB 9, some residential properties may have the ability to propose an urban lot split and the construction of up to two residential units on each lot, totaling four

residential units. SB 9 limits the City of Winters authority related to requiring a public hearing, enforcing design standards, enforcing parking and setback standards, and minimum parcel sizes. Due to this, staff recommends the Council consider these implications and direct staff as appropriate.

The City of Winters Municipal Code currently includes provisions that conflict with the allowances provided under SB 9 such as requiring a public hearing for residential review. This means that under the current Code some residential development and/or lot splits may be processed differently from the requirements of the City's Code in order to be in compliance with State law. It is staff's opinion that revisions to the City's Municipal Code are appropriate in order to clearly outline and separate the requirements relating to the construction of two residential units and/or urban lot splits proposed in accordance with SB 9. In addition, it would clearly detail applicable requirements and/or restrictions for property owners who wish to pursue the construction of two residential units and/or an urban lot split. The revisions to the Municipal Code could include, but are not limited to the following:

- Approval process (ministerial approval for two residential units and/or urban lot split in compliance with SB 9)
- Applicable and/or excluded properties
- Setback requirements (four-foot side and rear yard setback; etc.)
- Parking requirements (one space per unit)
- Rental restrictions (deed restriction requirement and/or signed occupancy affidavit)
- Land use restrictions:
    - Deed restriction limiting urban lot splits to residential uses only
    - Prohibition of the same property owner splitting adjacent properties
    - Prohibition of ADU allowances for properties that construct two residential units in accordance with SB 9
- Objective design standards and/or revisions to current design standards

<u>Senate Bill 10</u>

Senate Bill 10 provides a path for <u>local governments</u> to adopt an ordinance that would upzone or increase residential density on any parcel for up to ten residential units. SB 10 is not an "automatic" allowance like SB 9, but rather, gives the City of Winters the ability to decide if increasing residential density is warranted. The primary reasons SB 10 is important relates to the State's housing requirements, which includes requirements of providing a specific amount of residential housing stock including affordable housing. In addition, SB 10 would exempt an ordinance to upzone any parcel for up to ten residential units from California Environmental Quality Act (CEQA) review, further reducing time and costs for a local government pursuing such an ordinance. To reiterate, SB 10 does not

require the City of Winters to adopt an ordinance that would upzone or increase residential density, it merely authorizes. It should be noted that under SB 10 a local government may adopt such an ordinance up to January 1, 2029. This means that the City of Winters would have until January 1, 2029, to adopt an ordinance that would upzone or increase residential density on any parcel for up to ten residential units.

Items for Council Consideration
Due to the current amount of entitled residential units, including affordable housing units, staff does not recommend the City pursue an ordinance to upzone or increase residential density at this time. In addition, SB 10 provides the ability for the City of Winters to upzone or increase residential density up to January 1, 2029. This means that should conditions change in the future, the City would have the ability to consider adopting an ordinance to upzone or increase residential density at that time.

ATTACHMENTS:

1. Senate Bill 9
2. Senate Bill 10
3. Figure-1: Single-Family Residential Zones Excluded from SB 9
4. City of Winters Prime Farmland or Farmland of Statewide Importance
5. City of Winters Designated Wetlands Map
6. City of Winters Special Flood Hazard Area Map

Senate Bill No. 9

Passed the Senate August 30, 2021

_____

Secretary of the Senate

Passed the Assembly August 26, 2021

_____

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day of _____, 2021, at _____ o'clock ___M.

_____

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 66452.6 of, and to add Sections 65852.21 and 66411.7 to, the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 9, Atkins. Housing development: approvals.

The Planning and Zoning Law provides for the creation of accessory dwelling units by local ordinance, or, if a local agency has not adopted an ordinance, by ministerial approval, in accordance with specified standards and conditions.

This bill, among other things, would require a proposed housing development containing no more than 2 residential units within a single-family residential zone to be considered ministerially, without discretionary review or hearing, if the proposed housing development meets certain requirements, including, but not limited to, that the proposed housing development would not require demolition or alteration of housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income, that the proposed housing development does not allow for the demolition of more than 25% of the existing exterior structural walls, except as provided, and that the development is not located within a historic district, is not included on the State Historic Resources Inventory, or is not within a site that is legally designated or listed as a city or county landmark or historic property or district.

The bill would set forth what a local agency can and cannot require in approving the construction of 2 residential units, including, but not limited to, authorizing a local agency to impose objective zoning standards, objective subdivision standards, and objective design standards, as defined, unless those standards would have the effect of physically precluding the construction of up to 2 units or physically precluding either of the 2 units from being at least 800 square feet in floor area, prohibiting the imposition of setback requirements under certain circumstances,

and setting maximum setback requirements under all other circumstances.

The Subdivision Map Act vests the authority to regulate and control the design and improvement of subdivisions in the legislative body of a local agency and sets forth procedures governing the local agency's processing, approval, conditional approval or disapproval, and filing of tentative, final, and parcel maps, and the modification of those maps. Under the Subdivision Map Act, an approved or conditionally approved tentative map expires 24 months after its approval or conditional approval or after any additional period of time as prescribed by local ordinance, not to exceed an additional 12 months, except as provided.

This bill, among other things, would require a local agency to ministerially approve a parcel map for an urban lot split that meets certain requirements, including, but not limited to, that the urban lot split would not require the demolition or alteration of housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income, that the parcel is located within a single-family residential zone, and that the parcel is not located within a historic district, is not included on the State Historic Resources Inventory, or is not within a site that is legally designated or listed as a city or county landmark or historic property or district.

The bill would set forth what a local agency can and cannot require in approving an urban lot split, including, but not limited to, authorizing a local agency to impose objective zoning standards, objective subdivision standards, and objective design standards, as defined, unless those standards would have the effect of physically precluding the construction of 2 units, as defined, on either of the resulting parcels or physically precluding either of the 2 units from being at least 800 square feet in floor area, prohibiting the imposition of setback requirements under certain circumstances, and setting maximum setback requirements under all other circumstances. The bill would require an applicant to sign an affidavit stating that they intend to occupy one of the housing units as their principal residence for a minimum of 3 years from the date of the approval of the urban lot split, unless the applicant is a community land trust or a qualified nonprofit corporation, as specified. The bill would prohibit a local agency from imposing

any additional owner occupancy standards on applicants. By requiring applicants to sign affidavits, thereby expanding the crime of perjury, the bill would impose a state-mandated local program.

The bill would also extend the limit on the additional period that may be provided by ordinance, as described above, from 12 months to 24 months and would make other conforming or nonsubstantive changes.

The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment. CEQA does not apply to the approval of ministerial projects.

This bill, by establishing the ministerial review processes described above, would thereby exempt the approval of projects subject to those processes from CEQA.

The California Coastal Act of 1976 provides for the planning and regulation of development, under a coastal development permit process, within the coastal zone, as defined, that shall be based on various coastal resources planning and management policies set forth in the act.

This bill would exempt a local agency from being required to hold public hearings for coastal development permit applications for housing developments and urban lot splits pursuant to the above provisions.

By increasing the duties of local agencies with respect to land use regulations, the bill would impose a state-mandated local program.

The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

The people of the State of California do enact as follows:

SECTION 1. Section 65852.21 is added to the Government Code, to read:

65852.21. (a) A proposed housing development containing no more than two residential units within a single-family residential zone shall be considered ministerially, without discretionary review or a hearing, if the proposed housing development meets all of the following requirements:

(1) The parcel subject to the proposed housing development is located within a city, the boundaries of which include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal parcel wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.

(2) The parcel satisfies the requirements specified in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4.

(3) Notwithstanding any provision of this section or any local law, the proposed housing development would not require demolition or alteration of any of the following types of housing:

(A) Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.

(B) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.

(C) Housing that has been occupied by a tenant in the last three years.

(4) The parcel subject to the proposed housing development is not a parcel on which an owner of residential real property has exercised the owner's rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.

(5) The proposed housing development does not allow the demolition of more than 25 percent of the existing exterior structural walls, unless the housing development meets at least one of the following conditions:

(A) If a local ordinance so allows.

(B) The site has not been occupied by a tenant in the last three years.

(6) The development is not located within a historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance.

(b) (1) Notwithstanding any local law and except as provided in paragraph (2), a local agency may impose objective zoning standards, objective subdivision standards, and objective design review standards that do not conflict with this section.

(2) (A) The local agency shall not impose objective zoning standards, objective subdivision standards, and objective design standards that would have the effect of physically precluding the construction of up to two units or that would physically preclude either of the two units from being at least 800 square feet in floor area.

(B) (i) Notwithstanding subparagraph (A), no setback shall be required for an existing structure or a structure constructed in the same location and to the same dimensions as an existing structure.

(ii) Notwithstanding subparagraph (A), in all other circumstances not described in clause (i), a local agency may require a setback of up to four feet from the side and rear lot lines.

(c) In addition to any conditions established in accordance with subdivision (b), a local agency may require any of the following conditions when considering an application for two residential units as provided for in this section:

(1) Off-street parking of up to one space per unit, except that a local agency shall not impose parking requirements in either of the following instances:

(A) The parcel is located within one-half mile walking distance of either a high-quality transit corridor, as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop, as defined in Section 21064.3 of the Public Resources Code.

(B) There is a car share vehicle located within one block of the parcel.

(2) For residential units connected to an onsite wastewater treatment system, a percolation test completed within the last 5

years, or, if the percolation test has been recertified, within the last 10 years.

(d) Notwithstanding subdivision (a), a local agency may deny a proposed housing development project if the building official makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

(e) A local agency shall require that a rental of any unit created pursuant to this section be for a term longer than 30 days.

(f) Notwithstanding Section 65852.2 or 65852.22, a local agency shall not be required to permit an accessory dwelling unit or a junior accessory dwelling unit on parcels that use both the authority contained within this section and the authority contained in Section 66411.7.

(g) Notwithstanding subparagraph (B) of paragraph (2) of subdivision (b), an application shall not be rejected solely because it proposes adjacent or connected structures provided that the structures meet building code safety standards and are sufficient to allow separate conveyance.

(h) Local agencies shall include units constructed pursuant to this section in the annual housing element report as required by subparagraph (I) of paragraph (2) of subdivision (a) of Section 65400.

(i) For purposes of this section, all of the following apply:

(1) A housing development contains two residential units if the development proposes no more than two new units or if it proposes to add one new unit to one existing unit.

(2) The terms “objective zoning standards,” “objective subdivision standards,” and “objective design review standards” mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal. These standards may be embodied in alternative objective land use specifications adopted by a local agency, and may include, but are not limited to, housing overlay

zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances.

(3) "Local agency" means a city, county, or city and county, whether general law or chartered.

(j) A local agency may adopt an ordinance to implement the provisions of this section. An ordinance adopted to implement this section shall not be considered a project under Division 13 (commencing with Section 21000) of the Public Resources Code.

(k) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local agency shall not be required to hold public hearings for coastal development permit applications for a housing development pursuant to this section.

SEC. 2. Section 66411.7 is added to the Government Code, to read:

66411.7. (a) Notwithstanding any other provision of this division and any local law, a local agency shall ministerially approve, as set forth in this section, a parcel map for an urban lot split only if the local agency determines that the parcel map for the urban lot split meets all the following requirements:

(1) The parcel map subdivides an existing parcel to create no more than two new parcels of approximately equal lot area provided that one parcel shall not be smaller than 40 percent of the lot area of the original parcel proposed for subdivision.

(2) (A) Except as provided in subparagraph (B), both newly created parcels are no smaller than 1,200 square feet.

(B) A local agency may by ordinance adopt a smaller minimum lot size subject to ministerial approval under this subdivision.

(3) The parcel being subdivided meets all the following requirements:

(A) The parcel is located within a single-family residential zone.

(B) The parcel subject to the proposed urban lot split is located within a city, the boundaries of which include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal parcel wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.

(C) The parcel satisfies the requirements specified in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4.

(D) The proposed urban lot split would not require demolition or alteration of any of the following types of housing:

(i) Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.

(ii) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.

(iii) A parcel or parcels on which an owner of residential real property has exercised the owner's rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.

(iv) Housing that has been occupied by a tenant in the last three years.

(E) The parcel is not located within a historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance.

(F) The parcel has not been established through prior exercise of an urban lot split as provided for in this section.

(G) Neither the owner of the parcel being subdivided nor any person acting in concert with the owner has previously subdivided an adjacent parcel using an urban lot split as provided for in this section.

(b) An application for a parcel map for an urban lot split shall be approved in accordance with the following requirements:

(1) A local agency shall approve or deny an application for a parcel map for an urban lot split ministerially without discretionary review.

(2) A local agency shall approve an urban lot split only if it conforms to all applicable objective requirements of the Subdivision Map Act (Division 2 (commencing with Section 66410)), except as otherwise expressly provided in this section.

(3) Notwithstanding Section 66411.1, a local agency shall not impose regulations that require dedications of rights-of-way or the

construction of offsite improvements for the parcels being created as a condition of issuing a parcel map for an urban lot split pursuant to this section.

(c) (1) Except as provided in paragraph (2), notwithstanding any local law, a local agency may impose objective zoning standards, objective subdivision standards, and objective design review standards applicable to a parcel created by an urban lot split that do not conflict with this section.

(2) A local agency shall not impose objective zoning standards, objective subdivision standards, and objective design review standards that would have the effect of physically precluding the construction of two units on either of the resulting parcels or that would result in a unit size of less than 800 square feet.

(3) (A) Notwithstanding paragraph (2), no setback shall be required for an existing structure or a structure constructed in the same location and to the same dimensions as an existing structure.

(B) Notwithstanding paragraph (2), in all other circumstances not described in subparagraph (A), a local agency may require a setback of up to four feet from the side and rear lot lines.

(d) Notwithstanding subdivision (a), a local agency may deny an urban lot split if the building official makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

(e) In addition to any conditions established in accordance with this section, a local agency may require any of the following conditions when considering an application for a parcel map for an urban lot split:

(1) Easements required for the provision of public services and facilities.

(2) A requirement that the parcels have access to, provide access to, or adjoin the public right-of-way.

(3) Off-street parking of up to one space per unit, except that a local agency shall not impose parking requirements in either of the following instances:

(A) The parcel is located within one-half mile walking distance of either a high-quality transit corridor as defined in subdivision

(b) of Section 21155 of the Public Resources Code, or a major transit stop as defined in Section 21064.3 of the Public Resources Code.

(B) There is a car share vehicle located within one block of the parcel.

(f) A local agency shall require that the uses allowed on a lot created by this section be limited to residential uses.

(g) (1) A local agency shall require an applicant for an urban lot split to sign an affidavit stating that the applicant intends to occupy one of the housing units as their principal residence for a minimum of three years from the date of the approval of the urban lot split.

(2) This subdivision shall not apply to an applicant that is a "community land trust," as defined in clause (ii) of subparagraph (C) of paragraph (11) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code, or is a "qualified nonprofit corporation" as described in Section 214.15 of the Revenue and Taxation Code.

(3) A local agency shall not impose additional owner occupancy standards, other than provided for in this subdivision, on an urban lot split pursuant to this section.

(h) A local agency shall require that a rental of any unit created pursuant to this section be for a term longer than 30 days.

(i) A local agency shall not require, as a condition for ministerial approval of a parcel map application for the creation of an urban lot split, the correction of nonconforming zoning conditions.

(j) (1) Notwithstanding any provision of Section 65852.2, 65852.21, 65852.22, 65915, or this section, a local agency shall not be required to permit more than two units on a parcel created through the exercise of the authority contained within this section.

(2) For the purposes of this section, "unit" means any dwelling unit, including, but not limited to, a unit or units created pursuant to Section 65852.21, a primary dwelling, an accessory dwelling unit as defined in Section 65852.2, or a junior accessory dwelling unit as defined in Section 65852.22.

(k) Notwithstanding paragraph (3) of subdivision (c), an application shall not be rejected solely because it proposes adjacent or connected structures provided that the structures meet building code safety standards and are sufficient to allow separate conveyance.

(*l*) Local agencies shall include the number of applications for parcel maps for urban lot splits pursuant to this section in the annual housing element report as required by subparagraph (I) of paragraph (2) of subdivision (a) of Section 65400.

(m) For purposes of this section, both of the following shall apply:

(1) "Objective zoning standards," "objective subdivision standards," and "objective design review standards" mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal. These standards may be embodied in alternative objective land use specifications adopted by a local agency, and may include, but are not limited to, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances.

(2) "Local agency" means a city, county, or city and county, whether general law or chartered.

(n) A local agency may adopt an ordinance to implement the provisions of this section. An ordinance adopted to implement this section shall not be considered a project under Division 13 (commencing with Section 21000) of the Public Resources Code.

(o) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local agency shall not be required to hold public hearings for coastal development permit applications for urban lot splits pursuant to this section.

SEC. 3. Section 66452.6 of the Government Code is amended to read:

66452.6. (a) (1) An approved or conditionally approved tentative map shall expire 24 months after its approval or conditional approval, or after any additional period of time as may be prescribed by local ordinance, not to exceed an additional 24 months. However, if the subdivider is required to expend two hundred thirty-six thousand seven hundred ninety dollars ($236,790) or more to construct, improve, or finance the construction or improvement of public improvements outside the

property boundaries of the tentative map, excluding improvements of public rights-of-way that abut the boundary of the property to be subdivided and that are reasonably related to the development of that property, each filing of a final map authorized by Section 66456.1 shall extend the expiration of the approved or conditionally approved tentative map by 48 months from the date of its expiration, as provided in this section, or the date of the previously filed final map, whichever is later. The extensions shall not extend the tentative map more than 10 years from its approval or conditional approval. However, a tentative map on property subject to a development agreement authorized by Article 2.5 (commencing with Section 65864) of Chapter 4 of Division 1 may be extended for the period of time provided for in the agreement, but not beyond the duration of the agreement. The number of phased final maps that may be filed shall be determined by the advisory agency at the time of the approval or conditional approval of the tentative map.

(2) Commencing January 1, 2012, and each calendar year thereafter, the amount of two hundred thirty-six thousand seven hundred ninety dollars ($236,790) shall be annually increased by operation of law according to the adjustment for inflation set forth in the statewide cost index for class B construction, as determined by the State Allocation Board at its January meeting. The effective date of each annual adjustment shall be March 1. The adjusted amount shall apply to tentative and vesting tentative maps whose applications were received after the effective date of the adjustment.

(3) "Public improvements," as used in this subdivision, include traffic controls, streets, roads, highways, freeways, bridges, overcrossings, street interchanges, flood control or storm drain facilities, sewer facilities, water facilities, and lighting facilities.

(b) (1) The period of time specified in subdivision (a), including any extension thereof granted pursuant to subdivision (e), shall not include any period of time during which a development moratorium, imposed after approval of the tentative map, is in existence. However, the length of the moratorium shall not exceed five years.

(2) The length of time specified in paragraph (1) shall be extended for up to three years, but in no event beyond January 1, 1992, during the pendency of any lawsuit in which the subdivider

asserts, and the local agency that approved or conditionally approved the tentative map denies, the existence or application of a development moratorium to the tentative map.

(3) Once a development moratorium is terminated, the map shall be valid for the same period of time as was left to run on the map at the time that the moratorium was imposed. However, if the remaining time is less than 120 days, the map shall be valid for 120 days following the termination of the moratorium.

(c) The period of time specified in subdivision (a), including any extension thereof granted pursuant to subdivision (e), shall not include the period of time during which a lawsuit involving the approval or conditional approval of the tentative map is or was pending in a court of competent jurisdiction, if the stay of the time period is approved by the local agency pursuant to this section. After service of the initial petition or complaint in the lawsuit upon the local agency, the subdivider may apply to the local agency for a stay pursuant to the local agency's adopted procedures. Within 40 days after receiving the application, the local agency shall either stay the time period for up to five years or deny the requested stay. The local agency may, by ordinance, establish procedures for reviewing the requests, including, but not limited to, notice and hearing requirements, appeal procedures, and other administrative requirements.

(d) The expiration of the approved or conditionally approved tentative map shall terminate all proceedings and no final map or parcel map of all or any portion of the real property included within the tentative map shall be filed with the legislative body without first processing a new tentative map. Once a timely filing is made, subsequent actions of the local agency, including, but not limited to, processing, approving, and recording, may lawfully occur after the date of expiration of the tentative map. Delivery to the county surveyor or city engineer shall be deemed a timely filing for purposes of this section.

(e) Upon application of the subdivider filed before the expiration of the approved or conditionally approved tentative map, the time at which the map expires pursuant to subdivision (a) may be extended by the legislative body or by an advisory agency authorized to approve or conditionally approve tentative maps for a period or periods not exceeding a total of six years. The period of extension specified in this subdivision shall be in addition to

the period of time provided by subdivision (a). Before the expiration of an approved or conditionally approved tentative map, upon an application by the subdivider to extend that map, the map shall automatically be extended for 60 days or until the application for the extension is approved, conditionally approved, or denied, whichever occurs first. If the advisory agency denies a subdivider's application for an extension, the subdivider may appeal to the legislative body within 15 days after the advisory agency has denied the extension.

(f) For purposes of this section, a development moratorium includes a water or sewer moratorium, or a water and sewer moratorium, as well as other actions of public agencies that regulate land use, development, or the provision of services to the land, including the public agency with the authority to approve or conditionally approve the tentative map, which thereafter prevents, prohibits, or delays the approval of a final or parcel map. A development moratorium shall also be deemed to exist for purposes of this section for any period of time during which a condition imposed by the city or county could not be satisfied because of either of the following:

(1) The condition was one that, by its nature, necessitated action by the city or county, and the city or county either did not take the necessary action or by its own action or inaction was prevented or delayed in taking the necessary action before expiration of the tentative map.

(2) The condition necessitates acquisition of real property or any interest in real property from a public agency, other than the city or county that approved or conditionally approved the tentative map, and that other public agency fails or refuses to convey the property interest necessary to satisfy the condition. However, nothing in this subdivision shall be construed to require any public agency to convey any interest in real property owned by it. A development moratorium specified in this paragraph shall be deemed to have been imposed either on the date of approval or conditional approval of the tentative map, if evidence was included in the public record that the public agency that owns or controls the real property or any interest therein may refuse to convey that property or interest, or on the date that the public agency that owns or controls the real property or any interest therein receives an offer by the subdivider to purchase that property or interest for fair

market value, whichever is later. A development moratorium specified in this paragraph shall extend the tentative map up to the maximum period as set forth in subdivision (b), but not later than January 1, 1992, so long as the public agency that owns or controls the real property or any interest therein fails or refuses to convey the necessary property interest, regardless of the reason for the failure or refusal, except that the development moratorium shall be deemed to terminate 60 days after the public agency has officially made, and communicated to the subdivider, a written offer or commitment binding on the agency to convey the necessary property interest for a fair market value, paid in a reasonable time and manner.

SEC. 4. The Legislature finds and declares that ensuring access to affordable housing is a matter of statewide concern and not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, Sections 1 and 2 of this act adding Sections 65852.21 and 66411.7 to the Government Code and Section 3 of this act amending Section 66452.6 of the Government Code apply to all cities, including charter cities.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act or because costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2021

_____

Governor

Senate Bill No. 10

Passed the Senate August 30, 2021

_____

Secretary of the Senate

Passed the Assembly August 23, 2021

_____

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day of _____, 2021, at _____ o'clock ___M.

_____

Private Secretary of the Governor

CHAPTER _____

An act to add Section 65913.5 to the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 10, Wiener. Planning and zoning: housing development: density.

The Planning and Zoning Law requires a city or county to adopt a general plan for land use development within its boundaries that includes, among other things, a housing element. Existing law requires an attached housing development to be a permitted use, not subject to a conditional use permit, on any parcel zoned for multifamily housing if at least certain percentages of the units are available at affordable housing costs to very low income, lower income, and moderate-income households for at least 30 years and if the project meets specified conditions relating to location and being subject to a discretionary decision other than a conditional use permit. Existing law provides for various incentives intended to facilitate and expedite the construction of affordable housing.

This bill would, notwithstanding any local restrictions on adopting zoning ordinances, authorize a local government to adopt an ordinance to zone any parcel for up to 10 units of residential density per parcel, at a height specified in the ordinance, if the parcel is located in a transit-rich area or an urban infill site, as those terms are defined. The bill would prohibit a local government from adopting an ordinance pursuant to these provisions on or after January 1, 2029. The bill would specify that an ordinance adopted under these provisions, and any resolution to amend the jurisdiction's General Plan, ordinance, or other local regulation adopted to be consistent with that ordinance, is not a project for purposes of the California Environmental Quality Act. The bill would prohibit an ordinance adopted under these provisions from superceding a local restriction enacted or approved by a local initiative that designates publicly owned land as open-space land or for park or recreational purposes.

The bill would impose specified requirements on a zoning ordinance adopted under these provisions, including a requirement

that the zoning ordinance clearly demarcate the areas that are subject to the ordinance and that the legislative body make a finding that the ordinance is consistent with the city or county's obligation to affirmatively further fair housing. The bill would require an ordinance to be adopted by a ⅔ vote of the members of the legislative body if the ordinance supersedes any zoning restriction established by local initiative.

The bill would prohibit an ordinance adopted under these provisions from reducing the density of any parcel subject to the ordinance and would prohibit a legislative body from subsequently reducing the density of any parcel subject to the ordinance. The bill would prohibit a residential or mixed-use residential project consisting of 10 or more units that is located on a parcel zoned pursuant to these provisions from being approved ministerially or by right or from being exempt from the California Environmental Quality Act, except as specified.

This bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

The people of the State of California do enact as follows:

SECTION 1. Section 65913.5 is added to the Government Code, to read:

65913.5. (a) (1) Notwithstanding any local restrictions on adopting zoning ordinances enacted by the jurisdiction that limit the legislative body's ability to adopt zoning ordinances, including, subject to the requirements of paragraph (4) of subdivision (b), restrictions enacted by local initiative, a local government may adopt an ordinance to zone a parcel for up to 10 units of residential density per parcel, at a height specified by the local government in the ordinance, if the parcel is located in one of the following:

(A) A transit-rich area.

(B) An urban infill site.

(2) A local government shall not adopt an ordinance pursuant to this subdivision on or after January 1, 2029. However, the operative date of an ordinance adopted under this subdivision may extend beyond January 1, 2029.

(3) An ordinance adopted in accordance with this subdivision, and any resolution to amend the jurisdiction's General Plan,

ordinance, or other local regulation adopted to be consistent with that zoning ordinance, shall not constitute a "project" for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code.

(4) Paragraph (1) shall not apply to either of the following:

(A) Parcels located within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code. This paragraph does not apply to sites that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development.

(B) Any local restriction enacted or approved by a local initiative that designates publicly owned land as open-space land, as defined in subdivision (h) of Section 65560, or for park or recreational purposes.

(b) A legislative body shall comply with all of the following when adopting a zoning ordinance pursuant to subdivision (a):

(1) The zoning ordinance shall include a declaration that the zoning ordinance is adopted pursuant to this section.

(2) The zoning ordinance shall clearly demarcate the areas that are zoned pursuant to this section.

(3) The legislative body shall make a finding that the increased density authorized by the ordinance is consistent with the city or county's obligation to affirmatively further fair housing pursuant to Section 8899.50.

(4) If the ordinance supersedes any zoning restriction established by a local initiative, the ordinance shall only take effect if adopted by a two-thirds vote of the members of the legislative body.

(c) (1) Notwithstanding any other law that allows ministerial or by right approval of a development project or that grants an exemption from Division 13 (commencing with Section 21000) of the Public Resources Code, a residential or mixed-use residential project consisting of more than 10 new residential units on one or more parcels that are zoned pursuant to an ordinance adopted under this section shall not be approved ministerially or by right and shall not be exempt from Division 13 (commencing with Section 21000) of the Public Resources Code.

(2) This subdivision shall not apply to a project located on a parcel or parcels that are zoned pursuant to an ordinance adopted under this section, but subsequently rezoned without regard to this section. A subsequent ordinance adopted to rezone the parcel or parcels shall not be exempt from Division 13 (commencing with Section 21000) of the Public Resources Code. Any environmental review conducted to adopt the subsequent ordinance shall consider the change in the zoning applicable to the parcel or parcels before they were zoned or rezoned pursuant to the ordinance adopted under this section.

(3) The creation of up to two accessory dwelling units and two junior accessory dwelling units per parcel pursuant to Sections 65852.2 and 65852.22 of the Government Code shall not count towards the total number of units of a residential or mixed-use residential project when determining if the project may be approved ministerially or by right under paragraph (1).

(4) A project may not be divided into smaller projects in order to exclude the project from the prohibition in this subdivision.

(d) (1) An ordinance adopted pursuant to this section shall not reduce the density of any parcel subject to the ordinance.

(2) A legislative body that adopts a zoning ordinance pursuant to this section shall not subsequently reduce the density of any parcel subject to the ordinance.

(e) For purposes of this section:

(1) "High-quality bus corridor" means a corridor with fixed route bus service that meets all of the following criteria:

(A) It has average service intervals of no more than 15 minutes during the three peak hours between 6 a.m. to 10 a.m., inclusive, and the three peak hours between 3 p.m. and 7 p.m., inclusive, on Monday through Friday.

(B) It has average service intervals of no more than 20 minutes during the hours of 6 a.m. to 10 p.m., inclusive, on Monday through Friday.

(C) It has average intervals of no more than 30 minutes during the hours of 8 a.m. to 10 p.m., inclusive, on Saturday and Sunday.

(2) "Transit-rich area" means a parcel within one-half mile of a major transit stop, as defined in Section 21064.3 of the Public Resources Code, or a parcel on a high-quality bus corridor.

(3) "Urban infill site" means a site that satisfies all of the following:

(A) A site that is a legal parcel or parcels located in a city if, and only if, the city boundaries include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal parcel or parcels wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.

(B) A site in which at least 75 percent of the perimeter of the site adjoins parcels that are developed with urban uses. For the purposes of this section, parcels that are only separated by a street or highway shall be considered to be adjoined.

(C) A site that is zoned for residential use or residential mixed-use development, or has a general plan designation that allows residential use or a mix of residential and nonresidential uses, with at least two-thirds of the square footage of the development designated for residential use.

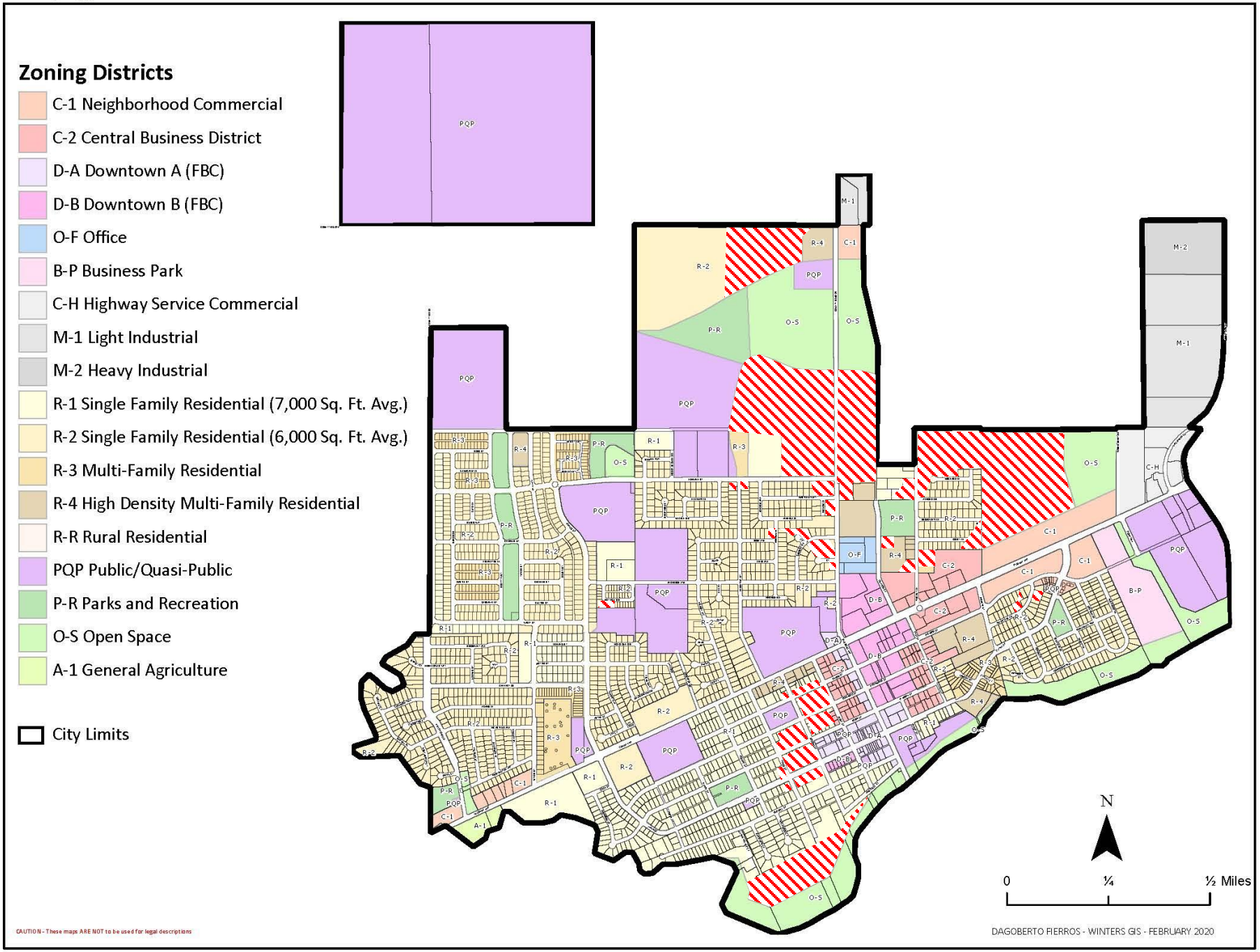
(f) The Legislature finds and declares that provision of adequate housing, in light of the severe shortage of housing at all income levels in this state, is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this section applies to all cities, including charter cities.

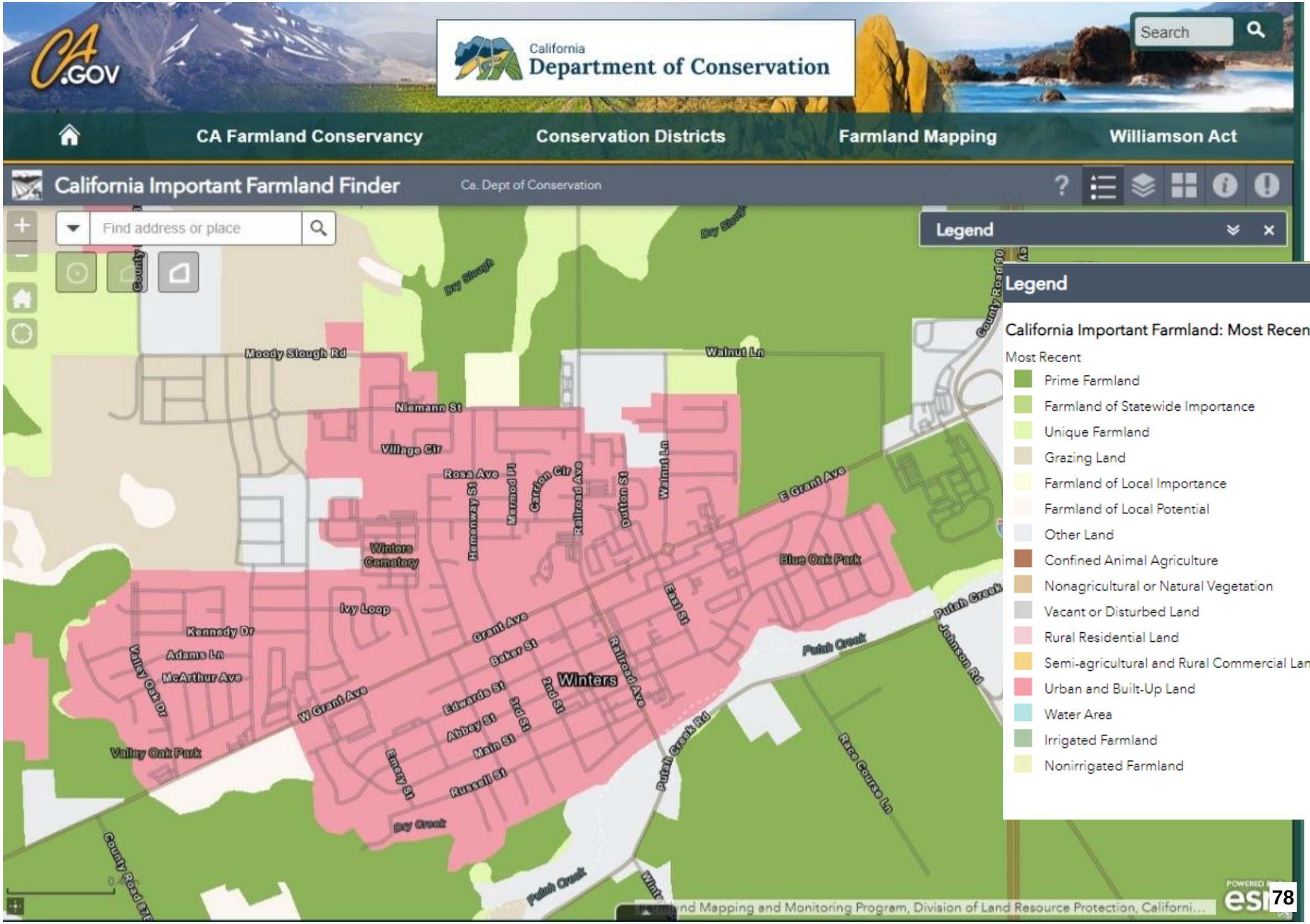
Approved _____, 2021

_____

Governor

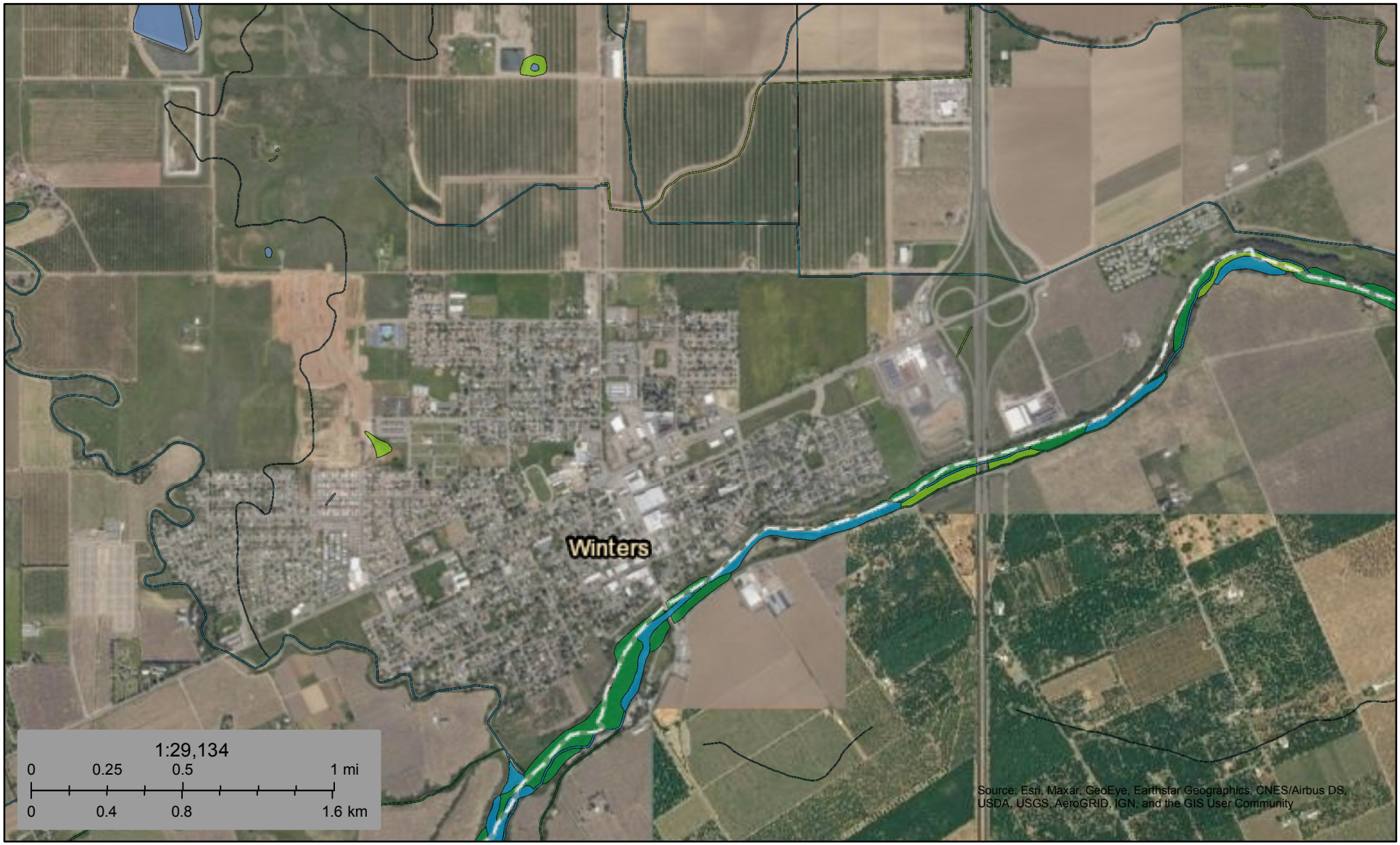
City of Winters - Zoning Districts




CA.GOV
California
Department of Conservation
Search
CA Farmland Conservancy
Conservation Districts
Farmland Mapping
Williamson Act
California Important Farmland Finder
Ca. Dept of Conservation
Find address or place
Legend
Legend
California Important Farmland: Most Recent
Most Recent
Prime Farmland
Farmland of Statewide Importance
Unique Farmland
Grazing Land
Farmland of Local Importance
Farmland of Local Potential
Other Land
Confined Animal Agriculture
Nonagricultural or Natural Vegetation
Vacant or Disturbed Land
Rural Residential Land
Semi-agricultural and Rural Commercial Land
Urban and Built-Up Land
Water Area
Irrigated Farmland
Nonirrigated Farmland
Moody Slough Rd
Walnut Ln
Niemann St
Village Cir
Rosa Ave
Hemonway St
Mermod Pl
Carrion Cir
Railroad Ave
Dutton St
Walnut Ln
E Grant Ave
Winters Cemetery
Blue Oak Park
Ivy Loop
Kennedy Dr
Adams Ln
McArthur Ave
Valley Oak Dr
Grant Ave
Baker St
Edwards St
Abbey St
Main St
Russell St
Emery St
2nd St
3rd St
Railroad Ave
Winters
East St
Putah Creek
Johnson Rd
W Grant Ave
Valley Oak Park
Putah Creek Rd
Race Course Ln
Dry Creek
County Road 87E
Putah Creek
Dry Slough
County Road 90
Mapping and Monitoring Program, Division of Land Resource Protection, Californi...
esri

U.S. Fish and Wildlife Service
National Wetlands Inventory

Wetland Map

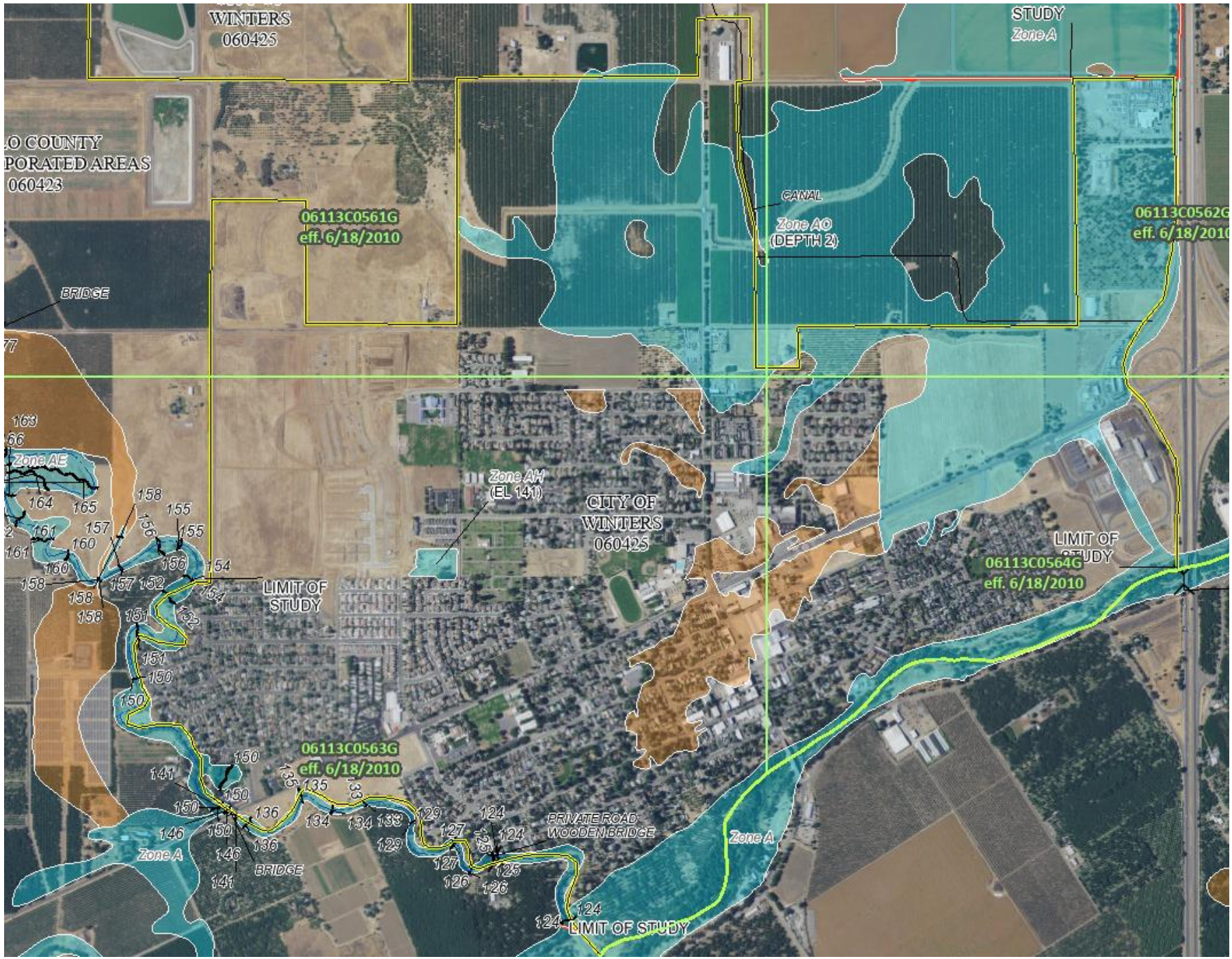


November 8, 2021

Wetlands

- Estuarine and Marine Deepwater
- Estuarine and Marine Wetland
- Freshwater Emergent Wetland
- Freshwater Forested/Shrub Wetland
- Freshwater Pond
- Lake
- Other
- Riverine

This map is for general reference only. The US Fish and Wildlife Service is not responsible for the accuracy or currentness of the base data shown on this map. All wetlands related data should be used in accordance with the layer metadata found on the Wetlands Mapper web site.


WINTERS
060425
STUDY
Zone A
O COUNTY
PORATED AREAS
060423
06113C0561G
eff. 6/18/2010
CANAL
Zone AO
(DEPTH 2)
06113C0562G
eff. 6/18/2010
BRIDGE
Zone AE
Zone AH
(EL 141)
CITY OF
WINTERS
060425
LIMIT OF
STUDY
06113C0564G
eff. 6/18/2010
LIMIT OF
STUDY
06113C0563G
eff. 6/18/2010
PRIVATE ROAD
WOODEN BRIDGE
Zone A
Zone A
BRIDGE
LIMIT OF STUDY

CITY COUNCIL
STAFF REPORT

TO:	Honorable Mayor and Councilmembers
DATE:	November 16, 2021
THROUGH:	Kathleen Salguero Trepa, City Manager
FROM:	Joanna Gin, Assistant City Attorney
	Kristine DeGuerre, Environmental Services Manager
SUBJECT:	Presentation of SB 1383 Requirements and First Reading of Ordinance 2021-04 Amending Chapter 8.04 of, and Adding Chapter 8.72 to, Title 8 of the Winters Municipal Code Relating to Solid Waste and Organic Waste Disposal Reduction

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RECOMMENDATION:

Staff recommends the City Council introduce and waive first reading of Ordinance 2021-04 Amending Chapter 8.04 of, and Adding Chapter 8.72 to, Title 8 of the Winters Municipal Code Relating to Solid Waste and Organic Waste Disposal Reduction.

BACKGROUND:

Senate Bill (SB) 1383 (Chapter 395, Statutes of 2016) directed the California Department of Resources Recycling and Recovery ("CalRecycle") to adopt regulations to reduce organic waste statewide by 50% from its 2014 baseline level by 2020 and 75% by 2025. SB 1383 also requires the regulations to recover, for human consumption, at least 20 percent of edible food that is currently thrown away. The purpose of SB 1383 is to reduce methane and greenhouse gas emissions resulting from landfilled organic waste, and the impact on climate change. The regulations promulgated by CalRecycle to implement SB 1383 (the "SB 1383 Regulations") were finalized in late 2020 and take effect on January 1, 2022. The SB 1383 Regulations require the City to adopt and enforce an ordinance to implement the SB 1383 Regulations (this "SB 1383 Ordinance") by January 1, 2022.

DISCUSSION:

The SB 1383 Ordinance will require all residents and businesses to subscribe to organic waste collection services and source separate organic waste from solid waste and

recyclables. The Ordinance requires education and outreach to individuals and businesses who generate waste on how they can properly sort materials for collection, the implementation of an edible food recovery program, inspections to ensure compliance with the SB 1383 Regulations, and enforcement for non-compliance with the SB 1383 Regulations.

Mandatory Subscription to Organic Services

All residents and businesses will be required to subscribe to organic waste collection services beginning January 1, 2022. Commercial businesses and multi-family properties with 5 or more units were already required to subscribe to organic waste services. SB 1383 builds upon Assembly Bill (AB) 1826 (Chapter 727, Statutes of 2014), which required any business generating two (2) or more cubic yards of solid organic waste per week, and multi-family properties with five or more units, to recycle their organic waste. (Under AB 1826, multi-family properties are only required to recycle yard waste.)

Waste Management currently provides solid waste collection services within the City under an exclusive franchise. The SB 1383 Regulations require Waste Management to provide, and all residents and businesses to subscribe to, organic waste collection services. Waste generators must source separate materials in the appropriate color-coded collection container to avoid contaminating the containers and the different waste streams. Waste Management currently provides organic waste collection services to both residents and businesses in the City, so there would be minimal impact to Waste Management's operations to implement this collection requirement.

Waste Management provides solid waste collection services to residential customers, through a three-container service: Trash (Gray Lid), Recycling (Blue Lid), Green and Food Waste (Brown Lid). The current rate for a resident who subscribes to a 96-gallon organic waste cart is $10.45 per month. Waste Management also provides trash, recycling and organics collection services to businesses, and the rates vary depending on the size of the container and the frequency of collection.

Waiver from Certain SB 1383 Requirements Related to Collection

Under the SB 1383 Regulations, a local jurisdiction may qualify for a low population waiver for certain organic waste collection requirements if the local jurisdiction disposed of less than 5,000 tons of solid waste in 2014 as reported in the Disposal Reporting System and has a population less than 7,500. The City disposed of 4,358 tons of solid waste in 2014 and the U.S. Census data released in August 2021 lists the Winters population at 7,115. Low population waivers are valid for a period up to five years.

The City submitted a low population waiver to CalRecycle for an exemption from some of requirements under the SB 1383 Regulations, specifically Article 3 (relating to organic collection services) of Chapter 12 of Title 14 of the California Code of Regulations. Since Waste Management already provides organic waste collection services to residential and commercial businesses, this Ordinance requires residents and businesses to assist the City in meeting state organic waste diversion goals by subscribing to organic waste collection service. The benefit of the City applying for a low population waiver is that it would waive certain requirements related to collection that the City would otherwise have

to satisfy beginning January 1, 2022. These requirements include: recordkeeping requirements, certain monitoring requirements to ensure container contamination minimization, and container color and label requirements that identify what materials may be placed in each container. CalRecycle will officially approve waivers beginning January 1, 2022.

City-Issued Waivers From Organics Waste Collection and Recycling

The City must review requests from businesses and/or multi-family buildings for waivers from organic waste collection and recycling requirements, and may grant waivers when criteria are met. The City can issue a:

- de minimus waiver to a business if the business does generate a low volume of combined solid waste, recyclables, and organic waste and little organic waste or recyclables;
- physical space waiver if there are physical limitations for collection containers at a place of business or a multi-family property with 5 or more units; and,
- any additional waivers allowed under the law.

Education and Outreach Requirements

- Businesses and multi-family buildings must acquire and supply an adequate number of labeled, color-specific containers for employees, contractors, tenants, and customers, and educate employees and tenants about proper sorting.
- The education and outreach period is from January 1, 2022, through December 31, 2023, and educational materials must be provided to generators who do not comply with the requirements.

Edible Food Recovery Program

- The City must develop and implement an edible food recovery program that recovers edible food from commercial edible food generators for human consumption.
- Commercial edible food generators must enter into written agreements with food recovery organizations and services, and the entities must keep specified records.
- Under the SB 1383 Regulations, if the county identifies that new or expanded capacity is required to recover edible food currently disposed of by commercial edible food generators in the county and the local jurisdictions within the county, then each jurisdiction that lacks capacity must submit an implementation schedule to CalRecycle regarding how it will ensure new or expanded capacity. The implementation schedule must include timelines for planning efforts to access new capacity, including, but not limited to, obtaining funding for edible food recovery infrastructure, and identification of facilities, operations and activities within the county that could be used for additional capacity.
- The City and Yolo County are coordinating their efforts to develop an edible food recovery program and address capacity planning for edible food recovery to comply with the requirements of the SB 1383 Regulations. The County retained Total Compliance Management (TCM) to prepare an Edible Food Recovery Capacity Study and Sustainable Funding Assessment for the County, the City, and the City of Woodland.

- The County Integrated Waste Management Division has worked with staff from the Cities of Davis, West Sacramento, Winters, and Woodland regarding the SB 1383 Edible Food Recovery requirements. At the October 12, 2021, Yolo County Board of Supervisors meeting, County staff, in its recommendation to the Board, identified a $761,698 proposal to fund a regional edible food recovery program. The first part of the proposal identified 9 food recovery organizations that the County and the cities within the County could partner with. The estimated cost to fund the expanded capacity for the 9 organizations was $375,000 for all participating jurisdictions. The second part of the recommendation also included funding for the Yolo Food Bank for capacity assistance in the estimated amount of $387,000. However, since then, Yolo Food Bank has declined to participate in the regional collaboration, citing a concern that participation would result in a funding deficit to its organization. Therefore, the $387,000 that would have been distributed to the Yolo Food Bank will be reallocated to the 9 organizations. Staff continues to communicate with the County regarding the SB 1383 Edible Food Recovery requirements. The City's share of costs to participate in the mandated edible food recovery program is estimated to be $34,662.

Inspection and Enforcement

- The City must inspect and enforce the requirements in the Ordinance. The penalties for violations are consistent with the City's penalties for other ordinance violations.
- The City must provide educational materials, issue notice of violations, and issue administrative citations for violations of the Ordinance as specified.
- The focus will be on education and outreach in 2022 and 2023. Penalties for non-compliance will be imposed after January 1, 2024.
- While the City may designate a public or private entity to fulfill some of its SB 1383 regulatory responsibilities by agreement, the City itself remains responsible for its SB 1383 compliance and enforcing other entities' compliance with the SB 1383 regulations through the Ordinance. Under the SB 1383 Regulations, the City is also not allowed to delegate the authority to impose civil penalties for any violation of the Ordinance, or to issue waivers, to a private entity.

Other SB 1383 Requirements

- The SB 1383 Regulations require the City to adopt enforceable requirements to comply with specified provisions of the California Green Building Standards Code (CALGreen) and the State Model Water Efficient Landscape Ordinance, unless they already have such an enforceable mechanism in place. On October 19, 2021, the City Council adopted Ordinance 2021-03 adopting by reference the 2019 California Building Standards Code, the 2019 CALGreen, the 2019 Fire Code, and other uniform codes. Staff will bring forward a separate ordinance to adopt the Model Water Efficient Landscape Ordinance at a future Council meeting. For these reasons, the specified provisions of the CALGreen and State Model Water Efficient Landscape Ordinance referenced in the SB 1383 Regulations are not

included in this Ordinance.

- The City must procure recycled content paper in accordance with existing state laws, and procure recovered organic waste products (i.e., compost, mulch, electricity generated from biomass conversion, and renewable natural gas) at levels prescribed by the state annually. As an example, the City's estimated obligation for "procuring" compost or mulch is 300 tons. Staff is currently reviewing options on how to satisfy these requirements and will bring forward a separate procurement policy at a future Council meeting. A purchasing policy to comply with this mandate must be in place by January 1, 2022.

SB 619

Under the SB 1383 Regulations, local jurisdictions that do not adopt enforceable mechanism by January 1, 2022 to implement the SB 1383 Regulations locally are subject to penalties issued by CalRecycle. On October 5, 2021, the Governor signed SB 619 to provide some relief from penalties for jurisdictions that may not be fully compliant with SB 1383 requirements by the January 1, 2022, deadline.

FISCAL IMPACT:

The fiscal impacts of complying with the SB 1383 mandates are unknown at this time. Significant staff time and legal costs have been incurred to respond to this mandate thus far. Implementation costs will depend on whether the City or Waste Management will perform some of the City's responsibilities under the SB 1383 Regulations; if costs are passed through to Waste Management, the potential for rate increases exists. Residential customers who subscribe to organic waste collection services for the first time will directly pay Waste Management for services. Under a regional cost sharing plan with the Cities of Woodland, Davis, and West Sacramento, and the County of Yolo, total costs to fund capacity for the regional edible food recovery program are estimated to be $761,698; Winter's share of costs would be $34,662. However, the edible food recovery program is not yet fully outlined with the recent departure of Yolo Food Bank from the regional program; so costs are estimates only at this time.

Finally, while staff is of the opinion that SB 1383 represents unfunded mandates by the State of California, because some of those costs can be borne directly by residents through rate increases, the State will not consider these mandates "unfunded," and are thus likely not reimbursable.

ATTACHMENT:

1. Ordinance 2021-04
2. Redline of Changes to Chapter 8.04 and Additions to Chapter 8.72 of the Winters Municipal Code

ORDINANCE NO. 2021-04

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WINTERS, CALIFORNIA AMENDING CHAPTER 8.04 OF, AND ADDING CHAPTER 8.72 TO, TITLE 8 OF THE WINTERS MUNICIPAL CODE RELATING TO SOLID WASTE AND ORGANIC WASTE DISPOSAL REDUCTION

WHEREAS, SB 1383 (Chapter 395, Statutes of 2016) directed the California Department of Resources Recycling and Recovery ("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 take effect January 1, 2022, and requires the City of Winters to adopt an ordinance to enforce the SB 1383 Regulations by said date, and;

WHEREAS, the City Council desires to amend its Solid Waste Ordinance and add an Organic Waste Disposal Reduction Ordinance to comply with the SB 1383 Regulations.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WINTERS DOES ORDAIN AS FOLLOWS:

SECTION 1. Chapter 8.04 of Title 8 of the Winters Municipal Code is repealed in its entirety and replaced in its entirety as set forth in Exhibit A, incorporated by this reference.

SECTION 2. Chapter 8.72 is hereby added to Title 8 of the Winters Municipal Code as set forth in Exhibit B, incorporated by this reference.

SECTION 3. This Ordinance shall take effect thirty days after adoption. Within fifteen (15) days after its passage, the Ordinance, or a summary of the Ordinance, shall be published at least once in a newspaper of general circulation published and circulated within the City.

INTRODUCED on the 16th day of November, 2021, and **PASSED AND ADOPTED** by the City Council of the City of Winters on this 7th day of December, 2021, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Wade Cowan, Mayor

ATTEST:

Shelly Gunby, City Clerk

EXHIBIT A

Chapter 8.04

SOLID WASTE

Sections:

8.04.010 Definitions.
8.04.020 Department authorized.
8.04.030 Accumulation prohibited.
8.04.040 Collection—Contract to be exclusive.
8.04.050 Mandatory Collection.
8.04.060 Collection—Frequency.
8.04.070 Collection—Interference prohibited.
8.04.080 Solid Waste—Burning and Burying.
8.04.090 Solid Waste—Containers.
8.04.100 Placing of Solid Waste, Recyclables, and Organic Waste in streets.
8.04.110 Curbside placement of Green Waste.
8.04.120 Self-Hauling.
8.04.130 Transportation.
8.04.140 Vehicle maintenance.
8.04.150 Emergency removal.
8.04.160 Littering in public places prohibited.
8.04.170 Enforcement Officer.
8.04.180 Collection—Contract contents.
8.04.190 Franchise—Authorization by City Council.
8.04.200 Contents of franchise agreement.
8.04.210 Collector franchise fee.
8.04.220 Resolution of conflicts.
8.04.230 Permits and licenses.
8.04.240 Transfer of franchise.
8.04.250 Revocation of permit or franchise.
8.04.260 Interim suspension.
8.04.270 Notice of hearing—Revocation.
8.04.280 Appeals.
8.04.290 City Council action.
8.04.300 Enforcement.

8.04.010 Definitions.

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

“City” means and includes the City of Winters, California.

“City Clerk” means the city clerk of the City of Winters, California.

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

"City Council" means the city manager of the City of Winters, California.

"Collector" means and includes the City, or any agent, or employee thereof, with whom the City has duly contracted under the terms hereinafter set out in this chapter, to collect, transport through the streets, alleys or public ways of the City and dispose of Solid Waste produced within the limits of the City.

"Enforcement Officer" means the director of public works, police chief or his or her designee, or the City Manager or his or her designee.

"Green Waste" means any and all forms of biodegradable plant material which can be placed in a Green Container, such as wastes generated from the maintenance or alteration of public, commercial or residential landscapes including, but not limited to, yard clippings, leaves, tree trimmings, prunings, brush, and weeds as well as green waste.

"Household hazardous waste" is that waste material purchased by the general public for household use and shall include a waste or combination of wastes which, because of its quantity, concentration, toxicity, or physical, chemical or infectious characteristics, may do either of the following: (i) cause or significantly contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; (ii) pose a substantial present or potential hazard to human health or environment when improperly treated, stored, transported, or disposed of, or otherwise managed. It shall also include:

1. All waste defined or characterized as hazardous waste by the Federal Solid Waste Disposal Act (42 USC 3251 et seq.) as amended including the Resources Conservation Recovery Act of 1976 (42 USC 6901 et seq.) and all future amendments thereto, or regulations promulgated thereunder; and

2. All waste defined or characterized as hazardous waste by the principal agencies of the state of California having jurisdiction over hazardous waste generated by facilities within such state.

3. "Hazardous waste" includes extremely hazardous waste and acutely hazardous waste, and any other waste as may hereafter from time to time be designated as hazardous by the Environmental Protection Agency ("EPA") or other agency of the United States government.

"Industrial waste" means wastes produced in large quantities from factories, industrial plants, and mining plants.

"Inert solids" means and includes, but not by way of limitation, brick, cement, asphalt, dirt, and rocks.

"Organic Waste" or "Organic Materials" means Solid Wastes containing material originated from living organisms and their metabolic waste products, including, but not limited to, Food Waste, Green Waste, landscape and pruning waste, organic textiles and carpets, lumber, wood, paper products, printing and writing paper, manure, biosolids, digestate, and sludges.

"Recyclables" or "Recyclable Materials" means and includes the following materials generated on or emanating from residential or commercial/industrial premises and no longer useful or wanted thereon: glass bottles and jars: any food or beverage container (excluding ceramics and chemical containers); aluminum: cans, foil, pie tins and similar items (excluding dirt or organic material); steel or bimetal cans not to exceed one-gallon size; polyethylene terephthalate (PET): plastic soda bottles or other bottles with designated "PET" symbol; high density polyethylene (HDPE) plastic milk and water bottles with the designated "HDPE" symbol (excluding detergent or bleach bottles) and all other plastic products; newspaper; cardboard: separated and not having waxed surfaces; computer printout (excluding carbon); white ledger: white bond paper, clean office paper that is not contaminated by other waste material, white envelopes (excluding coated paper); and such materials as may be determined by agreement between City and Collector. "Recyclables" includes magazines, newspapers, and, cardboard, clean cans, food containers, glass, and plastic beverage containers, and other material collected or accepted as part of the City's Recycling program.

"Recycling" means the process of collecting and turning used products into new products by reprocessing or remanufacturing them.

"Rubbish" means Solid Waste that is not recyclable including but not limited to combustible and noncombustible material, paper, packing materials, crockery, pasteboard, discarded clothing, rugs, straw, rubber, metal, plastic, and debris.

"Solid Waste" means all putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, construction and demolition 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. "Solid Waste" does not include hazardous, radioactive waste or medical waste.

8.04.020 Department authorized.

The power is granted the City Council to create at any time by resolution a Solid Waste department of the City, and to collect remove and dispose of all Solid Waste as a sanitary measure and as a benefit to the public health.

8.04.030 Accumulation prohibited.

It is unlawful for any person to deposit, keep, accumulate or permit, cause or suffer any Solid Waste to be deposited, kept or accumulated upon any lot or parcel of land, or on any public or private place, street, lane, alley or drive, unless the same is kept, deposited or allowed to accumulate as provided in this chapter.

8.04.040 Collection—Contract to be exclusive.

At such time as there is in force a contract entered into by the City with any Collector for the collection of Solid Waste in the City, it is unlawful for any person, other than the persons in the

employ of the Collector having such contract, to collect or transport any Solid Waste within the City.

8.04.050 Mandatory Collection.

A. Every owner of a premises whether at a residential, commercial, industrial location or otherwise shall subscribe for and pay the Collector for Solid Waste service at such rates as may be approved by the City Council from time to time.

B. Nothing in this section is intended to prevent any arrangement, or the continuance of an existing arrangement, under which payments for Solid Waste collection service are made by a tenant or tenants, or any agent, on behalf of the owner. However, any such arrangement will not affect the owner's obligation as provided herein.

C. It is unlawful for any person to deposit Solid Waste, Recyclables, or Organic Waste for collection by City or Collector at any premises other than the premises on which the Solid Waste, Recyclables, or Organic Waste was generated, except with the permission of the owner or occupant.

8.04.060 Collection—Frequency.

There shall be at least one collection per week, except that Solid Waste from hotels, restaurants, vegetable, meat, poultry or fish markets and fresh fish or fresh drink stands, and such other establishments designated by the Enforcement Officer shall be collected more frequently.

8.04.070 Collection—Interference prohibited.

It is unlawful for any person in any manner to interfere with the collection and disposal of Solid Waste by any person authorized by license or contract to collect and dispose of same.

8.04.080 Solid Waste—Burning and Burying.

It is unlawful for any person to burn or cause to be burned, or to bury, any type of Solid Waste, in the City.

8.04.090 Solid Waste—Containers.

It is unlawful for any person to keep, accumulate or permit to be accumulated any Solid Waste upon any lot or parcel of land, or on any public or private lane, place, street, alley or drive, unless the same is in City-approved Containers capable of being handled by City's or Collector's disposal equipment, or Containers provided by the Collector, which shall be kept closed at all times, except when necessarily opened to permit Solid Waste, Recyclables, or Organic Waste to be taken therefrom or deposited therein. The Containers shall also be provided with handles and each Container shall be placed so as to be readily accessible for removal and emptying the material contained therein by the Collectors.

8.04.100 Placing of Solid Waste, Recyclables, and Organic Waste in streets.

No person shall place or deposit any Solid Waste, Recyclable Materials, or Organic Waste in or upon any public place, street, alley, sidewalk or footpath in the City except in proper Containers for the purpose of Collection by the Collectors and between the hours of 5 p.m. on the day before and 8 p.m. on the scheduled collection day when the City or the Collector collectors from the particular premises.

8.04.110 Curbside placement of Green Waste.

A. For Green Waste placed out for collection, the material must be placed either:

1. In Green Containers subject to the time restrictions specified in Section 8.04.100; or,
2. In a pile no longer than 5 feet in the street and no earlier than four days before the scheduled collection day. Such Green Waste shall be placed and maintained in a pile or piles immediately adjacent to, and in front of, the property from which it originated and shall be placed and maintained as not to restrict reasonable gutter drainage or obstruct traffic. In addition, no concrete, metal objects, sod, bricks, socks, gravel, wood, palm fronts, cactus, dirt, or other similar non-plant material as determined by the Enforcement Officer or Collector shall be placed in or upon such pile or piles.

8.04.120 Self-Hauling.

Nothing contained in this chapter shall be construed to prevent or prohibit any resident in the City or any business in the City from taking, hauling, transporting or disposing of any Solid Waste created by the resident or his or her household, on premises personally occupied by him or her, or on premises occupied by a business in the conduct of its own business, provided the same is kept and hauled under the rules and regulations prescribed in this chapter. It is unlawful to dispose of, or recycle at, any facility that is not approved of by the City.

8.04.130 Transportation.

No Solid Waste shall be removed and carried on or along the streets and alleys of the City except that the same is carried, conveyed or hauled in conveyances so constructed as to be absolutely dustproof, and so arranged as not to permit dust or other matter to sift through or fall upon the streets and alleys. The contents of such conveyances must be further protected with appropriate covers so as to prevent the same from being blown upon the streets, alleys and adjacent lands.

8.04.140 Vehicle maintenance.

Every truck used in the collection of Solid Waste shall be kept well painted, clean inside and out.

8.04.150 Emergency removal.

Nothing in this chapter shall be deemed to prohibit the removal and hauling by an unlicensed person of materials considered by the Enforcement Officer to constitute a health menace of such a nature as necessary to be ordered to be promptly removed.

8.04.160 Littering in public places prohibited.

It is unlawful for any person in the City to litter or throw or deposit any Solid Waste or to cause the same to be thrown or deposited upon any street, public or private land, alley, gutter, drain facilities, park, creek or any public place, or throw or deposit the same in or upon any vacant lot or back yard or to store or keep the same, except in the manner prescribed in this chapter.

8.04.170 Enforcement Officer.

The Enforcement Officer shall supervise all matters in connection with Solid Waste disposal that concern the public health.

8.04.180 Collection—Contract contents.

A. For the collection and disposal of Solid Waste, Recyclables, and Organic Waste, a contract may be entered into by the City in accordance with and subject to the terms and conditions of this chapter.

B. Such contract shall provide that the Collector shall collect and dispose of the Solid Waste, Recyclables, and Organic Waste and shall not charge any amounts in excess of the rates specified by agreement between City and Collector . The Collector shall be required to furnish a cash surety bond to the City in the sum of one year's gross receipts conditioned upon the faithful performance of the contract and the provisions of this chapter. Such Collector may except as in this chapter otherwise provided, collect all Solid Waste, Recyclables, and Organic Waste in the City, and transport the same through the streets and public ways of the City. Such contract shall also require that the Collector procure for the period covered by the proposed contract, full compensation insurance in accordance with the workers' compensation insurance and safety provisions of the California Labor Code. Such contract shall also require that the Collector carry public liability insurance to the extent deemed necessary by the City Council, and property damage insurance to the extent deemed necessary by the City Council upon each of the trucks or other vehicles used by him or her in carrying out the work called for in the contract. The City Council, by resolution, shall have the power to provide for the inclusion in such contract of such terms as it deems necessary to protect the interests of the City.

C. Before such contract is entered into, sealed bids may be called for by the City Council, on notice by publication in a newspaper of general circulation in the City, not less than one time. Each proposal or bid shall be accompanied by a certified check payable to the City in the sum deemed necessary by the City Council, which sum shall be forfeited to the City if the bidder to whom the contract is awarded fails or refuses to enter into the contract within fifteen (15) days after the date of mailing to the successful bidder the "Notice of Award Contract." The City Council shall reserve the right to reject any and all bids, and the City Council shall not be required to award such contract to the highest bidder, if, in the opinion of the City Council, a lower bid presents a more satisfactory plan of handling such Solid Waste.

8.04.190 Franchise —Authorization by City Council.

A. The City Council may authorize, by franchise, a Solid Waste enterprise to provide Solid Waste handling for residential, commercial/industrial users to customers. In the sole discretion of the City Council, the Solid Waste handling services may be authorized on an exclusive or nonexclusive basis, and with or without competitive bidding, and may relate to any class or type of Solid Waste within all or any part of the territory of the City.

B. No person shall collect or dispose of Solid Waste, Recyclables, or Organic Waste in the City unless that person has been awarded a Solid Waste franchise and has entered into a franchise agreement with the City, except as otherwise specifically provided in this chapter. Any such franchise shall be in addition to any business license or permit otherwise required by this code. No permit issued by any other governmental agency authorizing collection of Solid Waste Recyclables, or Organic Waste shall be valid in the City. Collectors operating in the City on the effective date of this chapter under a permit or nonexclusive franchise agreement may continue to operate only until the rights thereunder are terminated or revoked, or until such rights expire pursuant to the provisions of Public Resources Code Section 49520.

8.04.200 Contents of franchise agreement.

The terms and provisions of any franchise agreement for Solid Waste handling services may relate to or include, without limitation, the following subject matters:

A. The nature, scope and duration of the franchise;

B. The collection schedule, including the frequency, days and hours of collection;

C. The applicable franchise fee, including the amount method of computation, and time for payment;

D. The applicable rates, fees and charges for regular, special and emergency collection services, including the methods of setting and adjusting same, and the responsibility for billing and collecting same;

E. Collection vehicles, including the permissible size and color, and any required identification, safety equipment, maintenance, inspection and operational requirements;

F. The receipt, processing and reporting of customer inquiries and complaints;

G. The collection of Solid Waste from publicly owned property and facilities;

H. Performance standards for the Collector's personnel and equipment;

I. Solid Waste and recycling Containers, including size, repair or replacement, handling, placement, obligations of the Collector to provide, and permissible charges therefor;

J. Standards and procedures for periodic performance reviews by the City;

K. Noise attenuation policies and procedures;

L. The maintenance by the Collector of an office for the conduct of business;

M. Policies and procedures relating to the non-collection of Solid Waste, and the composting and/or processing of Organic Waste, the collection of Recyclables, and resource recovery;

N. Requirements relating to comprehensive liability insurance and workers' compensation insurance;

O. Requirements relating to the dissemination of information to the public concerning regular and special Solid Waste collection and Recycling services;

P. Actions or omissions constituting breaches or defaults, and the imposition of applicable penalties, liquidated damages, and other remedies, including suspension, revocation or termination;

Q. Requirements relating to performance bonds and to indemnification;

R. Requirements relating to affirmative action programs;

S. Requirements relating to recordkeeping, accounting procedures, reporting, periodic audits and inspection of records;

T. Requirements relating to the assignment, transfer and renewal of the franchise;

U. Requirements relating to compliance with and implementation of the state and federal laws, rules or regulations pertaining to Solid Waste handling services, and to the implementation by the City of state-mandated programs, including, without limitation, the City's source reduction and recycling element, the City's household hazardous waste element, and state waste diversion requirements;

V. Such additional requirements, conditions, policies and procedures as may be mutually agreed upon by the parties to the franchise agreement and which will, in the judgment and discretion of the City Council, best serve the public interest and protect the public health, safety and welfare.

8.04.210 Collector franchise fee.
Each Collector shall pay a franchise fee in an amount established in the franchise agreement authorizing the collection of Solid Waste, Recyclables, or Organic Waste.

8.04.220 Resolution of conflicts.
In the event of any conflict between the provisions of a franchise agreement which is authorized and approved by the City Council and the provisions of this chapter, the provisions of the franchise agreement shall control.

8.04.230 Permits and licenses.
Every Collector shall obtain and maintain at all times during the Collector's operations a business license issued by the City, and all applicable permits and licenses required by any public agency having jurisdiction.

8.04.240 Transfer of franchise.
No permit which is authorized by, subject to, or issued under the provisions of this chapter shall be transferred, delegated, sublet, subcontracted to or assigned to another person without the prior approval of the City Council.

8.04.250 Revocation of permit or franchise.
After conducting a hearing as provided for in this chapter, the City Manager may revoke or suspend any collection permit or franchise for violation of a provision of this chapter or any other applicable law, ordinance or regulations of any public agency.

8.04.260 Interim suspension.
The City Manager, without a hearing, may suspend a franchise or a permit for not more than sixty (60) days, if the City Manager finds that continued operation by the franchisee or permittee will constitute a threat to the public health, safety and general welfare.

8.04.270 Notice of hearing—Revocation.
The City Manager shall mail notice of a hearing to revoke a collection permit or franchise to the Collector not less than fifteen (15) days prior to such hearing. In the event of the revocation of a

franchise or a permit, the City Manager shall notify the Collector in writing of the reasons therefor. Notification may be made in person or by mail.

8.04.280 Appeals.

Within fifteen (15) calendar days after notice by the City Manager of revocation of a collection permit or franchise has been sent to the Collector, the Collector may file with the City Cerk an appeal of such decision to the City Council.

8.04.290 City Council action.

The City Council may either affirm the action of the City Manager, send the matter back to the City Manager for further consideration, or set the matter for hearing by the City Council. If they City Council sets the matter for hearing, it shall base its action upon the standards delineated in Section 8.04.250. Notice of such hearing shall be sent to the Collector not less than fifteen (15) days prior to the hearing.

8.04.300 Enforcement.

The enforcement officer is specifically required to enforce the provisions of Sections 8.04.030, 8.04.050(C), 8.04.070 through 8.04.160 and have the right of entering any or all premises for the purpose of determining whether the provisions of such chapters are being conformed with.

It is unlawful for any person to deny or obstruct such entry.

EXHIBIT B
CHAPTER 8.72 ORGANIC WASTE DISPOSAL REDUCTION

8.72.010 Definitions.
8.72.020 Requirements for Single-Family Generators.
8.72.030 Requirements for Commercial Businesses.
8.72.040 Waivers for Generators.
8.72.050 Requirements for Commercial Edible Food Generators.
8.72.060 Requirements for Food Recovery Organizations and Services.
8.72.070 Requirements for Haulers and Facility Operators.
8.72.080 Self-Hauler Requirements.
8.72.090 Inspections and Investigations.
8.72.100 Enforcement.

8.72.010 Definitions.
The following terms are defined for the purposes of this chapter:

"Blue Container" has the same meaning as in 14 CCR § 18982.2(a)(5) and shall be used for the purpose of storage and collection of Source Separated Recyclable Materials or Source Separated Blue Container Waste.

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

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

"City" means the City of Winters, California.

"Collect" or "Collection" means the act of collecting Solid Waste, Recyclables, or Organic Waste at or near the place of generation or accumulation.

"Commercial" or "Commercial Business" means a business, industrial, commercial establishment, or construction site, and any multiple-family, residential dwelling with five (5) units or more.

"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 to determine compliance with this chapter.

"Container" means a cart, bin, roll-off, compactor or similar receptacle used to temporarily store Solid Waste, Recyclables, or Organic Waste for collection service.

"Container Contamination" or "Contaminated Container" means a Container, regardless of color, that contains Prohibited Container Contaminants, or as otherwise defined in 14 CCR § 18982(a)(55).

“Designated Source Separated Organic Waste Facility” shall have the same definition as 14 CCR § 18982(14.5).

"Designee” means an entity that the City contracts with or otherwise arranges to carry out any of the City’s responsibilities as authorized in 14 CCR § 18981.2. A Designee may be a government entity, a hauler, a private entity, or a combination of those entities.

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.

“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 Officer" means the City Manager, county administrative official, chief operating officer, executive director, or other executive in charge or their authorized Designee(s) who is/are partially or whole responsible for enforcing this chapter.

“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 that 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:

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

“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).

Food Waste” means discarded raw, cooked, or processed edible substances, ices, beverages, ingredients used or intended for use or for sale, in whole or in part, for human consumption, and chewing gum. “Food waste” includes compostable plastics and is a subset of Organic Waste.

“Generator” means a person or entity that is responsible for the initial creation of waste.

“Gray Container” has the same meaning as in 14 CCR § 18982.2(a)(28) and shall be used for the purpose of storage and collection of Gray Container Waste.

“Gray Container Waste” means Solid Waste that is collected in a Gray Container that is part of a three-Container Organic Waste collection service that prohibits the placement of Recyclables or Organic Waste in the Gray Container as specified in 14 CCR §§ 18984.1(a)-(b), or as otherwise defined in 14 CCR § 17402(a)(6.5).

"Green Container" has the same meaning as in 14 CCR § 18982.2(a)(29) and shall be used for the purpose of storage and collection of Source Separated Green Container Organic Waste.

"Green Waste" shall have the same meaning as in Section 8.04.010.

"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).

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

"High Diversion Organic Waste Processing Facility" means a facility that is in compliance with the reporting requirements of 14 CCR § 18815.5(d) and meets or exceeds an annual average Mixed Waste organic content Recovery rate of 50 percent between January 1, 2022 and December 31, 2024, and 75 percent after January 1, 2025, as calculated pursuant to 14 CCR § 18815.5(e) for Organic Waste received from the "Mixed waste organic collection stream" as defined in 14 CCR § 17402(a)(11.5), or, as otherwise defined in 14 CCR § 18982(a)(33).

"Inspection" means a site visit where a City reviews records, Containers, and a person or 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).

"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.

"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).

"Mixed Waste Organic Collection Stream" or "Mixed Waste" means Organic Waste collected in a Container that is required by 14 CCR §§ 18984.1, 18984.2 or 18984.3 to be taken to a High Diversion Organic Waste Processing Facility or as otherwise defined in 14 CCR § 17402(a)(11.5).

"Multi-Family Residential Dwelling" or "Multi-Family" means of, from, or pertaining to residential premises with five (5) or more dwelling units. Multi-Family premises do not include hotels, motels, or other transient occupancy facilities, which are considered Commercial Businesses.

"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.

"Organic Waste" or "Organic Materials" shall have the same meaning as in Section 8.04.010.

"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).

"Prohibited Container Contaminants" means the following: (i) discarded materials placed in the Blue Container that are not identified as acceptable Source Separated Recyclable Materials for the City's Blue Container; (ii) discarded materials placed in the Green Container that are not identified as acceptable Source Separated Green Container Organic Waste for the City's Green Container; (iii) discarded materials placed in the Gray Container that are acceptable Source Separated Recyclable Materials and/or Source Separated Green Container Organic Wastes to be placed in the City's Green Container and/or Blue Container; and, (iv) non-Solid Waste items placed in any Container.

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

"Recyclables" or "Recyclable Materials" shall have the same meaning as in Section 8.04.010.

"Recycling" shall have the same meaning as in Section 8.04.010.

"Remote Monitoring" means the use of the internet of things and/or wireless electronic devices to visualize the contents of Blue Containers, Green Containers, and Gray Containers for purposes of identifying the quantity of materials in Containers (level of fill) and/or presence of Prohibited Container Contaminants.

"Residential" means any residential dwelling.

"Route Review" means a visual Inspection of Containers along a Hauler Route for the purpose of determining Container Contamination, and may include mechanical Inspection methods such as the use of cameras, or as otherwise defined in 14 CCR § 18982(a)(65).

"SB 1383" means Senate Bill 1383 (Chapter 395, Statutes of 2016), which established methane emissions reduction targets in a Statewide effort to reduce emissions of short-lived climate pollutants, as amended, supplemented, superseded, and replaced from time to time.

"SB 1383 Regulations" 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.

"Self-Hauler" means a person, who hauls Solid Waste, Recyclable Materials, or Organic Waste he or she has generated to another person. "Self-Hauler" also includes a person who back-hauls waste, or as otherwise defined in 14 CCR § 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).

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

"Solid Waste" shall have the same meaning as in Section 8.04.010.

"Source Separating" or "Source Separation" means the process of removing Recyclable Materials and Organic Waste from Solid Waste at the place of generation, prior to collection, and placing them into separate Containers that are separately designated for Recyclable Materials and Organic Waste.

"Source Separated Blue Container Waste" means Source Separated Wastes that can be placed in a Blue Container that is limited to the collection of those Organic Wastes and Non-Organic Recyclables as defined in 14 CCR § 18982(a)(43), or as otherwise defined by 14 CCR § 17402(a)(18.7).

"Source Separated Green Container Organic Waste" means Source Separated Organic Waste that can be placed in a Green Container that is specifically intended for the separate Collection of Organic Waste by the Generator, excluding Source Separated Blue Container Waste, carpets, non-compostable Paper, and textiles.

"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. A State agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet.
7. A Local Education Agency facility with an on-site Food Facility.

"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 § 189852(a)(76).

8.72.020 Requirements for Single-Family Generators.

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

1. Shall subscribe to the City's Organic Waste collection services for all Organic Waste generated as described below in Section 8.72.020(A)(2). The City shall have the right to review the number and size of a Generator's Containers to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and, Single-Family Generators shall adjust its service level for its collection services as requested by the City. Generators may additionally manage their Organic Waste by preventing or reducing their Organic Waste, managing Organic Waste through backyard residential composting, and/or using a community composting site.

2. Shall participate in the City's three-Container collection service(s) by placing designated materials in designated Containers, and shall not place Prohibited Container Contaminants in Collection Containers. Generators shall place Source Separated Green Container Organic Waste, including Food Waste, in the Green Container; Source Separated Recyclable Materials in the Blue Container; and Solid Waste in the Gray Container, per City and collector guidelines. Generators shall not place materials designated for the Gray container into the Green Container or Blue Container, materials designated for the Green Container into the Blue or Gray Container, nor materials designated for the Blue Container into the Green or Gray Container.

8.72.030 Requirements for Commercial Businesses.

A. Generators that are Commercial Businesses, including Multi-Family Residential Dwellings, shall:

1. Subscribe to the City's three-Container collection services and comply with requirements of those services as described below in Section 8.72.030(A)(2). The City shall have the right to review the number and size of a Generator's Containers and frequency of collection to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and, Commercial Businesses shall adjust their service level for their collection services as requested by the City.

2. Participate in the City's three-Container collection service(s) by placing Source Separated Green Container Organic Waste, including Food Waste, in the Green

Container; Source Separated Recyclable Materials in the Blue Container; and Gray Container Waste in the Gray Container. Generator shall not place materials designated for the Gray Container into the Green Container or Blue Container, nor place materials designated for the Green Container or Blue Container into the Gray Container.

3. Supply and allow access to an adequate number, size and location of collection Containers with sufficient labels or colors (conforming with Section 8.72.030(A)(4)(a)-(b) for employees, contractors, tenants, and customers, consistent with the City's Blue Container, Green Container, and Gray Container collection service or, if self-hauling, per the Commercial Businesses' instructions to support its compliance with its self-haul program, in accordance with Sections 8.04.120 and 8.72.080.

4. Excluding Multi-Family Residential Dwellings, provide Containers for the collection of Source Separated Green Container Organic Waste and Source Separated Recyclable Materials in all indoor and outdoor areas where disposal Containers are provided for customers, for materials generated by that business. Such Containers do not need to be provided in restrooms. If a Commercial Business does not generate any of the materials that would be collected in one type of Container, then the business does not have to provide that particular Container in all areas where disposal Containers are provided for customers. Pursuant to 14 CCR § 18984.9(b), the Containers provided by the business shall have either:

    a. A body or lid that conforms with the Container colors provided through the collection service provided by City, with either lids conforming to the color requirements or bodies conforming to the color requirements or both lids and bodies conforming to color requirements. A Commercial Business is not required to replace functional Containers, including Containers purchased prior to January 1, 2022, that do not comply with the requirements of the subsection prior to the end of the useful life of those Containers, or prior to January 1, 2036, whichever comes first.

    b. Container labels that include language or graphic images, or both, indicating the primary material accepted and the primary materials prohibited in that Container, or Containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the Container. Pursuant 14 CCR § 18984.8, the Container labeling requirements are required on new Containers commencing January 1, 2022.

5. Multi-Family Residential Dwellings are not required to comply with Container placement requirements or labeling requirement in Section 8.72.030(A)(4) pursuant to 14 CCR § 18984.9(b).

6. To the extent practical through education, training, Inspection, and/or other measures, excluding Multi-Family Residential Dwellings, prohibit employees from placing materials in a Container not designated for those materials in accordance with Section 8.72.030, or if Recycling Organic Waste onsite or self-hauling under Sections 8.04.120 or 8.72.080 per the Commercial Businesses' instructions to support its compliance with its onsite recycling or self-haul program.

7. Excluding Multi-Family Residential Dwellings, periodically inspect Containers for contamination and inform employees if Containers are contaminated and of the requirements to keep contaminants out of those Containers pursuant to 14 CCR § 18984.9(b)(3).

8. Annually provide information to employees, contractors, tenants, and customers about Organic Waste Recovery requirements and about proper sorting of Source Separated Green Container Organic Waste and Source Separated Recyclable Materials.

9. Provide education information before or within fourteen (14) days of occupation of the premises to new tenants that describes requirements to keep Source Separated Green Container Organic Waste and Source Separated Recyclable Materials separate from Gray Container Waste (when applicable) and the location of Containers and the rules governing their use at each property.

10. Provide or arrange access for the City or its agent to their properties during all Inspections conducted in accordance with Section 8.72.090 to confirm compliance with the requirements of this chapter.

11. Accommodate and cooperate with City's Remote Monitoring program, if implemented, for Inspection of the contents of Containers for Prohibited Container Contaminants, to evaluate Generator's compliance with Sections 8.72.020 and 8.72.030. The Remote Monitoring program may involve installation of Remote Monitoring equipment on or in the Blue Containers, Green Containers, and Gray Containers.

12. If a Commercial Business wants to self-haul, meet the Self-Hauler requirements in Sections 8.04.120 and 8.72.080.

13. Nothing in this section prohibits a Generator from preventing or reducing waste generation, managing Organic Waste on site, or using a community composting site).

14. Commercial Businesses that are Tier One or Tier Two Commercial Edible Food Generators shall comply with Food Recovery requirements, pursuant to 8.72.050.

8.72.040 Waivers for Generators.

A. De Minimis Waivers. The City may waive a Commercial Business' obligation (including Multi-Family Residential Dwellings) to comply with some or all of the Organic Waste

requirements if the Commercial Business provides documentation that the business generates below a certain amount of Organic Waste material as described in Section 8.72.040(A)(2) below. Commercial Businesses requesting a de minimis waiver shall:

1. Submit an application specifying the services that they are requesting a waiver from and provide documentation as noted in Section 8.72.040(A)(2) below.

2. Provide documentation that either:

    a. The Commercial Business' total Solid Waste collection service is two cubic yards or more per week and Organic Waste subject to collection in a Blue Container or Green Container comprises less than 20 gallons per week per applicable Container of the business' total waste; or

    b. The Commercial Business' total Solid Waste collection service is less than two cubic yards per week and Organic Waste subject to collection in a Blue Container or Green Container comprises less than 10 gallons per week per applicable Container of the business' total waste.

3. Notify City if circumstances change such that Commercial Business's Organic Waste exceeds threshold required for waiver, in which case waiver will be rescinded.

4. Provide written verification of eligibility for de minimis waiver every 5 years, if the City has approved de minimis waiver.

B. Physical Space Waivers. The City may waive a Commercial Business' or property owner's obligations (including Multi-Family Residential Dwellings) to comply with some or all of the recyclable materials and/or Organic Waste collection service requirements if the City has evidence from its own staff, a hauler, licensed architect, or licensed engineer demonstrating that the premises lacks adequate space for the collection Containers required for compliance with the Organic Waste collection requirements.

A Commercial Business or property owner may request a physical space waiver through the following process:

1. Submit an application form specifying the type(s) of collection services for which they are requesting a compliance waiver.

2. Provide documentation that the premises lacks adequate space for Blue Containers and/or Green Containers including documentation from its hauler, licensed architect, or licensed engineer.

3. Provide written verification to the City that it is still eligible for physical space waiver every five years, if the City has approved application for a physical space waiver.

C. Additional Waivers. The City may provide any additional waivers of the requirements of this chapter to the extent permitted by applicable law. The Public Works Director or his or her designee shall be responsible for determining the grounds for the waiver, its scope, and appropriate administration.

D. Review and Approval of Waivers by City. Review and approval of waivers will be the responsibility of the Public Works Director or his or her designee.

8.72.050 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.

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

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

1. Shall not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery Organization or a Food Recovery Service.

2. Allow the City's designated enforcement entity or designated third party enforcement entity to access the premises and review records pursuant to 14 CCR § 18991.4.

3. Keep records that include the following information, or as otherwise specified in 14 CCR § 18991.4:

    a. A list of each Food Recovery Service or organization that collects or receives its Edible Food pursuant to a contract or written agreement established under 14 CCR § 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 food that will be collected by or self-hauled to the Food Recovery Service or Food Recovery Organization.

        iii. The established frequency that food will be collected or self-hauled.

iv. The quantity of food, measured in pounds recovered per month, collected or self-hauled to a Food Recovery Service or Food Recovery Organization for Food Recovery.

d. Nothing in this chapter shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share table and school food donation guidance pursuant to Senate Bill 557, Chapter 285, Statutes of 2017.

8.72.060 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 that the Food Recovery Service transports Edible Food to for Food Recovery.

B. Food Recovery Organizations collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR § 18991.3(b), shall maintain 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 received from each Commercial Edible Food Generator per month.

3. The name, address, and contact information for each Food Recovery Service that the organization receives Edible Food from for Food Recovery.

C. Food Recovery Organizations and Food Recovery Services that have their primary address physically located in the City and contract with or have written agreements with one or more Commercial Edible Food Generators pursuant to 14 CCR § 18991.3(b) shall report to the City it is located in the total pounds of Edible Food recovered in the previous calendar year from the Tier One and Tier Two Commercial Edible Food Generators they have established a contract

or written agreement with pursuant to 14 CCR § 18991.3(b) no later than March 1, July 1, and September 1 annually.

D. In order to support Edible Food Recovery capacity planning assessments or other studies, Food Recovery Services and Food Recovery Organizations operating in the City shall provide information and consultation to the City, upon request, regarding existing, or proposed new or expanded, Food Recovery capacity that could be accessed by the City and its Commercial Edible Food Generators. A Food Recovery Service or Food Recovery Organization contacted by the City shall respond to such request for information within 60 days, unless a shorter timeframe is otherwise specified by the City.

8.72.070 Requirements for Haulers and Facility Operators.

A. Requirements for Haulers

1. Haulers shall meet the following requirements and standards as a condition of approval of a permit or other authorization with the City to collect Organic Waste.

    a. Through written notice to the City annually on or before June 1, identify the facilities to which they will transport Organic Waste including facilities for Source Separated Recyclable Materials, and Source Separated Green Container Organic Waste.

    b. Transport Source Separated Recyclable Materials or Source Separated Green Container Organic Waste, and Mixed Waste to a facility, operation, activity, or property that recovers Organic Waste as defined in 14 CCR, Division 7, Chapter 12, Article 2.

    c. Obtain approval from the City to haul Organic Waste, unless it is transporting Source Separated Organic Waste to a Community Composting site or lawfully transporting construction and demolition debris.

2. Haulers authorized to collect Organic Waste shall comply with education, equipment, signage, Container labeling, Container color, contamination monitoring, reporting, and other requirements contained within its permit or other agreement entered into with the City.

B. Requirements for Facility Operators and Community Composting Operations

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

2. Community Composting operators, upon the City's request, shall provide information to the City to support Organic Waste capacity planning, including, but not limited to, an estimate of the amount of Organic Waste anticipated to be handled at the Community Composting operation. Entities contacted by the City shall respond within 60 days.

8.72.080 Self-Hauler Requirements.

A. Self-Haulers shall source separate all Recyclable Materials and Organic Waste generated on-site from Solid Waste in a manner consistent with 14 CCR §§ 18984.1 and 18984.2, or shall haul Organic Waste to a High Diversion Organic Waste Processing Facility.

B. Self-Haulers shall haul their Source Separated Recyclable Materials to a facility that recovers those materials; and haul their Source Separated Green Container Organic Waste to a Solid Waste facility, operation, activity, or property that processes or recovers Source Separated Organic Waste. Alternatively, Self-Haulers may haul Organic Waste to a High Diversion Organic Waste Processing Facility.

C. Self-Haulers that are Commercial Businesses (including Multi-Family Residential Dwellings) shall keep a record of the amount of Organic Waste delivered to each Solid Waste facility, operation, activity, or property that processes or recovers Organic Waste; this record shall be subject to Inspection by the City. The records shall include the following information:

1. Delivery receipts and weight tickets from the entity accepting the waste.

2. The amount of material in cubic yards or tons transported by the Generator to each entity.

3. If the material is transported to an entity that does not have scales on-site, or employs scales incapable of weighing the Self-Hauler's vehicle in a manner that allows it to determine the weight of materials received, the Self-Hauler is not required to record the weight of material but shall keep a record of the entities that received the Organic Waste..

D. Self-Haulers that are Commercial Businesses (including Multi-Family Self-Haulers) shall provide information collected in Section 8.72.080(C) to the City if requested.

E. A residential Organic Waste Generator that self-hauls Organic Waste is not required to record information in Section 8.72.080(C) or report information in Section 8.72.080(D).

8.72.090 Inspections and Investigations.

A. City representatives and/or its designated entity, including Designees are authorized to conduct Inspections and investigations, at random or otherwise, of any Collection Container, collection vehicle loads, or transfer, processing, or disposal facility for materials collected from Generators, or Source Separated materials to confirm compliance with this chapter by Organic Waste Generators, Commercial Businesses (including Multi-Family Residential Dwellings), property owners, Commercial Edible Food Generators, Self-Haulers, Haulers, Food Recovery Services, and Food Recovery Organizations, subject to applicable laws. This Section does not allow the City to enter the interior of a private residential property for Inspection. For the

purposes of inspecting Commercial Business Containers for compliance with Section 8.72.030, the City may conduct Container Inspections for Prohibited Container Contaminants using Remote Monitoring, and Commercial Businesses shall accommodate and cooperate with Remote Monitoring pursuant to Sections 8.72.030.

B. The 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 placement of materials in Containers, Edible Food Recovery activities, records, or any other requirement 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 chapter and may result in penalties described in Section 8.72.100.

C. Any records obtained by the City during its Inspections, Remote Monitoring, and other reviews shall be subject to the requirements and applicable disclosure exemptions of the Public Records Act as set forth in Government Code Section 6250 et seq.

D. City representatives, its designated entity, and/or Designee are authorized to conduct any Inspections, Remote Monitoring, or other investigations as reasonably necessary to further the goals of this chapter, subject to applicable laws.

E. City shall receive written complaints from persons regarding an entity that may be potentially non-compliant with SB 1383 Regulations, including receipt of anonymous complaints.

8.72.100 Enforcement.

A. The City may take Enforcement Actions, including the issuance of an administrative citation and assessment of a fine, against persons and entities for violating this chapter. The procedures in Chapter 19.10 shall govern the imposition, enforcement, collection, and review of administrative citations issued to enforce this chapter and any rule or regulation adopted pursuant to this chapter, except as otherwise indicated in this chapter.

B. The City may take immediate Enforcement Actions against Commercial Businesses that are in violation of the commercial organic waste and recycling requirements of AB 341 and AB 1826, which were in place prior to the issuance of the SB 1383 Regulations.

C. Education of SB 1383 Requirements.

1. Through December 31, 2023, the City or its Designee may conduct Inspections, Remote Monitoring, Route Reviews or waste evaluations, and Compliance Reviews, depending upon the type of regulated entity, to determine compliance with the SB 1383 Regulations and this chapter, and if City or its Designee determines that Organic Waste Generator, Self-Hauler, Hauler, Tier One Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance, it shall provide educational materials and/or, for the purposes of Edible Food Recovery, training to the entity describing its obligations under this chapter and a notice that compliance is

required, and that violations may be subject to administrative civil penalties starting on January 1, 2024.

2. The City Manager or his or her designee shall work with the Collector and other entities to conduct outreach and educate Generators regarding compliance with the SB 1383 Regulations and this chapter.

3. The City Manager or his or her designee shall work with the Collector to annually identify residences and Commercial Businesses subject to the SB 1383 Regulations.

D. Beginning January 1, 2024, if the City or its Designee determines that an Organic Waste Generator, Self-Hauler, Hauler, Tier One or Tier Two Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance with the SB 1383 Regulations under this chapter, it shall document the noncompliance or violation, issue a Notice of Violation, and take Enforcement Action pursuant to this section, as needed.

E. Prior to taking any Enforcement Action against a person, business, or entity for violating the SB 1383 Regulations, the City shall first notify the person, business, or entity and provide an opportunity to correct the violation through the issuance of a Notice of Violation by a City Enforcement Officer. Notices shall be sent to the "owner" at the official address of the owner maintained by the tax collector for the City or if no such address is available, to the owner at the address of the residential dwelling or Commercial property or to the party responsible for paying for the Collection services, depending upon available information. The notice shall state the person, business, or entity has 60 days to correct the violation. The person, business, or entity shall be responsible for ensuring and demonstrating compliance with the requirements of the SB 1383 Regulations, within the 60-day time frame provided in the notification of violation. Failure to demonstrate compliance shall be cause for Enforcement Action and penalties.

F. The City or its Designee may extend the compliance deadlines set forth in a Notice of Violation issued in accordance with this section if it finds that there are extenuating circumstances beyond the control of the respondent that make compliance within the deadlines impracticable, including the following:

1. Acts of God such as earthquakes, wildfires, flooding, and other emergencies or natural disasters;

2. Delays in obtaining discretionary permits or other government agency approvals; or,

3. Deficiencies in Organic Waste recycling infrastructure or Edible Food Recovery capacity and the City is under a corrective action plan with CalRecycle pursuant to 14 CCR § 18996.2 due to those deficiencies.

G. For incidences of Prohibited Container Contaminants found in containers, City Enforcement Officer will issue a Notice of Violation to any generator found to have Prohibited Container Contaminants in a Container. Such notice will be provided via a cart tag or other communication immediately upon identification of the Prohibited Container Contaminants.

Notwithstanding the foregoing subsections, the City may issue administrative citations immediately for container contamination and failure to subscribe to collection service as required.

H. Penalty Amounts for Types of Violations.

The penalty levels are as follows:

1. For a first violation, the amount of the base penalty shall be $100 per violation.

2. For a second violation, the amount of the base penalty shall be $200 per violation.

3. For a third or subsequent violation, the amount of the base penalty shall be $500 per violation.

4. The penalties shall be consistent with Government Code section 36900.

I. Appeals Process.

Persons receiving an administrative citation containing a penalty for an uncorrected violation may request a hearing to appeal the citation pursuant to Chapter 19.10.

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

Chapter 8.04

~~GARBAGE SERVICE~~SOLID WASTE

Sections:

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8.04.020 Department authorized.
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8.04.050 Mandatory Collection~~—Owner obligation~~.
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8.04.070 Collection—~~Frequency~~Interference prohibited.
~~8.04.080 Collection—Fees.~~
~~8.04.090 Collection—Interference prohibited.~~
~~8.04.100 Refuse~~8.04.080 Solid Waste—Burning and Burying.
8.04.090 Solid Waste—Containers.
8.04.100 Placing of Solid Waste, Recyclables, and Organic Waste in streets.
8.04.110 ~~Refuse—Burying~~Curbside placement of Green Waste.
8.04.120 ~~Refuse—Receptacles~~Self-Hauling.
~~8.04.130 Rubbish—Resident disposal authorized.~~
~~8.04.140~~8.04.130 Transportation.
~~8.04.150~~8.04.140 Vehicle maintenance.
~~8.04.160~~8.04.150 Emergency removal.
~~8.04.170 Deposit~~8.04.160 Littering in public ~~place~~places prohibited.
8.04.170 Enforcement Officer.
8.04.180 ~~Health officer~~Collection—Contract contents.
8.04.190 Franchise ~~requirement~~—Authorization by ~~city council~~City Council.
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8.04.230 Permits and licenses.
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8.04.260 Interim suspension.
8.04.270 Notice of hearing—Revocation.
8.04.280 Appeals.
8.04.290 City Council action.
8.04.300 Enforcement.

8.04.010 ~~8.04.010~~ Definitions.

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

"City" means and includes the ~~city~~City of Winters, California.

"City Clerk" means the city clerk of the City of Winters, California.

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

"City Council" means the city manager of the City of Winters, California.

"~~Contractor~~Collector" means and includes the ~~city~~City, or any agent, or employee thereof, with whom the ~~city~~City has duly contracted under the terms hereinafter set out in this chapter, to collect, transport through the streets, alleys or public ways of the ~~city~~City and dispose of ~~garbage and rubbish~~Solid Waste produced within the limits of the ~~city~~City.

~~"Garbage" means and includes kitchen and table refuse, offal, swill and also every accumulation of animal and vegetable refuse, and other matter that attends the preparation, consumption, decay or dealing in or storage of meats, fish, fowl, birds, fruits or vegetables. Food slops or liquids, when placed in a plastic liner within the garbage container, shall be considered as garbage waste. Garbage waste shall also include cans, bottles, containers, wrappings and packaging materials soiled with foods and waste material. It also includes crockery, bottles, tin vessels, ashes and all refuse, save and excepting as defined as rubbish.~~

"~~Health officer~~Enforcement Officer" means the director of public works ~~or~~, police chief or his or her designee, or the City Manager or his or her designee.

"Green Waste" means any and all forms of biodegradable plant material which can be placed in a Green Container, such as wastes generated from the maintenance or alteration of public, commercial or residential landscapes including, but not limited to, yard clippings, leaves, tree trimmings, prunings, brush, and weeds as well as green waste.

"Household hazardous waste" is that waste material purchased by the general public for household use and shall include a waste or combination of wastes which, because of its quantity, concentration, toxicity, or physical, chemical or infectious characteristics, may do either of the following: (i) cause or significantly contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; (ii) pose a substantial present or potential hazard to human health or environment when improperly treated, stored, transported, or disposed of, or otherwise managed. It shall also include:

1. ~~1.~~ All waste defined or characterized as hazardous waste by the Federal Solid Waste Disposal Act (42 USC 3251 et seq.) as amended including the Resources Conservation Recovery Act of 1976 (42 USC 6901 et seq.) and all future amendments thereto, or regulations promulgated thereunder; and

2. ~~2.~~ All waste defined or characterized as hazardous waste by the principal agencies of the state of California ~~(including without limitation, the Department of Health Services and the California Integrated Waste Management Board)~~ having jurisdiction over hazardous waste generated by facilities within such state.

3. ~~3.~~ "Hazardous waste" includes extremely hazardous waste and acutely hazardous waste, and any other waste as may hereafter from time to time be designated as hazardous by the Environmental Protection Agency ("EPA") or other agency of the United States government.

"Industrial waste" means wastes produced in large quantities from factories, industrial plants, and mining plants.

"Inert solids" means and includes, but not by way of limitation, brick, cement, asphalt, dirt, and rocks.

"Organic Waste" or "Organic Materials" means Solid Wastes containing material originated from living organisms and their metabolic waste products, including, but not limited to, Food Waste, Green Waste, landscape and pruning waste, organic textiles and carpets, lumber, wood, paper products, printing and writing paper, manure, biosolids, digestate, and sludges.

"Recyclables" or "Recyclable Materials" means and includes the following materials generated on or emanating from residential or commercial/industrial premises and no longer useful or wanted thereon: glass bottles and jars: any food or beverage container (excluding ceramics and chemical containers); aluminum: cans, foil, pie tins and similar items (excluding dirt or organic material); steel or bimetal cans not to exceed one-gallon size; polyethylene terephthalate (PET): plastic soda bottles or other bottles with designated "PET" symbol; high density polyethylene (HDPE) plastic milk and water bottles with the designated "HDPE" symbol (excluding detergent or bleach bottles) and all other plastic products; newspaper; cardboard: separated and not having waxed surfaces; computer printout (excluding carbon); white ledger: white bond paper, clean office paper that is not contaminated by ~~garbage or~~ other waste material, white envelopes (excluding coated paper); and such materials as may be determined by agreement between ~~city and contractor. Magazines~~City and Collector. "Recyclables" includes magazines, newspapers, and, cardboard, clean cans, food containers, ~~food container glass,~~ glass, and plastic beverage containers, and other material collected or accepted as part of the ~~city recycling~~City's Recycling program.

"Recycling" means the process of collecting and turning used products into new products by reprocessing or remanufacturing them.

~~"Refuse" means and includes, but not by way of limitation, all waste. It means all matter and materials which are rejected by owners or producers thereof as offensive or useless and which by their presence or accumulation may injuriously affect the health, comfort or safety of the community by increasing disease or hazard by fire, including garbage, rubbish, yard waste (or green waste), white goods, and recyclables as defined in this section. Also synonymous with "solid waste"~~

~~Restricted Areas. As designated by the city, these are areas where, in the city's opinion, a combination of high density, lack of space for containers, and street width under thirty feet makes the curbside placing, maintaining or collection of garbage, waste and recyclable hazardous to the health and welfare of the residents.~~

"Rubbish" means ~~solid waste~~Solid Waste that is not ~~garbage, waste or recyclables~~recyclable including but not limited to combustible and noncombustible material, paper, packing materials, crockery, pasteboard, discarded clothing, rugs, straw, rubber, metal, plastic, and debris.

"Solid Waste" means all putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, construction and demolition 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. "Solid Waste" does not include hazardous, radioactive waste or medical waste.

~~"Solid waste" means and includes all forms of residential, commercial and industrial refuse generated within the city limits, including garbage as defined above. Also, synonymous with "refuse."~~

~~"Special waste" means wastes not fitting into the above categories, including but not limited to dead animals, abandoned automobiles and major parts thereof, large furniture objects, tree trunks, stumps, sod, garden rubble, dirt, major limbs exceeding eight inches in diameter, and street sweepings.~~

~~"Yard refuse or green waste" includes trimmings and prunings from trees and shrubs, leaves, grass clippings, weeds, vines, dead plants, dropped fruit from on-site trees, arising from the development, maintenance and care of residential gardens and yards. When the word "waste" or "waste matter" is used, it refers to any or all of the above.~~

8.04.020 ~~8.04.020~~ Department authorized.

The power is granted the ~~city council~~City Council to create at any time by resolution a ~~refuse~~Solid Waste department of the ~~city~~City, and to collect remove and dispose of all ~~refuse~~Solid Waste as a sanitary measure and as a benefit to the public health.

8.04.030 ~~8.04.030~~ Accumulation prohibited.

It is unlawful for any person to deposit, keep, accumulate or permit, cause or suffer any ~~refuse~~Solid Waste to be deposited, kept or accumulated upon any lot or parcel of land, or on any public or private place, street, lane, alley or drive, unless the same is kept, deposited or allowed to accumulate as provided in this chapter.

8.04.040 ~~8.04.040~~ Collection—Contract to be exclusive.

At such time as there is in force a contract entered into by the ~~city~~City with any ~~contractor~~Collector for the collection of ~~refuse~~Solid Waste in the ~~city~~City, it is unlawful for any person, other than the persons in the employ of the ~~contractor~~Collector having such contract, to collect or transport any ~~garbage~~Solid Waste within the ~~city~~City.

8.04.050 ~~8.04.050~~ Mandatory Collection~~—Owner obligation~~.

A. ~~A.~~ Every owner of a premises ~~occupied by~~whether at a residential, commercial, industrial~~, nonprofit or religious person or group~~ location or otherwise shall subscribe for and pay the ~~contractor for refuse~~Collector for Solid Waste service at such rates as may be approved by the ~~city council~~City Council from time to time.

B. ~~B.~~ Nothing in this section is intended to prevent any arrangement, or the continuance of an existing arrangement, under which payments for ~~refuse~~Solid Waste collection service are made by a tenant or tenants, or any agent, on behalf of the owner. However, any such arrangement will not affect the owner's obligation as provided herein.

C. ~~C.~~ It is unlawful for any person to deposit ~~refuse~~Solid Waste, Recyclables, or Organic Waste for collection by ~~city or contractor~~City or Collector at any premises other than the premises on which the ~~refuse~~Solid Waste, Recyclables, or Organic Waste was generated, except with the permission of the owner or occupant.

~~**8.04.060 Collection—Contract contents.**~~

~~A. For the collection and disposal of refuse, a contract for a period not to exceed ten (10) years may be entered into by the city in accordance with and subject to the terms and conditions of this chapter.~~

~~B. Such contract shall provide that the contractor shall collect and dispose of the refuse and shall not charge any amounts in excess of the rates specified by agreement between city and contractor. The contractor shall be required to furnish a cash surety bond to the city in the sum of one year's gross receipts conditioned upon the faithful performance of the contract and the provisions of this chapter. Such contractor shall have the sole exclusive right, except as in this chapter otherwise provided, to collect all refuse in the city, and transport the same through the streets and public ways of the city. Such contract shall also require that the contractor procure for the period covered by the proposed contract, full compensation insurance in accordance with the workmen's compensation insurance and safety provisions of the Labor Code of the state. Such contract shall also require that the contractor carry public liability insurance to the extent deemed necessary by the city council, and property damage insurance to the extent deemed necessary by the city council upon each of the trucks or other vehicles used by him or her in carrying out the work called for in the contract. The city council, by resolution, shall have the power to provide for the inclusion in such contract of such terms as it deems necessary to protect the interests of the city.~~

~~C. Before such contract is entered into, sealed bids may be called for by the city council, on notice by publication in a newspaper of general circulation in the city, not less than one time. Each proposal or bid shall be accompanied by a certified check payable to the city in the sum deemed necessary by the city council, which sum shall be forfeited to the city if the bidder to whom the contract is awarded fails or refuses to enter into the contract within fifteen (15) days after the date of mailing to the successful bidder the "Notice of Award Contract." The city council shall reserve the right to reject any and all bids, and the city council shall not be required to award such contract to the highest bidder, if, in the opinion of the city council, a lower bid presents a more satisfactory plan of handling such garbage, refuse and rubbish.~~

8.04.060 ~~8.04.070~~ Collection—Frequency.

There shall be at least one collection per week, except that ~~garbage~~Solid Waste from hotels, restaurants, vegetable, meat, poultry or fish markets and fresh fish or fresh drink stands, and such other establishments designated by the ~~city health officer~~Enforcement Officer shall be collected more frequently.

8.04.080 Collection—Fees.

Any person or business from whom refuse is collected under the provisions of this chapter shall pay to the refuse collector, or other persons designated by the city council to receive the same, such fee as specified by agreement between the city and contractor.

8.04.070 8.04.090 Collection—Interference prohibited.

It is unlawful for any person in any manner to interfere with the collection and disposal of refuseSolid Waste by any person authorized by license or contract to collect and dispose of same.

8.04.080 8.04.100 RefuseSolid Waste—Burning and Burying.

It is unlawful for any person to burn or cause to be burned in the city, or to bury, any type of refuseSolid Waste, in the City.

8.04.090 Solid Waste—Containers.

8.04.110 Refuse—Burying.

It is unlawful for any person to bury any type of refuse at any place within the city.

8.04.120 Refuse—Receptacles.

It is unlawful for any person to keep, accumulate or permit to be accumulated any refuseSolid Waste upon any lot or parcel of land, or on any public or private lane, place, street, alley or drive, unless the same is in city-approved receptaclesCity-approved Containers capable of being handled by city's or contractor'sCity's or Collector's disposal equipment, or receptacles to beContainers provided by contractorthe Collector, which shall be kept closed at all times, except when necessarily opened to permit garbageSolid Waste, Recyclables, or Organic Waste to be taken therefrom or deposited therein. The receptaclesContainers shall also be provided with handles and each receptacle shall have a capacity of not less than fifteen (15) gallons and shallContainer shall be placed so as to be readily accessible for removal and emptying the material contained therein by the duly authorized collectorsCollectors.

8.04.130 Rubbish—Resident disposal authorized.

8.04.100 Placing of Solid Waste, Recyclables, and Organic Waste in streets.

No person shall place or deposit any Solid Waste, Recyclable Materials, or Organic Waste in or upon any public place, street, alley, sidewalk or footpath in the City except in proper Containers for the purpose of Collection by the Collectors and between the hours of 5 p.m. on the day before and 8 p.m. on the scheduled collection day when the City or the Collector collectors from the particular premises.

8.04.110 Curbside placement of Green Waste.

A. For Green Waste placed out for collection, the material must be placed either:

1. In Green Containers subject to the time restrictions specified in Section 8.04.100; or,
2. In a pile no longer than 5 feet in the street and no earlier than four days before the scheduled collection day. Such Green Waste shall be placed and maintained in a pile or piles immediately adjacent to, and in front of, the property from which it originated and shall be placed and maintained as not to restrict reasonable gutter drainage or obstruct traffic. In addition, no concrete, metal objects, sod, bricks, socks, gravel, wood, palm fronts, cactus, dirt, or other similar non-plant material

as determined by the Enforcement Officer or Collector shall be placed in or upon such pile or piles.

8.04.120 Self-Hauling.

Nothing contained in this chapter shall be construed to prevent or prohibit any resident in the ~~city~~City or any business in the ~~city~~City from taking, hauling, transporting or disposing of any ~~rubbish~~Solid Waste created by the resident or his or her household, on premises personally occupied by him or her ~~personally occupied~~, or ~~by the business~~on premises occupied by a business in the conduct of its own business ~~on premises occupied by it~~, provided the same is kept and hauled under the rules and regulations prescribed in this chapter. It is unlawful to dispose of, or recycle at, any facility that is not approved of by the ~~city~~City.

8.04.130 ~~8.04.140~~ Transportation.

No ~~refuse~~Solid Waste shall be removed and carried on or along the streets and alleys of the ~~city~~City except that the same is carried, conveyed or hauled in conveyances so constructed as to be absolutely dustproof, and so arranged as not to permit dust or other matter to sift through or fall upon the streets and alleys. The contents of such conveyances must be further protected with appropriate covers so as to prevent the same from being blown upon the streets, alleys and adjacent lands.

8.04.140 ~~8.04.150~~ Vehicle maintenance.

Every truck used in the collection of ~~refuse~~Solid Waste shall be kept well painted, clean inside and out.

8.04.150 ~~8.04.160~~ Emergency removal.

Nothing in this chapter shall be deemed to prohibit the removal and hauling by an unlicensed person of materials considered by the ~~health officer or police department~~Enforcement Officer to constitute a health menace of such a nature as necessary to be ordered ~~by either of the officers~~ to be promptly removed.

8.04.160 ~~8.04.170~~ ~~Deposit~~Littering in public ~~place~~places prohibited.

It is unlawful for any person in the ~~city~~City to litter or throw or deposit any ~~refuse~~Solid Waste or to cause the same to be thrown or deposited upon any street, public or private land, alley, gutter, drain facilities, park, creek or any public place, or throw or deposit the same in or upon any vacant lot or back yard or to store or keep the same, except in the manner prescribed in ~~Section 8.04.120~~this chapter.

8.04.170 ~~8.04.180~~ ~~Health officer~~Enforcement Officer.

The ~~health officer~~Enforcement Officer shall supervise all matters in connection with ~~refuse~~Solid Waste disposal that concern the public health.

8.04.180 Collection—Contract contents.

A. For the collection and disposal of Solid Waste, Recyclables, and Organic Waste, a contract may be entered into by the City in accordance with and subject to the terms and conditions of this chapter.

B. Such contract shall provide that the Collector shall collect and dispose of the Solid Waste, Recyclables, and Organic Waste and shall not charge any amounts in excess of the rates

specified by agreement between City and Collector . The Collector shall be required to furnish a cash surety bond to the City in the sum of one year's gross receipts conditioned upon the faithful performance of the contract and the provisions of this chapter. Such Collector may except as in this chapter otherwise provided, collect all Solid Waste, Recyclables, and Organic Waste in the City, and transport the same through the streets and public ways of the City. Such contract shall also require that the Collector procure for the period covered by the proposed contract, full compensation insurance in accordance with the workers' compensation insurance and safety provisions of the California Labor Code. Such contract shall also require that the Collector carry public liability insurance to the extent deemed necessary by the City Council, and property damage insurance to the extent deemed necessary by the City Council upon each of the trucks or other vehicles used by him or her in carrying out the work called for in the contract. The City Council, by resolution, shall have the power to provide for the inclusion in such contract of such terms as it deems necessary to protect the interests of the City.

C. Before such contract is entered into, sealed bids may be called for by the City Council, on notice by publication in a newspaper of general circulation in the City, not less than one time. Each proposal or bid shall be accompanied by a certified check payable to the City in the sum deemed necessary by the City Council, which sum shall be forfeited to the City if the bidder to whom the contract is awarded fails or refuses to enter into the contract within fifteen (15) days after the date of mailing to the successful bidder the "Notice of Award Contract." The City Council shall reserve the right to reject any and all bids, and the City Council shall not be required to award such contract to the highest bidder, if, in the opinion of the City Council, a lower bid presents a more satisfactory plan of handling such Solid Waste.

8.04.190 ~~8.04.190~~ Franchise ~~requirement~~—Authorization by ~~city council~~City Council.

A. ~~A.~~ The ~~city council~~City Council may authorize, by franchise, a ~~solid waste~~Solid Waste enterprise to provide ~~solid waste~~Solid Waste handling for residential, commercial/industrial users to customers. In the sole discretion of the ~~city council, the solid waste~~City Council, the Solid Waste handling services may be authorized on an exclusive or nonexclusive basis, and with or without competitive bidding, and may relate to any class or type of ~~solid waste~~Solid Waste within all or any part of the territory of the ~~city~~City.

B. ~~B.~~ No person shall collect or dispose of ~~solid waste or recyclables in the city~~Solid Waste, Recyclables, or Organic Waste in the City unless that person has been awarded a ~~solid waste collector~~Solid Waste franchise and has entered into a franchise agreement with the ~~city~~City, except as otherwise specifically provided in this chapter. Any such franchise shall be in addition to any business license or permit otherwise required by this code. No permit issued by any other governmental agency authorizing collection of ~~solid waste or recyclable~~Solid Waste Recyclables, or Organic Waste shall be valid in the ~~city~~City. Collectors operating in the ~~city~~City on the effective date of this chapter under a permit or nonexclusive franchise agreement may continue to operate only until the rights thereunder are terminated or revoked, or until such rights expire pursuant to the provisions of ~~Section 49520 of the~~ Public Resources Code Section 49520.

8.04.200 ~~8.04.200~~ Contents of franchise agreement.

The terms and provisions of any franchise agreement for ~~solid waste~~Solid Waste handling services may relate to or include, without limitation, the following subject matters:

A. ~~A.~~ The nature, scope and duration of the franchise;

B. ~~B.~~ The collection schedule, including the frequency, days and hours of collection;

C. ~~C.~~ The applicable franchise fee, including the amount method of computation, and time for payment;

D. ~~D.~~ The applicable rates, fees and charges for regular, special and emergency collection services, including the methods of setting and adjusting same, and the responsibility for billing and collecting same;

E. ~~E.~~ Collection vehicles, including the permissible size and color, and any required identification, safety equipment, maintenance, inspection and operational requirements;

F. ~~F.~~ The receipt, processing and reporting of customer inquiries and complaints;

G. ~~G.~~ The collection of ~~solid waste~~Solid Waste from publicly owned property and facilities;

H. ~~H.~~ Performance standards for the ~~collector's~~Collector's personnel and equipment;

I. ~~I.~~ Solid ~~waste~~Waste and recycling ~~containers~~Containers, including size, repair or replacement, handling, placement, obligations of the ~~collector~~Collector to provide, and permissible charges therefor;

J. ~~J.~~ Standards and procedures for periodic performance reviews by the ~~city~~City;

K. ~~K.~~ Noise attenuation policies and procedures;

L. ~~L.~~ The maintenance by the ~~collector~~Collector of an office for the conduct of business;

M. ~~M.~~ Policies and procedures relating to the ~~noncollection of solid waste~~non-collection of Solid Waste, and the composting ~~of green waste~~and/or processing of Organic Waste, the collection of ~~recyclable~~Recyclables, and resource recovery;

N. ~~N.~~ Requirements relating to comprehensive liability insurance and workers' compensation insurance;

O. ~~O.~~ Requirements relating to the dissemination of information to the public concerning regular and special ~~solid waste~~Solid Waste collection and ~~recycling~~Recycling services;

P. ~~P.~~ Actions or omissions constituting breaches or defaults, and the imposition of applicable penalties, liquidated damages, and other remedies, including suspension, revocation or termination;

Q. ~~Q.~~ Requirements relating to performance bonds and to indemnification;

R. ~~R.~~ Requirements relating to affirmative action programs;

S. ~~S.~~ Requirements relating to recordkeeping, accounting procedures, reporting, periodic audits and inspection of records;

T. ~~T.~~ Requirements relating to the assignment, transfer and renewal of the franchise;

U. ~~U.~~ Requirements relating to compliance with and implementation of the state and federal laws, rules or regulations pertaining to ~~solid waste~~Solid Waste handling services, and to the implementation by the ~~city~~City of state-mandated programs, including, without limitation, the ~~city's~~City's source reduction and recycling element ~~and~~, the ~~city's~~City's household hazardous waste element, and state waste diversion requirements;

V. ~~V.~~ Such additional requirements, conditions, policies and procedures as may be mutually agreed upon by the parties to the franchise agreement and which will, in the judgment and discretion of the ~~city council~~City Council, best serve the public interest and protect the public health, safety and welfare.

8.04.210 ~~8.04.210~~ Collector franchise fee.

Each ~~collector~~Collector shall pay a franchise fee in an amount ~~determined by resolution of the city council or~~ established in the franchise agreement authorizing the collection of ~~solid waste or recyclable~~Solid Waste, Recyclables, or Organic Waste.

8.04.220 ~~8.04.220~~ Resolution of conflicts.

In the event of any conflict between the provisions of a franchise agreement which is authorized and approved by the ~~city council~~City Council and the provisions of this chapter, the provisions of the franchise agreement shall control.

8.04.230 ~~8.04.230~~ Permits and licenses.

Every ~~collector~~Collector shall obtain and maintain at all times during the ~~collector's~~Collector's operations a business license issued by the ~~city~~City, and all applicable permits and licenses required by any public agency having jurisdiction.

8.04.240 ~~8.04.240~~ Transfer of franchise.

No permit which is authorized by, subject to, or issued under the provisions of this chapter shall be transferred, delegated, sublet, subcontracted to or assigned to another person without the prior approval of the ~~city council. This restriction includes the transfer of ownership or the majority of the ownership or control of the permittee or the franchisee, and the transfer of a majority of the permittee's or franchisee's stock to another person.~~City Council.

8.04.250 ~~8.04.250~~ Revocation of permit or franchise.

After conducting a hearing as provided for in this chapter, the ~~city manager~~City Manager may revoke or suspend any collection permit or franchise for violation of a provision of this chapter or any other applicable law, ordinance or regulations of any public agency.

8.04.260 ~~8.04.260~~ Interim suspension.

The ~~city manager~~City Manager, without a hearing, may suspend a franchise or a permit for not more than sixty (60) days, if the ~~city manager~~City Manager finds that continued operation by the franchisee or permittee will constitute a threat to the public health, safety and general welfare.

8.04.270 ~~**8.04.270**~~ **Notice of hearing—Revocation.**

The ~~city manager~~City Manager shall mail notice of a hearing to revoke a collection permit or franchise to the ~~collector~~Collector not less than fifteen (15) days prior to such hearing. In the event of the revocation of a franchise or a permit, the ~~city manager~~City Manager shall notify the ~~collector~~Collector in writing of the reasons therefor. Notification may be made in person or by mail.

8.04.280 ~~**8.04.280**~~ **Appeals.**

Within fifteen (15) calendar days after notice by the ~~city manager~~City Manager of revocation of a collection permit or franchise has been sent to the ~~collector~~Collector, the ~~collector~~Collector may file with the ~~city clerk~~City Cerk an appeal of such decision to the ~~city council~~City Council.

8.04.290 ~~**8.04.290**~~ **City Council action.**

The ~~city council~~City Council may either affirm the action of the ~~city manager~~City Manager, send the matter back to the ~~city manager~~City Manager for further consideration, or set the matter for hearing by the ~~city council~~City Council. If they ~~city council~~City Council sets the matter for hearing, it shall base its action upon the standards delineated in Section ~~8.04.250~~8.04.250. Notice of such hearing shall be sent to the ~~collector~~Collector not less than fifteen (15) days prior to the hearing.

8.04.300 ~~**8.04.300**~~ **Enforcement.**

The ~~police department~~enforcement officer is specifically required to enforce the provisions of Sections ~~8.04.030, 8.04.050~~ 8.04.030, 8.04.050(C), ~~8.04.080~~ 8.04.070 through ~~8.04.140 and 8.04.170~~ 8.04.160 and have the right of entering any or all premises for the purpose of determining whether the provisions of such chapters are being conformed with.

It is unlawful for any person to deny or obstruct such entry.

CHAPTER 8.72 ORGANIC WASTE DISPOSAL REDUCTION

8.72.010 Definitions.
8.72.020 Requirements for Single-Family Generators.
8.72.030 Requirements for Commercial Businesses.
8.72.040 Waivers for Generators.
8.72.050 Requirements for Commercial Edible Food Generators.
8.72.060 Requirements for Food Recovery Organizations and Services.
8.72.070 Requirements for Haulers and Facility Operators.
8.72.080 Self-Hauler Requirements.
8.72.090 Inspections and Investigations.
8.72.100 Enforcement.

8.72.010 Definitions.

The following terms are defined for the purposes of this chapter:

"Blue Container" has the same meaning as in 14 CCR § 18982.2(a)(5) and shall be used for the purpose of storage and collection of Source Separated Recyclable Materials or Source Separated Blue Container Waste.

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

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

"City" means the City of Winters, California.

"Collect" or "Collection" means the act of collecting Solid Waste, Recyclables, or Organic Waste at or near the place of generation or accumulation.

"Commercial" or "Commercial Business" means a business, industrial, commercial establishment, or construction site, and any multiple-family, residential dwelling with five (5) units or more.

"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 to determine compliance with this chapter.

"Container" means a cart, bin, roll-off, compactor or similar receptacle used to temporarily store Solid Waste, Recyclables, or Organic Waste for collection service.

"Container Contamination" or "Contaminated Container" means a Container, regardless of color, that contains Prohibited Container Contaminants, or as otherwise defined in 14 CCR § 18982(a)(55).

“Designated Source Separated Organic Waste Facility” shall have the same definition as 14 CCR § 18982(14.5).

"Designee” means an entity that the City contracts with or otherwise arranges to carry out any of the City’s responsibilities as authorized in 14 CCR § 18981.2. A Designee may be a government entity, a hauler, a private entity, or a combination of those entities.

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.

“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 Officer" means the City Manager, county administrative official, chief operating officer, executive director, or other executive in charge or their authorized Designee(s) who is/are partially or whole responsible for enforcing this chapter.

“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 that 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:

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

“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).

Food Waste” means discarded raw, cooked, or processed edible substances, ices, beverages, ingredients used or intended for use or for sale, in whole or in part, for human consumption, and chewing gum. “Food waste” includes compostable plastics and is a subset of Organic Waste.

“Generator” means a person or entity that is responsible for the initial creation of waste.

“Gray Container” has the same meaning as in 14 CCR § 18982.2(a)(28) and shall be used for the purpose of storage and collection of Gray Container Waste.

“Gray Container Waste” means Solid Waste that is collected in a Gray Container that is part of a three-Container Organic Waste collection service that prohibits the placement of Recyclables or Organic Waste in the Gray Container as specified in 14 CCR §§ 18984.1(a)-(b), or as otherwise defined in 14 CCR § 17402(a)(6.5).

"Green Container" has the same meaning as in 14 CCR § 18982.2(a)(29) and shall be used for the purpose of storage and collection of Source Separated Green Container Organic Waste.

"Green Waste" shall have the same meaning as in Section 8.04.010.

"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).

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

"High Diversion Organic Waste Processing Facility" means a facility that is in compliance with the reporting requirements of 14 CCR § 18815.5(d) and meets or exceeds an annual average Mixed Waste organic content Recovery rate of 50 percent between January 1, 2022 and December 31, 2024, and 75 percent after January 1, 2025, as calculated pursuant to 14 CCR § 18815.5(e) for Organic Waste received from the "Mixed waste organic collection stream" as defined in 14 CCR § 17402(a)(11.5), or, as otherwise defined in 14 CCR § 18982(a)(33).

"Inspection" means a site visit where a City reviews records, Containers, and a person or 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).

"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.

"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).

"Mixed Waste Organic Collection Stream" or "Mixed Waste" means Organic Waste collected in a Container that is required by 14 CCR §§ 18984.1, 18984.2 or 18984.3 to be taken to a High Diversion Organic Waste Processing Facility or as otherwise defined in 14 CCR § 17402(a)(11.5).

"Multi-Family Residential Dwelling" or "Multi-Family" means of, from, or pertaining to residential premises with five (5) or more dwelling units. Multi-Family premises do not include hotels, motels, or other transient occupancy facilities, which are considered Commercial Businesses.

"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.

"Organic Waste" or "Organic Materials" shall have the same meaning as in Section 8.04.010.

"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).

"Prohibited Container Contaminants" means the following: (i) discarded materials placed in the Blue Container that are not identified as acceptable Source Separated Recyclable Materials for the City's Blue Container; (ii) discarded materials placed in the Green Container that are not identified as acceptable Source Separated Green Container Organic Waste for the City's Green Container; (iii) discarded materials placed in the Gray Container that are acceptable Source Separated Recyclable Materials and/or Source Separated Green Container Organic Wastes to be placed in the City's Green Container and/or Blue Container; and, (iv) non-Solid Waste items placed in any Container.

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

"Recyclables" or "Recyclable Materials" shall have the same meaning as in Section 8.04.010.

"Recycling" shall have the same meaning as in Section 8.04.010.

"Remote Monitoring" means the use of the internet of things and/or wireless electronic devices to visualize the contents of Blue Containers, Green Containers, and Gray Containers for purposes of identifying the quantity of materials in Containers (level of fill) and/or presence of Prohibited Container Contaminants.

"Residential" means any residential dwelling.

"Route Review" means a visual Inspection of Containers along a Hauler Route for the purpose of determining Container Contamination, and may include mechanical Inspection methods such as the use of cameras, or as otherwise defined in 14 CCR § 18982(a)(65).

"SB 1383" means Senate Bill 1383 (Chapter 395, Statutes of 2016), which established methane emissions reduction targets in a Statewide effort to reduce emissions of short-lived climate pollutants, as amended, supplemented, superseded, and replaced from time to time.

"SB 1383 Regulations" 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.

"Self-Hauler" means a person, who hauls Solid Waste, Recyclable Materials, or Organic Waste he or she has generated to another person. "Self-Hauler" also includes a person who back-hauls waste, or as otherwise defined in 14 CCR § 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).

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

"Solid Waste" shall have the same meaning as in Section 8.04.010.

"Source Separating" or "Source Separation" means the process of removing Recyclable Materials and Organic Waste from Solid Waste at the place of generation, prior to collection, and placing them into separate Containers that are separately designated for Recyclable Materials and Organic Waste.

"Source Separated Blue Container Waste" means Source Separated Wastes that can be placed in a Blue Container that is limited to the collection of those Organic Wastes and Non-Organic Recyclables as defined in 14 CCR § 18982(a)(43), or as otherwise defined by 14 CCR § 17402(a)(18.7).

"Source Separated Green Container Organic Waste" means Source Separated Organic Waste that can be placed in a Green Container that is specifically intended for the separate Collection of Organic Waste by the Generator, excluding Source Separated Blue Container Waste, carpets, non-compostable Paper, and textiles.

"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. A State agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet.
7. A Local Education Agency facility with an on-site Food Facility.

"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 § 189852(a)(76).

8.72.020 Requirements for Single-Family Generators.

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

1. Shall subscribe to the City's Organic Waste collection services for all Organic Waste generated as described below in Section 8.72.020(A)(2). The City shall have the right to review the number and size of a Generator's Containers to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and, Single-Family Generators shall adjust its service level for its collection services as requested by the City. Generators may additionally manage their Organic Waste by preventing or reducing their Organic Waste, managing Organic Waste through backyard residential composting, and/or using a community composting site.

2. Shall participate in the City's three-Container collection service(s) by placing designated materials in designated Containers, and shall not place Prohibited Container Contaminants in Collection Containers. Generators shall place Source Separated Green Container Organic Waste, including Food Waste, in the Green Container; Source Separated Recyclable Materials in the Blue Container; and Solid Waste in the Gray Container, per City and collector guidelines. Generators shall not place materials designated for the Gray container into the Green Container or Blue Container, materials designated for the Green Container into the Blue or Gray Container, nor materials designated for the Blue Container into the Green or Gray Container.

8.72.030 Requirements for Commercial Businesses.

A. Generators that are Commercial Businesses, including Multi-Family Residential Dwellings, shall:

1. Subscribe to the City's three-Container collection services and comply with requirements of those services as described below in Section 8.72.030(A)(2). The City shall have the right to review the number and size of a Generator's Containers and frequency of collection to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and, Commercial Businesses shall adjust their service level for their collection services as requested by the City.

2. Participate in the City's three-Container collection service(s) by placing Source Separated Green Container Organic Waste, including Food Waste, in the Green

Container; Source Separated Recyclable Materials in the Blue Container; and Gray Container Waste in the Gray Container. Generator shall not place materials designated for the Gray Container into the Green Container or Blue Container, nor place materials designated for the Green Container or Blue Container into the Gray Container.

3. Supply and allow access to an adequate number, size and location of collection Containers with sufficient labels or colors (conforming with Section 8.72.030(A)(4)(a)-(b) for employees, contractors, tenants, and customers, consistent with the City's Blue Container, Green Container, and Gray Container collection service or, if self-hauling, per the Commercial Businesses' instructions to support its compliance with its self-haul program, in accordance with Sections 8.04.120 and 8.72.080.

4. Excluding Multi-Family Residential Dwellings, provide Containers for the collection of Source Separated Green Container Organic Waste and Source Separated Recyclable Materials in all indoor and outdoor areas where disposal Containers are provided for customers, for materials generated by that business. Such Containers do not need to be provided in restrooms. If a Commercial Business does not generate any of the materials that would be collected in one type of Container, then the business does not have to provide that particular Container in all areas where disposal Containers are provided for customers. Pursuant to 14 CCR § 18984.9(b), the Containers provided by the business shall have either:

   a. A body or lid that conforms with the Container colors provided through the collection service provided by City, with either lids conforming to the color requirements or bodies conforming to the color requirements or both lids and bodies conforming to color requirements. A Commercial Business is not required to replace functional Containers, including Containers purchased prior to January 1, 2022, that do not comply with the requirements of the subsection prior to the end of the useful life of those Containers, or prior to January 1, 2036, whichever comes first.

   b. Container labels that include language or graphic images, or both, indicating the primary material accepted and the primary materials prohibited in that Container, or Containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the Container. Pursuant 14 CCR § 18984.8, the Container labeling requirements are required on new Containers commencing January 1, 2022.

5. Multi-Family Residential Dwellings are not required to comply with Container placement requirements or labeling requirement in Section 8.72.030(A)(4) pursuant to 14 CCR § 18984.9(b).

6. To the extent practical through education, training, Inspection, and/or other measures, excluding Multi-Family Residential Dwellings, prohibit employees from placing materials in a Container not designated for those materials in accordance with Section 8.72.030, or if Recycling Organic Waste onsite or self-hauling under Sections 8.04.120 or 8.72.080 per the Commercial Businesses' instructions to support its compliance with its onsite recycling or self-haul program.

7. Excluding Multi-Family Residential Dwellings, periodically inspect Containers for contamination and inform employees if Containers are contaminated and of the requirements to keep contaminants out of those Containers pursuant to 14 CCR § 18984.9(b)(3).

8. Annually provide information to employees, contractors, tenants, and customers about Organic Waste Recovery requirements and about proper sorting of Source Separated Green Container Organic Waste and Source Separated Recyclable Materials.

9. Provide education information before or within fourteen (14) days of occupation of the premises to new tenants that describes requirements to keep Source Separated Green Container Organic Waste and Source Separated Recyclable Materials separate from Gray Container Waste (when applicable) and the location of Containers and the rules governing their use at each property.

10. Provide or arrange access for the City or its agent to their properties during all Inspections conducted in accordance with Section 8.72.090 to confirm compliance with the requirements of this chapter.

11. Accommodate and cooperate with City's Remote Monitoring program, if implemented, for Inspection of the contents of Containers for Prohibited Container Contaminants, to evaluate Generator's compliance with Sections 8.72.020 and 8.72.030. The Remote Monitoring program may involve installation of Remote Monitoring equipment on or in the Blue Containers, Green Containers, and Gray Containers.

12. If a Commercial Business wants to self-haul, meet the Self-Hauler requirements in Sections 8.04.120 and 8.72.080.

13. Nothing in this section prohibits a Generator from preventing or reducing waste generation, managing Organic Waste on site, or using a community composting site).

14. Commercial Businesses that are Tier One or Tier Two Commercial Edible Food Generators shall comply with Food Recovery requirements, pursuant to 8.72.050.

8.72.040 Waivers for Generators.

A. De Minimis Waivers. The City may waive a Commercial Business' obligation (including Multi-Family Residential Dwellings) to comply with some or all of the Organic Waste

requirements if the Commercial Business provides documentation that the business generates below a certain amount of Organic Waste material as described in Section 8.72.040(A)(2) below. Commercial Businesses requesting a de minimis waiver shall:

1. Submit an application specifying the services that they are requesting a waiver from and provide documentation as noted in Section 8.72.040(A)(2) below.

2. Provide documentation that either:

   a. The Commercial Business' total Solid Waste collection service is two cubic yards or more per week and Organic Waste subject to collection in a Blue Container or Green Container comprises less than 20 gallons per week per applicable Container of the business' total waste; or

   b. The Commercial Business' total Solid Waste collection service is less than two cubic yards per week and Organic Waste subject to collection in a Blue Container or Green Container comprises less than 10 gallons per week per applicable Container of the business' total waste.

3. Notify City if circumstances change such that Commercial Business's Organic Waste exceeds threshold required for waiver, in which case waiver will be rescinded.

4. Provide written verification of eligibility for de minimis waiver every 5 years, if the City has approved de minimis waiver.

B. Physical Space Waivers. The City may waive a Commercial Business' or property owner's obligations (including Multi-Family Residential Dwellings) to comply with some or all of the recyclable materials and/or Organic Waste collection service requirements if the City has evidence from its own staff, a hauler, licensed architect, or licensed engineer demonstrating that the premises lacks adequate space for the collection Containers required for compliance with the Organic Waste collection requirements.

A Commercial Business or property owner may request a physical space waiver through the following process:

1. Submit an application form specifying the type(s) of collection services for which they are requesting a compliance waiver.

2. Provide documentation that the premises lacks adequate space for Blue Containers and/or Green Containers including documentation from its hauler, licensed architect, or licensed engineer.

3. Provide written verification to the City that it is still eligible for physical space waiver every five years, if the City has approved application for a physical space waiver.

C. Additional Waivers. The City may provide any additional waivers of the requirements of this chapter to the extent permitted by applicable law. The Public Works Director or his or her designee shall be responsible for determining the grounds for the waiver, its scope, and appropriate administration.

D. Review and Approval of Waivers by City. Review and approval of waivers will be the responsibility of the Public Works Director or his or her designee.

8.72.050 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.

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

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

1. Shall not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery Organization or a Food Recovery Service.

2. Allow the City's designated enforcement entity or designated third party enforcement entity to access the premises and review records pursuant to 14 CCR § 18991.4.

3. Keep records that include the following information, or as otherwise specified in 14 CCR § 18991.4:

a. A list of each Food Recovery Service or organization that collects or receives its Edible Food pursuant to a contract or written agreement established under 14 CCR § 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 food that will be collected by or self-hauled to the Food Recovery Service or Food Recovery Organization.

iii. The established frequency that food will be collected or self-hauled.

iv. The quantity of food, measured in pounds recovered per month, collected or self-hauled to a Food Recovery Service or Food Recovery Organization for Food Recovery.

d. Nothing in this chapter shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share table and school food donation guidance pursuant to Senate Bill 557, Chapter 285, Statutes of 2017.

8.72.060 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 that the Food Recovery Service transports Edible Food to for Food Recovery.

B. Food Recovery Organizations collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR § 18991.3(b), shall maintain 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 received from each Commercial Edible Food Generator per month.

3. The name, address, and contact information for each Food Recovery Service that the organization receives Edible Food from for Food Recovery.

C. Food Recovery Organizations and Food Recovery Services that have their primary address physically located in the City and contract with or have written agreements with one or more Commercial Edible Food Generators pursuant to 14 CCR § 18991.3(b) shall report to the City it is located in the total pounds of Edible Food recovered in the previous calendar year from the Tier One and Tier Two Commercial Edible Food Generators they have established a contract

or written agreement with pursuant to 14 CCR § 18991.3(b) no later than March 1, July 1, and September 1 annually.

D. In order to support Edible Food Recovery capacity planning assessments or other studies, Food Recovery Services and Food Recovery Organizations operating in the City shall provide information and consultation to the City, upon request, regarding existing, or proposed new or expanded, Food Recovery capacity that could be accessed by the City and its Commercial Edible Food Generators. A Food Recovery Service or Food Recovery Organization contacted by the City shall respond to such request for information within 60 days, unless a shorter timeframe is otherwise specified by the City.

8.72.070 Requirements for Haulers and Facility Operators.

A. Requirements for Haulers

1. Haulers shall meet the following requirements and standards as a condition of approval of a permit or other authorization with the City to collect Organic Waste.

   a. Through written notice to the City annually on or before June 1, identify the facilities to which they will transport Organic Waste including facilities for Source Separated Recyclable Materials, and Source Separated Green Container Organic Waste.

   b. Transport Source Separated Recyclable Materials or Source Separated Green Container Organic Waste, and Mixed Waste to a facility, operation, activity, or property that recovers Organic Waste as defined in 14 CCR, Division 7, Chapter 12, Article 2.

   c. Obtain approval from the City to haul Organic Waste, unless it is transporting Source Separated Organic Waste to a Community Composting site or lawfully transporting construction and demolition debris.

2. Haulers authorized to collect Organic Waste shall comply with education, equipment, signage, Container labeling, Container color, contamination monitoring, reporting, and other requirements contained within its permit or other agreement entered into with the City.

B. Requirements for Facility Operators and Community Composting Operations

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

2. Community Composting operators, upon the City's request, shall provide information to the City to support Organic Waste capacity planning, including, but not limited to, an estimate of the amount of Organic Waste anticipated to be handled at the Community Composting operation. Entities contacted by the City shall respond within 60 days.

8.72.080 Self-Hauler Requirements.

A. Self-Haulers shall source separate all Recyclable Materials and Organic Waste generated on-site from Solid Waste in a manner consistent with 14 CCR §§ 18984.1 and 18984.2, or shall haul Organic Waste to a High Diversion Organic Waste Processing Facility.

B. Self-Haulers shall haul their Source Separated Recyclable Materials to a facility that recovers those materials; and haul their Source Separated Green Container Organic Waste to a Solid Waste facility, operation, activity, or property that processes or recovers Source Separated Organic Waste. Alternatively, Self-Haulers may haul Organic Waste to a High Diversion Organic Waste Processing Facility.

C. Self-Haulers that are Commercial Businesses (including Multi-Family Residential Dwellings) shall keep a record of the amount of Organic Waste delivered to each Solid Waste facility, operation, activity, or property that processes or recovers Organic Waste; this record shall be subject to Inspection by the City. The records shall include the following information:

1. Delivery receipts and weight tickets from the entity accepting the waste.

2. The amount of material in cubic yards or tons transported by the Generator to each entity.

3. If the material is transported to an entity that does not have scales on-site, or employs scales incapable of weighing the Self-Hauler's vehicle in a manner that allows it to determine the weight of materials received, the Self-Hauler is not required to record the weight of material but shall keep a record of the entities that received the Organic Waste..

D. Self-Haulers that are Commercial Businesses (including Multi-Family Self-Haulers) shall provide information collected in Section 8.72.080(C) to the City if requested.

E. A residential Organic Waste Generator that self-hauls Organic Waste is not required to record information in Section 8.72.080(C) or report information in Section 8.72.080(D).

8.72.090 Inspections and Investigations.

A. City representatives and/or its designated entity, including Designees are authorized to conduct Inspections and investigations, at random or otherwise, of any Collection Container, collection vehicle loads, or transfer, processing, or disposal facility for materials collected from Generators, or Source Separated materials to confirm compliance with this chapter by Organic Waste Generators, Commercial Businesses (including Multi-Family Residential Dwellings), property owners, Commercial Edible Food Generators, Self-Haulers, Haulers, Food Recovery Services, and Food Recovery Organizations, subject to applicable laws. This Section does not allow the City to enter the interior of a private residential property for Inspection. For the

purposes of inspecting Commercial Business Containers for compliance with Section 8.72.030, the City may conduct Container Inspections for Prohibited Container Contaminants using Remote Monitoring, and Commercial Businesses shall accommodate and cooperate with Remote Monitoring pursuant to Sections 8.72.030.

B. The 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 placement of materials in Containers, Edible Food Recovery activities, records, or any other requirement 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 chapter and may result in penalties described in Section 8.72.100.

C. Any records obtained by the City during its Inspections, Remote Monitoring, and other reviews shall be subject to the requirements and applicable disclosure exemptions of the Public Records Act as set forth in Government Code Section 6250 et seq.

D. City representatives, its designated entity, and/or Designee are authorized to conduct any Inspections, Remote Monitoring, or other investigations as reasonably necessary to further the goals of this chapter, subject to applicable laws.

E. City shall receive written complaints from persons regarding an entity that may be potentially non-compliant with SB 1383 Regulations, including receipt of anonymous complaints.

8.72.100 Enforcement.

A. The City may take Enforcement Actions, including the issuance of an administrative citation and assessment of a fine, against persons and entities for violating this chapter. The procedures in Chapter 19.10 shall govern the imposition, enforcement, collection, and review of administrative citations issued to enforce this chapter and any rule or regulation adopted pursuant to this chapter, except as otherwise indicated in this chapter.

B. The City may take immediate Enforcement Actions against Commercial Businesses that are in violation of the commercial organic waste and recycling requirements of AB 341 and AB 1826, which were in place prior to the issuance of the SB 1383 Regulations.

C. Education of SB 1383 Requirements.

1. Through December 31, 2023, the City or its Designee may conduct Inspections, Remote Monitoring, Route Reviews or waste evaluations, and Compliance Reviews, depending upon the type of regulated entity, to determine compliance with the SB 1383 Regulations and this chapter, and if City or its Designee determines that Organic Waste Generator, Self-Hauler, Hauler, Tier One Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance, it shall provide educational materials and/or, for the purposes of Edible Food Recovery, training to the entity describing its obligations under this chapter and a notice that compliance is

required, and that violations may be subject to administrative civil penalties starting on January 1, 2024.

2. The City Manager or his or her designee shall work with the Collector and other entities to conduct outreach and educate Generators regarding compliance with the SB 1383 Regulations and this chapter.

3. The City Manager or his or her designee shall work with the Collector to annually identify residences and Commercial Businesses subject to the SB 1383 Regulations.

D. Beginning January 1, 2024, if the City or its Designee determines that an Organic Waste Generator, Self-Hauler, Hauler, Tier One or Tier Two Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance with the SB 1383 Regulations under this chapter, it shall document the noncompliance or violation, issue a Notice of Violation, and take Enforcement Action pursuant to this section, as needed.

E. Prior to taking any Enforcement Action against a person, business, or entity for violating the SB 1383 Regulations, the City shall first notify the person, business, or entity and provide an opportunity to correct the violation through the issuance of a Notice of Violation by a City Enforcement Officer. Notices shall be sent to the "owner" at the official address of the owner maintained by the tax collector for the City or if no such address is available, to the owner at the address of the residential dwelling or Commercial property or to the party responsible for paying for the Collection services, depending upon available information. The notice shall state the person, business, or entity has 60 days to correct the violation. The person, business, or entity shall be responsible for ensuring and demonstrating compliance with the requirements of the SB 1383 Regulations, within the 60-day time frame provided in the notification of violation. Failure to demonstrate compliance shall be cause for Enforcement Action and penalties.

F. The City or its Designee may extend the compliance deadlines set forth in a Notice of Violation issued in accordance with this section if it finds that there are extenuating circumstances beyond the control of the respondent that make compliance within the deadlines impracticable, including the following:

1. Acts of God such as earthquakes, wildfires, flooding, and other emergencies or natural disasters;

2. Delays in obtaining discretionary permits or other government agency approvals; or,

3. Deficiencies in Organic Waste recycling infrastructure or Edible Food Recovery capacity and the City is under a corrective action plan with CalRecycle pursuant to 14 CCR § 18996.2 due to those deficiencies.

G. For incidences of Prohibited Container Contaminants found in containers, City Enforcement Officer will issue a Notice of Violation to any generator found to have Prohibited Container Contaminants in a Container. Such notice will be provided via a cart tag or other communication immediately upon identification of the Prohibited Container Contaminants.

Notwithstanding the foregoing subsections, the City may issue administrative citations immediately for container contamination and failure to subscribe to collection service as required.

H. Penalty Amounts for Types of Violations.

The penalty levels are as follows:

1. For a first violation, the amount of the base penalty shall be $100 per violation.

2. For a second violation, the amount of the base penalty shall be $200 per violation.

3. For a third or subsequent violation, the amount of the base penalty shall be $500 per violation.

4. The penalties shall be consistent with Government Code section 36900.

I. Appeals Process.

Persons receiving an administrative citation containing a penalty for an uncorrected violation may request a hearing to appeal the citation pursuant to Chapter 19.10.

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

November 4, 2021

Ms. Birgitta E. Corsello
Solano County Administrator
675 Texas Street, Suite 6500
Fairfield, CA 94533

RE: Green River Tap Brewing and Tap Room

Dear Ms. Corsello:

We are writing to jointly request your support in addressing the growing community concern regarding detrimental impacts associated with the Green River Tap Room operation at 4513 Putah Creek Road in Winters. As you are likely aware, despite the address, this business is located in unincorporated Solano County across the creek from the City of Winters.

The City of Winters and Yolo County are grateful for past collaborations with Solano County to support shared interests in the Greater Winters area, including replacement of the Putah Creek Bridge and response to the LNU Lightning fires in 2020. While Green River Brewing and Taproom is located in Solano County, the residents in the City of Winters consider this business a shared asset in our broader community.

However, our offices are hearing from a growing number of constituents each week regarding how the Green River Taproom operation that have become a nuisance to surrounding properties. Residents have shared they can hear Green River's music when they are watching a movie inside their home with the windows closed. They can hear when a food order is ready and announced over the Green River sound system. They can hear the music while operating loud equipment in a woodshop. When residents call Green River Brewing, sometimes the music is turned down, other times they are invited to "join the party."

The most frequent complaints are that the decibel levels from Green River exceed the Solano County limit of 65 dBA, the music continues past the 10 PM time limit, and the number of monthly concerts exceeds what is allowed in the

Use Permit. We understand that that the creek water may amplify the sound causing it to be louder on this side of the creek.

We understand the owner of Green River Taproom is evaluating solutions to address these complaints. The community is relieved to hear this update. We hope timely solutions will be implemented to address the concerns communicated above and bring Green River Taproom into compliance with their Use Permit's Conditions of Approval, as adopted by the Solano County Planning Commission on May 16, 2019. We hope Green River Brewing will take steps to comply with the reasonable and balanced conditions of approval adopted by Solano County, and request your assistance in ensuring this business takes steps to reduce the negative impacts it is having on its neighbors.

In summary, Green River Taproom is a business that many residents of Winters patronize and enjoy for community gatherings. The conditions of approval within the Solano County use permit outline a balanced framework to both support a successful business and mitigate detrimental impacts on the surrounding community. We hope you will work with the owners of Green River Taproom to bring their business into compliance with the adopted use permit.

Please do not hesitate to contact any of us should you wish to discuss further.

In shared service.

Wade Cowan
City of Winters, Mayor

Pierre Neu
City of Winters, Councilmember

Don Saylor
Yolo County Supervisor, District 2

Angel Barajas
Yolo County Supervisor, District 5

Cc. Solano County Supervisor John Vasquez
John Neil, Green River Tap Room
Chad Rinde, Yolo County Interim County Administrative Officer
Kathleen Salguero Trepa, City of Winters City Manager

CITY OF WINTERS
california
Est. 1875

November 5, 2021

Yolo County Board of Supervisors
Via: Julie Dachtler, Clerk of the Board,
Julie.Dachtler@yolocounty.org

Dear Honorable Members of the Board of Supervisors:

During the November 2, 2021, City Council meeting, the Council discussed the final maps (2, 4a, and El Concilio) that were forwarded from the Yolo Redistricting Advisory Committee to the Board of Supervisors. The City Council in the majority strongly recommends that the Board of Supervisors approve Map #2, which includes Winters in District 5 with the vast majority of the agricultural area of Yolo County.

The City Council expressed its strong affiliation with the agricultural and rural areas of Yolo County, in terms of identity, way of life, economic needs, and community issues. As an example, the economic ties with the unincorporated area for agri-tourism underpin much of downtown Winters' economic strategy. Strong partnerships have been developed among the hotel and lodging sites, farms, restaurants, and tasting rooms.

Most importantly, the community of Winters very much considers itself to extend beyond the incorporated city limits and into the agricultural areas of Yolo and Solano Counties, including the unincorporated communities to the north.

Should the Board of Supervisors discuss alternatives to the submitted maps (2, 4a, and El Concilio), the City Council urges the Board of Supervisors to place the City of Winters into the district that best represents and most includes the broad agricultural and rural areas of the County.

Thank you very much for recognizing the City of Winters' preference for which supervisory district this community is placed.

Sincerely,

Wade Cowan
Mayor

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November 9, 2021

The California Redistricting Commission
VIA: comment portal

RE: State Senate Boundaries for the Winters Community, Yolo County, Current District 3

To Whom It May Concern:

We have watched with interest as the boundaries of our California senate and assembly districts have been redrawn and feel compelled to share our input as the City Council for the City of Winters. We strongly support the current version of the State Senate map, which keeps our current senate boundaries essentially intact.

The Winters community extends far beyond our incorporated City limits into the unincorporated areas of Yolo and Solano Counties. Surrounded by verdant farmland and with the Vaca Mountains to the west, our community identifies with the rural and agricultural communities of Yolo, Solano, and Napa Counties. Water is a precious resource and the City of Winters is solely reliant upon ground water supplies for municipal water service. Therefore, it is critical that Winters remain within the watershed that flows from the Vaca Mountains eastward for ground water management purposes.

However, above all, we in Yolo County have a long history of working together on regional projects in the "Yolo Way", which requires an alignment of representation. As a small, rural county, we are best served by remaining intact as a regional congressional district, as a county, so that we are collectively represented by one person focused on our needs.

Thank you for considering our desire to keep our California senate district boundaries as intact as possible within our communities of interest, related to agricultural, rural, open space, within our watershed, and with our Yolo County partners.

Sincerely,

Wade Cowan
Mayor

Cc: Winters City Council Members

318 First Street
Winters, CA 95694
Phone.530.795.4910
Fax. 530.795.4935

COUNCIL MEMBERS
Harold Anderson
Jesse Loren
Pierre Neu

MAYOR
Wade Cowan

MAYOR PRO TEM
Bill Biasi

CITY CLERK
Shelly Gunby

CITY TREASURER
Shelly Gunby

CITY MANAGER
Kathleen Salguero Trep

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November 9, 2021

The California Redistricting Commission
VIA: comment portal

RE: Congressional Boundaries for the Winters Community, Yolo County, Current District 3
To Whom It May Concern:

We have watched with interest as the boundaries of our local congressional district have been redrawn and feel compelled to share our input as the City Council for the City of Winters. We appreciate recent changes to remove the Winters area from Contra Costa County, with which we have little in common in terms of community of interests.

The Winters community extends far beyond our incorporated City limits into the unincorporated areas of Yolo and Solano Counties. Surrounded by verdant farmland and with the Vaca Mountains to the west, our community identifies with the rural and agricultural communities of Yolo, Solano, and Napa Counties. Water is a precious resource and the City of Winters is solely reliant upon ground water supplies for municipal water service. Therefore, it is critical that Winters remain within the watershed that flows from the Vaca Mountains eastward for ground water management purposes.

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November 9, 2021

The California Redistricting Commission
VIA: comment portal

RE: State Assembly Boundaries - Winters Community, Yolo County, Current District 4

To Whom It May Concern:

We have watched with interest as the boundaries of our California senate and assembly districts have been redrawn and feel compelled to share our input as the City Council for the City of Winters. We strongly support maintaining the current State Assembly map to the degree possible.

The current map, while improved, bisects the Winters community at the Yolo-Solano County line, which eliminates much of the agricultural land to our south in Solano County from our current assembly district. The Winters community extends far beyond our incorporated City limits into the unincorporated areas of Yolo and Solano Counties. Many of the unincorporated residents and farmers of Solano County are part of the fabric of our community.

Surrounded by verdant farmland and with the Vaca Mountains to the west, our community identifies with the rural and agricultural communities of Yolo, Solano, and Napa Counties. Water is a precious resource, and the City of Winters is solely reliant upon ground water supplies for municipal water service. Therefore, it is critical that Winters remain within the watershed that flows from the Vaca Mountains eastward for ground water management purposes.

Thank you for considering our desire to keep our California assembly district boundaries as intact as possible with our communities of interest as they relate to agricultural, rural, open space, our watershed, and with our Yolo County partners.

Sincerely,

Wade Cowan
Mayor

Cc: Winters City Council Members

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