

ORDINANCE NO. 2021-5

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
LAKEWOOD, CALIFORNIA, ADDING PART 5 TO CHAPTER  
3 OF ARTICLE V OF THE LAKEWOOD MUNICIPAL CODE  
RELATING TO ORGANIC WASTE COLLECTION

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 (the “SB 1383 Regulations”); and

WHEREAS, the SB 1383 Regulations take effect January 1, 2022, and require the City of Lakewood to adopt an Ordinance to enforce the SB 1383 Regulations by said date; and

WHEREAS, the City Council desires to add an Organic Waste Collection Ordinance to comply with the SB 1383 Regulations.

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

SECTION 1. Part 5 is hereby added to Chapter 3 of Article V of the Lakewood Municipal Code, as set forth in Exhibit “A”, attached hereto and incorporated as though fully set forth herein.

SECTION 2. The list of materials accepted in the source separated containers for solid waste, recyclable materials, and organic waste shall be displayed on the City’s website and may be modified from time to time as appropriate by the Public Works Director in consultation with the City’s service provider for solid waste collection.

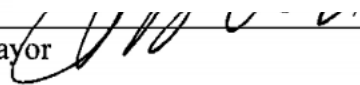
SECTION 3. If any section, subsection, clause or phrase in this Ordinance or the application thereof to any person or circumstances is for any reason held invalid, the validity of the remainder of this Ordinance or the application of such provisions to other persons or circumstances shall not be affected thereby. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases or the application thereof to any person or circumstance be held invalid.

SECTION 4. The City Clerk shall certify to the adoption of this Ordinance. The City Council hereby finds and determines there are no newspapers of general circulation both published and circulated within the City and, in compliance with Section 36933 of the Government Code, directs the City Clerk to cause said Ordinance within fifteen (15) days after its passage to be posted in at least three (3) public places within the City as established by Ordinance.

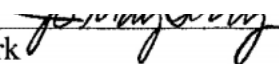
SECTION 5. This Ordinance shall take effect and be in full force 30 days after its adoption.

ADOPTED AND APPROVED this 26th day of October, 2021, by the following roll call vote:

	AYES	NAYS	ABSENT
Council Member Croft	<u>  X  </u>	<u>      </u>	<u>      </u>
Council Member Pe	<u>  X  </u>	<u>      </u>	<u>      </u>
Council Member Rogers	<u>  X  </u>	<u>      </u>	<u>      </u>
Council Member Stuckey	<u>  X  </u>	<u>      </u>	<u>      </u>
Mayor Wood	<u>  X  </u>	<u>      </u>	<u>      </u>

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\_\_\_\_\_  
Mayor 

ATTEST:

\_\_\_\_\_  
City Clerk 

## EXHIBIT A

### PART 5 ORGANIC WASTE DISPOSAL REDUCTION

#### **5350. DEFINITIONS.**

The following terms are defined for the purposes of this Part. In the event of a conflict between the Lakewood Municipal Code and the SB 1383 Regulations, the Lakewood Municipal Code shall prevail.

- A) “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.
- B) “California Code of Regulations” or “CCR” means the State of California Code of Regulations. CCR references in this ordinance are preceded with a number that refers to the relevant Title of the CCR (e.g., “14 CCR refers to Title 14 of CCR).
- C) “CalRecycle” means California’s Department of Resources Recycling and Recovery, which is the Department designated with responsibility for developing, implementing, and enforcing SB 1383 Regulations on Jurisdictions (and others).”City” means the City of Lakewood, California.
- D) “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 on one (1) account.
- E) “Commercial Edible Food Generator” includes a Tier One or a Tier Two Commercial Edible Food Generator as defined in Sections 5350(F)(i) or 5350 (F)(ii) or as otherwise defined in 14 CCR Section 18982(a)(73) and (a)(74). For the purposes of this definition, Food Recovery Organizations and Food Recovery Services are not Commercial Edible Food Generators pursuant to 14 CCR Section 18982(a)(7).
  - i) “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.If the definition in 14 CCR Section 18982(a)(73) of Tier One Commercial Edible Food Generator differs from this definition, the definition in 14 CCR Section 18982(a)(73) shall apply to this Part.

(ii) “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.

If the definition in 14 CCR Section 18982(a)(74) of Tier Two Commercial Edible Food Generator differs from this definition, the definition in 14 CCR Section 18982(a)(74) shall apply to this Part.

- F) “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).
- G) “Compliance Review” means a review of records by the City to determine compliance with this Part.
- H) “Container.” A cart, bin, roll-off, compactor or similar receptacle used to temporarily store solid waste, organics or recyclables for collection service.
- I) “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).
- J) “Designated Source Separated Organic Waste Facility” shall have the same definition as 14 CCR § 18982(14.5).
- K) “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.
- L) “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.

- M) “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.
- N) “Enforcement Officer” means the City Manager, Public Works Director, or his/her authorized Designee(s) who is/are partially or whole responsible for enforcing this Part.
- O) “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).
- P) “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:
- i) A food bank as defined in Section 113783 of the Health and Safety Code;
  - ii) A nonprofit charitable organization as defined in Section 113841 of the Health and Safety Code; and,
  - iii) A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.
- Q) “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).
- R) “Food Waste” means food scraps separated from Solid Waste and offered for collection by Franchisee, that will decompose and/or putrefy including (i) all kitchen and table food waste, and animal or vegetable waste that attends or results from the storage, preparation, cooking or handling of food stuffs, and (ii) paper waste contaminated with food waste. Food waste excludes fats, oils, and grease when such materials are Source Separated from other Food.
- S) “Generator” or “Waste Generator” means a person or entity that is responsible for the initial creation of waste.
- T) “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.
- U) “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 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).
- V) “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.

- W) “Green Waste” means any and all forms of biodegradable plant material which can be placed in a covered 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. Tree stumps and limbs greater than three (3) inches in diameter are excluded unless they are reduced to a chipped form; otherwise, such large portions of Green Waste shall be considered Bulky Waste.
- X) “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).
- Y) “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).
- Z) “Inspection” means a site visit at which the City reviews records, containers, and an entity’s collection, handling, recycling, or landfill disposal of Organic Waste or Edible Food handling to determine if the entity is complying with requirements set forth in this Part, or as otherwise defined in 14 CCR § 18982(a)(35).
- AA) “Integrated Waste Collection.” means the collection of Source Separated Green Container Organic Waste in the Green Container, Source Separated Recyclable Materials in the Blue Container; and Gray Container Waste in the Gray Container.
- BB) “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.
- CC) “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.

- DD) “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).
- EE) “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).
- FF) “Multi-Family Residential Dwelling” or “Multi-Family” means of, from, or pertaining to residential premises with five (5) or more dwelling units such as apartments, condominiums and town homes. Multi-Family premises do not include hotels, motels, or other transient occupancy facilities, which are considered Commercial Businesses.
- GG) “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
- HH) “Organics,” “Organic Waste,” and “Organic Material” means solid wastes containing material originated from living organisms and their metabolic waste products, including, but not limited to, Food Waste, Green Waste, non-hazardous wood waste, and un-waxed food-soiled paper.
- II) “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).
- JJ) “Paper Products” include, but are not limited to, paper janitorial supplies, cartons, wrapping, packaging, file folders, hanging files, corrugated boxes, tissue, and toweling, or as otherwise defined in 14 CCR § 18982(a)(51).
- KK) “Printing and Writing Papers” include, but are not limited to, copy, xerographic, watermark, cotton fiber, offset, forms, computer printout paper, white wove envelopes, manila envelopes, book paper, note pads, writing tablets, newsprint, and other uncoated writing papers, posters, index cards, calendars, brochures, reports, magazines, and publications, or as otherwise defined in 14 CCR § 18982(a)(54).
- LL) “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.

- MM) "Recovered Organic Waste Products" means products made from California, landfill-diverted recovered Organic Waste processed in a permitted or otherwise authorized facility, or as otherwise defined in 14 CCR § 18982(a)(60).
- NN) "Recovery" means any activity or process described in 14 CCR § 18983.1(b), or as otherwise defined in 14 CCR § 18982(a)(49).
- OO) "Recyclable Material" means material such as, but not limited to, paper, cardboard, glass, metal and aluminum cans, and plastics which is separated from other waste or refuse for the purpose of recycling.
- PP) "Recycling" means the process of collecting and turning used products into new products by reprocessing or remanufacturing them.
- QQ) "Recycled-Content Paper" means Paper Products and Printing and Writing Paper that consists of at least 30 percent, by fiber weight, postconsumer fiber, or as otherwise defined in 14 CCR § 18982(a)(61).
- RR) "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.
- SS) "Renewable Natural Gas" means gas derived from the Organic Waste that has been diverted from a California landfill and processed at an in-vessel digestion facility that is permitted or otherwise authorized by 14 CCR to recycle Organic Waste, or as defined in 14 CCR Section 18982(a)(62).
- TT) "Residential" means any residential dwelling or apartment house with less than 5 units.
- UU) "Responsible Party" means the owner, property manager, tenant, lessee, occupant, or other Designee that subscribes to and pays for Recyclable Materials, Organic Materials, and/or Solid Waste collection services for the premises in the City, or, if there is no such subscriber, the owner or the property manager of Residential Premises, Multi-Family premises, or Commercial Premises. In instances of dispute or uncertainty regarding who is the Responsible Party for a premises, Responsible Party shall mean the owner of a Residential Premises, Multi-Family Premises, or Commercial Premises.
- VV) "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).

- WW) “SB 1383” means Senate Bill 1383 of 2016 approved by the Governor on September 19, 2016., which added Sections 39730.5, 39730.6, 39730.7, and 39730.8 to the Health and Safety Code, and added Chapter 13.1 (commencing establishing methane emissions reduction targets in a Statewide effort to reduce emissions of short-lived climate pollutants as it may be amended, supplemented, superseded, and replaced from time to time).
- XX) “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.
- YY) “Self-Hauler” or “Self-Haul” means a person, who hauls Solid Waste, Organic Waste or recyclable material he or she has generated to another person. Self-Hauler also includes a person who back-hauls waste, or as otherwise defined in 14 CCR § 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).
- ZZ) “Single-Family” means of, from, or pertaining to any residential premises with fewer than five (5) units.
- AAA) “Solid Waste” has the same meaning as defined in State Public Resources Code Section 40191, as such may be amended from time to time and 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.
- BBB) “Source Separating” or “Source Separation” means the separation, by the Generator, of materials designated for separate collection for Recycling, Composting, Recovery, or Reuse.
- CCC) “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).
- DDD) “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.

- EEE) “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).
- FFF) “Tier One Commercial Edible Food Generator” means a Commercial Edible Food Generator that is one of the following:
- i) Supermarket.
  - ii) Grocery Store with a total facility size equal to or greater than 10,000 square feet.
  - iii) Food Service Provider.
  - iv) Food Distributor.
  - v) Wholesale Food Vendor.
- GGG) “Tier Two Commercial Edible Food Generator” means a Commercial Edible Food Generator that is one of the following:
- i) Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.
  - ii) Hotel with an on-site Food Facility and 200 or more rooms.
  - iii) Health facility with an on-site Food Facility and 100 or more beds.
  - iv) Large Venue.
  - v) Large Event.
  - vi) 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.
  - vii) A Local Education Agency facility with an on-site Food Facility.
- HHH) “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).

### **5351. REQUIREMENTS FOR SINGLE-FAMILY GENERATORS.**

A. Single-Family Organic Waste Generators shall:

1. Automatically subscribe to the City’s Organic Waste collection services for all Organic Waste generated as described below in Section 5351(A)(2). The City shall have the right to review the number and size of a generator’s carts 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 pursuant to 14 CCR Section 18984.9(c)

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.

**5352. 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 5352(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. For establishments that require customers to bus their own trash and service items, supply and allow access to an adequate number, size and location of collection containers with sufficient labels or colors (conforming with Section 5352(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 5357.

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 requirements in Section 5352(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 5352(A)(2), or if recycling organics onsite or self-hauling 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 generators and/or 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 Designee to their properties during all Inspections conducted in accordance with Section 5358 to confirm compliance with the requirements of this Part.

11. Accommodate and cooperate with City's Remote Monitoring program for Inspection of the contents of containers for Prohibited Container Contaminants, to evaluate generator's compliance with Section 5352(A)(2). The Remote Monitoring program shall 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 5357 of this Part.

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 pursuant to 14 CCR Section 18984.9(c).

14. Commercial Businesses that are Tier One or Tier Two Commercial Edible Food Generators shall comply with Food Recovery requirements, pursuant to Section 5354.

### **5353. WAIVERS FOR COMMERCIAL GENERATORS.**

A. De Minimis Waivers. The City may waive a Commercial Business' obligation (excluding 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 5353(A)(2) below. Commercial Businesses requesting a de minimis waiver shall:

1. Submit an application to the Public Works Department specifying the services that they are requesting a waiver from and provide documentation as noted in Section 5353(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 the City if circumstances change such that Commercial Business's Organic Waste exceeds the threshold required for waiver, in which case the Waiver will be rescinded.

4. Provide written verification of eligibility for the De Minimis Waiver every 5 years, if the City has approved a De Minimis Waiver.

5. The City reserves the right to revoke a De Minimis Waiver at any time if the generator is found to be in violation of any section of this Part.

B. Physical Space Waivers. The City may waive, at the City's sole discretion, a Commercial Business' 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.

C. A Commercial Business / Multi-family Residence may request a Physical Space Waiver through the following process:

1. Submit an application form to the Public Works Department specifying the type(s) of collection services for which the applicant is requesting a 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. If a Physical Space Waiver is granted, the applicant may be required to subscribe to a two-container collection service comprised of a Gray Container and a Blue Container (Spilt bin).

4. 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.

5. The City reserves the right to revoke a Physical Space Waiver at any time if the generator is found to be in violation of any section of this Part.

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

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

#### **5354. REQUIREMENTS FOR COMMERCIAL EDIBLE FOOD GENERATORS.**

A. Tier One Commercial Edible Food Generators must comply with the requirements of this section commencing January 1, 2022, and Tier Two Commercial Edible Food Generators must comply commencing January 1, 2024, pursuant to 14 CCR Section 18991.3.

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

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

1. Arrange to recover the maximum amount of Edible Food that would otherwise be disposed.

2. Contract with, or enter into a written agreement with Food Recovery Organizations or Food Recovery Services for: (i) the collection of Edible Food for Food recovery; or (ii) acceptance of the Edible Food that the Commercial Edible Food Generator self-hauls to the Food Recovery Organization for Food Recovery.

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

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

5. 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 ordinance shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share table and school food donation guidance pursuant to Senate Bill 557 of 2017-(approved by the Governor of the State of California on September 25, 2017, which added Article 13 [commencing with Section 49580] to Chapter 9 of Part 27 of Division 4 of Title 2 of the Education Code, and to amend Section 1140079 of the Health and Safety Code, relating to food safety, as amended, supplemented, superseded and replaced from time to time).

### **5355. 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 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 July 1, of each calendar year.

D. Food Recovery Capacity Planning

1. Food Recovery Services and Food Recovery Organizations. In order to support Edible Food Recovery capacity planning assessments or other studies conducted by the County, City, special district that provides solid waste collection services, or its designated entity 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.

## **5356. REQUIREMENTS FOR HAULERS, FACILITY OPERATORS, AND CITY DEPARTMENTS.**

A. Requirements for Haulers



1. Haulers—providing Residential, Commercial, or Industrial Organic Waste collection services to generators within the City’s boundaries shall meet the following requirements and standards as a condition of approval of a contract, agreement, or authorization with the City to collect Organic Waste:

a. Through written notice to the City annually on or before June 30, identify the facilities to which they will transport Organic Waste including facilities for Source Separated Recyclable Materials, and Source Separated Green Container Organic Waste, and Mixed Waste for generators who have been granted a De Minimis Waiver.

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 in a manner that complies with 14 CCR Section 18989.1, Section 13 of this ordinance, and the City’s construction and demolition program.

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.

3. Haulers authorized to collect Organic Waste shall serve as a direct service provider for the purpose of the City meeting its annual recovered organic waste procurement target and procure the products and quantities necessary for the City to meet its annual recovered organic waste procurement target under 14 CCR §§ 18993.1-18993.2 at no cost to 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.

**C. Requirements for City Departments**

1. If fitness and quality are equal, the City shall procure Recycled-Content Paper Products and Recycled-Content Printing and Writing Paper that consist of at least 30 percent, by fiber weight, postconsumer fiber instead of non-recycled products whenever recycled Paper Products and Printing and Writing Paper are available at the same or lesser total cost than non-recycled items.

### **5357. 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 as specified in 14 CCR Section 1894.3.

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 pursuant to Section 5358(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 5358(C) or report information in Section 5358(D).

F. Self-Haulers, including those hauling construction demolition, must obtain a permit from the City prior to undertaking any self-hauling activities. Any applicant issued a Self-Hauler permit for Source Separated Recycle Materials, Construction Demolition, and/or Organic Waste found to be in violation of this ordinance, upon issuance of a first Notice of Violation, at the discretion of the Public Works Director or their designee, will have the Self-Haul permit revoked and will be required to subscribe to solid waste and recycling services from the City's waste hauler within five (5) days of the issuance of the Notice of Violation. Failure to subscribe to solid waste and recycling services will result in penalties prescribed in the ENFORCEMENT Section of this Part.

### **5358. 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, hauler, Food Recovery Services, and Food Recovery Organizations, subject to applicable laws. This Section does not permit 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 5352, the City may conduct container Inspections for Prohibited Container Contaminants using Remote Monitoring, and Commercial Businesses shall accommodate and cooperate with the Remote Monitoring pursuant to Section 5352.

B. The generators 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 of this Part described herein. Failure to provide or arrange for: (i) access to an entity's premises; (ii) installation and operation of Remote Monitoring equipment; or (iii) access to records for any Inspection or investigation is a violation of this Part and may result in penalties described in Section 5359.

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. The 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.

#### **5359. ENFORCEMENT.**

A. In response to violations of this Part, the City may avail itself of any legal remedy, including Administrative Citation (Sections 4900, et seq.), infraction or misdemeanor prosecution, or civil action. Regardless of the remedy utilized, the amounts of the fines or assessments for such violations shall be the greater of: (i) the maximum amounts allowed by applicable State law and regulations for such specific violations, or (ii) the maximum amounts allowed by State law for infractions; with such amounts to include enhancements for multiple violations within the same calendar year.

B. Responsible Entity for Enforcement

- i. Enforcement pursuant to this Part may be undertaken by the City Enforcement Official, which may be the City Manager, Public Works Director or their Designee, legal counsel, or combination thereof.
- ii. Enforcement may also be undertaken by a Regional or County Agency Enforcement Official, designated by the City, in consultation with the City Enforcement Official.

C. Process for Enforcement

- i. The City Enforcement Official and/or his or her Designee will monitor compliance with this Part randomly through complaints, route reviews, and an Inspection Program.
- ii. The City may issue an official notification to notify generators of its obligations under this Part.
- iii. For incidences of Prohibited Container Contaminants found in containers, the City 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, a tag at the premises' door or gate, or other written or electronic communication immediately upon identification of the Prohibited Container Contaminants or within three days after determining that a violation has occurred. If the City observes Prohibited Container Contaminants in the generator's containers on more than one (1) occasion(s), within every calendar year starting January 1, the City may assess an administrative fine or penalty, contamination processing fees or contamination penalties on the generator pursuant to Section 5359(E)(i). In addition to the City-assessed penalties, the City's solid waste hauler may assess a contamination processing fee for each instance of Prohibited Container Contaminants pursuant to the City's solid waste hauler agreement.
- iv. With the exception of violations of generator contamination of container contents addressed under Section 5359(D)(1), the City shall issue a Notice of Violation requiring compliance within 30 days of issuance of the notice.
- v. Absent compliance by the respondent within the deadline set forth in the Notice of Violation, the City shall commence an action to impose penalties.

Notices shall be sent to "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 dwelling or Commercial property or to the party responsible for paying for the collection services,

depending upon available information.

D. Compliance Deadline Extension Considerations.

The City may extend the compliance deadlines set forth in a Notice of Violation issued 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 Section 18996.2 due to those deficiencies.

E. Education Period for Non-Compliance.

Beginning January 1, 2022 and through December 31, 2023, the City will conduct Inspections, Remote Monitoring, Route Reviews or waste evaluations, and Compliance Reviews, depending upon the type of generators, to determine compliance, and if the City determines that Organic Waste Generator, Self-Hauler, Hauler, Tier One Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance, it shall provide educational materials to the entity describing its obligations under this Chapter and a notice that compliance is required by January 1, 2022, and that violations may be subject to administrative civil penalties starting on January 1, 2024.

F. Commencement of Actions for Non-Compliance.

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