

Deborah Cox, **WMA President**

City of San Leandro, WMA, EC

Shelia Young, **WMA 1st Vice President**

Oro Loma Sanitary District, WMA

Dianne Martinez, **WMA 2nd Vice President**

City of Emeryville, WMA, EC

Melissa Hernandez, **EC President**

City of Dublin, WMA, EC

Dan Kalb, **EC 1st Vice President**

City of Oakland, WMA, EC

Jenny Kassar, **EC 2nd Vice President**

City of Fremont, WMA, EC

David Haubert, County of Alameda, WMA, EC

Trish Herrera Spencer, City of Alameda, WMA, EC

Preston Jordan, City of Albany, WMA, EC

Susan Wengraf, City of Berkeley, WMA, EC

Dave Sadoff, Castro Valley Sanitary District, WMA

Francisco Zermeno, City of Hayward, WMA, EC

Bob Carling, City of Livermore, WMA, EC

Michael Hannon, City of Newark, WMA, EC

Jen Cavanaugh, City of Piedmont, WMA, EC

Jack Balch, City of Pleasanton, WMA, EC

Jaime Patiño, City of Union City, WMA, EC

Wendy Sommer, Executive Director

**MEETING OF THE
ALAMEDA COUNTY WASTE MANAGEMENT AUTHORITY
(WMA) BOARD
AND
THE ENERGY COUNCIL (EC)**

Wednesday, June 23, 2021

3:00 P.M.

TELECONFERENCE MEETING

Teleconference/Public Participation Information to Mitigate the Spread of COVID-19

This meeting will be held entirely by teleconference. All Board members, staff, and the public will only participate via the Zoom platform using the process described below. The meeting is being conducted in compliance with the Governor's Executive Order N-29-20 suspending certain teleconference rules required by the Ralph M. Brown Act. The purpose of this order was to provide the safest environment for the public, elected officials, and staff while allowing for continued operation of the government and public participation during the COVID-19 pandemic.

Board members will receive a separate unique email invite. Staff and members of the public may attend and participate in the meeting by:

1. Calling US: +1 669 900 6833 and using the Webinar ID 810 4300 7539
2. Using the [Zoom](#) website or App and entering meeting code 810 4300 7539

During the meeting the chair will explain the process for members of the public to be recognized to offer public comment. The process will be described on the StopWaste website at <http://www.stopwaste.org/virtual-meetings> no later than noon Wednesday, June 23, 2021. The public may also comment during the meeting by sending an e-mail to publiccomment@stopwaste.org prior to the close of public comment on the item being addressed. Each e-mail will be read into the record for up to three minutes.

In accordance with the Americans with Disabilities Act and the Governor's Executive Order, if you need assistance to participate in this meeting due to a disability, please contact the Clerk of the Board at (510) 891-6517. Notification 24 hours prior to the meeting will enable the agency to make reasonable arrangements to ensure accessibility to this meeting.

AGENDA

I. CALL TO ORDER

II. ROLL CALL OF ATTENDANCE

III. ANNOUNCEMENTS BY PRESIDENTS - *(Members are asked to please advise the board or the council if you might need to leave before action items are completed)*

IV. OPEN PUBLIC DISCUSSION FROM THE FLOOR

An opportunity is provided for any member of the public wishing to speak on any matter within the jurisdiction of the board or council, but not listed on the agenda. Total time limit of 30 minutes with each speaker limited to three minutes unless a shorter period of time is set by the President.

Page V. CONSENT CALENDAR

1 1. **Approval of the Draft WMA & EC Minutes of May 26, 2021 (Wendy Sommer)**

5 2. **Second Reading and Consideration for Adoption of Ordinance 2021-01 amending Ordinance 2006-01 - "Ordinance Regarding Compensation for Board Members" (Pat Cabrera)**

That the WMA waive the requirement to read the full text of the Ordinance, and adopt Ordinance 2021-01 along with the associated revisions to the meeting attendance policy.

VI. REGULAR CALENDAR

13 1. **Reappointment to the Recycling Board – Board member Carling (Arliss Dunn)**

That the Waste Management Authority Board reappoint Board member Carling to a two-year term on the Recycling Board ending July 24, 2023.

15 2. **Amendment to Geographical Designation and Election of WMA Officers for Fiscal Year 2021-22 (Wendy Sommer)**

That the WMA Board approve the geographic designations for officer election purposes and elect officers for Fiscal Year 2021-22.

17 3. **Election of EC Officers for Fiscal Year 2021-22 (Arliss Dunn)**

That the Energy Council elect officers for Fiscal Year 2021-22.

19 4. **SB 1383 Ordinance – First Reading (Timothy Burroughs & Rachel Balsley)**

That the WMA Board hold a public hearing at the June 23, 2021 meeting, and introduce and waive the first reading of an ordinance to (1) repeal the existing Mandatory Recycling Ordinance and (2) adopt a new countywide Organics Reduction and Recycling Ordinance and (3) direct staff to place the Ordinance on the consent calendar for adoption at the July 28, 2021 meeting.

5. **Interim appointment(s) to the Recycling Board for WMA appointee unable to attend future Board Meeting(s) (Arliss Dunn)**

(Planning Committee and Recycling Board meeting, Thursday, July 8 at 7:00 p.m.
Meeting will be held via teleconference)

VII. MEMBER COMMENTS AND COMMUNICATIONS FROM THE EXECUTIVE DIRECTOR

VIII. ADJOURNMENT

**MINUTES OF THE MEETING OF THE
ALAMEDA COUNTY WASTE MANAGEMENT AUTHORITY (WMA) BOARD
AND
ENERGY COUNCIL (EC)**

Wednesday, May 26, 2021

3:00 P.M.

TELECONFERENCE MEETING

I. CALL TO ORDER

President Cox called the meeting to order at 3:00 p.m. Wendy Sommer explained the process that would be utilized during the meeting. A link to the process is available here: [Virtual-Meetings-Instructions](#)

II. ROLL CALL OF ATTENDANCE

WMA & EC

County of Alameda	David Haubert, WMA, EC
City of Alameda	Trish Herrera Spencer, WMA, EC
City of Albany	Preston Jordan, WMA, EC
City of Berkeley	Susan Wengraf, WMA, EC
Castro Valley Sanitary District	Dave Sadoff, WMA
City of Dublin	Melissa Hernandez, WMA, EC (President)
City of Fremont	Jenny Kassan, WMA, EC
City of Emeryville	Dianne Martinez, WMA, EC
City of Hayward	Francisco Zermeño, WMA, EC
City of Livermore	Bob Carling, WMA, EC
City of Newark	Mike Hannon, WMA, EC
City of Oakland	Dan Kalb, WMA, EC
Oro Loma Sanitary District	Shelia Young, WMA
City of Piedmont	Jen Cavanaugh, WMA, EC
City of Pleasanton	Jack Balch, WMA, EC
City of San Leandro	Deborah Cox, WMA (President), EC
City of Union City	Jaime Patiño, WMA, EC

Staff Participating

Wendy Sommer, Executive Director
Timothy Burroughs, Deputy Director
Pat Cabrera, Administrative Services Director
Jeff Becerra, Communications Manager
Justin Lehrer, Operations Manager
Rachel Balsley, Senior Program Manager
Arliss Dunn, Clerk of the Board
Richard Taylor, WMA Legal Counsel

Others Participating

Priscilla Quiroz, Shaw Yoder Antwih Schmelzer & Lange

III. ANNOUNCEMENTS BY PRESIDENTS

There were none.

IV. OPEN PUBLIC DISCUSSION FROM THE FLOOR

There were no public comments on the remote call and no public comments were received via the public comments email portal.

V. CONSENT CALENDAR

1. Approval of the Draft Joint WMA, EC & RB Minutes of April 28, 2021 (Wendy Sommer)

There were no public comments for the Consent Calendar. Board member Haubert made the motion to approve the Consent Calendar. Board member Wengraf seconded and the motion carried 17-0:

The Clerk called the roll:

(Ayes: Balch, Carling, Cavanaugh, Cox, Hannon, Haubert, Hernandez, Jordan, Kassan, Martinez, Patiño, Sadoff, Spencer, Wengraf, Young, Zermeño. Nays: None. Abstained: None. Absent: Kalb)

VI. REGULAR CALENDAR

1. FY 21-22 Budget Adoption (Wendy Sommer, Timothy Burroughs & Pat Cabrera)

That the WMA Board adopt the WMA FY 21-22 Budget Resolution (Attachment A) and the Energy Council adopt the EC FY 21-22 Budget Resolution (Attachment B).

Wendy Sommer provided an overview of the staff report. A link to the report is available here: [FY-21-22-Budget-Adoption.pdf](#)

Ms. Sommer stated that the combined FY 21-22 budget was presented at the joint meeting of the WMA, EC & RB on April 28. The proposed budget totals approximately \$32.7 million with an estimated total year-end core fund balance and reserves of \$25.6 million. Ms. Sommer reiterated that there is an opportunity for the Board to develop a policy on how to manage the fund balance in the future. There were no requests for changes to the budget. Ms. Sommer stated that this is her final budget as the Executive Director and thanked staff for their efforts in helping to produce the budget and to the Board for their leadership over the past year. Staff is recommending that the WMA Board adopt its portion of the budget totaling \$13,922,656, and the Energy Council adopt its portion of the budget totaling \$6,748,766. There were no public comments on this item.

Board member Young made the motion to adopt the WMA FY 21-22 Budget Resolution (Attachment A) and Board member Hannon seconded. The motion carried 17-0. The Clerk called the roll:

(Ayes: Balch, Carling, Cavanaugh, Cox, Hannon, Haubert, Hernandez, Jordan, Kassan, Martinez, Patiño, Sadoff, Spencer, Wengraf, Young, Zermeño. Nays: None. Abstained: None. Absent: Kalb)

Board member Hannon made the motion to adopt the EC FY 21-22 Budget Resolution (Attachment B) and Board member Wengraf seconded. The motion carried 17-0. The Clerk called the roll:

(Ayes: Balch, Carling, Cavanaugh, Cox, Hannon, Haubert, Hernandez, Jordan, Kassan, Martinez, Patiño, Spencer, Wengraf, Zermeño. Nays: None. Abstained: None. Absent: Kalb)

2. Public Hearing: Ordinance Regarding Board Member Compensation (Pat Cabrera)

Staff recommends that following the public hearing the WMA Board:

1. Introduce and waive the first reading of the attached ordinance and direct staff to place it on the consent calendar for adoption at the next regular meeting of the Board.
2. Approve a revised board member meeting attendance policy once the ordinance is adopted.

Pat Cabrera provided an overview of the staff report. A link to the report is available here: [Board-Compensation-Ordinance-Amendment.pdf](#)

President Cox opened the public hearing. There were no public comments and the public hearing was closed. Board member Hannon inquired if there would be an annual cost of living increase. Ms. Cabrera stated no, any increases to Board compensation must be done through the ordinance process.

Board member Zermeño made the motion to approve the staff recommendation and Board member Wengraf seconded. The motion carried 17-0. The Clerk called the roll:
(Ayes: Balch, Carling, Cavanaugh, Cox, Hannon, Haubert, Hernandez, Jordan, Kassan, Martinez, Patiño, Sadoff, Spencer, Wengraf, Young, Zermeño. Nays: None. Abstained: None. Absent: Kalb)

3. Public Hearing and Annual Adoption of Fee Collection Report for Household Hazardous Waste Fee (Pat Cabrera)

That the WMA Board hold a public hearing on the Fee Collection Report and approve by resolution the Fee Collection Report for FY 2021-22.

Pat Cabrera provided an overview of the staff report. A link to the report is available here: [HHW-Fee-Collection-Report-Hearing.pdf](#)

President Cox opened the public hearing. There were no public comments and the public hearing was closed. President Cox stated that she is pleased that the fee is lower than the original amount of \$9.55 per parcel. Board member Sadoff inquired about the status of the balance of the fund. Ms. Cabrera stated that based on an analysis that was conducted when the WMA Board set the fee at \$6.64, the fund balance is in a good place. Staff will conduct another analysis in 2024 and will determine if it will be necessary to raise or lower the fee. However, the fee will not increase above the \$9.55 per parcel adopted in 2014.

Board member Sadoff made the made the motion to approve the staff recommendation and Board member Wengraf seconded. The motion carried 20-0. The Clerk called the roll:
(Ayes: Balch, Carling, Cavanaugh, Cox, Hannon, Haubert, Hernandez, Jordan, Kalb, Kassan, Martinez, Patiño, Sadoff, Spencer, Wengraf, Young, Zermeño. Nays: None. Abstained: None. Absent: None)

4. Overview of Draft SB 1383 Ordinance (Timothy Burroughs)

This item is for information only.

Timothy Burroughs and Rachel Balsley provided an overview of the staff report and presented a PowerPoint presentation. A link to the report and the presentation is available here: [SB1383-Ordinance-Presentation.pdf](#). An audio link to the discussion is available here: [SB1383-Ordinance-Discussion](#)

Additional time was provided for Board members to ask clarifying questions. Board members recommended that when distributing any drafts to the member agency staff and agency General Managers/Administrators/City Managers that staff include the Board members as well. Mr. Burroughs stated that the input received from member agency staff thus far has largely been clarifying input and not anything that would significantly weaken or strengthen any provisions put forth by the state. Board member Jordan recommended that we consider a way to increase the penalty levels over time associated with an index like CPI that wouldn't require a full amendment of the Ordinance. Ms. Balsley stated that staff would look into it. There were no public comments on this item. President Cox thanked staff for the presentation and encouraged staff to provide a presentation to the Mayors Conference as well.

5. Legislative Positions for 2021 – Mid Session Update (Jeff Becerra)

Adopt updated positions on the bills outlined in the staff report.

Jeff Becerra provided an overview of the staff report. A link to the report is available here: [2021-Legislative-Positions.pdf](#). Priscilla Quiroz, agency lobbyist, was available to answer questions. An audio link to the discussion is available here: [2021-Legislative-Positions-Discussion](#)

Additional time was provided for Board members to ask clarifying questions. President Cox stated with regard to AB 339-Open Public Meetings, the legislation has been modified and is applicable for open and public meetings of a city council or a county board of supervisors that governs a jurisdiction containing at least 250,000 people. Board member Young inquired if staff is aware of any legislation with regard to the Brown Act and resuming in-person meetings after the June 15 reopening of the state. Ms. Quiroz replied that there is ongoing discussion regarding issues surrounding the June 15 reopening and resuming public meetings but no decision has been reached. Staff is monitoring the discussions and will keep the Board apprised of any decision. There were no public comments on this item. President Cox thanked staff for the presentation.

Board member Kalb made the motion to approve the staff recommendation and Board member Cavanaugh seconded. The motion carried 20-0. The Clerk called the roll: (Ayes: Balch, Carling, Cavanaugh, Cox, Hannon, Haubert, Hernandez, Jordan, Kalb, Kassan, Martinez, Patiño, Sadoff, Spencer, Wengraf, Young, Zermelo. Nays: None. Abstained: None. Absent: None)

6. Interim appointment(s) to the Recycling Board for WMA appointee unable to attend future Board Meeting(s) (Arliss Dunn) (WMA only)

(Planning Committee and Recycling Board meeting, June 10, 2021 at 4:00 p.m. The meeting will be held via teleconference)

There were no requests for an interim appointment.

VII. MEMBER COMMENTS AND COMMUNICATIONS FROM THE EXECUTIVE DIRECTOR

There were none.

VIII. ADJOURNMENT

The meeting was adjourned at 4:46 p.m.



DATE: June 23, 2021

TO: Waste Management Authority (WMA) Board

FROM: Pat Cabrera, Administrative Services Director

SUBJECT: Adoption of Ordinance 2021-01 amending Ordinance 2006-01 “Ordinance Regarding Compensation for Board Members”

SUMMARY

On May 26, 2021 the WMA held a public hearing and voted to introduce Ordinance 2021-01 regarding Board member compensation and place it on the consent calendar for adoption at the June 23, 2021 meeting. The ordinance amends Ordinance 2006-01 to adopt changes in Board members’ compensation from \$150 per meeting to \$230 per meeting.

DISCUSSION

At the April 8, 2021 Programs and Administration (P&A) Committee meeting, the Committee recommended that the WMA Board hold a public hearing and introduce Ordinance 2021-01 (Attachment 1). At the WMA meeting on May 26, 2021, the WMA held a public hearing and introduced and waived the first reading of the subject ordinance, and voted to place the ordinance on the consent calendar for adoption at the June 23, 2021 WMA meeting.

The WMA also approved revisions to the meeting attendance policy once the ordinance is adopted. Resolution 2021-03, updating this policy is attached (Attachment 2).

RECOMMENDATION

That the WMA waive reading the full text of the Ordinance, and adopt Ordinance 2021-01 and that the WMA adopt Resolution 2021-03 revising board members meeting attendance policy.

Attachment 1: Ordinance 2021-01

Attachment 2: Resolution 2021-03 Revising Board Members Meeting Attendance Policy

ATTACHMENT 1

ORDINANCE 2021-01 AMENDING ORDINANCE 2006-01

ORDINANCE REGARDING COMPENSATION FOR BOARD MEMBERS

The Board of the Alameda County Waste Management Authority ("WMA") finds that:

1. In 2006 the WMA adopted Ordinance 2006-01, the Ordinance regarding compensation for board members. Based on a review of the consumer price index and given that this compensation has not been increased since that time, the WMA wishes to amend the ordinance to change the amount of compensation from \$150 per meeting to \$230 per meeting.
2. The Board of the Alameda County Waste Management Authority held a public meeting on May 26, 2021 to consider this ordinance, and after considering all testimony and written materials provided in connection with that meeting introduced this ordinance and waived the reading thereof.

Therefore, the Board of the WMA hereby ordains as follows:

Section 1. Amendment.

Ordinance 2006-01, an ordinance regarding compensation for board members and alternates is hereby amended as shown in Attachment A. Text to be added is indicated in bold underlined font (e.g., **underlined**) and text to be deleted is indicated in strikeout font (e.g., ~~strikeout~~).

Section 2. Severability.

If any provision of this Ordinance or its application to any situation is held to be invalid, the invalidity shall not affect other provisions or applications of this Ordinance, which can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are declared to be severable.

Section 3. Publication, Posting, and Effective Date

Within 15 days after adoption, a summary of the ordinance (with the names of those voting for and against), shall be published and a certified copy of the full text of the ordinance (with the names of those voting for and against), shall be posted in the office of the Clerk of the Board. The ordinance shall become effective thirty (30) days after adoption.

- Continued on following page -

Following introduction on May 26, 2021, passed and adopted June 23, 2021 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

I certify that under the penalty of perjury that the foregoing is a full, true and correct copy of ORDINANCE NO. 2021-01.

ARLISS DUNN
CLERK OF THE BOARD

ATTACHMENT A

ORDINANCE NO. 2006-01 as amended by Ordinance 2021-1

AN ORDINANCE IMPLEMENTING AB 11 (2005), PARTICULARLY GOVERNMENT CODE SECTION 36516 AND AB 1234 (2005), PARTICULARLY HEALTH AND SAFETY CODE SECTION 6489, REGARDING COMPENSATION FOR BOARD MEMBERS

The Board of the Alameda County Waste Management Authority (Authority) ordains as follows:

SECTION 1

AB 11 and AB 1234, enacted by the Legislature in 2005, require rescission of Resolution #WMA 2002-09 (setting the per diem for members for attendance at Board or committee meetings) and enactment of an ordinance consistent with State law.

SECTION 2

The Board of the Authority does hereby repeal Resolution #WMA 2002-09.

Section 3

Compensation of Board members **and alternates** shall be set at **\$230** ~~\$150~~ per attendance at a Board or committee meeting or other authorized Board meeting such as an educational activity. The total compensation of a Board member shall not exceed **\$690** ~~\$450~~ per month.

Section 4

The terms of this Ordinance may not be changed or amended except by enactment of another Ordinance or amendment of this Ordinance.

Section 5

This Ordinance shall be posted at the Authority Office for at least thirty (30) days after its adoption by the Board and shall become effective thirty (30) days after adoption.

- End-

ATTACHMENT 2

ALAMEDA COUNTY WASTE MANAGEMENT AUTHORITY

RESOLUTION #WMA 2021-03

MOVED:

SECONDED:

AT THE MEETING HELD JUNE 23, 2021

**RESOLUTION OF THE ALAMEDA COUNTY WASTE MANAGEMENT AUTHORITY BOARD
REVISING BOARD MEMBERS AND ALTERNATES MEETING ATTENDANCE
POLICY**

WHEREAS, the Alameda County Waste Management Authority (“WMA Board”) provides compensation for Board members or alternates to conduct the business of the WMA Board at Board and standing committee meetings; and

WHEREAS, said compensation has not been adjusted since July 2002; and

WHEREAS, a review of other local jurisdictions’ payment practices as it applies to board/council members as well as a review of the consumer price index indicates that an increase in compensation is warranted; and

WHEREAS, Ordinance 2021-01 amending Ordinance 2006-01 as it pertained to board member compensation is being presented for adoption on June 23, 2021, and

WHEREAS, as the meeting attendance policy adopted by the WMA Board on March 28, 2018 requires revisions to reflect this increase in compensation as well as to reflect changes in reporting required by the Internal Revenue Service, and

WHEREAS, the WMA Board at its meeting on May 26, 2021 approved changes to the policy pending adoption of Ordinance 2021-01.

NOW THEREFORE, BE IT RESOLVED THAT:

The WMA Board adopts the attached meeting attendance payment policy. This resolution supersedes all other resolutions and policies and becomes effective consistent with the effective date of Ordinance 2021-01.

ADOPTED this 23rd day of June 2021, by the following votes:

AYES:

NOES:

ABSTAIN:

ABSENT:

I certify that under the penalty of perjury that the foregoing is a full, true and correct copy of Resolution #WMA 2021-03.

Arliss Dunn
Clerk of the Board

**ALAMEDA COUNTY WASTE MANAGEMENT AUTHORITY
MEETING ATTENDANCE PAYMENT POLICY**

1. WMA Board members will receive a payment of \$230 per meeting for WMA Board and standing committee (i.e., the Programs and Administration Committee and Planning Committee) meetings, not to exceed \$690 per person per month. This represents a change in compensation from \$150 per meeting to \$230 per meeting.
2. A WMA Board member alternate will receive payment for attending a WMA Board or standing committee meeting if the primary WMA Board member is not present. No more than one representative from a member agency may be paid for any one meeting.
3. Recycling Board member payments are limited to \$100 per meeting (not to exceed \$3,000 per year) by terms of the County Charter (referred to as Measure D). Since the monthly Recycling Board meeting is also a WMA Planning Committee meeting, Planning Committee members (including interim appointees attending instead of a Planning Committee member that is unable to attend) will be paid \$100 from Recycling Board funds and \$130 from WMA funds for a total of \$230 per meeting.
4. If there is a lack of quorum to convene a scheduled meeting, those members in attendance will be eligible for payment as if the meeting took place. If that meeting is rescheduled, all members attending the rescheduled meeting shall be eligible for payment even if they have been paid for attending the meeting that did not convene.
5. A person arriving at a meeting after it has been adjourned is not eligible for payment for that meeting.
6. Attendance via teleconference is eligible for payment, although Board members unable to attend a meeting in person are encouraged to have their alternate or interim appointee attend in their place.
7. The WMA Board and the Recycling Board as its own body (not as the WMA Planning Committee) periodically hold a joint meeting for matters affecting both boards (e.g., the annual budget presentation, strategic planning). For such joint meetings, all Recycling Board members (either appointed by the WMA Board or the Alameda County Board of Supervisors) will receive \$100 from Recycling Board funds and \$130 from WMA funds. All other WMA Board members will receive \$230 from WMA funds.
8. No person receiving a payment pursuant to this policy may be reimbursed by the Waste Management Authority for any expenses (e.g., parking, transportation) incurred in connection with attending a meeting for which payment has been or will be made.

9. Payments are made based on the record of attendance for each meeting and are sent to the recipient by direct deposit. Payments are processed once a month.
10. Payments will be included in a calendar year Form W2 for Board members as per IRS regulations.
11. This policy will be periodically reviewed and revised as needed.

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DATE: June 23, 2021

TO: Waste Management Authority Board

FROM: Arliss Dunn, Clerk of the Board

SUBJECT: Reappointment to the Recycling Board – Board member Carling

SUMMARY

Board member Bob Carling, City of Livermore, has served one two-year term on the Recycling Board and is eligible for reappointment to a second two-year term. He has indicated a willingness to serve a second two-year term. His current term expires July 24, 2021.

RECOMMENDATION

That the Waste Management Authority Board reappoint Board member Carling to a two-year term on the Recycling Board ending July 24, 2023.

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DATE: June 23, 2021

TO: Waste Management Authority Board

FROM: Wendy Sommer, Executive Director

SUBJECT: Amendment to Geographical Designation and Election of WMA Officers for Fiscal Year 2021-22

SUMMARY

Waste Management Authority Board officers' terms are on a fiscal year basis. Since the end of June concludes our fiscal year, it is time for election of new officers, effective July 1.

DISCUSSION

For the Waste Management Authority Board, geographic representation plays a role in the officer selection process, with three groupings of East County, South County and North County. It has been customary to rotate officers based on geographic grouping, and for each officer to "advance one level" each year.

In the current fiscal year, Deborah Cox (City of San Leandro) is serving as President, Shelia Young (Oro Loma Sanitary District) is the First Vice President, and Dianne Martinez (City of Emeryville) is the Second Vice President.

For many years, Oro Loma Sanitary District has been included in the East County category, even though geographically it's closer to Hayward and San Leandro, which is considered South County. It seems reasonable to move Oro Loma Sanitary District from the East to South County designation.

Staff is proposing to update the geographic designations as follows:

- North County is defined as Alameda, Albany, Berkeley, Emeryville, Oakland, Piedmont and Unincorporated Alameda County.
- South County is defined as Fremont, Hayward, Newark, Oro Loma Sanitary District, San Leandro, and Union City.
- East County is defined as Castro Valley Sanitary District, Dublin, Livermore, and Pleasanton.

If the Board agrees to change Oro Loma Sanitary District's designation to South County, then the next President should be from South County, the next Vice President from North County and the Second Vice President from East County.

RECOMMENDATION

That the WMA Board approve the geographic designations for officer election purposes and elect officers for Fiscal Year 2021-22.

DATE: June 23, 2021

TO: Energy Council

FROM: Arliss Dunn, Clerk of the Board

SUBJECT: Election of EC Officers for Fiscal Year 2021-22

SUMMARY

Energy Council Officers' terms are on a fiscal year basis. It is time for election of new officers for FY 2021-22. Melissa Hernandez (Dublin) is the current President, Dan Kalb (Oakland) is the First Vice President, and Jenny Kassan (Fremont) is the Second Vice President.

DISCUSSION

Items for consideration when electing officers:

- It is customary for each officer to "advance one level" each year.
- Unlike the Waste Management Authority, the Energy Council does not need to consider the geographic origin of officers to include one from each of three defined parts of the county.
- The Energy Council was interested in ensuring that the officers were not all from large or small member agencies. Larger agencies might be defined as those with more than one vote on the Energy Council, in recognition that they have larger populations than the other agencies. The agencies with more than one vote are the City of Oakland (3), County of Alameda (2), City of Hayward (2), and City of Fremont (2).

RECOMMENDATION

That the Energy Council elect officers for Fiscal Year 2021-22.

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DATE: June 23, 2021

TO: Waste Management Authority Board

FROM: Timothy Burroughs, Deputy Director
Rachel Balsley, Senior Program Manager

SUBJECT: SB 1383 Ordinance – First Reading

SUMMARY

SB 1383 regulations require that by January 1, 2022 jurisdictions adopt an ordinance or other enforceable mechanisms to require compliance by organic waste generators, haulers, and other entities subject to the regulations and subject to the jurisdiction’s regulatory authority. To assist member agencies and to create a consistent set of requirements throughout the county, StopWaste has committed to preparing a countywide ordinance. Member agencies would adopt an “opt-in” ordinance after the Waste Management Authority (WMA) Board adopts the proposed countywide ordinance. Member agencies requested that the WMA Board review and adopt the proposed countywide ordinance well before January 1, 2022, so that member agencies would have the ability to adopt the opt-in ordinance (first and second readings) in advance of the state’s deadline. At the June 23 WMA Board meeting, staff will provide an overview of the draft ordinance – called the Organics Reduction and Recycling Ordinance – and recommend that following a public hearing the Board introduce the ordinance for adoption at its July 28 meeting.

DISCUSSION

SB 1383, the Short-Lived Climate Pollutant Reduction Act of 2016, directs CalRecycle to develop regulations to divert 75% of organic waste from landfills and recover 20% of edible food for human consumption statewide by 2025. Although the law passed in 2016, the regulations were not approved until November 2020, giving jurisdictions only about one year to prepare for compliance with a significant and complex set of new requirements. StopWaste has made it a top priority to assist member agencies to prepare for and implement SB 1383.

A foundational requirement in the SB 1383 regulations is that jurisdictions must adopt an ordinance or other enforceable mechanisms that incorporate the SB 1383 regulations by January 1, 2022. Based on member agency input, StopWaste developed a draft countywide ordinance – called the

Organics Reduction and Recycling Ordinance (ORRO) – to serve as the enforcement mechanism for its member agencies. We discuss the scope of the ORRO below. The ORRO does not address the SB 1383 Regulations’ requirements concerning CALGreen Building Standards, Model Water Efficient Landscape Ordinances, or procurement of recovered organic waste products; WMA staff is providing member agencies with technical assistance concerning these aspects of the regulations, which are better suited to a jurisdiction-specific rather than countywide approach.

Staff reviewed a draft version of the ORRO with the WMA Board at its May 26, 2021 meeting. A revised version, which benefited from input from the WMA Board, member agency staff, and other partners, is attached (Attachment 1). Staff recommends that the Board introduce the ORRO at the June 23, 2021 meeting and adopt the ordinance at its July 28 meeting.

Organics Reduction and Recycling Ordinance Overview

The draft ORRO is primarily based on a model enforcement ordinance developed by CalRecycle. Its purpose is to incorporate SB 1383 requirements and serve as the enforcement mechanism that the law requires jurisdictions to have. The prescriptive nature of the SB 1383 Regulations leave little flexibility in the content of the ordinance.

ORRO requirements include the following:

- Single family, multifamily and businesses must have organic waste and recycling collection service and sort properly
- Businesses and multifamily buildings must educate employees and tenants about proper sorting and must provide labeled bins. In addition, businesses must monitor for contamination
- Haulers must assist with SB 1383 implementation in several ways, such as conducting or complying with route reviews (i.e., contamination monitoring) and providing compliance data to enforcement agencies
- Commercial edible food generators (e.g., grocery stores, restaurants, wholesale food distributors, and others) must recover surplus edible food, have a contract in place with a food recovery organization or service, and keep monthly records
- Food recovery organizations must keep records and report the amount of food collected

The ORRO also authorizes inspection of regulated entities for compliance and enforcement, including issuance of penalties and a process for appeals.

The ORRO includes requirements from the existing Mandatory Recycling Ordinance (MRO) that were not included in the CalRecycle model ordinance. The ORRO would supersede the MRO. As noted above, the ORRO does not address local agency procurement, water efficient landscaping, or CALGreen building standards.

Ordinance Implementation and Enforcement

Pursuant to SB 1383, cities, counties, and special districts that provide solid waste collection services are the entities responsible for implementation and enforcement of the requirements in the law. The ORRO provides that it will apply within the boundaries of each member agency that opts-in to the ORRO. StopWaste is preparing a template opt-in ordinance for member agencies to use for this purpose. A copy of the current draft is included as Attachment 2.

The SB 1383 regulations allow jurisdictions to authorize other agencies to implement and enforce those requirements and the ORRO is drafted to facilitate this. The ORRO specifically contemplates designation of implementation and enforcement authority. StopWaste has committed to serve as the lead enforcement agency for Section 5 (Requirements for Commercial Business Generators and Multi-Family Residential Dwellings) and Section 6 (Waivers for Commercial Business Generators) of the ORRO. StopWaste is also playing the lead role to cooperate with the Alameda County Department of Environmental Health (ACDEH) to provide education and compliance monitoring for the edible food recovery requirements in the ORRO (ORRO Sections 7 and 8). While specific details are still in the process of being finalized in the form of a model MOU and other guidance documents, ACDEH is expecting to serve as a key partner in implementation and enforcement of the food recovery components of the ORRO on behalf of member agencies.

Ordinance Benefited from Input from Member Agencies and other Partners

StopWaste staff distributed the draft ORRO as well as a draft opt-in ordinance to member agencies and other stakeholders on April 20. Based on member agency and partner input, including comments from city attorneys and County Counsel, StopWaste distributed and requested input on revised versions on May 27. Staff also reviewed the ORRO and opt-in ordinance with the WMA Board at its May meeting, and at a meeting of the Alameda County City Managers Association as well as at multiple member agency Technical Advisory Committee meetings. StopWaste received many helpful comments on the draft ORRO and opt-in ordinance and responded directly to each comment, in addition to distributing revised versions of the documents with tracked changes to illustrate input that was incorporated.

StopWaste staff made changes to the draft ORRO previously reviewed by the Board based on member agency and partner comments. Most of these changes were minor, and a more detailed list is included in Attachment 3. Changes of note, which were made to ease implementation for partners, are:

- Reporting requirements were made simpler for food recovery organizations
- Haulers are required to notify customers of requirements rather than automatically subscribe them to services
- Member agencies will explicitly delegate enforcement to appropriate partners in the opt-in ordinance and/or a separate agreement

California Environmental Quality Act

SB 1383 Regulations were the subject of a program environmental impact report (EIR) prepared pursuant to the California Environmental Quality Act (CEQA). Except for provisions which maintain the already established requirements of the WMA's Mandatory Recycling Ordinance (Ordinance 2012-1), the activities to be carried out under this ordinance are entirely within the scope of the SB 1383 Regulations and that EIR. The EIR therefore adequately analyzes any potential environmental effects of the Ordinance and no additional environmental review is required. No mitigation measures identified in the EIR are applicable to WMA's enactment of this Ordinance. In addition, the Ordinance is categorically exempt from CEQA pursuant to Title 14 California Code of Regulations section 15308 as an action/project that will not have a significant impact on the environment and as an action taken by a regulatory agency for the protection of the environment, specifically, for the protection of the climate.

RECOMMENDATION

That the WMA Board hold a public hearing at the June 23, 2021 meeting, and introduce and waive the first reading of an ordinance to (1) repeal the existing Mandatory Recycling Ordinance and (2) adopt a new countywide Organics Reduction and Recycling Ordinance and (3) direct staff to place the Ordinance on the consent calendar for adoption at the July 28, 2021 meeting.

Attachments:

Attachment 1 – Draft Organics Reduction and Recycling Ordinance (as of 6-15-21)

Attachment 2 – Draft Opt-In Ordinance template (as of 6-15-21)

Attachment 3 – Summary of edits/changes to ORRO and opt-in ordinance since 4-20-21 version

ORDINANCE 2021-01

**ORGANICS REDUCTION
AND RECYCLING ORDINANCE**

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ORDINANCE 2021-01: ORGANICS REDUCTION AND RECYCLING ORDINANCE

The Board of the Alameda County Waste Management Authority (“WMA”) hereby ordains as follows:

SECTION 1. PURPOSE AND FINDINGS

- (a) The purpose of this Ordinance is to reduce the amount of organic and recyclable materials deposited in landfills from commercial and residential generators. This Ordinance repeals WMA Ordinance 2012-1 (An Ordinance Requiring Actions to Reduce Landfilling of Recyclable and Organic Solid Wastes from Businesses, Multifamily Residences, and Self-Haulers) in its entirety in order to provide a single and comprehensive framework to achieve its purposes and comply with various state laws as set forth below.
- (b) The WMA has the power to enact this Ordinance pursuant to the Joint Exercise of Powers Agreement for Waste Management (“JPA”). The JPA grants the WMA the power, duty, and responsibility to prepare, adopt, revise, amend, administer, enforce, and implement the Countywide Integrated Waste Management Plan (“ColWMP”), and pursuant to Section 5.m of the JPA, the power to adopt ordinances necessary to carry out the purposes of the JPA.
- (c) The reduction of organic and recyclable materials deposited in landfills is necessary to carry out the purposes of the JPA and implement the ColWMP, including the following goals and objectives:
 - Goal 1 is to “maintain adequate disposal capacity and minimize landfill impacts.” Objectives 1.1 and 1.3 prioritize preserving landfill capacity in the short run through reducing landfilled materials, and aim to ultimately eliminate landfills altogether, through elimination of waste and effective recovery of materials.
 - Goal 2 is to “maximize environmental benefits by balancing high volume of recovery with related considerations such as quality of commodities, operating impacts of facilities, and other environmental impacts of programs.” Objectives 2.1 to 2.5 affirm the need for infrastructure to manage diversion of organics, minimize environmental impacts of infrastructure, support markets for recovered materials, and reduce contamination.
 - Goal 3 is to “shift from managing discards to reducing consumption, managing materials at their highest and best use, and addressing environmental impacts across the full life cycle of materials and products.”

Objectives 3.1 and 3.2 prioritize managing materials at their highest and best use and prioritize incorporating climate impacts into WMA programs.

- Goal 4 is to “inform and engage the public in waste reduction activities.” Objectives 4.2 and 4.3 provide for education of Alameda County residents, schools and businesses and emphasize the need for the public to take action and adopt positive waste reduction habits.
- Goal 5 is to “develop and administer programs and address emerging issues in partnership with member agencies, the private sector, and other key stakeholders.” Objective 5.1 identifies the need for organizational structures that foster inter-jurisdictional cooperation.

- (d) State recycling law, Assembly Bill 939 of 1989, the California Integrated Waste Management Act of 1989 (approved by the Governor of the State of California on September 29, 1989, which among other things, added Division 30 (Section 40000, et seq.) to the Public Resources Code, as amended, supplemented, superseded, and replaced from time to time), requires cities and counties to reduce, reuse, and recycle (including composting) Solid Waste generated in their jurisdictions to the maximum extent feasible before any incineration or landfill disposal of waste, to conserve water, energy, and other natural resources, and to protect the environment.
- (e) State recycling law, Assembly Bill 341 of 2011 (approved by the Governor of the State of California on October 5, 2011, which amended Sections 41730, 41731, 41734, 41735, 41736, 41800, 42926, 44004, and 50001 of, and added Sections 40004, 41734.5, and 41780.01 and Chapter 12.8 (commencing with Section 42649) to Part 3 of Division 30 of, and added and repealed Section 41780.02 of, the Public Resources Code, as amended, supplemented, superseded and replaced from time to time), places requirements on businesses and multi-family property owners that generate a specified threshold amount of Solid Waste to arrange for recycling service and requires jurisdictions to implement a Mandatory Commercial Recycling program.
- (f) State organics recycling law, Assembly Bill 1826 of 2014 (approved by the Governor of the State of California on September 28, 2014, which added Chapter 12.9 (commencing with Section 42649.8) to Part 3 of Division 30 of the Public Resources Code, relating to Solid Waste, as amended, supplemented, superseded, and replaced from time to time), requires businesses and multi-family property owners that generate a specified threshold amount of Solid Waste, recycling, and Organic Waste per week to arrange for recycling service for those materials, requires counties and cities to implement a recycling program to divert Organic Waste from businesses subject to the law, and to implement a Mandatory Commercial Organics Recycling program.
- (g) State organics recycling law, Senate Bill 1383 of 2016, the Short-lived Climate Pollutant Reduction Act of 2016 (approved by the Governor of the State of

California on September 19, 2016, which added Sections 39730.5, 39730.6, and 39730.8 to the Health and Safety Code, and added Chapter 13.1 (commencing with Section 42652) to Part 3 of Division 30 of the Public Resources Code, as amended, supplemented, superseded, and replaced from time to time), took effect on January 1, 2017 and sets Statewide Organic Waste disposal reduction targets of 50 percent by 2020 and 75 percent by 2025, based on the 2014 organics waste disposal baseline, set forth in Section 39730.6 of the Health and Safety Code, and requires CalRecycle to develop regulations to reduce organics in landfills as a source of methane. The SB 1383 Regulations place requirements on multiple entities, including counties, cities, residential households, Commercial Businesses (including Multi-Family Residential Dwellings), Commercial Edible Food Generators, haulers, Self-Haulers, Food Recovery Organizations, and Food Recovery Services to support achievement of statewide Organic Waste disposal reduction targets with compliance required beginning January 1, 2022.

- (h) In furtherance of the food recovery objectives of the laws noted above and to reduce legal risks associated with food recovery, the State food donation law, Assembly Bill 1219 of 2017, the California Good Samaritan Food Donation Act of 2017 (approved by the Governor of the State of California on October 9, 2017, which amended Section 1714.25 of the Civil Code, amended Section 58502 of, and repealed Section 58506 of, the Food and Agricultural Code, and amended Sections 114432, 114433, and 114434 of, and added Section 114435 to, the Health and Safety Code, as amended, supplemented, superseded and replaced from time to time), provides additional protections for entities that donate and distribute food for human consumption.
- (i) By January 1, 2022, the SB 1383 Regulations require jurisdictions to adopt and enforce an ordinance or other enforceable mechanism to implement relevant provisions of the SB 1383 Regulations concerning regulation of organic waste collection services, generators of organic waste, waste haulers, and generators and processors of edible food, together with enforcement mechanisms and administrative civil penalties for violations of local regulations.
- (j) It is in the public interest for participants in the Alameda County solid waste and recycling systems—including cities, the County, sanitary districts, haulers, processors, facility operators, businesses, institutions, the public, and the WMA—to work together to advance the goals in the state legislation noted above, as well as those in the ColWMP.
- (k) This Ordinance is adopted pursuant to CalRecycle's SB 1383 Regulations. The SB 1383 Regulations were the subject of a program environmental impact report (EIR) prepared by CalRecycle, and except for provisions which maintain the already established requirements of the WMA's Ordinance Requiring Actions to Reduce Landfilling of Recyclable and Organic Solid Wastes from Businesses, Multifamily Residences, and Self-Haulers (Ordinance 2012-1; also known as the Mandatory Recycling Ordinance), the activities to be carried out under this Ordinance are entirely within the scope of the SB 1383 Regulations and that EIR.

No mitigation measures identified in the EIR are applicable to WMA's enactment of this Ordinance. Moreover, none of the conditions requiring a subsequent or supplemental EIR, as described in Public Resources Code Section 21166 and California Environmental Quality Act (CEQA) Guidelines Sections 15162 and 15163, have occurred. The EIR therefore adequately analyzes any potential environmental effects of the Ordinance and no additional environmental review is required. On a separate and independent basis, the Ordinance is exempt from CEQA pursuant to Section 15308, Class 8 of the CEQA Guidelines as an action that will not have a significant impact on the environment and as an action taken by a regulatory agency for the protection of the environment, specifically, for the protection of the climate. There are no unusual circumstances that would cause this Ordinance to have a significant effect on the environment

SECTION 2. TITLE OF ORDINANCE

This Ordinance is titled "Organics Reduction and Recycling Ordinance".

SECTION 3. DEFINITIONS

The following definitions govern the use of terms in this Ordinance:

- (a) "Alameda County" means all of the geographical areas located within the incorporated and unincorporated areas of Alameda County whereas "County of Alameda" or "County" refers to the public entity, a body corporate and politic of the State of California.
- (b) "Back-Haul" means generating and transporting Organic Waste to a destination owned and operated by a generator using the generator's own employees and equipment, or as otherwise defined in 14 CCR Section 18982(a)(66)(A).
- (c) "C&D" means construction and demolition debris.
- (d) "CalRecycle" means California's Department of Resources Recycling and Recovery, which is the state agency designated with responsibility for developing, implementing, and enforcing the SB 1383 Regulations.
- (e) "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).
- (f) "Certification of Recycling Service Form" means documentation certifying that a Commercial Business does not subscribe to collection services for Compost Containers and/or Recycling Containers because the Commercial Business has arranged for collection of its Source Separated Compost Container Organic Waste and/or Source Separated Recyclable Materials by self-hauling, Back-Haul,

contracting with a third party hauler, or shares service with another Commercial Business.

- (g) “Commercial Business” or “Commercial” means a firm, partnership, proprietorship, joint-stock company, corporation, institution or association (whether incorporated or unincorporated or for-profit or nonprofit), strip mall, industrial facility, or a Multi-Family Residential Dwelling, or as otherwise defined in 14 CCR Section 18982(a)(6).
- (h) “Commercial Edible Food Generator” includes a Tier One or a Tier Two Commercial Edible Food Generator as defined herein 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) “Community Composting” means any activity that composts green material, agricultural material, food material, and vegetative food material, alone or in combination, and the total amount of feedstock and Compost on-site at any one time does not exceed 100 cubic yards and 750 square feet, as specified in 14 CCR Section 17855(a)(4); or, as otherwise defined by 14 CCR Section 18982(a)(8).
- (j) “Compliance Review” means a review of records by the Enforcement Agency to evaluate compliance with this Ordinance.
- (k) “Compost” has the same meaning as in 14 CCR Section 17896.2(a)(4), which stated, as of the effective date of this Ordinance, that “Compost” means the product resulting from the controlled biological decomposition of organic Solid Waste that is Source Separated from the municipal Solid Waste stream, or which is separated at a centralized facility.
- (l) “Compost Container” has the same meaning as “Green Container” in 14 CCR Section 18982(a)(29) and shall be used for the purpose of storage and collection of Source Separated Compost Container Organic Waste.
- (m) “Compostable Plastics” or “Compostable Plastic” means plastic materials that meet the ASTM D6400 and D6868 standards for compostability and are certified by the Biodegradable Products Institute (BPI) or similar third-party approved by the WMA, and are approved by the Member Agency for placement in the Compost Container.
- (n) “Container Contamination” or “Contaminated Container” means a container, regardless of type, that contains Prohibited Container Contaminants, or as otherwise defined in 14 CCR Section 18982(a)(55).
- (o) “Designee” means an entity that the WMA or a Member Agency contracts with or otherwise arranges to carry out or assist with any of the WMA’s or Member Agency’s responsibilities for compliance with the SB 1383 Regulations or

administration or enforcement of this Ordinance. A Designee may be a government entity, a private entity, or a combination of those entities.

- (p) "Edible Food" means food intended for human consumption, or as otherwise defined in 14 CCR Section 18982(a)(18). For the purposes of this Ordinance or as otherwise defined in 14 CCR Section 18982(a)(18), "Edible Food" is not Solid Waste if it is recovered and not discarded. Nothing in this Ordinance or in 14 CCR, Division 7, Chapter 12 requires or authorizes the Recovery of Edible Food that does not meet the food safety requirements of the California Retail Food Code, as codified in the Health and Safety Code Section 113700, et seq.
- (q) "Enforcement Action" means an action of the relevant Enforcement Agency to address non-compliance with this Ordinance including, but not limited to, issuing administrative citations, fines, penalties, or using other remedies.
- (r) "Enforcement Agency" means an entity with the authority to enforce part or all of this Ordinance as specified herein. Employees and agents of an Enforcement Agency may carry out inspections and enforcement activities pursuant to this Ordinance. Nothing in this Ordinance authorizing an entity to enforce its terms shall require that entity to undertake such enforcement except as agreed to by that entity.
- (s) "Excluded Waste" means hazardous substances, hazardous waste, infectious waste, designated waste, volatile, corrosive, medical waste, infectious, regulated radioactive waste, and toxic substances or material that facility operator(s), which receive materials from a Member Agency and its generators, reasonably believe(s) would, as a result of or upon acceptance, transfer, processing, or disposal, be a violation of local, State, or Federal law, regulation, or ordinance, including: land use restrictions or conditions, waste that cannot be disposed of in Class III landfills or accepted at the facility by permit conditions, waste that in the reasonable opinion of the Member Agency or a Regulated Hauler operating in that Member Agency's jurisdiction would present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose the Member Agency or a Regulated Hauler to potential liability; but not including de minimis volumes or concentrations of waste of a type and amount normally found in Single-Family or Multi-Family Solid Waste after implementation of programs for the safe collection, processing, recycling, treatment, and disposal of batteries and paint in compliance with Sections 41500 and 41802 of the Public Resources Code. Excluded Waste does not include used motor oil and filters, household batteries, universal wastes, and/or latex paint when such materials are defined as allowable materials for collection through the Member Agency's collection programs and the generator or customer has properly placed the materials for collection pursuant to instructions provided by the Member Agency or the Regulated Hauler providing service to the generator.

- (t) “Food Distributor” means a company that distributes food to entities including, but not limited to, Supermarkets and Grocery Stores, or as otherwise defined in 14 CCR Section 18982(a)(22).
 - (u) “Food Facility” has the same meaning as in Section 113789 of the Health and Safety Code.
 - (v) “Food Recovery” means actions to collect and distribute food for human consumption that otherwise would be disposed, or as otherwise defined in 14 CCR Section 18982(a)(24).
 - (w) “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 Section 18982(a)(25), including, but not limited to:
 - (1) A food bank as defined in Section 113783 of the Health and Safety Code;
 - (2) A nonprofit charitable organization as defined in Section 113841 of the Health and Safety code; and,
 - (3) A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.
- A Food Recovery Organization is not a Commercial Edible Food Generator for the purposes of this Ordinance and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7). If the definition in 14 CCR Section 18982(a)(25) for Food Recovery Organization differs from this definition, the definition in 14 CCR Section 18982(a)(25) shall apply to this Ordinance.
- (x) “Food Recovery Service” means a person or entity that collects and transports Edible Food from a Commercial Edible Food Generator to a Food Recovery Organization or other entities for Food Recovery, or as otherwise defined in 14 CCR Section 18982(a)(26). A Food Recovery Service is not a Commercial Edible Food Generator for the purposes of this Ordinance and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7).
 - (y) “Food Scraps” means all edible or inedible food such as, but not limited to, fruits, vegetables, meat, poultry, seafood, shellfish, bones, rice, beans, pasta, bread, cheese, coffee grounds, and eggshells. Food Scraps excludes fats, oils, and grease when such materials are Source Separated from other Food Scraps.
 - (z) “Food Service Provider” means an entity primarily engaged in providing food services to institutional, governmental, Commercial, or industrial locations of others based on contractual arrangements with these types of organizations, or as otherwise defined in 14 CCR Section 18982(a)(27).

- (aa) “Food-Soiled Paper” is compostable paper material that has come in contact with food or liquid, such as, but not limited to, compostable paper plates, napkins, and pizza boxes, and is approved by the applicable the Member Agency for placement in the Compost Container.
- (bb) “Food Waste” means Food Scraps, Food-Soiled Paper, and Compostable Plastics in combination or separately.
- (cc) “Grocery Store” means a store primarily engaged in the retail sale of canned food; dry goods; fresh fruits and vegetables; fresh meats, fish, and poultry; and any area that is not separately owned within the store where the food is prepared and served, including a bakery, deli, and meat and seafood departments, or as otherwise defined in 14 CCR Section 18982(a)(30).
- (dd) “Hauler Route” means the designated itinerary or sequence of stops for each segment of a Member Agency’s collection service area, or as otherwise defined in 14 CCR Section 18982(a)(31.5).
- (ee) “Health Facility” has the same meaning as in Section 1250 of the Health and Safety Code.
- (ff) “High Diversion Organic Waste Processing Facility” means a facility that is in compliance with the reporting requirements of 14 CCR Section 18815.5(d) and meets or exceeds an annual average mixed waste organic content Recovery rate of 50 percent between January 1, 2022 and December 31, 2024, and 75 percent after January 1, 2025, as calculated pursuant to 14 CCR Section 18815.5(e) for Organic Waste received from the “Mixed waste organic collection stream” as defined in 14 CCR Section 17402(a)(11.5); or, as otherwise defined in 14 CCR Section 18982(a)(33).
- (gg) “Hotel” has the same meaning as in Section 17210 of the Business and Professions Code.
- (hh) “Inspection” means an Enforcement Agency’s electronic or on-site review of 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 Ordinance, or as otherwise defined in 14 CCR Section 18982(a)(35).
- (ii) “Landfill Container” has the same meaning as “Gray Container” in 14 CCR Section 18982(a)(28) and shall be used for the purpose of storage and collection of Landfill Container Waste.
- (jj) “Landfill Container Waste” means Solid Waste that is collected in a Landfill Container that is part of a three-container or three-plus container collection service that prohibits the placement of Organic Waste in the Landfill Container as specified in 14 CCR Sections 18984.1(a) and (b), or as otherwise defined in 14 CCR Section

17402(a)(6.5). (Three container collection service refers to service collecting materials in Landfill Containers, Organics Containers, and Recycling Containers.)

- (kk) “Large Event” means an event, including, but not limited to, a sporting event or a flea market, that charges an admission price, or is operated by a local agency, and serves an average of more than 2,000 individuals per day of operation of the event, at a location that includes, but is not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for an event. If the definition in 14 CCR Section 18982(a)(38) differs from this definition, the definition in 14 CCR Section 18982(a)(38) shall apply to this Ordinance. For the purposes of this definition of Large Event, “local agency” means all public agencies except those that are not subject to the regulatory authority of the Member Agency.
- (ll) “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. For purposes of this Ordinance and implementation of 14 CCR, Division 7, Chapter 12, 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. For purposes of this Ordinance and implementation of 14 CCR, Division 7, Chapter 12, a site under common ownership or control that includes more than one Large Venue that is contiguous with other Large Venues in the site, is a single Large Venue. If the definition in 14 CCR Section 18982(a)(39) differs from this definition, the definition in 14 CCR Section 18982(a)(39) shall apply to this Ordinance.
- (mm) “Member Agency” means a party to the JPA. Current member agencies are the County of Alameda; the Cities of Alameda, Albany, Berkeley, Dublin, Emeryville, Fremont, Hayward, Livermore, Newark, Oakland, Piedmont, Pleasanton, San Leandro, and Union City; and the Castro Valley and Oro Loma Sanitary Districts. A reference to a Member Agency means the Member Agency within whose boundaries the regulated Organic Waste Generator, Self-Hauler, Regulated Hauler, Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity resides or operates. The Member Agency boundaries for the purpose of administering and enforcing this Ordinance are:
- (1) The legal boundaries of each of the 14 incorporated municipalities within Alameda County, except those portions of the Cities of Hayward and San Leandro that are within the boundaries of the Oro Loma Sanitary District.
 - (2) The legal boundaries of each of the Castro Valley and Oro Loma Sanitary Districts.
 - (3) The unincorporated sections of the County not included within the above.

- (nn) “Mixed Waste Organic Collection Stream” or “Mixed Waste” means Organic Waste collected in a container that is required by 14 CCR Sections 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 Section 17402(a)(11.5).
- (oo) “Multi-Family Residential Dwelling” or “Multi-Family” means of, from, or pertaining to residential premises with five or more dwelling units. Multi-Family premises are considered a distinct type of Commerical Business for the purposes of implementing this Ordinance. Consistent with the SB 1383 Regulations, residential premises that consist of fewer than five units are not “Multi-Family” and instead are “Single-Family” for the purposes of implementing this Ordinance. Multi-Family premises do not include hotels, motels, or other transient occupancy facilities, which are considered other types of Commercial Businesses.
- (pp) “Non-Compostable Paper” includes, but is not limited to, paper that is coated, lined or treated with a non-compostable material, or otherwise unacceptable to the compostable materials handling facility processing the material.
- (qq) “Non-Organic Recyclables” means non-putrescible and non-hazardous recyclable materials including but not limited to recyclable food and beverage glass containers, metal (aluminum and steel) food and beverage cans, HDPE (high density polyethylene) bottles and PET (polyethylene terephthalate) bottles, and other materials specified in 14 CCR Section 18982(a)(43).
- (rr) “Notice of Violation” means a notice that a violation has occurred that includes a compliance date to avoid an action to seek penalties, or as otherwise defined in 14 CCR Section 18982(a)(45) or further explained in 14 CCR Section 18995.4.
- (ss) “Organic Waste” means Solid Waste containing material originated from living organisms and their metabolic waste products, including but not limited to food, green material, landscape and pruning waste, organic textiles and carpets, lumber, wood, Paper Products, Printing and Writing Paper, manure, biosolids, digestate, and sludges or as otherwise defined in 14 CCR Section 18982(a)(46). Biosolids and digestate are as defined by 14 CCR Section 18982(a).
- (tt) “Organic Waste Generator” means a Person or entity that is responsible for the initial creation of Organic Waste, or as otherwise defined in 14 CCR Section 18982(a)(48).
- (uu) “Paper Products” include, but are not limited to, paper janitorial supplies, cartons, wrapping, packaging, file folders, hanging files, corrugated boxes, tissue, and toweling, or as otherwise defined in 14 CCR Section 18982(a)(51).
- (vv) “Person” includes an individual, firm, limited liability company, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever, or as otherwise defined in Public Resources Code Section 40170.

- (ww) "Printing and Writing Paper" 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 writing papers, posters, index cards, calendars, brochures, reports, magazines, and publications, or as otherwise defined in 14 CCR Section 18982(a)(54).
- (xx) "Prohibited Container Contaminants" includes all of the following: (i) materials placed in the Recycling Container that are not identified as acceptable Source Separated Recyclable Materials for the Member Agency's Recycling Container; (ii) materials placed in the Compost Container that are not identified as acceptable Source Separated Compost Container Organic Waste for the Member Agency's Compost Container; (iii) materials placed in the Landfill Container that are acceptable Source Separated Recyclable Materials and/or acceptable Source Separated Compost Container Organic Waste that can be placed in the Member Agency's Compost Container and/or Recycling Container; and, (iv) Excluded Waste placed in any container.
- (yy) "Recovery" means any activity or process described in 14 CCR Section 18983.1(b), or as otherwise defined in 14 CCR Section 18982(a)(49).
- (zz) "Recycling Container" has the same meaning as "Blue Container" in 14 CCR Section 18982(a)(5) and shall be used for the purpose of storage and collection of Source Separated Recyclable Materials and Source Separated Recycling Container Organic Waste.
- (aaa) "Regulated Hauler" means a Person that collects Solid Waste (other than Solid Waste generated by a permitted building project) originating in Alameda County from Compost Containers, Recycling Containers, and/or Landfill Containers, and does so under a contract, franchise agreement, or permit with the WMA or a Member Agency. A Member Agency that collects Solid Waste within its boundaries is not a Regulated Hauler with respect to that collection.
- (bbb) "Remote Monitoring" means the use of mechanical or electronic devices to identify the types of materials in Recycling Containers, Compost Containers, and/or Landfill Containers for purposes of identifying the quantity of materials in containers (level of fill) and/or presence of Prohibited Container Contaminants.
- (ccc) "Restaurant" means an establishment primarily engaged in the retail sale of food and drinks for on-premises or immediate consumption, or as otherwise defined in 14 CCR Section 18982(a)(64).
- (ddd) "Route Review" means a visual Inspection of containers along a Hauler Route for the purpose of determining Container Contamination, and may include mechanical or electronic Inspection methods such as the use of cameras, or as otherwise defined in 14 CCR Section 18982(a)(65).

- (eee) "SB 1383" means Senate Bill 1383 of 2016, the Short-lived Climate Pollutant Reduction Act of 2016.
- (fff) "SB 1383 Regulations" means or refers to, for the purposes of this Ordinance, 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.
- (ggg) "Self-Hauler" means a Person, who hauls Solid Waste, Organic Waste or recyclable material they have generated to another Person for disposition as allowed by the Member Agency and otherwise in accordance with all applicable laws. Self-Hauler also includes a Person who Back-Hauls such materials, and as otherwise defined in 14 CCR Section 18982(a)(66).
- (hhh) "Single-Family" means, for purposes of this Ordinance, of, from, or pertaining to any residential premises with fewer than five units.
- (iii) "Solid Waste" has the same meaning as defined in Public Resources Code Section 40191, which defines Solid Waste as all putrescible and nonputrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semi-solid wastes, and other discarded solid and semisolid wastes, with the exception that Solid Waste does not include any of the following wastes:
- (1) Hazardous waste, as defined in the Public Resources Code Section 40141.
 - (2) Radioactive waste regulated pursuant to the State Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the Health and Safety Code).
 - (3) Medical waste regulated pursuant to the State Medical Waste Management Act (Part 14 (commencing with Section 117600) of Division 104 of the Health and Safety Code). Untreated medical waste shall not be disposed of in a Solid Waste landfill, as defined in Public Resources Code Section 40195.1. Medical waste that has been treated and deemed to be Solid Waste shall be regulated pursuant to Division 30 of the Public Resources Code.
- (jjj) "Source Separated" means materials, including commingled recyclable materials, that have been separated or kept separate from the Solid Waste stream, at the point of generation, for the purpose of additional sorting or processing those materials for recycling or reuse in order to return them to the economic mainstream in the form of raw material for new, reused, or reconstituted products, which meet the quality standards necessary to be used in the marketplace, or as otherwise defined in 14 CCR Section 17402.5(b)(4). For the purposes of this Ordinance,

Source Separated shall include separation of materials by the generator, property owner, property owner's employee, property manager, or property manager's employee into different containers for the purpose of collection such that Source Separated materials are separated from Landfill Container Waste or other Solid Waste for the purposes of collection and processing.

- (kkk) "Source Separated Compost Container Organic Waste" means Source Separated Organic Waste that can be placed in a Compost Container that is specifically intended for the separate collection of Organic Waste by the generator, excluding Source Separated Recycling Container Organic Waste, carpets, Non-Compostable Paper, and textiles.
 - (III) "Source Separated Recyclable Materials" means Source Separated Non-Organic Recyclables and Source Separated Recycling Container Organic Waste.
 - (mmm) "Source Separated Recycling Container Organic Waste" means Source Separated Organic Wastes that can be placed in a Recycling Container that is limited to the collection of those Organic Wastes and Non-Organic Recyclables, as defined herein or as otherwise defined in Sections 18982(a)(43) and 18982(a)(46). Source Separated Recycling Container Organic Waste shall include materials as determined by the Member Agency and includes unsoiled Paper Products and Printing and Writing Paper.
 - (nnn) "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 Section 18982(a)(71).
 - (ooo) "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 Ordinance.
- (ppp) "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.

If the definition in 14 CCR Section 18982(a)(74) of Tier Two Commercial Edible Food Generator differs from this definition as to entities subject to the regulatory authority of a Member Agency, the definition in 14 CCR Section 18982(a)(74) shall apply to this Ordinance.

- (qqq) "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 Section 189852(a)(76).
- (rrr) "WMA" means the Alameda County Waste Management Authority.

SECTION 4. REQUIREMENTS FOR SINGLE-FAMILY GENERATORS

Except Single-Family Organic Waste Generators that meet the Self-Hauler requirements in Section 10 of this Ordinance and/or that are located in a census tract for which CalRecycle has issued a low population waiver (as described in 14 CCR Section 18984.12), Single-Family generators shall:

- (a) Be subscribed to the collection service(s) approved by the Member Agency for Compost Containers, Recycling Containers, and Landfill Containers. A Member Agency shall have the right to review the number and size of a generator's containers to evaluate the adequacy of capacity provided for each type of collection service and to review the separation of materials and containment of materials. A Single-Family generator shall adjust its service level for its collection services as requested by the Member Agency in order to meet the standards set forth in this Ordinance. Generators may manage their Organic Waste by preventing or reducing their Organic Waste, managing Organic Waste on site, and/or using a Community Composting site pursuant to 14 CCR Section 18984.9(c) to the extent permitted by other applicable laws.
- (b) Participate in the Organic Waste collection service(s) approved by the Member Agency by placing designated materials in designated containers as described below, and not placing Prohibited Container Contaminants in collection containers. Generator shall place Source Separated Compost Container Organic Waste,

including Food Waste, in the Compost Container; Source Separated Recyclable Materials in the Recycling Container; and Landfill Container Waste in the Landfill Container. Generators shall not place materials designated for the Landfill Container into the Compost Container or the Recycling Container.

- (c) The Enforcement Agency for the provisions of this Section 4 is the Member Agency and any other Designee of the Member Agency.

SECTION 5. REQUIREMENTS FOR COMMERCIAL BUSINESS GENERATORS INCLUDING MULTI-FAMILY RESIDENTIAL DWELLINGS

Commerical Business Organic Waste Generators, including Multi-Family Residential Dwellings, shall:

- (a) Except Commercial Businesses that meet the Self-Hauler requirements in Section 10 of this Ordinance, or that meet waiver requirements in Section 6 of this Ordinance, or that are located in a census tract for which CalRecycle has issued a low population waiver (as described in 14 CCR Section 18984.12):
 - (1) Be subscribed to collection service(s) approved by the Member Agency for Compost Containers, Recycling Containers, and Landfill Containers and comply with requirements of those services as described below. A Member Agency 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 Member Agency.
 - (2) Participate in collection services approved by the Member Agency for Organic Waste collection service(s) by placing designated materials in designated containers as described below. Generator shall place Source Separated Compost Container Organic Waste, including Food Waste, in the Compost Container; Source Separated Recyclable Materials in the Recycling Container; and Landfill Container Waste in the Landfill Container. Generator shall not place materials designated for the Landfill Container into the Compost Container or Recycling Container.
- (b) Supply and allow access to adequate number, size and location of collection containers with sufficient labels or colors (conforming with Sections 5(c)(1), 5(c)(2), and 5(d) below) for employees, contractors, tenants, and customers, consistent with the Recycling Container, Compost Container, and Landfill Container collection service or, if self-hauling, per the Commercial Businesses' instructions to support its compliance with its self-haul program, in accordance with Section 10.

- (c) Excluding Multi-Family Residential Dwellings, provide containers for the collection of Source Separated Compost Container Organic Waste and Source Separated Recyclable Materials generated by that business in all areas where the Commercial Business provides disposal containers for employees, contractors, tenants, customers and other users of the premises (“User Disposal Containers”). Such User Disposal Containers do not need to be provided in restrooms. If a Commercial Business does not generate, or has a waiver pertaining to, any of the materials that would be collected in one type of User Disposal Container, then the business does not have to provide that particular type of container in all areas where User Disposal Containers are provided. Pursuant to 14 CCR Section 18984.9(b), the User Disposal Containers provided by the business shall have either:
- (1) A body or lid that conforms with the following container colors, with either lids conforming to these color requirements or bodies conforming to these color requirements, or both lids and bodies conforming to these color requirements: gray or black containers for Landfill Container Waste, blue containers for Source Separated Recyclable Materials, and green containers for Source Separated Compost Container Organic Waste. Notwithstanding the foregoing, a Commercial Business is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the color requirements of this Section 5(c)(1) prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first.
 - (2) Container labels that include language or graphic images, or both, indicating the primary materials 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 Section 18984.8, the container labeling requirements are required on new containers commencing January 1, 2022.
- (d) For Multi-Family Residential Dwellings, provide containers for the collection of Source Separated Compost Container Organic Waste and Source Separated Recyclable Materials in all common areas where those materials are being generated and disposal containers are provided for tenants, and in areas for internal consolidation of materials that are later deposited in Organics Containers, Recycling Containers, and Landfill Containers for collection by Regulated Haulers. Such containers do not need to be provided in restrooms accessible from common areas of the Multi-Family Dwelling. Such containers shall comply with the color and labeling requirements specified in subsections (c)(1) and (c)(2) above.
- (e) To the extent practical through education, training, inspection, and/or other measures, prohibit employees from placing materials in a container not designated for those materials per the Recycling Container, Compost Container, and Landfill Container collection service or, if self-hauling, per the Commercial Businesses’

instructions to support its compliance with its self-haul program, in accordance with Section 10.

- (f) Periodically inspect Recycling Containers, Compost Containers, and Landfill Containers for contamination and inform employees if containers are contaminated and of the requirements to keep contaminants out of those containers pursuant to 14 CCR Section 18984.9(b)(3).
- (g) Annually provide information to employees, contractors, tenants, building residents, and customers about Organic Waste Recovery requirements and about proper sorting of Source Separated Compost Container Organic Waste and Source Separated Recyclable Materials.
- (h) Provide information before or within fourteen days of new occupation of the premises to new tenants and no less than fourteen days before tenants move out of the premises, unless a tenant does not provide fourteen or more days' notice to before moving out, that describes requirements to keep Source Separated Compost Container Organic Waste and Source Separated Recyclable Materials separate from each other and from Landfill Container Waste and the location of containers and the rules governing their use at the property.
- (i) Provide or arrange access for the Enforcement Agency to their properties during all Inspections conducted in connection with this Ordinance and timely provide documents requested by the Enforcement Agency to confirm compliance with the requirements of this Ordinance.
- (j) Accommodate and cooperate with any Remote Monitoring program established by a Regulated Hauler or a Member Agency for Inspection of the types of materials placed in containers for Prohibited Container Contaminants to evaluate generator's compliance with Section 5(a)(1).
- (k) At Commercial Business' option and subject to approval by the Enforcement Agency, implement its own Remote Monitoring program for self-inspection of the types of materials placed in Recycling Containers, Compost Containers, and Landfill Containers for the purpose of monitoring the contents of containers to determine appropriate levels of service and to identify Prohibited Container Contaminants. Purchase and maintenance of the Remote Monitoring program shall be the responsibility of the Commercial Business.
- (l) 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) to the extent permitted by other applicable laws.
- (m) The Enforcement Agency for the provisions of this Section 5 is the Member Agency and, if authorized by the Member Agency, the WMA, and any other Designee of the Member Agency.

SECTION 6. WAIVERS FOR COMMERCIAL BUSINESS GENERATORS

- (a) De Minimis Waivers. Except for Multi-Family Residential Dwellings, the Enforcement Agency may waive a Commercial Business' obligation to comply with some or all of the Organic Waste collection service requirements of this Ordinance if the Commercial Business provides documentation demonstrating that the business generates below a certain amount of Organic Waste material, as described in Section 6(a)(2) below. A Commercial Business requesting a de minimis waiver shall:
- (1) Submit an application to the Enforcement Agency specifying the service or requirements for which it is requesting a waiver.
 - (2) Provide documentation with the application 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 Recycling Container or Compost 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 Recycling Container or Compost Container comprises less than 10 gallons per week per applicable container of the business' total waste.
 - (C) For the purposes of subsections (A) and (B) above, total Solid Waste shall be the sum of weekly Landfill Container Waste, Source Separated Recyclable Materials, and Source Separated Compost Container Organic Waste measured in cubic yards.
 - (3) If the waiver is granted, notify the Enforcement Agency granting the waiver if circumstances change such that Commercial Business's Organic Waste exceeds threshold required for waiver, in which case the waiver will be rescinded.
 - (4) If the waiver is granted, provide written verification of continued eligibility for de minimis waiver to the Enforcement Agency every 5 years.
- (b) Physical Space Waivers. The Enforcement Agency may waive a Commercial Business' or property owner's (including a Multi-Family Residential Dwelling's) obligation to comply with some or all of the recyclable materials and/or Organic Waste collection service requirements of this Ordinance if the Enforcement Agency has evidence from a Regulated Hauler, licensed architect, licensed engineer, or other Person authorized by the Enforcement Agency demonstrating that the

premises lacks adequate space for the collection containers required for compliance with the Organic Waste collection requirements of Section 5.

A Commercial Business requesting a physical space waiver shall:

- (1) Submit an application to the Enforcement Agency specifying the service or requirements for which it is requesting a waiver.
 - (2) Provide documentation with the application that the premises lacks adequate space for Recycling Containers and/or Compost Containers, which shall include documentation from its Regulated Hauler, licensed architect, licensed engineer, or other Person authorized by the Enforcement Agency.
 - (3) If the waiver is granted, notify the Enforcement Agency granting the waiver if the Commercial Business' physical space configurations or amounts of Solid Waste generation change, in which case the waiver may be rescinded.
 - (4) If the waiver is granted, provide written verification to the Enforcement Agency of continued eligibility for a physical space waiver every five years.
- (c) Collection Frequency Waiver. The Enforcement Agency, at its discretion and in accordance with 14 CCR Section 18984.11(a)(3), may allow the owner or tenant of any residence, premises, business establishment or industry that subscribes to the Member Agency's three- or, if relevant, three-plus container Organic Waste collection service to arrange for the collection of their Recycling Container, Landfill Container, or both once every fourteen days, rather than once per week.
- (d) The Enforcement Agency for the provisions of this Section 6 is the Member Agency and, if authorized by the Member Agency, the WMA, and any other Designee of the Member Agency.

SECTION 7. REQUIREMENTS FOR COMMERCIAL EDIBLE FOOD GENERATORS

- (a) Tier One Commercial Edible Food Generators must comply with the requirements of this Section 7 commencing January 1, 2022, and Tier Two Commercial Edible Food Generators must comply commencing January 1, 2024, pursuant to 14 CCR Section 18991.3 or such later deadline established by State law or regulations.
- (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 or such later deadline established by State law or regulations.
- (c) Commercial Edible Food Generators shall comply with the following requirements:

- (1) Arrange to safely recover for human consumption the maximum amount of Edible Food that would otherwise be disposed.
- (2) Enter into a contract or other written agreement with Food Recovery Organizations or Food Recovery Services for: (i) the collection for Food Recovery of Edible Food that would otherwise be disposed; or, (ii) acceptance of Edible Food that would otherwise be disposed that the Commercial Edible Food Generator self-hauls to the Food Recovery Organization for Food Recovery.
- (3) Use best efforts to abide by all contractual or written agreement requirements specified by the Food Recovery Organization or Food Recovery Service on how Edible Food should be prepared, packaged, labeled, handled, stored, distributed or transported to the Food Recovery Organization or Service.
- (4) Not intentionally donate food that has not been prepared, packaged, handled, stored and/or transported in accordance with the safety requirements of the California Retail Food Code.
- (5) Not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery Organization or a Food Recovery Service.
- (6) Allow the Enforcement Agency to review records upon request, including by providing electronic copies or allowing access to the premises, pursuant to 14 CCR Section 18991.4.
- (7) Keep records that include the following information, or as otherwise specified in 14 CCR Section 18991.4:
 - (A) A list of each Food Recovery Service or Food Recovery Organization that collects or receives its Edible Food pursuant to a contract or written agreement established under 14 CCR Section 18991.3(b).
 - (B) A copy of all contracts and written agreements established under 14 CCR Section 18991.3(b) and/or this Ordinance.
 - (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) If it has not entered into a contract or written agreement with Food Recovery Organizations or Food Recovery Services pursuant to Section 7(c)(2), a record that describes (i) its direct donation of Edible Food to end recipients (including employees) and/or (ii) its food waste prevention practices that result in it generating no surplus Edible Food that it can donate.
- (8) Tier One Commercial Edible Food Generators and Tier Two Commercial Edible Food Generators shall provide, upon request, a Food Recovery report to the Enforcement Agency that includes the information in Section 7(c)(7). Entities shall provide the requested information within 60 days of the request.
- (d) Nothing in this Ordinance shall be construed to limit or conflict with (1) the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share table and school food donation guidance pursuant to Senate Bill 557 of 2017 (approved by the Governor of the State of California on September 25, 2017, which added Article 13 commencing with Section 49580 to Chapter 9 of Part 27 of Division 4 of Title 2 of the Education Code, and to amend Section 114079 of the Health and Safety Code, relating to food safety, as amended, supplemented, superseded and replaced from time to time); or (2) otherwise applicable food safety and handling laws and regulations.
- (e) Nothing in this Ordinance prohibits a Commercial Edible Food Generator from donating Edible Food directly to end recipients for consumption, pursuant to Health and Safety Code Section 114432(a).
- (f) The Enforcement Agency for the provisions of this Section 7 is the Member Agency and, if authorized by the applicable Member Agency, the WMA, and any other Designee of the Member Agency.

SECTION 8. REQUIREMENTS FOR FOOD RECOVERY ORGANIZATIONS AND SERVICES

- (a) Nothing in this Ordinance prohibits a Food Recovery Service or Food Recovery Organization from refusing to accept edible food from a Commercial Edible Food Generator, in accordance with 14 CCR Section 18990.2(d).
- (b) Food Recovery Services collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(1):

- (1) The name, address, and contact information for each Commercial Edible Food Generator from which the service collects Edible Food.
 - (2) The quantity in pounds of Edible Food collected from each Commercial Edible Food Generator per month. This may also include the total quantity in pounds of food collected that was spoiled when received from a Commercial Edible Food Generator or otherwise not able to be used to feed people.
 - (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.
- (c) Food Recovery Organizations collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(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. This may also include the total quantity in pounds of food collected that was spoiled when received from a Commercial Edible Food Generator or otherwise not able to be used to feed people.
 - (3) The name, address, and contact information for each Food Recovery Service that the organization receives Edible Food from for Food Recovery.
- (d) Food Recovery Organizations and Food Recovery Services that have their primary address physically located in Alameda County and contract with or have written agreements with one or more Commercial Edible Food Generators pursuant to 14 CCR Section 18991.3(b) shall report to the WMA the total pounds of Edible Food recovered from the Tier One and Tier Two Commercial Edible Food Generators they have established a contract or written agreement with pursuant to 14 CCR Section 18991.3(b) according to the following schedule: (i) no later than August 15, 2022, submit an initial report covering the period of January 1, 2022 to June 30, 2022; and (ii) no later than March 31, 2023, and no later than every March 31 thereafter, submit a report covering the period of January 1 to December 31 of the previous calendar year.
- (e) In order to support Edible Food Recovery capacity planning assessments and similar studies, Food Recovery Services and Food Recovery Organizations operating in Alameda County shall provide, upon request, information and

consultation to the Enforcement Agency regarding existing, or proposed new or expanded, Food Recovery capacity in a form that can be provided to or that can be accessed by the WMA, Member Agencies, and Commercial Edible Food Generators in Alameda County. A Food Recovery Service or Food Recovery Organization contacted by the Enforcement Agency shall respond to such request for information within 60 days, unless a shorter timeframe is otherwise specified by the Enforcement Agency.

- (f) The Enforcement Agency for the provisions of this Section 8 is Member Agency and, if authorized by the Member Agency, the WMA and any other Designee of the Member Agency.

SECTION 9. REQUIREMENTS FOR REGULATED HAULERS AND FACILITY OPERATORS

- (a) Requirements for Regulated Haulers.

- (1) A Regulated Hauler providing Single-Family, Commercial, or industrial Organic Waste collection service to generators within Alameda County shall meet the following requirements and standards in connection with collection of Organic Waste:
 - (A) Through written notice to the Member Agency annually on or before March 31, identify the facilities to which they will transport Organic Waste including facilities for Source Separated Recyclable Materials and Source Separated Compost Container Organic Waste.
 - (B) Transport Source Separated Recyclable Materials to a facility that recycles those materials and transport Source Separated Compost Container Organic 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 Member Agency to haul Organic Waste, unless it is transporting Source Separated Organic Waste to a Community Composting site or lawfully transporting C&D in a manner that complies with 14 CCR Section 18989.1, Section 13 of this Ordinance, and any WMA and Member Agency rules.
- (2) Within the boundaries of any Member Agency in which it has customers, a Regulated Hauler collecting Organic Waste shall:
 - (A) Up to four times per year, provide reports to the WMA and Member Agency on Commercial Business account information and service levels in a form to be specified by the WMA.

- (B) Assist in the dissemination of SB 1383 educational materials to Single-Family and Commercial Business accounts. .
- (C) At least annually and during new staff on-boarding, train Regulated Hauler's customer service representatives and account managers/recycling coordinators serving Organic Waste Generators in Alameda County on the generator requirements set forth in Sections 4 and 5 of this Ordinance, SB 1383 Regulations as they may be revised from time to time and on resources available to assist in compliance. Trainings may be in a virtual or in-person format.
- (D) Where a Regulated Hauler provides Landfill Container collection service, notify Single-Family and Commercial Business accounts that (i) they must also be subscribed to Recycling Container collection service and Compost Container collection service to comply with this Ordinance, except if an applicable waiver has been granted for the account, if an applicable waiver application has been submitted and is under review for the account, or if the account has an approved Certification of Recycling Service Form and (ii) that the Regulated Hauler will inform the Member Agency if the account fails to subscribe to a required collection service offered by the Regulated Hauler.
- (E) Provide quarterly reports to the WMA identifying Single-Family and Commercial accounts that are subscribed to Landfill Container collection service but that are not subscribed to Recycling Container and/or Compost Container collection service. WMA shall provide this information to the Member Agency. If a Regulated Hauler providing Landfill Container collection service does not offer Recycling Container Collection Service and/or Compost Container collection service to its Landfill Container collection service customers, the requirements of subsection (D) and (E) shall not apply with respect to those customers and the type(s) of service that is not offered.
- (F) Conduct or comply with Container Contamination minimization efforts such as Route Reviews or waste evaluations. Inform generators when Container Contamination is observed by the Regulated Hauler.
- (G) If requested by the Enforcement Agency, assist generators with verification of physical space constraints when generator submits an application for a physical space waiver.
- (H) Provide Commercial Business accounts with interactive assistance such as employee trainings, in a virtual or in-person format, when Recycling Container collection service or Composting Container collection service is added, or upon request.

- (3) The Enforcement Agency for the provisions of this Section 9(a) is the Member Agency and, where authorized by the Member Agency, the WMA, and any other Designee of the Member Agency.
- (b) Requirements for Facility Operators and Community Composting Operations
 - (1) Owners of facilities, operations, and activities that recover Organic Waste, including, but not limited to, compost facilities, in-vessel digestion facilities, and publicly-owned treatment works shall, upon request from the WMA, provide within 60 days 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.
 - (2) Community Composting operators shall, upon request from the WMA, provide within 60 days information 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.
 - (3) The Enforcement Agency for the provisions of this Section 9(b) is the WMA and any Designee of the WMA.

SECTION 10. REQUIREMENTS FOR SELF-HAULERS

- (a) Self-Haulers shall source separate all recyclable materials and Organic Waste (materials that the Member Agency otherwise requires generators to separate for collection in the Member Agency's organics and recycling collection program) generated or handled on-site from Solid Waste in a manner consistent with 14 CCR Sections 18984.1 and 18984.2, or shall haul Organic Waste to a High Diversion Organic Waste Processing Facility as specified in 14 CCR Section 18984.3.
- (b) Self-Haulers shall haul their Source Separated Recyclable Materials to a facility that recovers those materials; and haul their Source Separated Compost 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. Self-Haulers may Back-haul to a destination owned and operated by the generator using the generator's own employees and equipment and then haul those consolidated materials to facilities meeting the requirements of this subsection (b).
- (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 Enforcement Agency. The records shall include the following information:

- (1) Delivery receipts and weight tickets from the entity accepting the material.
 - (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 Residential Dwellings) shall submit a Certification of Recycling Service Form to the Enforcement Agency for review for compliance if they do not also subscribe to separate collection service for Compost Containers and/or Recycling Containers by a Regulated Hauler. Applications will be considered for approval to the extent permitted by other applicable laws.
- (e) Self-Haulers that are Commercial Businesses (including Multi-Family Residential Dwellings) shall submit a new Certification of Recycling Service Form to the Enforcement Agency for compliance review every five years, if they do not also subscribe to separate collection service for Compost Containers and/or Recycling Containers by a Regulated Hauler.
- (f) Self-Haulers shall notify the Enforcement Agency if they subscribe to separate collection service for Compost Containers and/or Recycling Containers by a Regulated Hauler, such that they are no longer Self-Haulers.
- (g) Self-Haulers that are Commercial Businesses (including Multi-Family Residential Dwellings) shall provide information, upon request, collected in Section 10(c) to the Enforcement Agency. Entities shall provide the requested information within 60 days.
- (h) A Single-Family Organic Waste Generator that self-hauls Organic Waste is not required to record or report information in Sections 10(c) through (g).
- (i) The Enforcement Agency for the provisions of this Section 10 is the Member Agency and, where authorized by the Member Agency, the WMA, and any other Designee of the Member Agency.

SECTION 11. INSPECTIONS AND INVESTIGATIONS

- (a) The Enforcement Agency is authorized to conduct Inspections and investigations, at random or otherwise, of any collection container, collection vehicle loads, or

transfer, processing, or disposal facility for materials collected from generators, or Source Separated materials to confirm compliance with the provisions of this Ordinance for which it has enforcement authority by Organic Waste Generators, Commercial Businesses (including Multi-Family Residential Dwellings), Commercial Edible Food Generators, Regulated Haulers, Self-Haulers, Food Recovery Services, and Food Recovery Organizations, subject to applicable laws. This Section does not allow entry in a private residential dwelling unit for Inspection. For the purposes of inspecting Commercial Business containers for compliance with Section 5(b) of this Ordinance, the Enforcement Agency 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 5(j) of this Ordinance.

- (b) A Person subject to the requirements of this Ordinance shall provide or arrange for access during all Inspections (with the exception of a private residential dwelling unit) and shall cooperate with the Enforcement Agency during such Inspections and investigations. Such Inspections and investigations may include confirmation of proper placement of materials in containers, inspection of Edible Food Recovery activities, review of required records, or other verification or Inspection to confirm compliance with any other requirement of this Ordinance. Failure to provide or arrange for: (i) access to the premises; (ii) installation and operation of Remote Monitoring equipment, if a Remote Monitoring program is adopted; or (iii) access to records for any Inspection or investigation is a violation of this Ordinance and may result in penalties described in Section 12.
- (c) Any records obtained by the Enforcement Agency during Inspections, Remote Monitoring, and other reviews shall be subject to the requirements and applicable disclosure exemptions of the California Public Records Act as set forth in Government Code Section 6250 et seq.
- (d) The Enforcement Agency is authorized to conduct any Inspections, Remote Monitoring, or other investigations as reasonably necessary to further the goals of this Ordinance, subject to applicable laws.
- (e) The Enforcement Agency shall accept written complaints from persons regarding an entity that may be potentially non-compliant with this Ordinance.
- (f) The Enforcement Agency for the provisions of this Section 11 is the Member Agency and any Designee authorized by the Member Agency to enforce one or more sections of this Ordinance.

SECTION 12. ENFORCEMENT

- (a) Violation of any provision of this Ordinance shall constitute grounds for issuance of a Notice of Violation and assessment of a fine by the Enforcement Agency. Enforcement Actions under this Ordinance are issuance of an administrative

citation and assessment of a fine. The Enforcement Agency's procedures on imposition of administrative citations and fines as contained shall govern the imposition, enforcement, collection, and review of administrative citations and fines issued to enforce this Ordinance and any rule or regulation adopted pursuant to this Ordinance, except as otherwise indicated in this Ordinance.

- (b) Other remedies allowed by law may be used, including civil action or prosecution as a misdemeanor or infraction. The Enforcement Agency may pursue civil actions in the California courts to seek recovery of unpaid administrative citations, and fines. The Enforcement Agency may choose to delay court action until such time as a sufficiently large number of violations, or cumulative size of violations exist such that court action is a reasonable use of Enforcement Agency staff and resources.
- (c) Process for Enforcement
 - (1) The following provisions of this Ordinance may be enforced beginning on January 1, 2022: Section 5 concerning Requirements for Commercial Business Generators, Section 6 concerning Waivers for Commercial Business Generators, Section 9 concerning Requirements for Haulers and Facility Operators, Section 10 concerning Requirements for Self-Haulers, and Inspections related to compliance with those sections.
 - (2) The following provisions of this Ordinance may be enforced beginning on January 1, 2024: Section 4 concerning Requirements for Single Family Generators, Section 7 concerning Requirements for Commercial Edible Food Generators, and Section 8 concerning Requirements for Food Recovery Organizations and Services, and Inspections related to compliance with those sections.
 - (3) The Enforcement Agency will monitor compliance with this Ordinance through Compliance Reviews, Route Reviews, investigation of complaints, and an Inspection program (that may include Remote Monitoring).
 - (4) The Enforcement Agency may issue a Notice of Violation requiring compliance within 60 days of issuance of the notice.
 - (5) Absent compliance by the respondent within the deadline set forth in the Notice of Violation, the Enforcement Agency shall commence an action to impose penalties, via an administrative citation and fine, pursuant to the Enforcement Agency's standard procedures.
- (d) Penalty Amounts for Violations

The penalty levels are as follows:

- (1) For a first violation, the amount of the penalty shall be \$50 to \$100 per violation or such higher amount as may be established by the Enforcement Agency.
- (2) For a second violation, the amount of the penalty shall be \$100 to \$200 per violation or such higher amount as may be established by the Enforcement Agency.
- (3) For a third or subsequent violation, the amount of the penalty shall be \$250 to \$500 per violation or such higher amount as may be established by the Enforcement Agency.

(e) Compliance Deadline Extension Considerations

The Enforcement Agency may extend the compliance deadlines set forth in a Notice of Violation issued in accordance with this Section 12 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 nature such as earthquakes, wildfires, flooding, and other emergencies or natural disasters;
- (2) Delays not within the control of respondent or their agents in obtaining discretionary permits or other government agency approvals; or,
- (3) Deficiencies in Organic Waste recycling infrastructure or Edible Food Recovery capacity and the Member Agency is under a corrective action plan with CalRecycle pursuant to 14 CCR Section 18996.2 due to those deficiencies.

(f) Appeals Process

Persons receiving an administrative citation containing a penalty for an uncorrected violation may request a hearing to appeal the citation. A hearing will be held only if it is requested within the time prescribed in the administrative citation and consistent with the Enforcement Agency's appeal procedures.

(g) Education Period for Non-Compliance

With respect to provisions of this Ordinance subject to enforcement starting January 1, 2024, the Enforcement Agency will, prior to that date, conduct Inspections, Remote Monitoring (if such a program is implemented), Route Reviews or waste evaluations, and Compliance Reviews, depending upon the type of regulated entity, to determine compliance, and if the Enforcement Agency determines that Organic Waste Generator, Self-Hauler, Regulated 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 Ordinance and a notice

that compliance is required and that violations may be subject to administrative citations, penalties, or other remedies starting on January 1, 2024.

(h) **Civil Penalties for Non-Compliance**

If the Enforcement Agency determines that an Organic Waste Generator, Self-Hauler, Regulated 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 Ordinance, it may document the noncompliance or violation, issue a Notice of Violation, and/or take Enforcement Action pursuant to this Section 12, as needed and consistent with the enforcement commencement dates set forth in subsection (c)(1), above.

(i) **The Enforcement Agency for the provisions of this Section 12 is the Member Agency and any Designee authorized by the Member Agency to enforce one or more sections of this Ordinance.**

SECTION 13. LOCAL REGULATION AND OPT-IN PROVISIONS

- (a) Nothing in this Ordinance shall be construed to prohibit any Member Agency from enacting and enforcing ordinances and regulations regarding the collection, transport, storage, processing, and deposit in landfill(s) of Solid Waste within its jurisdiction, including more stringent requirements than those in this Ordinance.
- (b) This Ordinance shall apply only within the boundaries of Member Agencies that have adopted an ordinance declaring that the Member Agency is opting in to this Ordinance and that it shall apply within their jurisdiction. For any Member Agency that opts in, this Ordinance shall apply as to that Member Agency from the date specified in the ordinance adopted by the Member Agency. A Member Agency that has adopted such an ordinance may declare that this Ordinance no longer applies within its boundaries by adopting a subsequent ordinance setting forth the date upon which this Ordinance shall no longer apply.

SECTION 14. SEVERABILITY

If any provision of this Ordinance or the application thereof is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such invalidity shall not affect the remaining provisions or application of the remaining provisions of this Ordinance, which can be given effect without the invalid provisions or application.

SECTION 15. EFFECTIVE DATE AND REPEAL OF ORDINANCE 2012-1

This Ordinance shall be posted at the WMA Office after its adoption by the Board for at least thirty (30) days and shall take effect commencing on January 1, 2022. The WMA's Ordinance 2012-01 (An Ordinance Requiring Actions to Reduce Landfilling of Recyclable and Organic Solid Wastes from Businesses, Multifamily Residences, and Self-Haulers) is repealed as of the time that this Ordinance takes effect.

1384413.1

Attachment 2

ORDINANCE NO. _____

ORDINANCE OF THE [Jurisdiction Name] OPTING IN TO THE ALAMEDA COUNTY WASTE MANAGEMENT AUTHORITY'S ORGANICS REDUCTION AND RECYCLING ORDINANCE

The [governing body] of [jurisdiction name] (“[abbreviation of jurisdiction name, e.g., City, County, District]”) hereby ordains as follows:

Section 1. Purpose and Findings.

- (a) The purpose of this Ordinance is to comply with certain state laws requiring cities, counties, and special districts providing solid waste collection services to adopt ordinances and take other measures to reduce the amount of organic and recyclable materials deposited in landfills from commercial and residential generators, more specifically the Short-Lived Climate Pollutants Organic Waste Reduction regulations adopted pursuant to Senate Bill 1383 (Statutes of 2016) set forth in the California Code of Regulations (the “SB 1383 Regulations”).
- (b) The [abbreviation of jurisdiction name] is a member of the Alameda County Waste Management Authority (“WMA”). The WMA is a joint powers agency comprised of all the cities in Alameda County, the County, and two sanitary districts.
- (c) The SB 1383 Regulations require cities, counties, and special districts providing solid waste collection services to adopt and enforce an ordinance or other enforceable mechanism applicable to residents and businesses generating or processing solid waste to implement relevant provisions of the SB 1383 Regulations. In response to this mandate, the WMA’s member agencies requested that it adopt an ordinance to establish a uniform and comprehensive countywide system to establish the local regulations required by the SB 1383 Regulations concerning regulation of organic waste collection services, generators of organic waste, waste haulers, and generators and processors of edible food, together with enforcement mechanisms and administrative civil penalties for violations of local regulations.
- (d) On July 28, 2021 the WMA adopted the Organics Reduction and Recycling Ordinance (“ORRO”), Ordinance 2021-01, attached hereto as Exhibit A. In order for the ORRO to apply in the [abbreviation of jurisdiction name], the [abbreviation of jurisdiction name] must adopt an ordinance declaring that it will apply within the [abbreviation of jurisdiction name].
- (e) The [abbreviation of jurisdiction name] wishes the ORRO to apply in [jurisdiction name].

- (f) *[Optional: If the member agency would like to delegate enforcement authority to the WMA or other entities as contemplated in the ORRO include this finding. Designations are not required to be made concurrently with the Opt-In ordinance.]*

The ORRO provides jurisdictions with the option to grant enforcement authority over various of its provisions to agencies specified in the ORRO. The *[abbreviation of jurisdiction name]* is making designations by approving agreements with other entities concurrently with adoption of this ordinance.

- (g) *[Optional- this finding is not required to opt in to the ORRO but member agencies may wish to include it or something similar so that the ordinance provides a “one stop shop” for demonstrating compliance with the 1383 Regulations’ requirements concerning ordinances and other enforceable mechanisms that are not covered by the ORRO.]*

The SB 1383 Regulations also require cities, counties, and special districts providing solid waste collection services to adopt and enforce an ordinance or other enforceable mechanism concerning the CALGreen Building Standards, the Model Water Efficient Landscape Ordinance, and Procurement of Recovered Organic Waste Products. These requirements are addressed in *[list how existing ordinances or other enforceable mechanisms satisfy these requirements or how amendments adopted as part of the ordinance or in as separate process will address those requirements.]*

Section 2. Adoption.

The *[jurisdiction name]* hereby declares that the Organics Reduction and Recycling Ordinance as set forth in Exhibit A to be effective in the *[abbreviation of jurisdiction name]* beginning on January 1, 2022.

Section 3. Conforming Amendments. [if needed]

[This section is needed only if the relevant Code or ordinance includes provisions that are inconsistent with the ORRO. If the jurisdiction needs to adopt new fees or charges for ordinance implementation or amendments to its MWELo, CalGreen, or procurement ordinances to comply with portions of the SB 1383 regulations that are not covered by the ORRO, it may include them here or adopt separately. (Note that the Oro Loma and Castro Valley Sanitary Districts are not subject to the SB 1383 regulations concerning MWELo, CalGreen, or procurement.) Attachment B to this template includes a definition of “mulch” for use by member agencies that wish to include that in their procurement ordinance together with definitions of MWELo and CalGreen in the event that they will be helpful in drafting.]

The *[name of jurisdiction's relevant code or other ordinance]* is hereby amended as set forth in Attachment B.

Section 4. Severance Clause.

The *[jurisdiction's governing body]* declares that each section, sub-section, paragraph, sub-paragraph, sentence, clause and phrase of this ordinance is severable and independent of every other section, sub-section, paragraph, sub-paragraph, sentence, clause and phrase of this ordinance. If any section, sub-section, paragraph, sub-paragraph, sentence, clause or phrase of this ordinance is held invalid, the *[name of jurisdiction's governing body]* declares that it would have adopted the remaining provisions of this ordinance irrespective of the portion held invalid, and further declares its express intent that the remaining portions of this ordinance should remain in effect after the invalid portion has been eliminated.

Section 5. California Environmental Quality Act

This Ordinance is adopted pursuant to CalRecycle's SB 1383 Regulations. The SB 1383 Regulations were the subject of a program environmental impact report (EIR) prepared by CalRecycle, and except for provisions which maintain the already established requirements of the Waste Management Authority's Ordinance Requiring Actions to Reduce Landfilling of Recyclable and Organic Solid Wastes from Businesses, Multifamily Residences, and Self-Haulers (Ordinance 2012-1; also known as the Mandatory Recycling Ordinance) which currently apply in *[jurisdiction name]*, the activities to be carried out under this Ordinance are entirely within the scope of the SB 1383 Regulations and that EIR. . No mitigation measures identified in the EIR are applicable to *[jurisdiction name]'s* enactment of this Ordinance. Moreover, none of the conditions requiring a subsequent or supplemental EIR, as described in Public Resources Code Section 21166 and California Environmental Quality Act (CEQA) Guidelines Sections 15162 and 15163, have occurred. The EIR therefore adequately analyzes any potential environmental effects of the Ordinance and no additional environmental review is required. On a separate and independent basis, the Ordinance is exempt from CEQA pursuant to Section 15308, Class 8 of the CEQA Guidelines of as an action that will not have a significant impact on the environment and as an action taken by a regulatory agency for the protection of the environment, specifically, for the protection of the climate. There are no unusual circumstances that would cause this Ordinance to have a significant effect on the environment. *[Note: Member agencies should review any conforming amendments and other actions taken in connection with the opt-in ordinance to ensure that the statements above apply.]*

Section 6. Publication.

A summary of this ordinance shall be published in a newspaper of general circulation of the *[jurisdiction name]* within fifteen days after its adoption. *[Modify as needed to track specific ordinance adoption requirements applicable to the jurisdiction imposed by State law or charter.]*

The foregoing ordinance was introduced at the regular meeting of the *[jurisdiction's governing body]* of the *[jurisdiction name]* held on ____, 2021 and was adopted by the following vote on ____, 2021. *[Modify as needed to track specific ordinance adoption requirements applicable to the jurisdiction imposed by state law or charter.]*

[Insert jurisdiction's standard wording showing evidence of adoption here (e.g., governing body vote, signature of presiding officer, and attestation of clerk).]

Attachment A

**Alameda County Waste Management Authority Ordinance 2021-01: Organics
Reduction and Recycling Ordinance**

[Attach ordinance.]

Attachment B – Conforming Amendments

In order to ensure consistency between the [jurisdiction's] Code and the Organics Reduction and Recycling Ordinance, the sections of the [jurisdiction's] Code set forth below are amended or adopted as set forth below. Text added to existing provisions is shown in bold double-underlined text (**example**) and text to be deleted is shown in strikethrough (~~example~~). Text in *italics* is explanatory and is not an amendment to the Code. Where the explanatory text indicates that a new section is being added to the [jurisdiction's] Code, the new section is shown in plain text.

[Insert conforming Amendments Here]

Supplemental Notes

1. **Mulch Standards** - The SB 1383 Regulations require cities and counties choosing to procure mulch towards satisfaction of their procurement requirements to set specific standards for that mulch by ordinance or other enforceable mechanism such as a contract. The following is provided for agencies wishing to satisfy the requirement via ordinance. Agencies may wish to develop their own standards tracking agency standards and the CalRecycle regulations. This is not required as part of the ORRO ordinance.

Mulch Standards. To be applied to *[jurisdiction's]* procurement target established by SB 1383 regulations, any mulch sold or otherwise provided to *[jurisdiction]* shall¹:

- (a) Meet or exceed the physical contamination, maximum metal concentration, and pathogen density standards for land application specified in subsections 17852(a)(24.5)(A)1. through 3 of Title 14 of the California Code of Regulations; and
- (b) Be produced at one or more of the following:
 - (1) A compostable material handling operation or facility as defined in section 17852(a)(12) of Title 14 of the California Code of Regulations, other than a chipping and grinding operation or facility as defined in Section 17852(a)(10) of Title 14 of the California Code of Regulations, that is permitted or authorized under this division; or
 - (2) A transfer/processing facility or transfer/processing operation as defined in Sections 17402(a)(30) and (31) of Title 14 of the California Code of Regulations, respectively, that is permitted or authorized under this division; or
 - (3) A solid waste landfill as defined in Public Resources Code Section 40195.1 that is permitted under Division 2 of Title 27 of the California Code of Regulations.

¹ As drafted, this would apply to all mulch sold to the jurisdiction. If the jurisdiction wishes to preserve the option to acquire mulch that does not meet CalRecycle standards (or count towards procurement obligations) this introductory section can be revised to state: "Any mulch sold or otherwise provided to *[jurisdiction]* in connection with *[jurisdiction]*'s compliance with the State of California's Recovered Organic Waste Product Procurement Target requirements set forth in section 18993.1 of Title 14 of the California Code of Regulations shall."

2. CalGreen and MWELO

Some member agencies suggested it would be useful to provide definitions of CalGreen and MWELO for jurisdictions wishing to adopt code amendments pertaining to those aspects of the SB 1383 regulations.

CalGreen means the California Green Building Standards Code, California Code of Regulations, Title 24, Part 11 as amended July 1, 28 2019 and effective January 1, 2020. as amended, supplemented, superseded, and replaced from time to time.

MWELO means the Model Water Efficient Landscape Ordinance, Title 23, Division 2, Chapter 2.7 of the California Code of Regulations as amended September 15, 2015 as amended, supplemented, superseded, and replaced from time to time.

3. Designation of Enforcement Agencies

Member agencies may wish to designate the WMA, the Alameda County Department of Environmental Health, or other entities to act as an additional Enforcement Agency at the same time that they opt-in to the ORRO. The SB 1383 Regulations require that this designation be by a contract or other agreement accepted by the agency and the designee. StopWaste staff is working to develop model agreements that can be used for this purpose. In the opt-in staff report member agencies may wish to use a table such as this to summarize the enforcement delegations. Specific responsibilities would be detailed in the agreements themselves.

<i>[Note: Member agencies should edit this chart to reflect the enforcement authorizations that they wish to make.]</i>	
ORRO Provision	Enforcement Agency Authorization
Section 5 – Requirements for Commercial Business Generators	- Alameda County Waste Management Authority
Section 6 – Waivers for Commercial Business Generators	- Alameda County Waste Management Authority
Section 7 – Requirements for Commercial Edible Food Generators	- Alameda County Waste Management Authority
Section 8 – Requirements for Food Recovery Organizations and Services	- Alameda County Waste Management Authority
Section 9(a) – Requirements for Regulated Haulers	- Alameda County Waste Management Authority
Section 10 – Requirements for Self-Haulers	- Alameda County Waste Management Authority

Attachment 3

Summary of edits/changes to ORRO and opt-in ordinance since 4-20-21 version

- Added to Compostable Plastics and Food-Soiled Paper definitions that the materials are approved for placement in the applicable member agency's Compost Container and modified the Non-Compostable Paper definition to include that it may be treated with a non-compostable material
- Added clarification that when businesses are placing new internal containers in user areas, they will need to be specific colors
- Added that business and multifamily tenant education should also occur before tenants move out, which has been an MRO requirement
- Added that commercial edible food generators can donate directly to end recipients as allowed for in the California Retail Food Code, but if they do not have a contract or written agreement with a food recovery organization or service, they would need to have a record of the direct donation or of food waste prevention efforts that ensures that it generates no surplus Edible Food that it can donate
- Added that nothing prohibits a food recovery organization or service from refusing to accept food
- Changed the added requirement for food recovery organizations and services to report total pounds of food that was spoiled to optional since this information may be difficult to collect
- Removed requirement that food recovery organizations and services could not include a non-compete clause in their contracts or agreements
- Clarified that Regulated Hauler requirements pertain to within the boundaries of any member agency in which it has customers
- Revised hauler requirements to provide clarifications on trainings and to change language to require them to notify accounts of the subscription requirements for recycling and compost collection service
- Added that member agencies could authorize other entities to conduct inspections, investigations or enforcement and that those it would be coordinated
- Changed language in ORRO and in opt-in ordinance template to have member agencies provide specific enforcement authority to the WMA and/or other authorized entities

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**July 2021
Meetings Schedule**

Alameda County Waste Management Authority, the Energy Council, & Source Reduction and Recycling Board

(Meetings will be held **via teleconference** unless otherwise noted)

SUN	MON	TUES	WED	THURS	FRI	SAT
				1	2	3
4	5 Agency Holiday	6	7	8 9:00 AM Programs & Administration Committee Key Items: 1. RMDZ <hr/> 7:00 PM Planning Committee & Recycling Board Key Items: 1. Grant awards, including food rescue grant update	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28 3:00 P.M. Waste Management Authority & Energy Council Key Items: 1. Interim RB appointments for August 12 & September 9 2. 1383 Ordinance – 2nd reading 3. RMDZ (TBD)	29	30	31

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Energy Council
TECHNICAL ADVISORY GROUP (TAG)

Tuesday, June 15, 2021 – 1:00pm to 3:00pm (Conference Call)

Attendance (all via phone):

Alameda County: Emily Sadigh

City of Albany: Michelle Plouse, Lizzie Carrade

City of Berkeley: Katie Van Dyke, Billi Romain, Alice La Pierre

City of Dublin: Shannan Young, Christian Altamirano (Fellow)

City of Emeryville: Matt Anderson

City of Fremont: Rachel DiFranco, Robbie Barton

City of Hayward: Erik Pearson, Nicole Grucky

City of Livermore: Tricia Pontau

City of Oakland: Shayna Hirshfield-Gold, Adrienne Harris (Fellow), Chiara Arellano (Fellow)

City of Piedmont: Alyssa Dykman

City of Pleasanton: Zack Reda

City of San Leandro: Hoi-Fei Mok

StopWaste: Jennifer West, Emily Alvarez, Chris Hunter, Miya Kitahara, Meghan Starkey

Guests: Jen Elwell, BAAQMD; Abby Young, BAAQMD; Chelsea Clinton, City of Eugene, Oregon; Tom Lent, Bike Walk Berkeley; Jennifer Shen, Alameda Municipal Power

Meeting Summary:

Introductions and Welcome

Bay Area Air Quality Management District (BAAQMD) Building Appliance Rulemaking – Jen Elwell, BAAQMD

- BAAQMD is considering a change to its Building Appliance rule covering nitrogen oxide (NOx) emissions for commercial and residential building furnaces, boilers, and water heaters as a strategy to reduce air pollution and greenhouse gas emissions
 - Specifically investigating point of sale rules (purchase of the appliance, not the building) which would limit appliances sold in BAAQMD territory
 - Not a building code or permit regulation
 - For Bay Area NOx and GHG emissions, space and water heating make up 90-95% of total
 - Short term rule to adopt ultra-low NOx standards that align with South Coast AQMD and San Joaquin Valley AQMD
 - Longer-term, adopt a technology-forcing zero emissions NOx standard, which would allow only electric appliances, based on what is available in the market (though is not specifically a ban on natural gas)
 - Need ramp up for financing, contractor training, building permit review, etc.
- Timeline:
 - Initial proposal for discussion:
 - Phase 1 (ultra-low NOx): July 1, 2023
 - Phase 2 (zero NOx): July 1, 2029
 - Tentative rule timeline:
 - Summer 2021: Public workshop and initial equity analysis
 - Fall 2021: Stationary Source and Climate Impacts committee update
 - Q4 2021: Public workshop, presentation of stretch target and off-ramp language

- Q2 2022: Potential board hearing for rule adoption
- TAG raised concern that 2029 is far out in order to meet climate goals. Since this is an emergency, how can we work with RENs, utilities, CCAs, etc. to incentivize early voluntary compliance (even before the rule takes effect)?
 - Working group of stakeholders will address this issue
- Has there been discussion around “time of replacement” (burnout of appliance) mandates, as this would help with consistent Climate Action Plan development?
 - BAAQMD prefers point of sale due to regulatory role; “time of replacement” is controlled by local government, with building permits and local regulations
 - Encourage cities to figure out how the two policies can work together (like NOx standard as a regional backstop or enforcement mechanism)
 - Need input from cities on what is needed on the ground to implement
- Challenges:
 - Market readiness and how to deal with permitting requirements (especially in case of emergency replacements) or needed panel/electrical upgrades
 - Cost of compliance: Will need some sort of funding/incentive piece
 - Regulatory “off-ramp” for issues that come up
- How long would it take to reach 80% of homes if the rule would cover point of sale that doesn’t go into effect until 2029 (appliance life can be 10-20+ years)?
 - Concern to make sure everyone can afford to do this (equity concerns) which is why there is such a long timeline
- Furnace rule defines what is covered, and would be expanded to cover all heating types (like wall heaters) and close loop holes

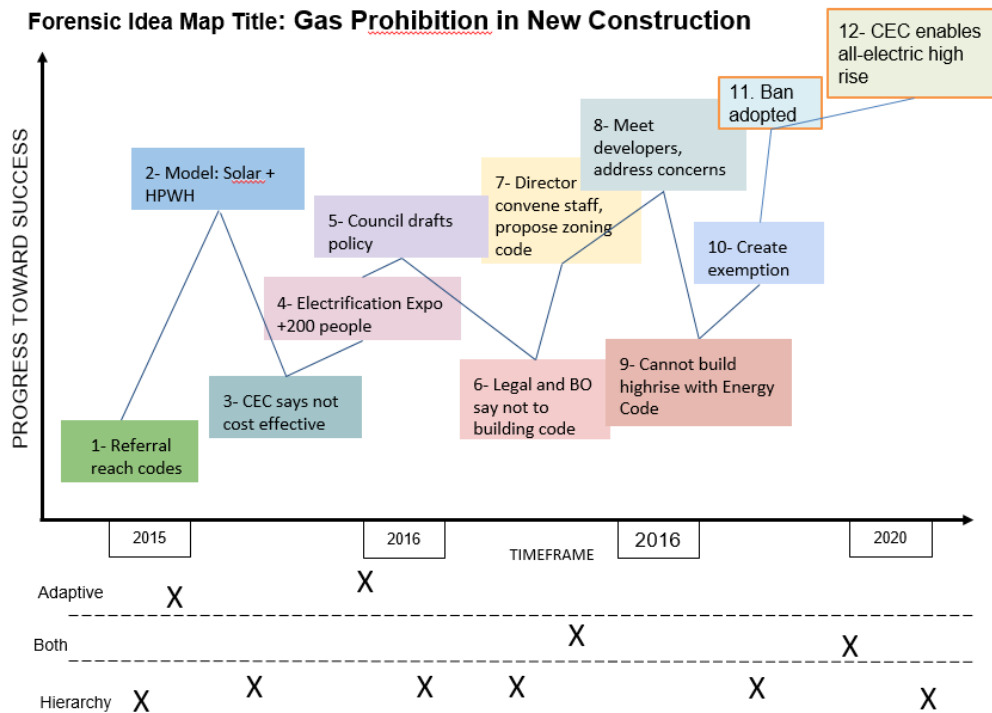
Update on GHG Inventory Data/Methodologies – Miya Kitahara, StopWaste

- Inventory methodology concern with PG&E’s sudden drop in emissions factor, based primarily on methodology change
 - For GHG inventories, option to use reported “emissions factor” as-is, or use previous year or regional grid averages, which could result in inconsistency issues
 - Communication with EBCE vs. PG&E products meeting with EBCE later in June and will report back
- Vehicle miles traveled (VMT) data for 2020 uncertain, given COVID impacts on traffic patterns
 - Use PEMS data to adjust, MTC will not update 2020 model with COVID impacts
 - If anyone tries alternate methods, StopWaste can help out
 - Certain cities testing using Google VMT data, seems fairly accurate compared to MTC
- StopWaste is hiring a CivicSpark fellow to help with data and climate tracking issues

Urban Sustainability Directors Network (USDN) Flow Leadership – Emily Sadigh, Alameda County; Billi Romain, City of Berkeley; Rachel DiFranco, City of Fremont; Chelsea Clinton, City of Eugene, Oregon

- Last in-person USDN annual meeting provided introduced the concept of flow leadership
 - Full day workshop with 12-week training in 2020
- Acknowledge difference between storytelling and what actually happens during the effort
 - We often report on efforts as linear, but in reality they move in a “squiggle path”
- Flow leadership anticipate ups and downs to make the process more even
- Adaptive (co-creating, align with internal values, convening, dynamic) and hierarchical (formal org chart, top-down change, metrics, routines) networks influence change
 - Both are essential, but have different functions
 - Sustainability change agents translate between the two networks

- Engage with hierarchical network: reach out early, remember that “no” is information, understand perspective; consider “De-risking” giving decision-makers psychological safety, more acceptable to others, pilots
- Examples of flow leadership and storytelling:
 - City of Berkeley forensic idea map for gas prohibition in new construction



"Forensic Idea Flow Mapping Process & Template" by [leith sharp](#) is licensed for open sharing and adapting under Creative Commons [CC BY-SA 4.0](#)

- City of Eugene Climate Action Plan
 - Our job is listening and sensing, make people feel heard
 - Squiggle in Eugene CAP: change in staffing, change in City Manager, pivot to new plan direction, elections, etc.
 - Utilize biomimicry -- what we can learn from nature
 - How to leverage each other

Clear Cars for All Program (CCFA) – Tom Lent, Walk Bike Berkeley

- BAAQMD CCFA Mobility Options e-bike program <http://www.baaqmd.gov/CleanCarsforAll>
 - Scrap old polluting car (15+ years, must be operational) and receive \$7,500 mobility voucher that can be used for E-bikes, accessories, and Clipper Card
 - Household income <400% of Federal poverty level
 - Must be in disadvantaged community (DAC) impacted by air quality
 - Program is open now, likely to be renewed, also possibly expanded to non-DAC zip codes in 2021 (still low income), May pause briefly in July for adjustments
- E-bike incentive programs in the Bay Area and beyond (none in Alameda County): www.climateaction.center/e-bike-programs with a summary of the BAAQMD program
- Oakland: proposing E-bike lending library
- Federal tax credit in the works
- E-bikes are effective in reducing transportation carbon emissions
 - Provides option for those who cannot bike as easily

- Cheaper and faster to roll out, cost-efficient, expand # of trips that can be converted from car to bike
- Future state funding for e-bike incentives from AB117 (if passed) not tied to scrapping a car
 - More info at <https://www.climateaction.center/e-bike-legislation>

Updates and Announcements

- StopWaste FY 2021-2022 Budget was adopted at the 5/26/21 meeting
- Recruiting jurisdictions interested in existing building energy efficiency/decarbonization policies to test a new tool/policy calculator being created as part of BayREN Codes & Standards project, let Emily Alvarez know if interested or want to learn more
- Forming an East Bay Embodied Carbon Code support group (currently Dublin, Emeryville, Alameda County GSA, and Contra Costa County) - if you're interested let Miya know
- TECH program is looking for building officials interested in piloting streamlined permitting for space and water heating electrification. More info: techpermit@frontierenergy.com