



DATE: May 26, 2021
TO: Waste Management Authority Board
FROM: Timothy Burroughs, Deputy Director
SUBJECT: Overview of Draft SB 1383 Ordinance

SUMMARY

SB 1383 regulations become effective on January 1, 2022. Before that date, jurisdictions must adopt an ordinance or other enforcement mechanism that incorporates SB 1383 requirements. To assist member agencies and to create a consistent set of requirements throughout the county, StopWaste has committed to adopt a countywide ordinance. At the May 26 WMA Board meeting, staff will provide an overview of the draft ordinance and next steps.

DISCUSSION

SB 1383, the Short-Lived Climate Pollutant Strategy, directs CalRecycle to divert 75% of organics from landfill and recover 20% of edible food for human consumption by 2025 statewide. Regulations were approved in November 2020 and require jurisdictions to adopt an enforcement mechanism that incorporates SB 1383 requirements by January 1, 2022. StopWaste staff, with input and review of legal counsel, has developed a draft countywide ordinance to serve as the enforcement mechanism for its member agencies. The Organics Reduction and Recycling Ordinance (ORRO) would supersede the existing Mandatory Recycling Ordinance (MRO). An “opt-in” ordinance template has also been drafted that member agencies would adopt after the WMA adopts the ORRO.

The draft ORRO is primarily based on the CalRecycle Model Enforcement Ordinance and the prescriptive nature of the SB 1383 Regulations leave little flexibility in the Ordinance’s content.

ORRO requirements include the following:

- Single family homes must have organics collection service and sort properly
- Businesses and multifamily buildings must have organics service and sort properly
- Cities and haulers must comply with requirements for color-coding and labeling containers

- 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
- Commercial edible food generators must recover edible food, have a contract with food recovery organizations, and keep monthly records
- Food recovery organizations must keep records and report amount of food collected

The ORRO authorizes both member agencies and the WMA to serve as enforcement agencies, as appropriate. This is designed to allow maximum flexibility.

StopWaste staff distributed the draft ORRO as well as the draft opt-in ordinance to member agencies and other stakeholders on April 20. Staff also reviewed the ORRO at a meeting of the Alameda County City Managers Association in May and TAC meetings in April and May.

Staff is currently reviewing member agency and partner comments and working with our legal counsel to make ordinance revisions. A revised version of the Organics Reduction and Recycling Ordinance will be brought to the WMA at its June 23 meeting for first reading. A second reading and final adoption is scheduled for the July 28 WMA meeting. This timeline is designed to enable member agencies to take the opt-in ordinance to their council/board between August and December.

In addition to leading development of the ordinance, StopWaste continues to advance other components of SB 1383 compliance, including development of an MOU with the Alameda County Environmental Health Department to specify enforcement responsibilities for edible food recovery requirements, providing technical assistance to help member agencies prepare for the procurement requirements, establishing a countywide enforcement program for the provision of organics collection service requirement, and identifying a countywide list of edible food generators and food recovery organizations, among other efforts.

RECOMMENDATION

This item is for information only.

Attachments: Draft Organics Reduction and Recycling Ordinance and draft Opt-In Ordinance (as of 4-20-21)

**ORDINANCE 2021-02:
ORGANICS REDUCTION
AND RECYCLING ORDINANCE
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**ORDINANCE 2021-02: 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 County Integrated Waste Management Plan (“CoIWMP”), 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 CoIWMP, 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), 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.

- (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) The SB 1383 Regulations require cities and counties 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) All participants in the Alameda County solid waste and recycling system—cities, the County, sanitary districts, haulers, processors, facility operators, businesses, institutions, the public, and the WMA—must work together to advance the goals in the state legislation noted above, as well as those in the CoWMP.

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 territory located within the incorporated and unincorporated areas of Alameda County.
- (b) “C&D” means construction and demolition debris.
- (c) “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.
- (d) “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).
- (e) “Commercial Business” or “Commercial” means a firm, partnership, proprietorship, joint-stock company, corporation, or association, whether for-profit or nonprofit, strip mall, industrial facility, or a Multi-Family Residential Dwelling, or as otherwise defined in 14 CCR Section 18982(a)(6).
- (f) “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).
- (g) “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).
- (h) “Compliance Review” means a review of records by the applicable Enforcement Agency to determine compliance with this ordinance.
- (i) “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.
- (j) “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.
- (k) “Compostable Plastics” or “Compostable Plastic” means plastic materials that meet the ASTM D6400 standard for compostability and is certified by the Biodegradable Products Institute (BPI) or similar third-party approved by the WMA.

- (l) “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).
- (m) “Designee” means an entity that the WMA or an applicable Member Agency contracts with or otherwise arranges to carry out any of the WMA’s or Member Agency’s responsibilities for compliance with the SB 1383 Regulations. A Designee may be a government entity, a Regulated Hauler, a private entity, or a combination of those entities.
- (n) “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.
- (o) “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.
- (p) “Enforcement Agency” means an entity with the authority to enforce part or all of this Ordinance as specified herein. The WMA, its Member Agencies, the Alameda County Department of Environmental Health, and the City of Berkeley Division of Environmental Health are each an Enforcement Agency.
- (q) “Excluded Waste” means hazardous substance, 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 reasonable opinion of the applicable 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 applicable 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 applicable Member Agency’s collection programs and the generator or customer has properly placed

the materials for collection pursuant to instructions provided by the applicable Member Agency or the Regulated Hauler providing service to the generator.

- (r) “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).
- (s) “Food Facility” has the same meaning as in Section 113789 of the Health and Safety Code.
- (t) “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).
- (u) “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.

- (v) “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).
- (w) “Food Scraps” means all 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.

- (x) “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).
- (y) “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.
- (z) “Food Waste” means Food Scraps, Food-Soiled Paper, and Compostable Plastics.
- (aa) “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).
- (bb) “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).
- (cc) “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).
- (dd) “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).
- (ee) “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.
- (ff) “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.)

- (gg) “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.
- (hh) “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.
- (ii) “Local Education Agency” means a school district, charter school, or county office of education that is not subject to the control of city or county regulations related to Solid Waste, or as otherwise defined in 14 CCR Section 18982(a)(40).
- (jj) “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 an “applicable 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 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.

- (kk) “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).
- (ll) “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 Commercial Business for the purposes of implementing this Ordinance. 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.
- (mm) “Non-Compostable Paper” includes but is not limited to paper that is coated or lined with a non-compostable plastic material, treated with perfluorinated compounds (such as PFAS), or otherwise unacceptable to the compostable materials handling facility processing the material.
- (nn) “Non-Local Entity” means the following entities within the boundaries of Alameda County that are not subject to the applicable Enforcement Agency’s enforcement authority pursuant to the SB 1383 Regulations, or as otherwise defined in 14 CCR Section 18982(a)(42): special districts; Federal facilities, including military installations; prison(s); facilities operated by the State park system; public universities (including community colleges); County fairgrounds; and State agencies.
- (oo) “Non-Organic Recyclables” means non-putrescible and non-hazardous recyclable wastes, 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 wastes specified in 14 CCR Section 18982(a)(43).
- (pp) “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.
- (qq) “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).
- (rr) “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).

- (ss) “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).
- (tt) “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.
- (uu) “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).
- (vv) “Prohibited Container Contaminants” means the following: (i) discarded materials placed in the Recycling Container that are not identified as acceptable Source Separated Recyclable Materials for the Member Agency’s Recycling Container; (ii) discarded 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) discarded materials placed in the Landfill Container that are acceptable Source Separated Recyclable Materials and/or Source Separated Compost Container Organic Waste to be placed in the Member Agency’s Compost Container and/or Recycling Container; and, (iv) Excluded Waste placed in any container.
- (ww) “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).
- (xx) “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.
- (yy) “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.
- (zz) “Remote Monitoring” means the use of mechanical or electronic devices to identify the types of materials in Commercial Businesses’ 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.

- (aaa) “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).
- (bbb) “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).
- (ccc) “SB 1383” means Senate Bill 1383 of 2016, the Short-lived Climate Pollutant Reduction Act of 2016.
- (ddd) “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.
- (eee) “Self-Hauler” means a Person, who hauls Solid Waste, Organic Waste or recyclable material they have generated to another Person. Self-hauler also includes a Person who back-hauls such materials, and as otherwise defined in 14 CCR Section 18982(a)(66). Back-haul means generating and transporting Organic Waste to a destination owned and operated by the generator using the generator’s own employees and equipment, or as otherwise defined in 14 CCR Section 18982(a)(66)(A).
- (fff) “Single-Family” means of, from, or pertaining to any residential premises with fewer than five units.
- (ggg) “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.

- (hhh) “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 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.
- (iii) “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.
- (jjj) “Source Separated Recyclable Materials” means Source Separated Non-Organic Recyclables and Source Separated Recycling Container Organic Waste.
- (kkk) “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 applicable Member Agency and includes Paper Products and Printing and Writing Paper.
- (III) “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).
- (mmm) “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.

(nnn)“Tier Two Commercial Edible Food Generator” means a Commercial Edible Food Generator that is one of the following:

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

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

(ooo) “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).

(ppp) “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 applicable Member Agency’s collection services for Compost Containers, Recycling Containers, and Landfill Containers. The Enforcement

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).

- (b) Participate in the applicable Member Agency's Organic Waste collection service(s) 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 applicable Member Agency.

SECTION 5. REQUIREMENTS FOR COMMERCIAL BUSINESSES

Commercial 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 the applicable Member Agency's collection services for Compost Containers, Recycling Containers, and Landfill Containers and comply with requirements of those services as described below. The Enforcement 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 Enforcement Agency.
 - (2) Participate in the Member Agency's 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 in all indoor and outdoor areas where disposal containers are provided for customers, for materials generated by that business. Such containers do not need to be provided in restrooms. If a Commercial Business does not generate any of the materials that would be collected in one type of container, then the business does not have to provide that particular container in all areas where disposal containers are provided for customers. Pursuant to 14 CCR Section 18984.9(b), the containers provided by the business shall have either:
 - (1) A body or lid that conforms with the container colors specified by the applicable Member Agency, with either lids conforming to the color requirements or bodies conforming to the color requirements or both lids and bodies conforming to color requirements. 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 requirements of the subsection 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 material accepted and the primary materials prohibited in that container, or containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the container. Pursuant 14 CCR 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 disposal containers are provided for tenants, including 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, 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 education information within fourteen days of new occupation of the premises to new tenants that describes requirements to keep Source Separated Compost Container Organic Waste and Source Separated Recyclable Materials separate 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 to confirm compliance with the requirements of this ordinance.
- (j) Accommodate and cooperate with any Remote Monitoring program 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's option and subject to approval by the Enforcement Agency, implement a 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.
- (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 WMA and the applicable Member Agency.

SECTION 6. WAIVERS FOR COMMERCIAL BUSINESS GENERATORS

- (a) De Minimis Waivers. Except for Multi-Family 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 specifying the service or requirements for which it is requesting a waiver.
 - (2) Provide documentation that either:
 - (A) The Commercial Business' total Solid Waste collection service is two cubic yards or more per week and Organic Waste subject to collection in a 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 container capacity measured in cubic yards for Solid Waste, Recyclable Materials, and Organic Materials collection service.
 - (3) Notify the Enforcement Agency granting the waiver (as applicable and if requested) if circumstances change such that Commercial Business's Organic Waste exceeds threshold required for waiver, in which case waiver will be rescinded.
 - (4) Provide written verification of eligibility for de minimis waiver to the Enforcement Agency (as applicable) every 5 years, if the Enforcement Agency has approved de minimis waiver.
- (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 its own staff, a hauler, licensed architect, or licensed engineer demonstrating that the premises lacks adequate space for the collection containers

required for compliance with the Organic Waste collection requirements of Section 5.

A Commercial Business requesting a physical space waiver shall:

- (1) Submit an application specifying the service or requirements for which it is requesting a waiver.
 - (2) Provide documentation that the premises lacks adequate space for Recycling Containers and/or Compost Containers, which may include documentation from its hauler, licensed architect, or licensed engineer.
 - (3) Notify the Enforcement Agency granting the waiver if the Commercial Business' physical space configurations change, in which case the waiver may be rescinded.
 - (4) Provide written verification to the Enforcement Agency of eligibility for a physical space waiver every five years, if the Enforcement Agency has approved a physical space waiver for the Commercial Business.
- (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 applicable 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 WMA and the applicable 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.
- (b) Large Venue or Large Event operators not providing food services, but allowing for food to be provided by others, shall require Food Facilities operating at the Large Venue or Large Event to comply with the requirements of this Section, commencing January 1, 2024.
- (c) Commercial Edible Food Generators shall comply with the following requirements:
 - (1) Arrange to safely recover for human consumption the maximum amount of Edible Food that would otherwise be disposed.

- (2) Enter into a contract or written agreement with Food Recovery Organizations or Food Recovery Services for: (i) the collection of Edible Food for Food Recovery; or, (ii) acceptance of the Edible Food that the Commercial Edible Food Generator self-hauls to the Food Recovery Organization for Food Recovery.
- (3) 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 or written agreements established under 14 CCR Section 18991.3(b).
 - (C) A record of the following information for each of those Food Recovery Services or Food Recovery Organizations:
 - (i) The name, address and contact information of the Food Recovery Service or Food Recovery Organization.
 - (ii) The types of food that will be collected by or self-hauled to the Food Recovery Service or Food Recovery Organization.
 - (iii) The established frequency that food will be collected or self-hauled.
 - (iv) The quantity of food, measured in pounds recovered per month, collected or self-hauled to a Food Recovery Service or Food Recovery Organization for Food Recovery.

- (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)(6). Entities shall respond to such request for information within 60 days.
- (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) The Enforcement Agency for the provisions of this Section 7 is the Alameda County Department of Environmental Health, the City of Berkeley Division of Environmental Health in the City of Berkeley, the WMA, and the applicable Member Agency.

SECTION 8. REQUIREMENTS FOR FOOD RECOVERY ORGANIZATIONS AND SERVICES

- (a) Food Recovery Services collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR 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.
 - (3) As applicable, the total quantity in pounds of food collected from all Commercial Edible Food Generators each calendar year that was spoiled when received from a Commercial Edible Food Generator or otherwise not able to be used to feed people.
 - (4) The quantity in pounds of Edible Food transported to each Food Recovery Organization per month.
 - (5) The name, address, and contact information for each Food Recovery Organization that the Food Recovery Service transports Edible Food to for Food Recovery.

- (b) Food Recovery Organizations collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR 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.
 - (3) As applicable, the total quantity in pounds of food collected from all Commercial Edible Food Generators each calendar year that was spoiled when received from a Commercial Edible Food Generator or otherwise not able to be used to feed people.
 - (4) The name, address, and contact information for each Food Recovery Service that the organization receives Edible Food from for Food Recovery.
- (c) Food Recovery Organizations and Food Recovery Services that have their primary address physically located in 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 Enforcement Agency the total pounds of Edible Food recovered in the previous calendar year from the Tier One and Tier Two Commercial Edible Food Generators they have established a contract or written agreement with pursuant to 14 CCR Section 18991.3(b) no later than each March 31.
- (d) Food Recovery Organizations and Food Recovery Services shall not include a non-compete clause in their contracts or agreements with Commercial Edible Food Generators.
- (e) Food Recovery Capacity Planning. In order to support Edible Food Recovery capacity planning assessments or similar studies, Food Recovery Services and Food Recovery Organizations operating in Alameda County shall provide, upon request, information and consultation to the applicable Enforcement Agency regarding existing, or proposed new or expanded, Food Recovery capacity 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 the Alameda County Department of Environmental Health, the City of Berkeley Division of Environmental Health in the City of Berkeley, the WMA, and the applicable Member Agency.

SECTION 9. REQUIREMENTS FOR HAULERS AND FACILITY OPERATORS

- (a) Requirements for Haulers
 - (1) A Regulated Hauler providing residential, 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 applicable 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 applicable 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 applicable Member Agency rules.
 - (2) A Regulated Hauler collecting Organic Waste shall:
 - (A) Provide quarterly reports to the WMA and Member Agency on Commercial and Multifamily account information and service levels and technical assistance described in subsection (G) below in a form to be specified by the WMA.
 - (B) Assist in the dissemination of SB 1383 educational materials to generators.
 - (C) Train customer service representative and account managers/recycling coordinators on SB 1383 generator requirements and resources available at least annually and during new staff on-boarding.
 - (D) Require that Single-Family and Commercial accounts that are subscribed to garbage collection service also be subscribed to recycling and organics collection service.

- (E) Conduct or comply with container contamination minimization efforts such as route reviews or waste evaluations. Provide feedback to generators when container contamination is observed by hauler.
 - (F) Assist with verification of physical space constraints when generator submits an application for a physical space waiver, if requested by the Enforcement Agency.
 - (G) Provide Commercial accounts with technical assistance such as staff trainings when new recycling or organics collection service is added or upon request. This activity shall be logged in shared data platform for the Implementation Record.
- (3) The Enforcement Agency for the provisions of this Section 9(a) is the WMA except where specific reference is made to the applicable 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.

SECTION 10. SELF-HAULER REQUIREMENTS

- (a) Self-Haulers shall source separate all recyclable materials and Organic Waste (materials that the applicable Member Agency otherwise requires generators to separate for collection in the Member Agency's organics and recycling collection program) generated 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 shall submit a Certification of Recycling Service to the Enforcement Agency for approval if they do not also have separate recycling and organics collection service by a Regulated Hauler.
- (e) Self-Haulers shall submit a new Certification of Recycling Service to the Enforcement Agency for approval every five years, if they do not also have separate recycling and organics collection service by a Regulated Hauler.
- (f) Self-Haulers shall notify the Enforcement Agency if they subscribe to separate recycling and organics collection service by a Regulated Hauler, such that they are no longer Self-Haulers.
- (g) Self-Haulers that are Commercial Businesses (including Multi-Family Self-Haulers) shall provide information, upon request, collected in Section 10(c) to the Enforcement Agency. Entities shall respond to such request for 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 WMA and the applicable 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 this ordinance 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 the interior of a private residential property 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 the interior of a residential property) 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 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 WMA, the Alameda County Department of Environmental Health, the City of Berkeley Division of Environmental Health in the City of Berkeley, and the applicable Member Agency.

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 Jurisdiction 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 Businesses, Section 6 concerning Waivers for Commercial Business Generators, Section 9 concerning Requirements for Haulers and Facility Operators, Section 10 concerning Self-Hauler Requirements, and Inspections related to compliance with those sections. Enforcement of all other provisions may be enforced beginning January 1, 2024.
 - (2) The Enforcement Agency will monitor compliance with this Ordinance and through Compliance Reviews, Route Reviews, investigation of complaints, and an Inspection program (that may include Remote Monitoring).
 - (3) The Enforcement Agency may issue a Notice of Violation requiring compliance within 60 days of issuance of the notice.
 - (4) Absent compliance by the respondent within the deadline set forth in the Notice of Violation, Jurisdiction 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 Types of Violations

The penalty levels are as follows:

 - (1) For a first violation, the amount of the base penalty shall be \$50 to \$100 per violation.

- (2) For a second violation, the amount of the base penalty shall be \$100 to \$200 per violation.
- (3) For a third or subsequent violation, the amount of the base penalty shall be \$250 to \$500 per violation.

(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 in obtaining discretionary permits or other government agency approvals; or,
- (3) Deficiencies in Organic Waste recycling infrastructure or Edible Food Recovery capacity and the Jurisdiction 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 Notice 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 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 WMA, the Alameda County Department of Environmental Health, the City of Berkeley Division of Environmental Health in the City of Berkeley, and the applicable Member Agency.

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 this Ordinance shall apply within their jurisdiction. This Ordinance shall apply as to each 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.

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ORDINANCE NO. 2021-02

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 2021-02, attached hereto as Exhibit A. The Ordinance provides that it will apply in the boundaries of each WMA member agency that has adopted an ordinance declaring that it will apply within their jurisdiction.
- (e) The [abbreviation of jurisdiction name] wishes the ORRO to apply in [jurisdiction name].

- (f) *[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 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. Attachment B to this template includes a definition of “mulch” for use by member agencies that wish to include that in their procurement ordinance.]

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. 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 2021-02: 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.*

[Note: The SB 1383 Regulations require agencies choosing to procure mulch towards satisfaction of the 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.]

Mulch Standards. 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 Volume 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 Volume 14 of the California Code of Regulations, other than a chipping and grinding operation or facility as defined in Section 17852(a)(10) of Volume 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 Volume 14 of the California Code of Regulations, respectively, that is permitted or authorized under this division; or

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 Volume 14 of the California Code of Regulations shall:"

- (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.