

City of Piedmont  
COUNCIL AGENDA REPORT

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DATE: December 6, 2021

TO: Mayor and Council

FROM: Sara Lillevand, City Administrator

SUBJECT: 2<sup>nd</sup> Reading of Ordinance 763 N.S. – Adopting by Reference and Opting in to the Alameda County Waste Management Authority’s Organics Reduction and Recycling Ordinance (2021-02); Repealing and Replacing Divisions 9.02, 9.03, 9.05, 9.10 and 9.11 and Adding a New Division 9.12, “Organics Reduction and Recycling” of the Piedmont City Code

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RECOMMENDATION

Approve the 2<sup>nd</sup> reading of Ordinance 763 N.S. – Adopting by Reference and Opting in to the Alameda County Waste Management Authority’s Organics Reduction and Recycling Ordinance (2021-02); Repealing and Replacing Divisions 9.02, 9.03, 9.05, 9.10 and 9.11 and adding a new Division 9.12, “Organics Reduction and Recycling” of the Piedmont City Code.

BACKGROUND

At its meeting of November 15, 2021, the Council approved the first reading of Ordinance 763 N.S., which adopts by reference and opts in to the Alameda County Waste Management Authority’s Organics Reduction and Recycling Ordinance (2021-02), repeals and replaces Division 9.02, 9.03, 9.05, 9.10, and 9.11 and adds a new Division 9.12 “Organics Reduction and Recycling” of the Piedmont City Code. The Council made minor amendments to the proposed ordinance, including amending the changing references to the trash container from gray to black and reducing the number of units required to be considered a multi-family residential dwelling from five to three units, to conform with the City’s franchised collection services agreement. The draft before the Council in this report also contains non-substantive, clerical corrections.

A second and final reading is required for adoption. Since the first reading, the ordinance has been posted on the City’s web site. No public comments have been received by the City Clerk’s office since the first reading.

By: John O. Tulloch, Assistant City Administrator / City Clerk  
Alyssa Dykman, Sustainability Program Manager  
Daniel Gonzales, Director of Public Works

Attachment:

- A. Ordinance 763 N.S.

ORDINANCE NO. 763 N.S.

AN ORDINANCE ADOPTING BY REFERENCE AND OPTING IN TO THE ALAMEDA COUNTY WASTE MANAGEMENT AUTHORITY'S ORGANICS REDUCTION AND RECYCLING ORDINANCE (2021-02); REPEALING AND REPLACING DIVISIONS 9.02, 9.03, 9.05, 9.10 AND 9.11 AND ADDING A NEW DIVISION 9.12, "ORGANICS REDUCTION AND RECYCLING" WITHIN CHAPTER 9 OF THE PIEDMONT MUNICIPAL CODE RELATING TO SOLID WASTE

The Piedmont City Council of the City of Piedmont hereby ordains as follows:

**SECTION 1. PURPOSE & 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 City 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. In order for the ORRO to apply in the City, the City must adopt an ordinance declaring that it will apply within the City.
- (e) 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 Piedmont Municipal Code Section 17.34.020 Water Efficient Landscape and Section 8.02.010 Green Building Standards Code (CalGreen).

- (f) The City wishes the ORRO to apply in Piedmont as a member agency of the WMA.

**SECTION 2. ADOPTION OF ORGANICS REDUCTION AND RECYCLING ORDINANCE BY REFERENCE**

The City hereby declares that the City shall opt-in to Alameda County Waste Management Authority’s Organics Reduction and Recycling Ordinance 2021-02 (“ORRO”) by adopting the ORRO by reference. A copy of Ordinance 2021-02 is attached as Exhibit A, and is incorporated by this reference. Exhibit A shall not be codified into the Piedmont Municipal Code.

**SECTION 3. REPEALING AND REPLACING DIVISIONS 9.02, 9.03, 9.05, 9.10 AND 9.11 AND ADDING DIVISION 9.12 WITHIN CHAPTER 9 OF THE PIEDMONT MUNICIPAL CODE**

In order to ensure consistency between the Piedmont Municipal Code, SB 1383 Regulations, and the ORRO, Divisions 9.02, 9.03, 9.05, 9.10, and 9.11 within Chapter 9 of the Piedmont Municipal Code are hereby repealed and replaced in their entirety with those provisions set forth in the attached Exhibit B, which is incorporated herein by this reference and shall be read as contained in Exhibit B. A new Division 9.12, “Organics Reduction and Recycling” is hereby added to Chapter 9 as set forth in the attached Exhibit B, which is incorporated herein by this reference and shall be read as contained in Exhibit B.

**SECTION 4. ENFORCEMENT AGENCY AUTHORIZATION**

- (a) The WMA and the Alameda County Department of Environmental Health (ACDEH) are authorized and designated to carry out the responsibilities specified in Exhibit D to this Ordinance effective January 1, 2022, subject to agreement from each of them to do so. The City Administrator is authorized to enter agreements to implement these authorizations and designations.

- (b) The authorizations and designations above do not limit the City’s authority to independently carry out some or all of the responsibilities designated above. The City retains full authority to implement and enforce the ORRO.

- (c) The City Council may, by resolution, authorize and designate other entities to carry out responsibilities under the ORRO, and no amendment of this ordinance shall be required.

**SECTION 5. SEVERABILITY**

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid by a court, such invalidity shall not affect any of the remaining parts.

## SECTION 6. 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 the City, 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 the City'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.

## SECTION 7. CODIFICATION

Except for those portions of the ordinances that specifically state they are not to be codified, the City Clerk is directed to codify this ordinance in a manner which best reflects the legislative intent of the City Council in enacting it.

## SECTION 8. PUBLICATION AND EFFECTIVE DATE

This ordinance shall be posted at City Hall after its second reading by the City Council for at least thirty (30) days and shall become effective thirty (30) days after such second reading and approval by the City Council. This ordinance is enforceable beginning on January 1, 2022.

[END OF ORDINANCE]

**EXHIBIT A**

**Alameda County Waste Management Authority Ordinance 2021-02: Organics  
Reduction and Recycling Ordinance**

**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), 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 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 CoIWMP.

## **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 applicable Enforcement Agency to determine 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 applicable 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 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.
- (p) “Edible Food” means food intended and fit 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 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.
- (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, and generally includes operations that store, prepare, package, serve, vend, or otherwise provide food for human consumption at the retail level, including, but not limited to, the following: An operation where food is consumed on or off the premises, regardless of whether there is a charge for the food, and/or any place used in conjunction with the operations described above, including, but not limited to, storage facilities for food-related utensils, equipment, and materials. Food Facilities include permanent and nonpermanent food facilities, including, but not limited to, the following: public and private school cafeterias; restricted food service facilities; licensed health care facilities, except as provided in Section 113789(c)(12) of the Health and Safety Code; commissaries; mobile food facilities; mobile support units; temporary food facilities; vending machines; certified farmers’ markets, for purposes of permitting and enforcement pursuant to Health and Safety Code Section 114370; farm stands, for purposes of permitting and enforcement pursuant to Health and Safety Code Section 114375; fishermen’s markets; microenterprise home kitchen operations; catering operations; and host facilities. Section 113789(c) of the Health and Safety Code provides additional information on the entities that “Food Facility” does not include.

- (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, and generally includes a facility, place, or building that is organized, maintained, and operated for the diagnosis, care, prevention, and treatment of human illness, physical or mental, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, to which the persons are admitted for a 24-hour stay or longer. Health and Safety Code Section 1250 provides additional information on facilities included in the definition of Health Facility.
- (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) “Implementation Record” includes the records maintained by an applicable Member Agency regarding its implementation and enforcement of the SB 1383 Regulations, as required and described in 14 CCR 18995.2.
- (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 applicable Member Agency such as prison(s), facilities operated by the State park system, public universities (including community colleges); County fairgrounds; special districts, and other State agencies.
- (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 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.
- (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 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.
- (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) 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 acceptable 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.
- (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 ultimate disposition as permitted by the applicable 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 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 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.
- (lll) “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 applicable 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.

Local education agencies (as defined in 14 CCR Section 18982(a)(40)) and state agencies with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet are Tier Two Commercial Edible Food Generators pursuant to the SB 1383 Regulations but are not subject to this Ordinance. They are subject to enforcement of the SB 1383 Regulations by CalRecycle.

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 an applicable 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 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) to the extent permitted by other applicable laws.

- (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 BUSINESS GENERATORS**

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 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 the applicable 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 applicable Member Agency and, if authorized by the applicable Member Agency, the WMA.

## **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 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 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 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 applicable Member Agency and, if authorized by the applicable Member Agency, the WMA.



## **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 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) 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.
  - (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 and/or (ii) its food waste prevention practices that ensure that it generates 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 applicable Member Agency and, if authorized by the applicable Member Agency, the Alameda County Department of Environmental Health, and the WMA.

## **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 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.
- (e) Food Recovery Organizations and Food Recovery Services shall not include a non-compete clause in their contracts or agreements with Commercial Edible Food Generators.
- (f) 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.
- (g) The Enforcement Agency for the provisions of this Section 8 is applicable Member Agency and, if authorized by the applicable Member Agency, the Alameda County Department of Environmental Health, and the WMA.

## **SECTION 9. REQUIREMENTS FOR HAULERS AND FACILITY OPERATORS**

- (a) Requirements for 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 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) 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 applicable 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 and on resources available to assist in compliance. Trainings may be in a virtual or in-person format.
  - (D) Notify Single-Family and Commercial Business accounts that are subscribed only to the Regulated Hauler's Landfill Container collection service 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 is anticipated for the account, or if the account has an approved Certification of Recycling Service Form and (ii) that the Regulated Hauler will inform the applicable Member Agency if the account fails to subscribe to a required collection service.
  - (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 applicable 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 applicable Member Agency and, where authorized by the applicable Member Agency, the WMA.

(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. REQUIREMENTS FOR SELF-HAULERS**

- (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 Form to the Enforcement Agency for approval 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 shall submit a new Certification of Recycling Service Form to the Enforcement Agency for approval 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 Self-Haulers) 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 applicable Member Agency and, where authorized by the applicable Member Agency, the WMA.

## **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 the interior of 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 the interior 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 applicable Member Agency or other entity authorized by the applicable Member Agency to enforce one or more sections of this Ordinance. If a Member agency has authorized an additional entity to act as the Enforcement Agency the Member Agency and the authorized entity(ies) shall coordinate inspections and investigations and no person shall be subject to an Inspection or investigation for a violation of or alleged violation of this Ordinance by more than one 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 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 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 applicable 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 Notice of Violation 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 applicable Member Agency or other entity authorized by the applicable Member Agency to enforce one or more sections of this Ordinance. If a Member agency has authorized an additional entity to act as the Enforcement Agency, the Member Agency and the authorized entity(ies) shall coordinate enforcement actions and no person shall be subject to enforcement proceedings for a violation of or alleged violation of this Ordinance by more than one 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 the Member Agency is opting in to this Ordinance and that it 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 2012-02 (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.

**Following introduction on June 23, 2021, passed and adopted July 28, 2021 by the following vote:**

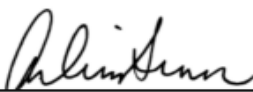
**AYES:** Arkin, Carling, Cavanaugh, Cox, Hannon, Hernandez, Jordan, Kalb, Kassan, Lamnin, Martinez, Patiño, Sadoff, Spencer, Wengraf, Young

**NOES:** None

**ABSTAIN:** None

**ABSENT:** Haubert

**I certify that under the penalty of perjury that the foregoing is a full, true and correct copy of Ordinance No. 2021-02.**

  
 \_\_\_\_\_  
**ARLISS DUNN**  
**CLERK OF THE BOARD**

## EXHIBIT B

### “DIVISION 9.02    FRANCHISE; CONTRACTOR REQUIREMENTS

Sections:

- 9.02.010 Exclusive rights
- 9.02.020 Non-exclusive rights
- 9.02.030 Collection of recyclable materials by unauthorized persons
- 9.02.040 Compliance with franchise agreement
- 9.02.050 Collection rates

**9.02.010        Exclusive rights.**

The city council may enter into a franchise agreement with any person or entity (the contractor) granting the exclusive right to collect, process, transfer and dispose of any type of solid waste, recyclable materials, or organic waste generated in the city. The agreement will include terms and conditions that the city council determines to be in the best interests of the city, consistent with state law. It is unlawful for any person other than the contractor, to take, collect, process, or dispose of solid waste, recyclable materials, or organic waste subject to the franchise agreement within the city limits during the term of such franchise agreement.

**9.02.020        Non-exclusive rights.**

The city council has the right to enter into separate agreements pertaining to the collection of any materials not designated in an exclusive franchise agreement.

**9.02.030        Collection of recyclable materials by unauthorized persons.**

From time of placement of recyclable materials in a Recycling Container, those recyclable materials become the property of the city or its contractor. Unless otherwise authorized by this chapter, it is a violation for any person other than the contractor to collect or pick up or cause to be collected or picked up any such items.

**9.02.040        Compliance with franchise agreement.**

Contractor shall at all times provide solid waste, recyclable material, and organic waste collection services to all service units in full compliance with the terms set forth in the franchise agreement, including the following:

A. Frequency. The contractor shall collect solid waste, recyclable material, and organic waste from all service units in the city at least once a week.

B. Curbside collection. Contractor must provide curbside collection to each single-family dwelling service unit unless the single-family dwelling service recipient subscribes to on-premises collection.

C. No blocking of streets. Contractor must operate collection vehicles in a manner to avoid blocking streets, alleyways, driveways, or public rights-of-way. If, in the normal course of operations, contractor blocks a street, alleyway, driveway, or public right-of-way, upon request by any service recipient, contractor must promptly move the collection vehicle from the blocked

street, alleyway, driveway, or public right-of-way.

D. Collection hours. Collection from single-family dwelling and multi-family dwelling properties may begin no earlier than 7:00 a.m. and must terminate no later than 6:00 p.m. Monday through Friday with no service on Saturday (except for residential holiday service, in which case normal collection hours apply) or Sunday.

E. Contractor charges. Contractor may only charge service recipients for the collection services as authorized by the franchise agreement, subject to those maximum rates adjusted periodically by the city council.

**9.02.050 Collection rates**

The maximum rates for collection, processing and disposal of solid waste, recyclable material, and organic waste from service units in the city are established by city council resolution.

## **DIVISION 9.03      GENERATOR AND SERVICE UNIT REQUIREMENTS**

### Sections:

- 9.03.010 Proper disposal required
- 9.03.020 Minimum solid waste, recyclable material, and organic waste disposal requirements
- 9.03.030 Use of solid waste, recyclable material, and organic waste containers
- 9.03.040 Use of overage bags for green waste
- 9.03.050 Collection and placement of containers
- 9.03.060 Self-haul permit
- 9.03.070 Special Events

### **9.03.010      Proper disposal required.**

Every owner of any premises shall ensure that arrangements are made to properly dispose of the solid waste, recyclable material, and organic waste created, produced, or accumulated on the premises through either maintaining a subscription for regular collection service or self-hauling pursuant to a permit issued under section 9.03.060. The failure to comply with the requirements of this section is a threat to the public health, safety and welfare, and is declared and deemed a nuisance.

### **9.03.020      Minimum solid waste, recyclable material, and organic waste disposal requirements.**

A. The owner of any premises shall ensure that solid waste, recyclable material, and organic waste created, produced, or accumulated on the premises is placed in their designated containers and is either collected by the collector or properly removed pursuant to a self-hauling permit or as otherwise may be permitted by the City of Piedmont or its designee, at least once a week or more often as may be required to adequately serve the premises.

B. In order to fulfill the city's obligations under state law, the director may require the owner of any premises or the generator of solid waste, recyclable material, and organic waste at any premises to subscribe to and pay for waste collection services in the configuration the director determines is necessary for the preservation of the public health and/or public safety.

C. The requirements may include: requiring landfill containers (Black), compost containers (Green) and recycling containers (Blue) in the sizes and numbers as needed to store all the waste generated at the service unit during the periods between collections; requiring the owner or generator to change the frequency of collection or the size of solid waste, recyclable material, and organic waste containers at the service unit; and requiring additional efforts in the recycling of recyclable materials and organic materials generated by businesses and multi-family dwellings.

D. The failure to comply with the requirements of this section is a threat to the public health, safety and welfare, and is declared and deemed a nuisance.

**9.03.030 Use of solid waste, recyclable material, and organic waste containers.**

Each service recipient is required to use landfill containers (Solid Waste-Black), compost containers (Organic Waste-Green) and recycling containers (Recyclable-Blue) as provided by the contractor. A service recipient may request larger or smaller containers or request additional containers.

**9.03.040 Use of overage bags for green waste.**

On a periodic basis, if a single-family or multi-family dwelling service recipient has additional green waste in excess of what can be placed in the organic waste cart provided by the contractor, a single-family dwelling or multi-family service recipient may place green waste materials in overage bags provided by the contractor or a biodegradable bag provided by the generator. Each loaded bag may not weigh more than 50 pounds.

**9.03.050 Collection and placement of containers.**

Each single-family dwelling collection service will be curbside collection unless a single-family dwelling service recipient subscribes to on-premises collection.

A. Curbside placement and removal. Single-family dwelling service recipients that are subscribed to curbside collection of landfill containers, compost containers and recycling containers must temporarily place containers at the front property line within three feet from curb or street no earlier than 6:00 p.m. on the day before the scheduled collection day. They must remove the containers from the front property line no later than 11:59 p.m. on the scheduled collection day. Service recipients may not place containers in a public street or public sidewalk, but may place containers for collection in the right-of-way parking strip.

B. On-premises placement. Service recipients that are subscribed to on-premises collection of the landfill containers (Black), compost containers (Green) and recycling containers (Blue) must place and maintain the containers in the side yard or backyard of their premises where the carts will not be a public nuisance or in any degree offensive. The location must allow for easy and safe access to the contractor.

**9.03.060 Self-hauling permit.**

A. Permit required. An owner or an occupant of any premises may elect to source separate and self-haul solid waste, recyclable material, and organic waste generated at the premises directly to a disposal or processing facility holding all applicable permits to accept the material. Any such owner or occupant desiring to do so as a means of satisfying the owner's obligation under Section 9.03.010 shall obtain a self-hauling permit to do so from the director prior to commencing self-hauling. Any self-hauling authorized shall be in conformance with Section 10 of the WMA ORRO.

B. Term. A permit to self-haul shall be good for one calendar year, or such part of the calendar year that is remaining after the issuance of the permit. All self-haul permits shall expire on December thirty-first, and may be renewed annually. An application for a renewal permit should be filed at least sixty days prior to the expiration date of the permit to allow adequate time for processing, inspection and verifications required to issue the permit.



C. Issuance of permit. Applications for a self-haul permit shall be submitted on an application, on a form approved by the director, with all required information supplied. The director shall issue a self-haul permit within ten working days of the receipt of an application deemed complete by the director only if the person requesting a self-haul permit satisfies the following requirements:

1. Produces for inspection the vehicle that such person intends to use for hauling waste, and the vehicle meets the following standards:
  - a. The vehicle is capable of safely hauling waste in a safe and sanitary manner so that such matter will not spill, leak, drip, blow, scatter or fall from the vehicle;
  - b. If the vehicle is not fully enclosed, the applicant produces a tarp or other material that will be used to completely secure the materials being self-hauled; and
  - c. The vehicle is operational and meets all applicable Vehicle Code standards.
2. Produces evidence that such person owns or leases the vehicle or has a written agreement to use the vehicle for the hauling of waste;
3. Produces evidence that such person has a valid California driver's license to operate the vehicle produced for inspection and that the vehicle is registered in the State of California;
4. Provides the director with a certificate of automobile insurance for the vehicle;
5. Provides the director with proof that the applicant has containers for the storage of waste on the applicant's property before the materials are hauled to a disposal facility; and
6. Pays the fee for a self-hauling permit authorized by resolution of the city council.

D. Operational standards.

Self-haul permittees shall comply with the following operational conditions:

1. Permittees must dispose of waste and retain weekly receipts and weight tickets from any licensed or permitted landfill or other licensed or permitted disposal facility.
2. Receipts shall be submitted to the city for the preceding one-quarter calendar year on a quarterly basis upon reasonable request by appropriate city authority. Failure to show proof of waste disposal for each week that a person is permitted to self-haul shall constitute a public health and safety nuisance sufficient to permit city to revoke the permittee's self-hauling permit.
3. Permittees must notify the city of any change in the vehicle being used to haul solid waste by the permittee. Permittees must bring the new vehicle in for an inspection and demonstrate compliance with items 1 through 5 of paragraph C of this section before the new vehicle is used to haul any materials under the permit.
4. Permittee must keep on file with the city copies of the current automobile insurance and registration for the vehicle used to self-haul and the permittee's current California driver's license. Permittee must provide proof to city of renewed automobile insurance, vehicle registration, and California driver's license within five days of expiration of respective document.
5. Permittees must separate and bag garbage, recyclable material and organic waste capable of being composted.
6. Permittees are liable for any damages and clean-up costs resulting from any solid waste spilling, leaking, dripping, blowing, scattering or falling during the course of the

permittees self-hauling activity.

7. Permittees shall, at such times as the director may specify, report to the city the type, quantity, volume and weight of solid waste to be removed, and shall pay an AB939 information reporting fee, in an amount to be set by the city council by resolution.
8. Permittees shall comply with all requirements of Section 10 of the WMA ORRO.

E. Revocation.

The director may revoke the self-haul permit if he or she finds that the permit holder has not complied with the terms of the permit or the conditions of this section. A self-haul permittee may appeal a determination made under this paragraph to the city administrator. In order to appeal, the self-haul permittee shall file a written appeal with the city clerk within 10 days after the determination of the building official, stating the reasons for the appeal and deposit the appeal fee, as set by resolution of the city council. The city administrator may designate a hearing officer for consideration of the appeal. The city administrator, or hearing officer if designated, shall hear the appeal within 30 calendar days of receiving the appeal. The decision of the city administrator or hearing officer shall be final. Upon revocation of the Self-Haul Permit, the director shall order the owner to comply with section 9.03.010. The director shall not, for a period of 12 months following the revocation, grant a Self-Haul permit to a person from whom a self-haul permit was revoked, and, thereafter, the director is authorized in his or her discretion to deny, or impose additional conditions on, the issuance of a self-haul permit to a person from whom a self-haul permit was previously revoked.

**9.03.070 Special events.**

For any special event within the city, the party responsible for the special event shall ensure that containers are placed throughout the event to sufficient to make source separation of recyclable materials, organic materials and garbage convenient for the employees, volunteers, contractors, and attendees of the event, and arrange for commingled or source-separated collection and processing of garbage, recycling and organics with the contractor. The party responsible shall arrange for collection and appropriate processing of all garbage, organics and recycling collected during the special event. During the term of any exclusive franchise pursuant to section 9.02.010, the responsible party may use commingled service or source separated collection services from a service provider other than the contractor only with the agreement of the contractor. Such service must also comply with the following requirements:

- A. The minimum number of recycling and organic containers must exceed the number of garbage containers. Containers for garbage, organics and recyclables must be collocated throughout the event location to provide equally convenient access to users.
- B. All of the containers must have appropriate signage and be color coded to identify the type of materials to be deposited and meet any additional design criteria established by the city.
- C. Food vendors must have at least one separate container each for recyclable materials, organic materials and garbage for use by customers and visitors. Multiple food vendors that provide disposable food service ware and share a common eating area may share an appropriate number, size, and placement of containers, located within a reasonable proximity of the vendors.

D. The types of recyclable materials suitable for deposit into each container must include, at a minimum; plastic bottles and jars, paper, cardboard, glass, newspaper, metal containers, and cans. Each recycling container must be clearly identified as a recycling container and display a list of types of recyclable materials which may be deposited into the container.

## **DIVISION 9.05 PROHIBITIONS**

Sections:

9.05.010 Burning or burying waste prohibited

9.05.020 Littering and dumping prohibited

9.05.030 Collection vehicles weight restriction

9.05.040 Prohibited materials in waste containers

### **9.05.010 Burning or burying waste prohibited.**

It is unlawful for any person to burn or bury any solid waste, recyclable materials, or organic waste in any yard or open space within the city.

### **9.05.020 Littering and dumping prohibited<sup>1</sup>.**

It is unlawful for a person to litter or dump any solid waste in the city.

### **9.05.030 Collection vehicles weight restriction.**

A vehicle removing or carrying solid waste or construction and demolition debris may not exceed 18,000 pounds per axle, and may not exceed 52,000 pounds gross vehicle weight when loaded.

### **9.05.040 Prohibited materials in waste containers.**

No person shall place any exempt waste, e-waste, u-waste, human waste and other potentially infectious material in any solid waste, recyclable, or organic waste containers.

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<sup>1</sup> For state law as to deposit of offensive matter upon roads or private property, see Pen. C. §374b.

## **DIVISION 9.10 ENFORCEMENT**

Sections:

- 9.10.010 Enforcement authority
- 9.10.020 Container removal fine
- 9.10.030 Misdemeanor, Penalty, City Remedies
- 9.10.040 Enforcement of Organic Waste

### **9.10.010 Enforcement Authority.**

The director, or his or her designee, has the authority to enforce this chapter and the WMA ORRO, in addition to the authority granted to police officers. The director is authorized to establish rules and regulations for the purpose of enforcing of the provisions of this chapter and the WMA ORRO.

### **9.10.020 Container removal fine.**

The city will provide written notification to single-family dwelling service recipients who violate Section 9.04.050. For the fourth and subsequent violation of this section in any one calendar year, the city may impose fines as follows:

- Forth offense \$50.00 fine
- Fifth offense \$100.00 fine
- Six offense \$150.00 fine

The failure to pay fines imposed, or the seventh offense for failure to comply with the requirements of Section 9.04.050, constitutes a violation of this chapter. If a violation has occurred, the director may require that the single-family dwelling service recipient subscribe to and pay for on-premises collection as provided by the contractor.

### **9.10.030 Misdemeanor, Penalty, City Remedies.**

A. It shall be unlawful for any person to violate any provision or to fail to comply with any of the requirements of this chapter. Unless otherwise specified in this chapter, a violation of any of the provisions or failing to comply with any of the mandatory requirements of this code shall constitute a misdemeanor except that notwithstanding any other provisions of this code, any such violation constituting a misdemeanor under this code may, in the discretion of the attorney having prosecutorial functions, be charged and prosecuted as an infraction.

B. Any person convicted of a misdemeanor under the provisions of this chapter, unless provision is otherwise made in this code, shall be punishable by a fine of not more than one thousand dollars, or by imprisonment in the county jail for a period of not more than six months, or by both fine and imprisonment.

C. Whenever in this chapter any act is prohibited or is made or declared to be unlawful or an offense, or the doing of any act is required or the failure to do any act is declared to be unlawful, the violation of any such provision of this chapter shall be punished by a fine not exceeding five hundred dollars or imprisonment for a term not exceeding six months, or by both such fine and imprisonment.

D. Each such person may be charged with a separate offense for each and every day during any portion of which a violation of any provision of this code is committed, continued or permitted by such person, and shall, upon conviction, be punishable accordingly.

E. In addition to the penalties hereinabove provided, any condition caused or permitted to exist in violation of any of the provisions of this code shall be deemed a public nuisance, and may be summarily abated as such by this city, and each day that such condition continues shall be regarded as a new and separate offense.

F. In addition to any other remedies provided in this chapter, any violation of this chapter may be enforced by civil action brought by the City. In any such action, the City may seek, and the court shall grant, as appropriate, any or all of the following remedies:

1. A temporary and/or permanent injunction;
2. Assessment of the violator for the costs of any investigation, inspection, or monitoring survey which led to the establishment of the violation, and for the reasonable costs of preparing and bringing legal action under this subsection (including attorneys' fees);
3. Costs incurred in removing, correcting, or terminating the adverse effects resulting from the violation (including attorneys' fees).

G. The city may enforce this chapter by any lawful means possessed by the city, including but not limited to those set forth in section 1.7 and 1.9 of the code, and any remedies available under any applicable state or federal law pursuant to any other lawful power the city may possess. Remedies under this chapter are in addition to and do not supersede or limit any and all other remedies, civil or criminal. The remedies provided for herein shall be cumulative and not exclusive.

**9.10.040 Enforcement of Organic Waste.**

Any violations relating to organic waste shall be enforced by an Enforcement Agency or the City of Piedmont in accordance with the provisions of Section 12 of the WMA ORRO.

## **DIVISION 9.11 DEFINITIONS**

Sections:

9.11.010 Definitions

### **9.11.010 Definitions.**

In this chapter:

*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.

*Applicant* means the person or entity (or the authorized representative) who submits an application for approval for a city permit to undertake any construction, demolition, or renovation project in the city. An applicant need not possess legal title to the subject property, so long as the applicant is an authorized agent with the written consent of the property owner.

*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).

*Black Container* means a container where either:

- (A) The lid of the container is gray or black in color.
- (B) The body of the container is entirely gray or black in color and the lid is gray or black in color. Hardware such as hinges and wheels on a black container may be any color.

*Black Container Waste or Black Container Collection Stream* means solid waste that is collected in a black container that is part of a three-container organic waste collection service that prohibits the placement of organic waste in the black container as specified in Section 18984.1(a) and (b).

*Blue Container* means a container where either:

- (A) The lid of the container is blue in color.
- (B) The body of the container is blue in color and the lid is either blue, gray, or black in color. Hardware such as hinges and wheels on a blue container may be any color.

*Business Service Unit* means a retail, professional, office, or other commercial enterprise offering goods or services to the public.

*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.

*California Code of Regulations or “CCR”* means the State of California Code of Regulations. CCR references in this chapter and the WMA ORRO are preceded with a number that refers to the relevant Title of the CCR (e.g., “14 CCR” refers to Title 14 of CCR).

*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.

*City* means the City of Piedmont.

*Collection* means the process whereby solid wastes are removed and transported to a disposal facility, organic wastes processing facility, organic waste processing facility or materials recovery facility, as appropriate.

*Collection Services* means single-family dwelling (SFD) collection service, multi-family dwelling (MFD) collection service, City collection service, and Commercial collection service. *Commercial collection service* means collection of garbage, organic waste, large items, and recyclables materials from a business service unit.

*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).

*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).

*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).

*Compliance Review* means a review of records by the applicable Enforcement Agency to determine compliance with this chapter and the WMA ORRO.

*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.

*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.



*Compostable Material* has the same meaning as in 14 CCR Section 17852(a)(11).

*Compostable Material Handling Operation or Facility* has the same meaning as in 14 CCR Section 17852(a)(12).

*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 applicable Member Agency for placement in the Compost Container.

*Consolidation Sites* mean means facilities or operations that receive solid waste for the purpose of storing the waste prior to transfer directly from one container to another or from one vehicle to another for transport and which do not conduct processing activities. Consolidation activities include, but are not limited to, limited volume transfer operations, sealed container transfer operations, and direct transfer facilities.

*Construction* means the building of any facility or structure or any portion thereof including owner or tenant improvements to an existing facility or structure.

*Construction and Demolition Debris or "C&D"* means commonly used or discarded materials removed from construction, remodeling, repair, demolition, or renovation operations on any pavement, house, commercial building, or other structure, or from landscaped areas. Such materials include, dirt, sand, rock, gravel, bricks, plaster, gypsum wallboard, aluminum, glass, asphalt material, plastics, roofing material, cardboard, carpeting, cinder blocks, concrete, copper, electrical wire, fiberglass, Formica, granite, iron, lad, linoleum, marble, plant debris, pressboard, porcelain, steel, stucco, tile, vinyl, wood, masonry, trees, remnants of new materials, including paper, plastic, carpet scraps, wood scraps, scrap metal, building materials, packaging and rubble. Construction and demolition debris does not include exempt waste.

*Construction and Demolition Debris Processing Facility* means a facility that is operated and legally permitted for the purpose of accepting construction and demolition debris for receiving, sorting, processing, storing and/or preparing construction and demolition debris for sale.

*Contamination or Contaminants* has the same meaning as "prohibited container contaminants" as defined in 14 CCR Section 18982(a)(55).

*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).

*Contractor* means the person or entity designated by the city council to provide exclusive collection of solid waste within the city limits.

*Covered Container* means a container that is covered to prevent the migration of litter from the container, excessive infiltration of precipitation, odor and leachate production, and to prevent

access by animals and people; thereby controlling litter, scavenging, and illegal dumping of prohibited wastes. Covers may include, but are not limited to, tarpaulins or similar materials.

*Demolition* means the decimating, razing, ruining, tearing down or wrecking of any facility, structure, pavement or building, whether in whole or in part, whether interior or exterior.

*Designated source separated organic waste facility* means a solid waste facility that accepts a source separated organic waste collection stream as defined in 14 CCR Section 17402(a)(26.6) and complies with one of the following:

- (A) The facility is a “transfer/processor,” as defined in Section 18815.2(a)(62), that is in compliance with the reporting requirements of Section 18815.5(d), and meets or exceeds an annual average source separated organic content recovery rate of 50 percent between January 1, 2022 and December 31, 2024 and 75 percent on and after January 1, 2025 as calculated pursuant to Section 18815.5(f) for organic waste received from the source separated organic waste collection stream.
  - 1. If a transfer/processor has an annual average source separated organic content recovery rate lower than the rate required in paragraph (A) of this section for two (2) consecutive reporting periods, or three (3) reporting periods within three (3) years, the facility shall not qualify as a “Designated source 19 separated organic waste facility.”
- (B) The facility is a “composting operation” or “composting facility” as defined in Section 18815.2(a)(13) that pursuant to the reports submitted under Section 18815.7 demonstrates that the percent of the material removed for landfill disposal that is organic waste is less than the percent specified in Section 17409.5.8(c)(2) or 17409.5.8(c)(3), whichever is applicable, and, if applicable, complies with the digestate handling requirements specified in Section 17896.57.
  - 1. If the percent of the material removed for landfill disposal that is organic waste is more than the percent specified in Section 17409.5.8(c)(2) or 28 17409.5.8(c)(3) for two (2) consecutive reporting periods, or three (3) reporting periods within three (3) years, the facility shall not qualify as a “Designated 30 source separated organic waste facility.”

*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.

*Direct Service Provider* means a person, company, agency, district, or other entity that provides a service or services to a jurisdiction pursuant to a contract or other written agreement.

*Direct Transfer Facility* means a transfer facility that receives equal to or more than 60 cubic yards or 15 tons (whichever is greater) of solid waste per operating day but less than 150 tons of solid waste and meets all of the following requirements:

- (A) is located on the premises of a duly licensed solid waste hauling operator;
- (B) only handles solid waste that has been placed within covered containers or vehicles prior to entering the facility and that is transported in vehicles owned or leased by that same operator;

- (C) the facility does not handle, separate, or otherwise process the solid waste;
- (D) no waste is stored at the facility for more than any 8-hour period;
- (E) solid waste is transferred only once and directly from one covered container or vehicle to another covered container or vehicle so that the waste is never put on the ground or outside the confines of a container or vehicle, before, during, or after transfer. Direct transfer would not include top loading trailers where the solid waste actually leaves the confines of the collection vehicle and is suspended in air before falling into a transfer vehicle;
- (F) all of the contents of the original transferring container or vehicle must be emptied during a single transfer; and
- (G) any waste that may unintentionally fall outside of the containers or vehicles, is promptly cleaned up and replaced within the container or vehicle to which it was being transferred.

*Director* means the Public Works Director or his or her designee.

*Divert* means to use material for any purpose other than disposal in a landfill or transformation facility.

*DTSC* means Department of Toxic Substances Control.

*Dwelling Unit* means a room or a suite of connecting rooms, which provides complete, independent living quarters for one or more persons, including permanent facilities for living, sleeping, eating, cooking and sanitation, and which complies with all building and construction code requirements.

*EA* means enforcement agency as defined in PRC section 40130.

*E-Waste* means discarded electronics equipment such as cell phones, computers, monitors, televisions, and other items containing cathode ray tubes (CRTs), LCDs or plasma screens and monitors.

*Edible Food* means food intended and fit 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.

*Emergency Transfer/Processing Operation* means an operation that is established because there has been a proclamation of a state of emergency or local emergency, as provided in Title 14, Division 7, Chapter 3, Article 3, Sections 17210.1 (j) and (k) and which meets all of the following requirements:

- (A) the operation handles only disaster debris and other wastes, in accordance with Section 17210.1(d), during the disaster debris recovery phase; and
- (B) the location does not currently have a solid waste facility permit;

- (C) if the operation accepts, processes, or stores hazardous or household hazardous waste, then these activities must be in compliance with DTSC standards or standards of other appropriate authorities or agencies.

*Enforcement Action* means an action of the relevant Enforcement Agency to address non-compliance with this chapter and the WMA ORRO including, but not limited to, issuing administrative citations, fines, penalties, or using other remedies.

*Enforcement Agency* means an entity with the authority to enforce part or all of this chapter and WMA ORRO as specified therein. Employees and agents of an Enforcement Agency may carry out inspections and enforcement activities pursuant to this chapter and the WMA ORRO. Nothing in this chapter and the WMA ORRO authorizing an entity to enforce its terms shall require that entity to undertake such enforcement except as agreed to by that entity. Nothing in this chapter and the WMA ORRO shall preclude the City of Piedmont from enforcing any provisions stated therein.

*Excluded Waste or Exempt 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 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.

*Facility that recovers source separated organic waste* means a facility that handles source separated organic waste separately from any other wastes as required in 14 CCR Section 17409.5.6.

*Food* has the same meaning as in Section 113781 of the Health and Safety Code.

*Food Distributor* means a company that distributes food to entities including, but not limited to, Supermarkets and Grocery Stores, or as otherwise defined in 14 CCR Section 18982(a)(22).

*Food Facility* has the same meaning as in Section 113789 of the Health and Safety Code, and generally includes operations that store, prepare, package, serve, vend, or otherwise provide food for human consumption at the retail level, including, but not limited to, the following: An operation where food is consumed on or off the premises, regardless of whether there is a charge for the food, and/or any place used in conjunction with the operations described above, including, but not limited to, storage facilities for food-related utensils, equipment, and materials. Food Facilities include permanent and nonpermanent food facilities, including, but not limited to, the following: public and private school cafeterias; restricted food service facilities; licensed health care facilities, except as provided in Section 113789(c)(12) of the Health and Safety Code; commissaries; mobile food facilities; mobile support units; temporary food facilities; vending machines; certified farmers' markets, for purposes of permitting and enforcement pursuant to Health and Safety Code Section 114370; farm stands, for purposes of permitting and enforcement pursuant to Health and Safety Code Section 114375; fishermen's markets; microenterprise home kitchen operations; catering operations; and host facilities. Section 113789(c) of the Health and Safety Code provides additional information on the entities that "Food Facility" does not include.

*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).

*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 chapter or the WMA ORRO 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.

*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 chapter or the WMA ORRO and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7).

*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.

*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).

*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.

*Food Waste* means Food Scraps, Food-Soiled Paper, and Compostable Plastics in combination or separately.

*Franchise Agreement* means the agreement entered into between the city and the city's designated contractor for the exclusive collection of solid waste generated within the city limits.

*Garbage* means all non-recyclable packaging, and putrescible waste attributed to normal activities of a service unit. Garbage must be generated by and at the service unit wherein the garbage is collected. Garbage does not include those items defined as recyclable materials, organic waste, large items, E-waste, U-waste, or exempt waste.

*Green container* means a container where either:

- (A) The lid of the container is green in color.
- (B) The body of the container is green in color and the lid is green, gray, or black in color. Hardware such as hinges and wheels on a green container may be any color.

*Green Waste* means any vegetative matter resulting from normal yard and landscaping maintenance that is not more than three feet in its longest dimension or six inches in diameter and fits in the organic waste cart or overage bag used by the service recipient. Green waste includes plant debris, such as palm, yucca and cactus, ivy, grass clippings, leaves, pruning, weeds, branches, brush, holiday trees, and other forms of vegetative waste and must be generated by and at the service unit wherein the green waste is collected. Green waste does not include exempt waste.

*Greenhouse Gas* means carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>), nitrous oxide (N<sub>2</sub>O), sulfur hexafluoride (SF<sub>6</sub>), hydrofluorocarbons (HFC), perfluorocarbons (PFC), and other fluorinated greenhouse gases as defined in this section.

*Greenhouse Gas Emission Reduction or Greenhouse Gas Reduction* means a calculated decrease in greenhouse gas emissions relative to a project baseline over a specified period of time.

*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).

*Hauler* has the same meaning as in 14 CCR Section 18815.2(a)(32).

*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).

*Hazardous Wastes* means any waste which meets the definitions set forth in 16 Title 22, Section 66261.3, et seq. and is required to be managed.

*Hazardous wood waste* means wood that falls within the definition of “Treated wood” or “Treated wood waste” in Section 67386.4 of Title 22 of the 23 California Code of Regulations.

*Health Facility* has the same meaning as in Section 1250 of the Health and Safety Code, and generally includes a facility, place, or building that is organized, maintained, and operated for the diagnosis, care, prevention, and treatment of human illness, physical or mental, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, to which the persons are admitted for a 24-hour stay or longer. Health and Safety Code Section 1250 provides additional information on facilities included in the definition of Health Facility.

*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).

*Implementation Record* includes the records maintained by an applicable Member Agency regarding its implementation and enforcement of the SB 1383 Regulations, as required and described in 14 CCR 18995.2.

*Incompatible Material or Incompatibles*, means human-made inert material, 18 including, but not limited to, glass, metal, plastic, and also includes organic waste for 19 which the receiving end-user, facility, operation, property, or activity is not designed, 20 permitted, or authorized to perform organic waste recovery activities as defined in 21 Section 18983.1(b) of Article 2, Chapter 12.

*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).

*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.

*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.)

*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 applicable Member Agency such as prison(s), facilities operated by the State park system, public universities (including community colleges); County fairgrounds; special districts, and other State agencies.

*Large Items* means those materials including furniture; carpets; mattresses; white goods; brown goods; E-waste; clothing; tires without rims; large green waste that does not exceed seven feet by four feet by two feet (7’x4’x2’) and weighing no more than 60 pounds, which are attributed to the normal activities of a single-family dwelling service unit, multi-family dwelling service unit that receives cart collection, or city service unit. Large items must be generated by and at the service unit where the large items are collected. Large items do not include exempt waste.

*Large Green Waste* means oversized green waste such as tree trunks and branches with a diameter of not less than six inches and not more than two feet and a length of not more than five feet in its longest dimension, which are attributed to the normal activities of a single-family dwelling, multi-family dwelling, or city service unit. Large green waste must be generated by and at the service unit where the large green waste is collected.

*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 chapter and the WMA ORRO 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 chapter and the WMA ORRO 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.

*Large Volume Transfer/Processing Facility* means a facility that receives 100 tons or more of solid waste per operating day for the purpose of storing, handling or processing the waste prior to transferring the waste to another solid waste operation or facility.

- (A) In determining the tonnage of solid waste received by the facility, the following materials shall not be included: materials received by a recycling center located within the facility, and by beverage container recycling programs in accordance with Public Resources Code sections 14511.7, 14518, or 14520, if the recycling activities are separated from the solid



waste handling activities by a defined physical barrier or where the activities are otherwise separated in a manner approved by the EA.

- (B) If the facility does not weigh the solid waste received, then the tonnage shall be determined by using a volumetric conversion factor where one cubic yard is equal to 500 pounds. The EA shall approve an alternate conversion factor if the operator demonstrates that it is more accurate than the required conversion factor.

*Lifecycle Greenhouse Gas Emissions or Lifecycle GHG Emissions* means the aggregate quantity of greenhouse gas emissions (including direct and indirect emissions), related to the full lifecycle of the technology or process that an applicant wishes to have assessed as a possible means to reduce landfill disposal of organic waste. The lifecycle analysis of emissions includes all stages of organic waste processing and distribution, including collection from a recovery location, waste processing, delivery, use of any finished material by the ultimate consumer, ultimate use of any processing materials. The mass values for all greenhouse gases shall be adjusted to account for their relative global warming potential.

*Limited Volume Transfer Operation* means an operation that receives less than 60 cubic yards, or 15 tons of solid waste per operating day for the purpose of storing the waste prior to transferring the waste to another solid waste operation or facility and which does not conduct processing activities, but may conduct limited salvaging activities and volume reduction by the operator.

- (A) In determining the tonnage of solid waste received by the operation, the following materials shall not be included: materials received by a recycling center located within the operation, and by beverage container recycling programs in accordance with Public Resources Code sections 14511.7, 14518, or 14520, if the recycling activities are separated from the solid waste handling activities by a defined physical barrier or where the activities are otherwise separated in a manner approved by the EA.
- (B) If the operation does not weigh the solid waste received, then the tonnage shall be determined by using a volumetric conversion factor where one cubic yard is equal to 500 pounds. The EA shall approve an alternate conversion factor if the operator demonstrates that it is more accurate than the required conversion factor.

*Litter* means all solid waste which has been improperly discarded or which has migrated by wind or equipment away from the operations area. Litter includes, but is not limited to, convenience food, beverage, and other product packages or containers constructed of steel, aluminum, glass, paper, plastic, and other natural and synthetic materials, thrown or deposited on the lands and waters of the state.

*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.

*Medium Volume Transfer/Processing Facility* means a facility that receives equal to or more than 60 cubic yards or 15 tons (whichever is greater) of solid waste per operating day but less than 100 tons of solid waste, for the purpose of storing or handling the waste prior to transferring the waste to another solid waste operation or facility; or a facility that receives any amount of solid waste, up to 100 tons per operating day, for the purpose of processing solid waste prior to transferring the waste to another solid waste operation or facility.

- (A) In determining the tonnage of solid waste received by the facility, the following materials shall not be included: materials received by a recycling center located within the facility, and by beverage container recycling programs in accordance with Public Resources Code sections 14511.7, 14518, or 14520, if the recycling activities are separated from the solid waste handling activities by a defined physical barrier or where the activities are otherwise separated in a manner approved by the EA.
- (B) If the facility does not weigh the solid waste received, then the tonnage shall be determined by using a volumetric conversion factor where one cubic yard is equal to 500 pounds. The EA shall approve an alternate conversion factor if the operator demonstrates that it is more accurate than the required conversion factor.

*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 Chapter and the WMA ORRO 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.
- (4) The legal boundaries for the City of Piedmont.

*Mixed Construction and Demolition Debris* includes the waste building materials, packaging and rubble resulting from construction, remodeling, repair and demolition operations on pavements, houses, commercial buildings and other structures.

*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).

*Multi-Family Dwelling Collection Service* means collection of garbage, organic waste, large items, and recyclables materials from a multi-family dwelling service unit.

*Multi-Family Dwelling Service Unit* means any combination of dwelling units in the service area using a common bin for the accumulation and set-out of garbage.

*Multi-Family Residential Dwelling or Multi-Family* means of, from, or pertaining to residential premises with three 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 three 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.

*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.

*Non-Local Entity* means an entity that is an organic waste generator but is not subject to the control of a jurisdiction's regulations related to solid waste. These entities may include, but are not limited to, special districts, federal facilities, prisons, facilities operated by the state parks system, public universities, including community colleges, county fairgrounds, and state agencies.

*Non-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).

*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.

*On-site* means located within the boundary of the operation or facility.

*Open burning* means the combustion of solid waste without:

- (A) control of combustion air to maintain adequate temperature for efficient combustion,
- (B) containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion, and
- (C) control of the emission of the combustion products

*Operating Day* means the hours of operation as set forth in the application, Enforcement Agency Notification and/or permit not exceeding 24 hours.

*Operating Record* means an easily accessible collection of records of an operation's or facility's activities and compliance with required state minimum standards under Title 14. The Record may include the Facility Plan or Transfer/Processing Report for facilities, and shall contain but is not limited to containing: agency approvals, tonnage and loadchecking records, facility contacts and training history. The record may be reviewed by state and local authorities and shall be available during normal business hours. If records are too voluminous to place in the main operating record or if the integrity of the records could be compromised by on-site storage, such as exposure to weather, they may be maintained at an alternative site, as long as that site is easily accessible to the EA.

*Operations Area* means:

- (A) the following areas within the boundary of an operation or facility as described 15 in the permit application or Enforcement Agency Notification:

- (i) equipment management area, including cleaning, maintenance, and storage areas; and
  - (ii) material and/or solid waste management area, including unloading, 19 handling, transfer, processing, and storage areas.
- (B) the boundary of the operations area is the same as the permitted boundary but may or may not be the same as the property boundary.

*Operator* means the owner, or other person who through a lease, franchise agreement or other arrangement with the owner, that is listed in the permit application or Enforcement Agency Notification, is legally responsible for all of the following:

- (A) complying with regulatory requirements set forth in these Articles;
- (B) complying with all applicable federal, state and local requirements;
- (C) the design, construction, and physical operation of the operations area;
- (D) controlling the activities at an operation or facility as listed on the permit 30 application or Enforcement Agency Notification.

*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).

*Organic Waste Disposal Reduction Target* is the statewide target to reduce the disposal of organic waste by 50 percent by 2020 and 75 percent by 2025, based on the 2014 organic waste disposal baseline, set forth in Section 39730.6 of the Health and Safety Code.

*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).

*Overage Bag* means a biodegradable bag provided by the contractor to single-family dwelling and multi-family dwelling service units for the periodic collection of green waste. Overage bags will have a capacity ranging from 20 to 45 gallons and a load capacity of up to 50 pounds.

*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).

*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.

*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).

*Processing* means the controlled separation, recovery, volume reduction, conversion, or recycling of solid waste including, but not limited to, organized, manual, automated, or mechanical sorting, the use of vehicles for spreading of waste for the purpose of recovery, and/or includes the use of conveyor belts, sorting lines or volume reduction equipment.

*Prohibited Container Contaminants* includes all of 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 acceptable 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.

*Project* means an activity involving construction, demolition, or renovation, and which requires issuance of a city building permit. For the purpose of section 9.04.010, *project* also includes any city construction, demolition, or renovation over \$25,000.

*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).

*Recovered Organic Waste Product Procurement Target* means the amount of organic waste in the form of a recovered organic waste product which a jurisdiction is required to procure annually.

*Recovered Organic Waste Products* means products made from California, landfill-diverted recovered organic waste processed at a permitted or otherwise authorized operation or facility.

*Recovery Location* includes the closest aggregating hub used to recover the organic waste after collection. This could include but is not limited to a transfer facility, recycling facility, or recovery facility.

*Recycled Content Paper* means paper products and printing and writing paper that consists of at least 30 percent, by fiber weight, postconsumer fiber.

*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.

*Recyclable Material* means those materials designated by the city which are capable of being recycled and which would otherwise be processed or disposed of as garbage. *Recyclable materials* includes: newsprint (including inserts); mixed paper (including magazines, catalogs, envelopes, junk mail, corrugated cardboard, brown bags and paper, paperboard, paper egg cartons, office ledger paper, and telephone books); glass containers; aluminum beverage containers; small scrap and cast aluminum (not exceeding 40 pounds in weight nor two feet in any dimension for any single item); steel including "tin" cans, aerosol cans (empty, non-toxic

products) and small scrap (not exceeding 40 pounds in weight nor two feet in any dimension for a single item); bimetal containers; #1-7 plastics regardless of form or mold (including plastic containers, bottles, wide mouth tubs, plastic bags, film plastic, and polystyrene), aseptic containers, aluminum foil and pans; dry cell household batteries and cell phones when contained in a sealed plastic bag; and other materials added by the city or the contractor from time to time.

*Recycling* means the process of collecting, sorting, cleansing, treating, and reconstituting materials that would otherwise become solid waste, and returning 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.

*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.

*Remnant Organic Material* means the organic waste that is collected in a black container that is part of the black container collection stream.

*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.

*Renewable Gas* means gas derived from organic waste that has been diverted from a landfill and processed at an in-vessel digestion facility that is permitted or otherwise authorized by Title 14 to recover organic waste.

*Renovation* means a change, addition, or modification in an existing structure.

*Residual* means the solid waste destined for disposal, further transfer/processing as defined in section 17402(a)(30) or (31), or transformation which remains after processing has taken place and is calculated in percent as the weight of residual divided by the total incoming weight of materials.

*Residual Organic Waste* means waste that remains after organic waste has been processed which is then sent to landfill disposal.

*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).

*Reuse* means the recovery or reapplication of the material for uses similar or identical to its originally intended application, without manufacturing or preparation processes that significantly alter the material.

*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).

*Salvaging* means the controlled separation of solid waste material which do not require further processing, for reuse or recycling prior to transfer activities.

*Scavenging* means the uncontrolled and/or unauthorized removal of solid waste materials.

*SB 1383* means Senate Bill 1383 of 2016, the Short-lived Climate Pollutant Reduction Act of 2016.

*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.

*Secondary Material Processing Facility or Operation* means an activity whose primary purpose is to receive and process source separated, or separated for reuse, materials from a permitted transfer/processing facility or a transfer/processing operation governed by an enforcement agency notification, and that does not meet the residual percentage or putrescible waste percentage as set forth in section 17402.5(d). Materials include, but are not limited to, glass, plastics, paper, and cardboard.

(A) Secondary Material Processing Operations are those activities that:

1. Are governed by the Enforcement Agency Notification tier requirements as specified in section 17403.3.2; and,
2. Receive an amount of residual material that is less than 40% by weight as calculated on a monthly basis. Operations that do not meet this residual requirement shall comply with the Registration Permit tier requirements specified in 17403.3.3. 38

(B) Secondary Material Processing Facilities are those activities that:

1. Are governed by the Registration Permit tier requirements as specified in section 17403.3.3; and,
2. Do not meet the 40% residual material requirement as specified in subdivision 42 (A).

*Self-Haul* means a Person, who hauls Solid Waste, Organic Waste or recyclable material they have generated to another Person for ultimate disposition as permitted by the applicable 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).

*Self-Hauling Permit* means a permit required to be obtained from the City of Piedmont pursuant to section 9.03.060 of this chapter.

*Separated for Reuse* means materials, including commingled recyclables, that have been separated or kept separate from the solid waste stream 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, and includes materials that have been "source separated".

*Service recipient* means a single-family dwelling service unit, multi-family dwelling service unit, city service unit, or commercial service unit receiving collection service.

*Service Unit* means single-family dwelling service units, multi-family dwelling service units, City service units, and commercial service units.

*Single-Family* means of, from, or pertaining to any residential premises with fewer than three units.

*Single-Family Dwelling Collection Service* means collection of garbage, organic waste, large items, and recyclables materials from a single-family dwelling service unit.

*Single-Family Dwelling Service Unit* means a dwelling unit in the service area using a garbage cart, or any combination of dwelling units sharing garbage carts, for the accumulation and set out of garbage.

*Solid Waste* means 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.

*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.



*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.

*Source Separated Recyclable Materials* means Source Separated Non-Organic Recyclables and Source Separated Recycling Container Organic Waste.

*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 unsoiled Paper Products and Printing and Writing Paper.

*Special Event* means an occasional or recurring event scheduled to occur on public property, whether publicly or privately organized or sponsored. Special events include, but are not limited to: fairs, festivals, parades, sporting events, concerts, outdoor movies and catered events.

*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).

*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.

*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 an applicable Member Agency, the definition in 14 CCR Section 18982(a)(74) shall apply to this Ordinance.

*Uncontainerized Green Waste and Yard Waste Collection Service or Uncontainerized Service* means a collection service that collects green waste and yard waste that is placed in a pile or bagged for collection on the street in front of a generator's house or place of business for collection and transport to a facility that recovers source separated organic waste.

*Universal Waste or U-Waste* means fluorescent lamps, cathode ray tubes, non-empty aerosol cans, instruments and switches that contain mercury, and dry cell batteries containing cadmium copper, or mercury.

*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).

*WMA* means the Alameda County Waste Management Authority.

*WMA ORRO* means the Alameda County Waste Management Authority Organics Reduction and Recycling Ordinance "ORRO" (2021-02), its implementation and any future amendments or modifications thereto.

## **DIVISION 9.12      ORGANICS REDUCTION AND RECYCLING**

Sections:

9.12.010

### **9.12.010      Purpose and Intent.**

The purpose and intent of this Division 9.12 is to comply with state laws requiring cities providing waste collection services to adopt ordinances and take other measures to reduce the amount of organics and recyclable materials deposited in landfills from commercial and residential generators pursuant to the Short-Lived Climate Pollutants Organic Waste Reduction regulations adopted pursuant to Senate Bill 1383 (2016).

This Division is also intended to streamline the reduction and recycling process for commercial and residential generators by opting into the countywide Organics Reduction and Recycling Ordinance (ORRO) developed by the Alameda County Waste Management Authority (WMA).

### **9.12.020      Adoption.**

The WMA ORRO (WMA Ord. 2021-02) is hereby adopted by reference, to be effective in Piedmont beginning on January 1, 2022. One copy of the WMA ORRO shall be kept on file at the Department of Public Works.”

## Exhibit C

### NOTICE OF DETERMINATION/NOTICE OF EXEMPTION California Environmental Quality Act (CEQA)

**DATE:** August 6, 2021

**TO:** Alameda County Clerk  
1106 Madison Street  
Oakland, CA 94607

Office of Planning and Research  
P.O. Box 3044, Room 113  
Sacramento, CA 95812-3044

**FROM:** Alameda County Waste Management Authority  
1537 Webster Street  
Oakland, CA 94612  
**Contact:** Emily Alvarez, Program Manager, 510-891-6585

**SUBJECT:** Filing of Notice of Determination/Notice of Exemption in compliance with Section 21108 or 21152 of the Public Resources Code

**PROJECT TITLE:** Organics Reduction and Recycling Ordinance

**STATE CLEARINGHOUSE NUMBER:** Previous CEQA Document: *Program EIR for the SB 1383 Regulations, Short-Lived Climate Pollutants: Organic Waste Methane Emission Reductions*, SCH#2018122023

**PROJECT APPLICANT:** Alameda County Waste Management Authority (WMA)

**PROJECT LOCATION:** Alameda County – countywide

**PROJECT DESCRIPTION:**

The Organics Reduction and Recycling Ordinance (ORRO) is a countywide ordinance that WMA adopted on July 28, 2021 pursuant to CalRecycle's SB 1383 Regulations, which require diversion of 75% of organic waste from landfills and recovery of 20% of edible food for human consumption statewide by 2025. The SB 1383 regulations require that by January 1, 2022, jurisdictions adopt an ordinance or other enforceable mechanism to require compliance by organic waste generators, haulers, and other entities subject to the regulations and subject to the jurisdiction's regulatory authority. The SB 1383 Regulations were the subject of the *SB 1383 Regulations, Short-Lived Climate Pollutants: Organic Waste Methane Emission Reductions* program EIR (SB 1383 Regulations EIR), SCH#2018122023, prepared by the Department of Resources Recycling and Recovery (CalRecycle).

WMA adopted the ORRO to assist WMA member agencies, all of which are jurisdictions in Alameda County, in complying with the SB 1383 Regulations and to create a consistent set of requirements throughout the county. The ORRO's 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; businesses must monitor for contamination of bins; 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; and food recovery organizations must keep records and report the amount of food collected. The ORRO will apply within the boundaries of each WMA member agency that opts-in to the ORRO.

This is to advise that WMA, acting as lead agency, approved the above described project on July 28, 2021, and has made the following determinations regarding the above described project.

1. Except for provisions in the ORRO which maintain the already established requirements of 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 the project are entirely within the scope of the SB 1383 Regulations and its EIR.
2. No mitigation measures identified in the SB 1383 Regulations EIR are applicable to WMA's enactment of the ORRO.
3. 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.
4. The SB 1383 Regulations EIR adequately analyzes any potential environmental effects of the project and no additional environmental review is required.
5. Findings were made pursuant to the provisions of CEQA.

On a separate and independent basis, WMA has determined that the project 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 by reducing the contributions to climate change from methane and other harmful greenhouse gases. There are no unusual circumstances that would cause this project to have a significant effect on the environment.

Due to the COVID-19 pandemic, Alameda County Waste Management Authority's office is currently closed to the public. A record of project approval by WMA is available to the general public by request by emailing [ealvarez@stopwaste.org](mailto:ealvarez@stopwaste.org) or by calling 510-891-6585.

The SB 1383 Regulations EIR may be examined online at:

Draft EIR: <https://www.calrecycle.ca.gov/docs/cr/laws/rulemaking/slcp/sb1383eir.pdf>

Final EIR: <https://www2.calrecycle.ca.gov/Docs/Web/116058>

A handwritten signature in black ink, appearing to read "Timothy Burroughs". The signature is written in a cursive style with a large initial 'T'.

By: Timothy Burroughs Date: 8/10/2021  
TIMOTHY BURROUGHS, Executive Director  
Alameda County Waste Management Authority

**Exhibit D**  
**Enforcement Agency Authorization – Waste Management Authority**

The City of Piedmont designates the Alameda County Waste Management Authority (WMA) and any other Designee of the City as an Enforcement Agency for Sections 5, 6, 8, 9, and 10 of the ORRO subject to terms and conditions as may be specified in the letter agreement with the WMA. Without limiting the generality of the foregoing, the authority provided by this designation includes the authority to request information or conduct inspections to verify compliance with any of the above sections to support WMA's enforcement activities.

The City of Piedmont designates the Alameda County Department of Environmental Health (ACDEH) as an Enforcement Agency for Sections 7, 8, 11, and 12 of the ORRO subject to such terms and conditions as may be specified in the Memorandum of Understanding with the ACDEH. Without limiting the generality of the foregoing, the authority provided by this designation includes the authority to request information or conduct inspections to verify compliance with any of the above sections to support ACDEH's enforcement activities.