



CITY COUNCIL STAFF REPORT

TO: Honorable Mayor and City Council **DATE:** December 13, 2021

FROM: Matthew Bronson, City Manager

PREPARED BY: Greg Ray, Public Works Director/City Engineer
David Hale, City Attorney

SUBJECT: Second Reading and Adoption of an Ordinance Adding Chapter 4.1 of Article V, Mandatory Organic Waste Disposal Reduction, to the City of Grover Beach Municipal Code to Comply with the Requirements of SB 1383

RECOMMENDATION

Conduct public hearing and second reading to adopt an Ordinance adding Chapter 4.1 of Article V, Mandatory Organic Waste Disposal Reduction, to the Grover Beach Municipal Code in order to comply with the requirements of Senate Bill 1383 (SB 1383).

BACKGROUND:

The City provides solid waste disposal services in accordance with Chapter 4 of Article V of the Grover Beach Municipal Code (GBMC) and South County Sanitary is the City's franchisee that provides solid waste collection services to the community. The City Council is now being asked to adopt an Ordinance adding Chapter 4.1 of Article V, Mandatory Organic Waste Disposal Reduction, to the Grover Beach Municipal Code in order to comply with the requirements of Senate Bill 1383 (SB 1383) similar to other local governments in the state.

SB 1383 was signed into law on September 19, 2016, to require a reduction of organic waste disposal to landfills from 2014 levels by 75% and increase edible food recovery by 20%, by 2025. SB 1383 is the most significant waste reduction mandate to be adopted in the State of California in the last 30 years and requires all jurisdictions in the State that provide solid waste collection and disposal services to implement a mandatory organic recycling ordinance by January 1, 2022. This legislation requires all businesses, residents, and multi-family apartments to have access to recycling programs that capture food scraps, landscaping waste, and other organic waste materials in order to reduce the production of methane gas. This law has significant policy and legal implications for State and local governments, including cities, counties and special districts that provide solid waste services.

In accordance with SB 1383, the California Department of Resources Recycling and Recovery (CalRecycle), which is the State Department tasked with administering California's waste and recycling programs, developed prescriptive regulations to achieve the State's outlined organic waste disposal goals by 2025. In November 2020, CalRecycle released the final regulations for SB 1383.

City Implementation

On January 1, 2022, CalRecycle's regulations will become enforceable and will require each jurisdiction to adopt a mandatory recycling ordinance. SB 1383 allows entities to take an educational and non-punitive approach to enforcement for the first two years of the ordinance (2022 and 2023). Taking an educational approach will allow the City and its franchise waste hauler, South County Sanitary, to work with Grover Beach residents and businesses to inform them of the requirements. Under this regulatory enforcement program, the enforcing agency, CalRecycle will have discretion to determine the level of penalty necessary to remedy any given violation by jurisdictions but can impose penalties of up to \$10,000 per day against a jurisdiction if this law is not complied with. Demonstrated good faith efforts and progress towards compliance will likely result in fewer penalties.

A new bill, SB 619 (Laird) was signed by the Governor on October 7, 2021 and allows entities to seek relief from the State's imposition of administrative civil penalties. To do so, an entity must submit a notification of its intent to comply with the SB 1383 regulations to CalRecycle before March 1, 2022. If CalRecycle has cited the agency for violation of SB 1383 requirements, a resolution must be adopted with a description of the violations, a detailed explanation of the reasons, with supporting documentation, as to why the agency has been unable to comply, and the proposed actions that will be taken to comply with a proposed timeline. CalRecycle then has 45 days to approve, deny or ask for additional information.

Under the new State mandates, each resident and business must subscribe to an organic waste collection service that either "source-separates" the waste (e.g., separate bins), or transports all unsegregated waste to a facility that recovers 75% of the organic content collected from the system. This law puts the onus on local jurisdictions to enforce waste reduction through various means, including, but not limited to inspections/audits of residential and commercial refuse containers; facilitation of agreements between commercial edible food generators (e.g., schools, hospitals, large restaurants, and large grocery stores) and food recovery organizations and providers to ensure that recoverable food is diverted and not put into the waste stream; and conducting education and outreach. It is also notable that the new mandates require the City to procure recyclable paper products and recovered organic products.

As noted, the City is required to enact an ordinance codifying these regulations. Monitoring and education must begin in 2022 with enforcement actions starting on January 1, 2024. The State is leaving it to the discretion of the local agency to determine what forms of enforcement actions to impose, but suggests first providing educational materials followed by issuing a notice of violation, and finally imposing penalties. The State has suggested a range of penalties for each successive violation that correspond directly to the Penal Provisions adopted by the City in Section 1204 of Chapter 2, Article I of the GBMC which identify a base penalty not to exceed \$100 for a first violation, up to \$200 for a second violation, and up to \$500 for a third violation. The proposed Ordinance will reference this section of the GBMC and allow the City to evaluate each situation individually and, at its discretion, to consider the nature, circumstances, and severity of the violations, the violator's ability to pay, as well as other factors outlined in the Ordinance.

Multi-family and commercial premises may seek waivers for some portions of the new requirements particularly if they meet low waste generation thresholds or can show they lack adequate space to house recycling bins. The City is authorized to review and consider waiver requests and will share more information about this process as part of the educational effort beginning in 2022.

IWMA Coordination and Implementation

The San Luis Obispo County Integrated Waste Management Authority (IWMA) is a Joint Powers Authority (JPA) that has been comprised of the County of San Luis Obispo (County), seven cities (Grover Beach, Atascadero, Grover Beach, Morro Bay, Paso Robles, Pismo Beach, and San Luis Obispo) and Community Services Districts (Heritage Ranch, San Miguel, Nipomo, San Miguel Sanitary District, California Valley, Cambria, Cayucos Sanitary District, Oceano, Los Osos, and Templeton). The IWMA manages regional household hazardous waste programs and educates and reports on solid waste, recycling, and food/green waste on behalf of its members. The IWMA has allowed JPA members to pool resources and cost-effectively comply with various solid waste regulations, including the recently enacted SB 1383. The IWMA staff administer over 40 different solid waste programs, including monitoring and reporting to the State, household hazardous waste collection, electronics waste collection, sharps disposal, and public education and outreach.

Given the complexity of SB 1383 and its requirements, the IWMA has taken the lead for its member agencies to provide for the implementation of SB 1383. The IWMA has retained a consulting firm, HF&H, who worked with the IWMA member agencies to draft amendments to their solid waste franchise agreements to address SB 1383, and also prepared a draft model SB 1383 ordinance for San Luis Obispo County agencies. This model ordinance has been used to create the proposed new Chapters in the Grover Beach Municipal Code. It should be noted that HF&H had previously been retained by CalRecycle to develop SB 1383 model documents statewide, including franchise agreements, enforcement ordinances and procurement policies for compost, renewable gas, and paper.

The IWMA is also expected to be the City's and other member agencies "designee" with delegated tasks, as permitted by CalRecycle's regulations, to carry out various requirements under SB 1383. Accordingly, the City will prepare an authorizing document outlining which activities the City will be assigning to the IWMA on its behalf for execution by both parties. HF&H will also be assisting IWMA member agencies with project management and implementation support.

This delegation has also been provided for in the draft amended franchise agreement and in the new proposed Ordinance. The delegated tasks include:

- Education and outreach monitoring, inspection, and record keeping programs;
- Establishing, administering, and implementing the edible food recovery requirements;
- Coordinating with CalRecycle and any other State or federal entities in assessing and ensuring compliance with the CalRecycle procurement and pollution reduction targets for each agency;
- Monitoring and education, including, but not limited to, monitoring compliance through route reviews and evaluations, determining the applicability of waivers, and issuing educational notices where necessary and/or appropriate; and required reporting to CalRecycle.

Accordingly, the franchise agreement amendment terms and ordinances have been developed to harmonize the language related to SB 1383 countywide, to the greatest degree possible, in order to provide for coordination between jurisdictions, franchisees and the IWMA. Tasks not delegated to the IWMA and therefore remaining for City implementation include enforcement and assessment of penalties for non-compliance with SB 1383 regulations and procurement of recyclable paper products and recovered organic products.

On August 10, 2021, the County Board of Supervisors voted to withdraw from the IWMA and implement an independent County solid waste compliance program. On September 14, 2021, the

County Board of Supervisors passed a Resolution to formally notify the IWMA of its intent to withdraw on November 15, 2021 which has occurred. Amendments to the IWMA Joint Powers Agreement are underway to remove the County and enable the IWMA Board of Directors to continue to meet to undertake the work necessary to continue the IWMA's operations. An amended Joint Powers Agreement was approved by the Council on November 22, 2021. Additional amendments to the agreement will likely be necessary to address the needs of the remaining member agencies. As described above, the IWMA's assistance is critical to administering the programs necessary to comply with SB 1383.

Franchise Agreement, Rates, and Fees

The City has also been working on an amendment to the solid waste franchise agreement with South County Sanitary and it is expected that staff will bring that amendment to the Council for its consideration in early 2022 once negotiations have been completed.

Based upon the foregoing information, staff is recommending that the City Council adopt the Ordinance adding Chapter 4.1 of Article V, Mandatory Organic Waste Disposal Reduction, to the Grover Beach Municipal Code in order to comply with the requirements of Senate Bill 1383 (SB 1383).

ENVIRONMENTAL REVIEW:

This Ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines Sections 15061(b)(3) and 15308 on the grounds that it can be seen with certainty that the enhanced solid waste regulations, as provided for in this Ordinance will not have a significant effect on the environment and that the new requirements, which strengthen requirements for the handling of solid waste, represent actions by a regulatory agency (the City) for the protection of the environment.

FISCAL IMPACT

Failure to introduce and adopt the Ordinance in a timely manner could subject the City to penalties imposed by CalRecycle, which can be up to \$10,000 per day. Adoption of the proposed ordinance has no direct fiscal impacts initially however costs for implementing SB 1383 could be sizeable for solid waste ratepayers including additional fees paid to the IWMA and additional solid waste collection costs to South County Sanitation. The City may also have additional undetermined costs for enforcement actions and procurement and use of recyclable paper products and recovered organic products. These costs will be evaluated and presented to the Council for consideration in conjunction with a future agenda item to consider rate adjustments necessary for implementation of these new regulations.

ALTERNATIVES

The Council has the following alternatives to consider:

1. Conduct a public hearing and second reading of an Ordinance adding Chapter 4.1 of Article V, Mandatory Organic Waste Disposal Reduction to the Grover Beach Municipal Code in order to comply with the requirements of Senate Bill 1383 (SB 1383) and adopt the Ordinance; or
2. Do not Adopt the Ordinance; or

3. Provide alternative direction to staff.

PUBLIC NOTIFICATION

The agenda was posted in accordance with the Brown Act.

ATTACHMENTS

1. Ordinance
Exhibit A: Mandatory Organic Waste Disposal Reduction

ORDINANCE NO. 21-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GROVER BEACH, CALIFORNIA ADDING CHAPTER 4.1 OF ARTICLE V, MANDATORY ORGANIC WASTE DISPOSAL REDUCTION

WHEREAS, State recycling law, Assembly Bill 939 of 1989, the California Integrated Waste Management Act of 1989 (California Public Resources Code Section 40000, et seq., as amended, supplemented, superseded, and replaced from time to time), requires cities, counties and districts to reduce, reuse, and recycle (including composting) Solid Waste generated in their jurisdiction 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; and

WHEREAS, 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 Commercial Businesses and Multi-Family Premises that generate a specified threshold amount of Solid Waste to arrange for recycling services and requires jurisdictions to implement a mandatory Commercial recycling program; and

WHEREAS, State Organics Materials 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 Commercial Businesses and Multi-Family Residential dwelling of 5 units or more that generate a specified threshold amount of Solid Waste, Recyclable Materials, and Organic Materials per week to arrange for recycling services for that waste, requires jurisdictions to implement a recycling program to divert Organic Materials from Commercial Businesses and Multi-Family Premises subject to the law, and requires jurisdictions to implement a mandatory Commercial Organic Materials recycling program; and

WHEREAS, SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016, (approved by the Governor of the State of California on September 19, 2016) requires CalRecycle to develop regulations to reduce Organic Waste in landfills as a source of methane. The regulations place requirements on multiple entities including jurisdictions, residential households, Multi-Family Premises, Commercial Businesses, Commercial Edible Food Generators, haulers, Self-Haulers, Food Recovery Organizations, and Food Recovery Services to support achievement of the SB 1383 statewide Organic Waste disposal reduction targets; and

WHEREAS, SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016, requires jurisdictions to adopt and enforce an ordinance or enforceable mechanism to implement relevant provisions of SB 1383 Regulations. This Ordinance will also help reduce food insecurity by requiring Commercial Edible Food Generators to arrange to have the maximum amount of their Edible Food, that would otherwise be disposed, be recovered for human consumption; and

WHEREAS, requirements in this Ordinance are consistent with other adopted goals and policies of the City of Grover Beach; and

WHEREAS, the City Council of the City of Grover Beach now desires to add a new Chapter 4.1 to Article V, to the Grover Beach Municipal Code to provide for the implementation of SB 1383.

NOW THEREFORE, BE IT HEREBY ORDAINED THE CITY COUNCIL OF THE CITY OF GROVER BEACH AS FOLLOWS:

PART 1. The above recitals and findings are true, correct and are incorporated herein by this reference.

PART 2. Chapter 4.1, entitled Mandatory Organic Waste Disposal Reduction, is hereby added to the Grover Beach Municipal Code, as set forth in Exhibits A, attached hereto and incorporated herein by this reference.

PART 3. This Ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines Sections 15061(b)(3) and 15308 on the grounds that it can be seen with certainty that the solid waste regulations, as provided for in this Ordinance will not have a significant effect on the environment and that the new requirements, which enhance and strengthen requirements for the handling of solid waste, represent actions by a regulatory agency (the City) for the protection of the environment.

The City Clerk shall file a Notice of Exemption from CEQA review in accordance with CEQA Guidelines.

PART 4. Within fifteen (15) days after adoption by the City Council, the Ordinance shall be published once, together with the names of the Council Members voting thereon, in a newspaper of general circulation within the City.

PART 5. This Ordinance adopting Chapter 4.1 of Article V shall take effect commencing on January 1, 2022.

PART 6. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this

Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

INTRODUCED at a regular meeting of the City Council held on November 22, 2021 and **PASSED, APPROVED, and ADOPTED** by the City Council on December 13, 2021, on the following roll call vote to wit:

AYES: Council Members –
NOES: Council Members –
ABSENT: Council Members –
ABSTAIN: Council Members –
RECUSED: Council Members –

****DRAFT****

JEFF LEE, MAYOR

Attest:

WENDI B. SIMS, CITY CLERK

Approved as to Form:

DAVID P. HALE, CITY ATTORNEY

CITY OF GROVER BEACH
GROVER BEACH MUNICIPAL CODE, CHAPTER 4.1
MANDATORY ORGANIC WASTE DISPOSAL
REDUCTION

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Section 5420 . Purpose, Findings and Conflicting Provisions.

The City Council of the City of Grover Beach finds and declares:

- (A) State recycling law, Assembly Bill 939 of 1989, the California Integrated Waste Management Act of 1989 (California Public Resources Code Section 40000, et seq., 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 City 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.
- (B) 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 Commercial Businesses and Multi-Family Premises that generate a specified threshold amount of Solid Waste to arrange for recycling services and requires agencies to implement a mandatory Commercial recycling program.
- (C) State Organics Materials 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 Commercial Businesses and Multi-Family Premises that generate a specified threshold amount of Solid Waste, Recyclable Materials, and Organic Materials per week to arrange for recycling services for that waste, requires agencies to implement a recycling program to divert Organic Materials from Commercial Businesses and Multi-Family Premises subject to the law, and requires agencies to implement a mandatory Commercial Organic Materials recycling program.
- (D) SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016, requires CalRecycle to develop regulations to reduce Organic Waste in landfills as a source of methane. The regulations place requirements on multiple entities including cities, residential households, Multi-Family Premises, Commercial Businesses, Commercial Edible Food Generators, haulers, Self-Haulers, Food Recovery Organizations, and Food Recovery Services to support achievement of the SB 1383 statewide Organic Waste disposal reduction targets.
- (E) SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016, requires agencies to adopt and enforce an ordinance or enforceable mechanism to implement relevant provisions of SB 1383 Regulations. This Chapter will also help reduce food insecurity by requiring Commercial Edible Food Generators to arrange

to have the maximum amount of their Edible Food, that would otherwise be disposed, be recovered for human consumption.

- (F) Requirements in this Chapter are consistent with other adopted goals and policies of the City of Grover Beach.
- (G) Notwithstanding any provision to the contrary in any other code or regulation of the City, including but not limited to Chapter 4 of Article V of this Code, the provisions of this Chapter shall control, and to the extent any provision is in conflict with this Chapter, the provision in this Chapter shall supersede any conflicting language and shall prevail.

Section 5421. Title of Ordinance

This chapter shall be entitled “Mandatory Organic Waste Disposal Reduction Ordinance”.

Section 5422. Definitions

- (A) “Alternative Daily Cover (ADC)” has the same meaning as in Section 20690 of Title 27 of the California Code of Regulations.
- (B) “Alternative Intermediate Cover (AIC)” has the same meaning as in Section 20700 of Title 27 of the California Code of Regulations.
- (C) “Bulky Item” means discarded appliances (including refrigerators), furniture, tires, carpets, mattresses, Yard Trimmings and/or wood waste, and similar large items which can be handled by two (2) people, weigh no more than two hundred (200) pounds, and require special collection due to their size or nature, but can be collected without the assistance of special loading equipment (such as forklifts or cranes) and without violating vehicle load limits. Bulky Items must be generated by the customer and at the service address wherein the Bulky Items are collected. Bulky Items do not include abandoned automobiles, large auto parts, trees, construction and demolition debris, or items herein defined as Excluded Waste.
- (D) “CalRecycle” means California's Department of Resources Recycling and Recovery, which is the Department designated with responsibility for developing, implementing, and enforcing SB 1383 Regulations on cities (and others).
- (E) “California Code of Regulations” or “CCR” means the State of California Code of Regulations. CCR references in this Chapter 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) “City” means the City of Grover Beach, a municipal corporation acting through its City Council, and all the territory lying within the municipal boundaries of the City.
- (G) “City Enforcement Official” means the City Manager or other authorized person(s) who is/are partially or whole responsible for enforcing this Chapter.

- (H) “Commercial Business” or “Commercial” means a firm, partnership, proprietorship, joint-stock company, corporation, or association, whether for-profit or nonprofit, strip mall, retail business or industrial facility.
- (I) “Commercial Edible Food Generator” includes a Tier One or a Tier Two Commercial Edible Food Generator as defined in this Section 3 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).
- (J) “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).
- (K) “Compliance Review” means a review of records by a City to determine compliance with this Chapter.
- (L) “Compost” has the same meaning as in 14 CCR Section 17896.2(a)(4), (or any variation thereof) includes a controlled biological decomposition of Organic Materials yielding a safe and nuisance free Compost product.
- (M) “Contractor” means the franchisee authorized under and by virtue of a contract with the City to collect solid waste as provided in Chapter 8.32, organized and operating under the laws of the State and its officers, directors, employees, agents, companies, related-parties, affiliates, subsidiaries, and subcontractors.
- (N) “Customer” means the Person whom Contractor submits it’s billing invoice to and collects payment from for Collection services provided to a Premises. The Customer may be either the Occupant or Owner of the Premises.
- (O) “C&D” means construction and demolition debris.
- (P) “Designated Waste” means non-Hazardous Waste which may pose special Disposal problems because of its potential to contaminate the environment, and which may be Disposed of only in Class II Disposal sites or Class III Disposal sites pursuant to a variance issued by the California Department of Health Services. Designated Waste consists of those substances classified as Designated Waste by the State, in California Code of Regulations Title 23, Section 2522 as may be amended from time to time.
- (Q) “Designee” means an entity that a City contracts with or otherwise arranges to carry out any of the City’s responsibilities of this Chapter as authorized in 14 CCR Section 18981.2. A Designee may be a government entity, a hauler, a private entity, or a combination of those entities.

- (R) “Discarded Materials” means Recyclable Materials, Organic Materials, and Solid Waste placed by a Generator in a collection container and/or at a location for the purposes of collection excluding Excluded Waste.
- (S) “Edible Food” means food intended for human consumption, or as otherwise defined in 14 CCR Section 18982(a)(18). For the purposes of this Chapter 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 Chapter 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 Health and Safety Code, including the California Retail Food Code.
- (T) “Enforcement Action” means an action of the City to address non-compliance with this Chapter including, but not limited to, issuing administrative citations, fines, penalties, or using other remedies.
- (U) “Excluded Waste” means Hazardous Substance, Hazardous Waste, Infectious Waste, Designated Waste, volatile, corrosive, medical waste, infectious, regulated radioactive waste, and toxic substances or material that facility operator(s), which receive materials from the City 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 City, or its Designee’s reasonable opinion would present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose City, or its Designee, 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 California Public Resources Code.
- (V) “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).
- (W) “Food Facility” has the same meaning as in Section 113789 of the Health and Safety Code.
- (X) “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).
- (Y) “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 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 Chapter.

- (Z) “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 and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7).
- (AA) “Food Scraps” means those Discarded Materials that will decompose and/or putrefy including: (i) all kitchen and table Food Waste; (ii) animal or vegetable waste that is generated during or results from the storage, preparation, cooking or handling of food stuffs; (iii) fruit waste, grain waste, dairy waste, meat, and fish waste; and, (iv) vegetable trimmings, houseplant trimmings and other Compostable Organic Waste common to the occupancy of Residential dwellings. Food Scraps are a subset of Food Waste. Food Scraps excludes fats, oils, and grease when such materials are Source Separated from other Food Scraps.
- (BB) “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).
- (CC) “Food-Soiled Paper” is compostable paper material that has come in contact with Food Scraps or liquid, such as, but not limited to, compostable paper plates, napkins, and pizza boxes.
- (DD) “Food Waste” means Source Separated Food Scraps and Food-Soiled Paper.
- (EE) “Food Waste Self-Hauler” means a Self-Hauler who generates and hauls, utilizing their own employees and equipment, an average of one cubic yard or more per

week, or 6,500 pounds or more per quarter of their own Food Waste to a location or facility that is not owned and operated by that Self-Hauler. Food Waste Self-Haulers are a subset of Self-Haulers.

- (FF) “Generator” means a person or entity that is responsible for the initial creation of one or more types of Discarded Materials.
- (GG) “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).
- (HH) “Hauler Route” means the designated itinerary or sequence of stops for each segment of the City’s collection service area, or as otherwise defined in 14 CCR Section 18982(a)(31.5).
- (II) “Hazardous Substance” means any of the following: (a) any substances defined, regulated or listed (directly or by reference) as "Hazardous Substances", "hazardous materials", "Hazardous Wastes", "toxic waste", "pollutant", or "toxic substances", or similarly identified as hazardous to human health or the environment, in or pursuant to: (i) the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, 42 USC §9601 et seq. (CERCLA); (ii) the Hazardous Materials Transportation Act, 49 USC §1802, et seq.; (iii) the Resource Conservation and Recovery Act, 42 USC §6901 et seq.; (iv) the Clean Water Act, 33 USC §1251 et seq.; (v) California Health and Safety Code §§25115-25117, 25249.8, 25281, and 25316; (vi) the Clean Air Act, 42 USC §7901 et seq.; and, (vii) California Water Code §13050; (b) any amendments, rules or regulations promulgated thereunder to such enumerated statutes or acts currently existing or hereafter enacted; and, (c) any other hazardous or toxic substance, material, chemical, waste or pollutant identified as hazardous or toxic or regulated under any other Applicable Law currently existing or hereinafter enacted, including, without limitation, friable asbestos, polychlorinated biphenyl’s (PCBs), petroleum, natural gas, and synthetic fuel products, and by-products.
- (JJ) “Hazardous Waste” means all substances defined as Hazardous Waste, acutely Hazardous Waste, or extremely Hazardous Waste by the State in Health and Safety Code §25110.02, §25115, and §25117 or in the future amendments to or recodifications of such statutes or identified and listed as solar panels from residential premises, and Hazardous Waste by the U.S. Environmental Protection Agency (EPA), pursuant to the Federal Resource Conservation and Recovery Act (42 USC §6901 et seq.), all future amendments thereto, and all rules and regulations promulgated thereunder.
- (KK) “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).

- (LL) “Infectious Waste” means (a) equipment, instruments, utensils and other fomites of a disposable nature from the rooms of patients who are suspected to have or have been diagnosed as having a communicable disease and must, therefore, be isolated as required by public health agencies; (b) laboratory wastes, including pathological specimens (i.e., all tissues, specimens of blood elements, excreta and secretions obtained from patients or laboratory animals) and disposable fomites (any substance that may harbor or transmit pathogenic organisms) attendant thereto; and/or (c) surgical operating room pathologic specimens - including recognizable anatomical parts, human tissue, anatomical human remains and disposable materials from hospitals, clinics, outpatient areas and emergency rooms, as defined in 14 CCR Section 17225.36. .
- (MM) “Inspection” means a site visit where a City reviews records, containers, and an entity’s collection, handling, recycling, or landfill disposal of Recyclable Materials, Organic Waste, Solid Waste or Edible Food handling to determine if the entity is complying with requirements set forth in this Chapter, or as otherwise defined in 14 CCR Section 18982(a)(35).
- (NN) “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 Chapter.
- (OO) “Large Venue” means a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility. For purposes of this Chapter 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 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 Chapter.

- (PP) “Local Education Agency” means a school district, charter school, or county office of education that is not subject to the control of city or county regulations related to Solid Waste, or as otherwise defined in 14 CCR Section 18982(a)(40).
- (QQ) Reserved
- (RR) “Multi-Family Residential Dwelling” or “Multi-Family” or “MFD” means of, from, or pertaining to residential Premises with five (5) or more dwelling units including such Premises when combined in the same building with Commercial establishments, that receive centralized, shared, Collection service for all units on the Premises which are billed to one (1) Customer at one (1) address. Customers residing in Townhouses, mobile homes, condominiums, or other structures with five (5) or more dwelling units who receive individual service and are billed separately shall not be considered Multi-Family. Multi-Family Premises do not include hotels, motels, or other transient occupancy facilities, which are considered Commercial Businesses.
- (SS) “Notice of Violation (NOV)” means a notice that a violation has occurred that includes a compliance date to avoid an action to seek penalties, or as otherwise defined in 14 CCR Section 18982(a)(45) or further explained in 14 CCR Section 18995.4.
- (TT) “Occupant” means the Person who occupies a Premises.
- (UU) “Organic Materials” means Yard Trimmings and Food Waste, individually or collectively that are set aside, handled, packaged, or offered for collection in a manner different from Solid Waste for the purpose of processing. No Discarded Material shall be considered to be Organic Materials, however, unless it is separated from Recyclable Material and Solid Waste. Organic Materials are a subset of Organic Waste.
- (VV) “Organic Materials Container” shall be used for the purpose of storage and collection of Source Separated Organic Materials.
- (WW) “Organic Waste” means wastes 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).
- (XX) “Owner” means the Person(s) holding legal title to real property and/or any improvements thereon and shall include the Person(s) listed on the latest equalized assessment roll of the County Assessor.
- (YY) “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).

- (ZZ) "Printing and Writing Papers" include, but are not limited to, copy, xerographic, watermark, cotton fiber, offset, forms, computer printout paper, white wove envelopes, manila envelopes, book paper, note pads, writing tablets, newsprint, and other uncoated writing papers, posters, index cards, calendars, brochures, reports, magazines, and publications, or as otherwise defined in 14 CCR Section 18982(a)(54).
- (AAA) "Premises" means and includes any land, building and/or structure, or portion thereof, in the City where Discarded Materials are produced, generated, or accumulated. All structures on the same legal parcel, which are owned by the same person shall be considered as one Premises.
- (BBB) "Prohibited Container Contaminants" means the following: (i) Discarded Materials placed in the Recyclable Materials Container that are not identified as acceptable Source Separated Recyclable Materials for the City's Recyclable Materials Container; (ii) Discarded Materials placed in the Organic Materials Container that are not identified as acceptable Source Separated Organic Materials for the City's Organic Materials Container; (iii) Discarded Materials placed in the Solid Waste Container that are acceptable Source Separated Recyclable Materials and/or Source Separated Organic Materials to be placed in City's Organic Materials Container and/or Recyclable Materials Container; and, (iv) Excluded Waste placed in any container.
- (CCC) "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).
- (DDD) "Recyclable Materials" means those Discarded Materials that the Generators set out in Recyclables Containers for Collection for the purpose of Recycling by the Service Provider and that exclude Excluded Waste. No Discarded Materials shall be considered Recyclable Materials unless such material is separated from Organic Materials, and Solid Waste. For the purpose of collection of Recyclable Materials through contractor's collection services, recyclable materials shall be limited to those materials identified by the collection contractor as acceptable recyclable materials.
- (EEE) "Recyclable Materials Container" shall be used for the purpose of storage and collection of Source Separated Recyclable Materials.
- (FFF) "Recycled-Content Paper" means Paper Products and Printing and Writing Paper that consists of at least 30 percent, by fiber weight, postconsumer fiber, or as otherwise defined in 14 CCR Section 18982(a)(61).
- (GGG) "Residential" shall mean of, from, or pertaining to a Single-Family Premises or Multi-Family Premises including Single-Family homes, apartments, condominiums, Townhouse complexes, mobile home parks, and cooperative apartments.

- (HHH) “Responsible Party” means the Owner, property manager, tenant, lessee, Occupant, or other designee that subscribes to and pays for Recyclable Materials, Organic Materials, and/or Solid Waste collection services for a Premises in the City, or, if there is no such subscriber, the Owner or property manager of a Single-Family Premises, Multi-Family Premises, or Commercial Premises. In instances of dispute or uncertainty regarding who is the Responsible Party for a Premises, Responsible Party shall mean the Owner of a Single-Family Premises, Multi-Family Premises, or Commercial Premises.
- (III) “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).
- (JJJ) “Route Review” means a visual Inspection of containers along a Hauler Route for the purpose of determining Container Contamination and may include mechanical Inspection methods such as the use of cameras, or as otherwise defined in 14 CCR Section 18982(a)(65).
- (KKK) “SB 1383” means Senate Bill 1383 of 2016 approved by the Governor on September 19, 2016, which added Sections 39730.5, 39730.6, 39730.7, and 39730.8 to the Health and Safety Code, and added Chapter 13.1 (commencing with Section 42652) to Part 3 of Division 30 of the Public Resources Code, establishing methane emissions reduction targets in a Statewide effort to reduce emissions of short-lived climate pollutants as amended, supplemented, superseded, and replaced from time to time.
- (LLL) “SB 1383 Regulations” or “SB 1383 Regulatory” means or refers to, for the purposes of this Chapter, 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.
- (MMM) “Self-Haul” means to act as a Self-Hauler.
- (NNN) “Self-Hauler” means a person, who hauls Solid Waste, Organic Waste or Recyclable Material they have generated to another person. Self-hauler also includes a landscaper, or a person who back-hauls waste. Back-haul means generating and transporting Recyclable Materials or Organic Waste to a destination owned and operated by the Generator or Responsible Party using the Generator’s or Responsible Party’s own employees and equipment.
- (OOO) “Service Level” refers to the size of a Customer’s Container and the frequency of Collection service.
- (PPP) “Single-Family” or “SFD” refers to any detached or attached house or residence of four (4) units or less designed or used for occupancy by one (1) family, provided that Collection service feasibly can be provided to such Premises as an independent unit, and the Owner or Occupant of such independent unit is billed

directly for the Collection service. Single-Family includes Townhouses, and each independent unit of duplex, tri-plex, or four-plex Residential structures, regardless of whether each unit is separately billed for their specific Service Level.

(QQQ) "Solid Waste" has the same meaning as defined in State Public Resources Code Section 40191, which defines Solid Waste as all putrescible and non-putrescible 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 State 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 State 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 State Health and Safety Code). Untreated medical waste shall not be disposed of in a Solid Waste landfill, as defined in State 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 State Public Resources Code.
- (4) Recyclable Materials, Organic Materials, and Construction and Demolition Debris when such materials are Source Separated.

Notwithstanding any provision to the contrary, Solid Waste may include de minimis volumes or concentrations of waste of a type and amount normally found in Residential Solid Waste after implementation of programs for the safe Collection, Recycling, treatment, and Disposal of household hazardous waste in compliance with Section 41500 and 41802 of the California Public Resources Code as may be amended from time to time. Solid Waste includes salvageable materials only when such materials are included for Collection in a Solid Waste Container not Source Separated from Solid Waste at the site of generation.

(RRR) "Solid Waste Container" shall be used for the purpose of storage and collection of Solid Waste.

(SSS) "Source Separated" or "Source-Separated (materials)" means materials, including commingled Recyclable Materials and Organic 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 the ordinance, Source Separated shall include separation of materials by the Generator, Responsible Party, or Responsible Party's employee, into different containers for the purpose of collection such that Source-Separated materials are separated from Solid Waste for the purposes of collection and processing.

(TTT) "Source Separated Organic Materials" means Organic Materials that are Source Separated and placed in an Organic Materials Container.

(UUU) "Source Separated Recyclable Materials" means Recyclable Materials that are Source Separated and placed in a Recyclable Materials Container.

(VVV) "State" means the State of California.

(WWW) "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).

(XXX) "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 Chapter.

(YYY) "Tier Two Commercial Edible Food Generator" means a Commercial Edible Food Generator that is one of the following:

- (1) Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.
- (2) Hotel with an on-site Food Facility and 200 or more rooms.

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

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

(ZZZ) “Ton” or “Tonnage” means a unit of measure for weight equivalent to two thousand (2,000) standard pounds where each pound contains sixteen (16) ounces.

(AAAA) “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).

(BBBB) “Yard Trimming” or “Green Waste” means those Discarded Materials that will decompose and/or putrefy, including, but not limited to, green trimmings, grass, weeds, leaves, prunings, branches, dead plants, brush, tree trimmings, dead trees, small pieces of unpainted and untreated wood. Yard Trimmings does not include items herein defined as Excluded Waste. Yard Trimmings are a subset of Organic Materials. Acceptable Yard Trimmings may be added to or removed from this list from time to time by mutual consent or at the sole discretion of the City.

Section 5423. Requirements for Single-Family Premises

(A) Except Responsible Parties of Single-Family Premises that meet the Self-Hauler requirements in Section 5430 of this Chapter, Responsible Parties of Single-Family Premises shall comply with the following requirements:

- (1) Subscribe to and pay for City’s three-container collection services for weekly collection of Recyclable Materials, Organic Materials, and Solid Waste generated by the Single-Family Premises and comply with requirements of those services as described below in Section 5423 (A)(2). City and its Designee(s) shall have the right to review the number and size of a Generator’s containers to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials. The Responsible Parties for Single-Family Premises shall adjust their Service Level for their collection services as requested by the City.

- (2) Participate in the City's three-container collection service(s) in the manner described below.
 - (a) Place, or, if Responsible Party is not an occupant of the Single-Family Premises, direct its Generators to place, Source Separated Organic Materials, including Food Waste, in the Organic Materials Container; Source Separated Recyclable Materials in the Recyclable Materials Container; and Solid Waste in the Solid Waste Container.
 - (b) Not place, or, if Responsible Party is not an occupant of the Single-Family Premises direct its Generators to not place Prohibited Container Contaminants in collection containers and not place materials designated for the Organic Materials Containers or Recyclable Materials Containers in the Solid Waste Containers.
- (B) Nothing in this Section prohibits a Responsible Party or Generator of a Single-Family Premises from preventing or reducing Discarded Materials generation, managing Organic Waste on site, and/or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).

Section 5424. Requirements for Multi-Family Residential Dwellings

- (A) Responsible Parties of Multi-Family Premises shall provide or arrange for Recyclable Materials, Organic Materials, and Solid Waste collection services consistent with this Chapter and for employees, contractors, and tenants. Responsible Parties of Multi-Family Premises may receive waivers pursuant to Section 5426 for some requirements of this Section.
- (B) Except for Responsible Parties of Multi-Family Premises that meet the Self-Hauler requirements in Section 5430 of this Chapter, including hauling services arranged through a landscaper, Responsible Parties of Multi-Family Premises shall:
 - (1) Subscribe to and pay for City's three or more-container collection services and comply with requirements of those services for all Recyclable Materials, Organic Materials, and Solid Waste generated at the Multi-Family Premises as further described below in this Section. City and its Designee(s) shall have the right to review the number and size of the Multi-Family Premises' collection 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. The Responsible Party of a Multi-Family Premises shall adjust their Service Level for their collection services as requested by the City or its Designee.
 - (2) Participate in the City's three or more-container collection service(s) for at least weekly collection of Recyclable Materials, Organic Materials, and Solid Waste in the manner described below.

- (a) Place and/or direct its Generators to place Source Separated Organic Materials, including Food Waste, in the Organic Materials Container; Source Separated Recyclable Materials in the Recyclable Materials Container; and Solid Waste in the Solid Waste Container.
 - (b) Not place and/or direct its Generators to not place Prohibited Container Contaminants in collection containers and to not place materials designated for the Organic Materials Containers or Recyclable Materials Containers in the Solid Waste Containers.
- (3) Supply and allow access to adequate number, size and location of collection containers with sufficient labels or colors for employees, contractors, tenants, and customers, consistent with City's Recyclable Materials Container, Organic Materials Container, and Solid Waste Container collection service or, if Self-Hauling, consistent with the Multi-Family Premises' approach to complying with Self-Hauler requirements in Section 5430 of this Chapter.
- (4) Annually provide information to employees, contractors, tenants, and customers about Recyclable Materials and Organic Waste Recovery requirements and about proper sorting of Recyclable Materials, Organic Materials, and Solid Waste.
- (5) Provide education information before or within fourteen (14) days of occupation of the Premises to new tenants that describes requirements to Source Separate Recyclable Materials and Organic Materials and to keep Source Separated Organic Materials and Source Separated Recyclable Materials separate from each other and from Solid Waste (when applicable) and the location of containers and the rules governing their use at each property.
- (6) Provide or arrange access for City and/or its Designee(s) to their properties during all Inspections conducted in accordance with this Chapter to confirm compliance with the requirements of this Chapter.
- (C) If the Responsible Party of a Multi-Family Premises wants to Self-Haul, meet the Self-Hauler requirements in Section 5430 of this Chapter.
- (D) Multi-family Premises that generate two (2) cubic yards or more of total Solid Waste, Recyclable Materials, and Organic Materials per week (or other threshold defined by the State) that arrange for gardening or landscaping services shall require that the contract or work agreement between the Owner, Occupant, or operator of a Multi-Family Premises and a gardening or landscaping service specifies that the designated organic materials generated by those services be managed in compliance with this chapter.
- (E) Nothing in this Section prohibits a Responsible Party or Generator of a Multi-Family Premises from preventing or reducing Discarded Materials generation, managing

Organic Waste on site, or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).

Section 5425. Requirements for Commercial Businesses

- (A) Responsible Parties of Commercial Businesses shall provide or arrange for Recyclable Materials, Organic Materials, and Solid Waste collection services consistent with this Chapter and for employees, contractors, tenants, and customers. Responsible Parties of Commercial Premises may receive waivers pursuant to Section 5426 for some requirements of this Section.
- (B) Except Responsible Parties of Commercial Businesses that meet the Self-Hauler requirements in Section 5430 of this Chapter, including hauling services arranged through a landscaper, Responsible Parties of Commercial Premises shall:
 - (1) Subscribe to and pay for City's three or more-container collection services and comply with requirements of those services for all Recyclable Materials, Organic Materials, and Solid Waste generated at the Commercial Premises as further described below in this Section. City and its Designee(s) shall have the right to review the number and size of a Commercial Premises' 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. The Responsible Party of the Commercial Business shall adjust their Service Level for their collection services as requested by the City or its Designee.
 - (2) Participate in the City's three or more-container collection service(s) for at least weekly collection of Recyclable Materials, Organic Materials, and Solid Waste in the manner described below.
 - (a) Place and/or direct its Generators to place Source Separated Organic Materials, including Food Waste, in the Organic Materials Container; Source Separated Recyclable Materials in the Recyclable Materials Container; and Solid Waste in the Solid Waste Container.
 - (b) Not place and/or direct its Generators to not place Prohibited Container Contaminants in collection containers and to not place materials designated for the Organic Materials Containers or Recyclable Materials Containers in the Solid Waste Containers.
 - (3) Supply and allow access to adequate number, size and location of collection containers with sufficient labels or colors (conforming with Sections 5425 (b)(4)(A)) and 5425 (b)(4)(B) below) for employees, contractors, tenants, and customers, consistent with City's Recyclable Materials Container, Organic Materials Container, and Solid Waste Container collection service or, if Self-Hauling, consistent with the Commercial Premises' approach to complying with Self-Hauler requirements in Section 5430 of this Chapter.

- (4) Provide containers for customers for the collection of Source Separated Recyclable Materials and Source Separated Organic Materials in all indoor and outdoor areas where Solid Waste containers are provided for customers, for materials generated by that Commercial Business. Such containers shall be visible and easily accessible. Such containers do not need to be provided in restrooms. If a Commercial Business does not generate any of the materials that would be collected in one type of container, as demonstrated through an approved de minimis waiver per Section 5426 (a), then the Responsible Party of the Commercial Business does not have to provide that particular container in all areas where Solid Waste containers are provided for customers. Pursuant to 14 CCR Section 18984.9(b), the containers provided by the Responsible Party of the Commercial Business shall have either:
- (a) A body or lid that conforms with the container colors provided through the collection service provided by City, with either lids conforming to the color requirements or bodies conforming to the color requirements or both lids and bodies conforming to color requirements. The Responsible Party of the Commercial Business is not required to replace functional containers that do not comply with the requirements of this subsection prior to whichever of the following comes first: (i) the end of the useful life of those containers, or (ii) January 1, 2036.
 - (b) Container labels that include language or graphic images, or both, indicating the primary material accepted and the primary materials prohibited in that container, or containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the container. Pursuant 14 CCR Section 18984.8, the container labeling requirements are required on new containers commencing January 1, 2022.
- (5) 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 City's Recyclable Materials Container, Organic Materials Container, and Solid Waste collection service or, if Self-Hauling, per the instructions of the Commercial Business's Responsible Party to support its compliance with Self-Hauler requirements in Section 5430 of this Chapter.
- (6) Periodically inspect Recyclable Materials Containers, Organic Materials Containers, and Solid Waste 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).

- (7) Annually provide information to employees, contractors, tenants, and customers about Recyclable Materials and Organic Waste Recovery requirements and about proper sorting of Recyclable Materials, Organic Materials, and Solid Waste.
 - (8) Provide education information before or within fourteen (14) days of occupation of the Premises to new tenants that describes requirements to Source Separate Recyclable Materials and Organic Materials and to keep Source Separated Organic Materials and Source Separated Recyclable Materials separate from each other and from other Solid Waste (when applicable) and the location of containers and the rules governing their use at each property.
 - (9) Provide or arrange access for City or its Designee to their properties during all Inspections conducted in accordance with this Chapter to confirm compliance with the requirements of this Chapter.
- (C) If the Responsible Party of a Commercial Business wants to Self-Haul, meet the Self-Hauler requirements in Section 5430 of this Chapter.
- (D) Nothing in this Section prohibits a Responsible Party or a Generator of a Commercial Business from preventing or reducing Discarded Materials generation, managing Organic Waste on site, or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).
- (E) Responsible Parties of Commercial Businesses that are Tier One or Tier Two Commercial Edible Food Generators shall comply with Food Recovery requirements, pursuant to Section 5427 of this Chapter.

Section 5426. Waivers for Multi-Family Premises and Commercial Premises

- (A) De Minimis Waivers for Multi-Family Premises and Commercial Premises. The City's Designee, or the City if there is no Designee, may waive a Responsible Party's obligation to comply with some or all Recyclable Materials and Organic Waste requirements of this Chapter if the Responsible Party of the Commercial Business or Multi-Family Premises provides documentation that the Commercial Business or Multi-Family Premises meets one of the criteria in subsections (1) and (2) below. For the purposes of subsections (1) and (2), the total Solid Waste shall be the sum of weekly container capacity measured in cubic yards for Solid Waste, Recyclable Materials, and Organic Materials collection service. Hauling through paper shredding service providers or other incidental services may be considered in granting a de minimis waiver.
- (1) The Commercial Business's or Multi-Family Premises' total Solid Waste collection service is two (2) cubic yards or more per week and Recyclable Materials and Organic Materials subject to collection in Recyclable Materials Container(s) or Organic Materials Container(s) comprises less than twenty (20) gallons per week per applicable material stream of the

Multi-family Premises' or Commercial Business's total waste (i.e., Recyclable Materials in the Recyclable Materials stream are less than twenty (20) gallons per week or Organic Materials in the Organic Materials stream are less than twenty (20) gallons per week); or,

- (2) The Commercial Business's or Multi-Family Premises' total Solid Waste collection service is less than two (2) cubic yards per week and Recyclable Materials and Organic Materials subject to collection in a Recyclable Materials Container(s) or Organic Materials Container(s) comprises less than ten (10) gallons per week per applicable material stream of the Multi-family Premises' or Commercial Business's total waste (i.e., Recyclable Materials in the Recyclable Materials stream are less than ten (10) gallons per week or Organic Materials in the Organic Materials stream are less than ten (10) gallons per week).
- (B) Physical Space Waivers. The City's Designee, or the City if there is no Designee, may waive a Commercial Business's or Multi-Family Premises' obligation to comply with some or all of the Recyclable Materials and/or Organic Waste collection service requirements if the City or its Designee has evidence from its own staff, a hauler, licensed architect, or licensed engineer demonstrating that the Premises lacks adequate space for Recyclable Materials Containers and/or Organic Materials Containers required for compliance with the Recyclable Materials and Organic Materials collection requirements of Section 5424 or 5425 as applicable.
- (C) Review and Approval of Waivers. Waivers shall be granted to Responsible Parties by the City's Designee, or the City if there is no Designee, according to the following process:
- (1) Responsible Parties of Premises seeking waivers shall submit a completed application form to the City's Designee, or the City if there is no Designee, for a waiver specifying the waiver type requested, type(s) of collection services for which they are requesting a waiver, the reason(s) for such waiver, and documentation supporting such request.
 - (2) Upon waiver approval, the City's Designee, or the City if there is no Designee, shall specify that the waiver is valid for the following duration:
 - (i) For Commercial Premises, five (5) years, or if property ownership changes, or if occupancy changes, whichever occurs first.
 - (ii) For Multi-Family Premises, five (5) years, or if property ownership changes, or if the property manager changes, whichever occurs first.
 - (3) Waiver holder shall notify City's Designee, or the City if there is no Designee, if circumstances change such that Commercial Business's or Multi-Family Premises' may no longer qualify for the waiver granted, in which case waiver will be rescinded.

- (4) Any waiver holder must cooperate with the City and/or its Designee for any on-site assessment of the appropriateness of the waiver.
- (5) Waiver holder shall reapply to the City's Designee, or the City if there is no Designee, for a waiver upon the expiration of the waiver period and shall submit any required documentation, and/or fees/payments as required by the City and/or its Designee. Failure to submit a completed application shall equate to an automatic denial of said application.
- (6) The City's Designee, or the City if there is no Designee, may revoke a waiver upon a determination that any of the circumstances justifying a waiver are no longer applicable.
- (7) If the City's Designee does not approve a waiver application or revokes a waiver, the City may appeal the decision for additional review by the Designee. The City may also, after meeting and conferring with the Designee, direct the Designee to approve the waiver application and/or repeal the revocation of the waiver.

Section 5427. Requirements for Commercial Edible Food Generators

- (A) Tier One Commercial Edible Food Generators must comply with the requirements of this Section commencing January 1, 2022, and Tier Two Commercial Edible Food Generators must comply commencing January 1, 2024, pursuant to 14 CCR Section 18991.3.
- (B) Large Venue or Large Event operators not providing food services, but allowing for food to be provided by others, shall require Food Facilities operating at the Large Venue or Large Event to comply with the requirements of this Section, commencing January 1, 2024.
- (C) Commercial Edible Food Generators shall comply with the following requirements:
 - (1) Arrange to recover the maximum amount of Edible Food that would otherwise be disposed. Food that is donated shall be free from adulteration, spoilage, and meet the food safety standards of the California Health and Safety Code. Food cannot be donated if it is not in compliance with the food safety standards of the California Health and Safety Code, including food that is returned by a customer, has been served or sold and in the possession of a consumer, or is the subject of a recall.
 - (2) Contract with or enter into a written agreement with Food Recovery Organizations or Food Recovery Services for: (i) the collection of Edible Food for Food Recovery; or, (ii) acceptance of the Edible Food that the Commercial Edible Food Generator Self-Hauls to the Food Recovery Organization for Food Recovery.

- (3) Not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery Organization or a Food Recovery Service.
- (4) Allow City's designated enforcement entity or designated third party enforcement entity to access the Premises and review records pursuant to 14 CCR Section 18991.4.
- (5) 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 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.
- (6) Maintain records required by this section for five (5) years.
- (7) No later than January 31 of each year commencing no later than January 31, 2023 for Tier One Commercial Edible Food Generators and January 31, 2025 for Tier Two Commercial Edible Food Generators, provide an annual Food Recovery report to the City or its Designee that includes the following information:
 - (a) The amount, in pounds, of edible food donated to a Food Recovery Service or Food Recovery Organization annually; and,
 - (b) The amount, in pounds of edible food rejected by a Food Recovery Service or Food Recovery Organization annually.

- (c) Any additional information required by the City Manager or his or her Designee.
- (D) Nothing in this Chapter shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share table and school food donation guidance pursuant to Senate Bill 557 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).

Section 5428. Requirements for Food Recovery Organizations and Services

- (A) Food Recovery Services collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(1):
 - (1) The name, address, and contact information for each Commercial Edible Food Generator from which the service collects Edible Food.
 - (2) The quantity in pounds of Edible Food collected from each Commercial Edible Food Generator per month.
 - (3) The quantity in pounds of Edible Food transported to each Food Recovery Organization per month.
 - (4) The name, address, and contact information for each Food Recovery Organization that the Food Recovery Service transports Edible Food to for Food Recovery.
- (B) Food Recovery Organizations collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(2):
 - (1) The name, address, and contact information for each Commercial Edible Food Generator from which the organization receives Edible Food.
 - (2) The quantity in pounds of Edible Food received from each Commercial Edible Food Generator per month.
 - (3) The name, address, and contact information for each Food Recovery Service that the organization receives Edible Food from for Food Recovery.
- (C) Maintain records required by this section for five years.

- (D) Food Recovery Organizations and Food Recovery Services that have their primary address physically located in the City and contract with or have written agreements with one or more Commercial Edible Food Generators pursuant to 14 CCR Section 18991.3(b) shall report to the City it is located in and the City's Designee, if applicable, 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). The annual report shall be submitted to the City and the City's Designee, if applicable, no later than January 31 of each year.
- (E) In order to support Edible Food Recovery capacity planning assessments or other studies conducted by the City that provides Solid Waste collection services, or its designated entity, Food Recovery Services and Food Recovery Organizations operating in the City shall provide information and consultation to the City and City's Designee, if applicable, upon request, regarding existing, or proposed new or expanded, Food Recovery capacity that could be accessed by the City and its Commercial Edible Food Generators. A Food Recovery Service or Food Recovery Organization contacted by the City and/or its Designee shall respond to such request for information within 60 days, unless a shorter timeframe is otherwise specified by the City.
- (F) Food Recovery Organizations and Food Recovery Services that have their primary address physically located in the City and contract with or have written agreements with one or more Commercial Edible Food Generators shall include language in all agreements with Tier 1 and Tier 2 edible food generators located in the City identifying and describing the California Good Samaritan Act of 2017.
- (G) Nothing in this chapter prohibits a Food Recovery Organization or Food Recovery Service from refusing to accept Edible Food from a Commercial Edible Food Generator.

Section 5429. Requirements for Haulers and Facility Operators

- (A) Requirements for Haulers
 - (1) Franchise hauler(s) providing Recyclable Materials, Organic Waste, and/or Solid Waste collection services to Generators within the City's boundaries shall meet the following requirements and standards as a condition of approval of its contract, agreement, permit, or other authorization with the City to collect Recyclable Materials, Organic Materials, and/or Solid Waste:
 - (a) Through written notice to the City annually on or before January 31st of each year, identify the facilities to which they will transport Discarded Materials, including facilities for Source Separated Recyclable Materials, Source Separated Organic Materials, and Solid Waste unless otherwise stated in the franchise agreement, contract, permit, or license, or other authorization with the City.

- (b) Transport Source Separated Recyclable Materials to a facility that recovers those materials; transport Source Separated Organic Materials to a facility, operation, activity, or property that recovers Organic Waste as defined in 14 CCR, Division 7, Chapter 12, Article 2; transport Solid Waste to a disposal facility or transfer facility or operation that processes or disposes of Solid Waste; and transport manure to a facility that manages manure in conformance with 14 CCR Article 12 and such that the manure is not landfilled, used as Alternative Daily Cover (ADC), or used as Alternative Intermediate Cover (AIC).
 - (c) Obtain approval from the City to haul Organic Waste, unless it is transporting Source Separated Organic Waste to a Community Composting site or lawfully transporting C&D in a manner that complies with 14 CCR Section 18989.1, Section 5430 of this Chapter, and any other applicable City requirements.
- (2) Franchise hauler(s) authorized to collect Recyclable Materials, Organic Materials, and/or Solid Waste shall comply with education, equipment, signage, container labeling, container color, contamination monitoring, reporting, and other requirements contained within its franchise agreement, permit, or other agreement entered into with City.

(B) Requirements for Facility Operators and Community Composting Operations

- (1) Owners of facilities, operations, and activities located in the City's boundaries that recover Organic Waste, including, but not limited to, Compost facilities, in-vessel digestion facilities, and publicly owned treatment works shall, upon City request, provide information regarding available and potential new or expanded capacity at their facilities, operations, and activities, including information about throughput and permitted capacity necessary for planning purposes. Entities contacted by the City shall respond within 60 days.
- (2) Community Composting operators with operations located in the City's boundaries, upon City request, shall provide information to the City to support Organic Waste capacity planning, including, but not limited to, an estimate of the amount of Organic Waste anticipated to be handled at the Community Composting operation. Entities contacted by the City shall respond within 60 days.
- (3) Owners of facilities, operations, and activities located in the City's boundaries that receive Recyclable Materials, Organic Materials, and/or Solid Waste shall provide to the City on a quarterly basis copies of all reports they are required to report to CalRecycle under 14 CCR.

Section 5430. Self-Hauler Requirements

- (A) Every Self-Hauler shall Source Separate its Recyclable Materials and Organic Materials (materials that City otherwise requires Generators or Responsible Parties to separate for collection in the City's Recyclable Materials and Organic Materials collection program) generated on-site from Solid Waste in a manner consistent with 14 CCR Section 18984.1 and the City's collection program. Self-Haulers shall deliver their materials to facilities described in subsection (b) below. Alternatively, Self-Haulers may or choose not to Source Separate Recyclable Materials and Organic Materials and shall haul its Solid Waste (that includes Recyclable Materials and Organic Materials) to a High Diversion Organic Waste Processing Facility subject to advance written approval by the City.
- (B) Self-Haulers that Source Separate their Recyclable Materials and Organic Materials shall haul their Source Separated Recyclable Materials to a facility that recovers those materials; haul their Source Separated Organic Waste to a facility, operation, activity, or property that processes or recovers Source Separated Organic Waste; and, haul their Solid Waste to a disposal facility or transfer facility or operation that processes or disposes of Solid Waste.
- (C) Self-Haulers that are Responsible Parties of Commercial Businesses or Multi-Family Premises shall keep records of the amount of Recyclable Materials, Organic Waste, and Solid Waste delivered to each facility, operation, activity, or property that processes or recovers Recyclable Materials and Organic Waste and processes or disposes of Solid Waste or shall keep records of Solid Waste delivered to High Diversion Organic Waste Processing Facilities. These records shall be subject to review by the City and/or its Designee(s). The records shall include the following information:
 - (1) Delivery receipts and weight tickets from the entity accepting the Recyclable Materials, Organic Materials, and Solid Waste.
 - (2) The amount of material in cubic yards or Tons transported by the Generator or Responsible Party 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 Recyclable Materials, Organic Materials, and Solid Waste.
- (D) Self-Haulers shall retain all records and data required to be maintained by this Section for no less than five (5) years after the Recyclable Materials, Organic Materials, and/or Solid Waste was first delivered to the facility accepting the material.

- (E) Self-Haulers that are Commercial Businesses or Multi-Family Premises shall provide copies of records required by this Section to City if requested by the City Manager and shall provide the records at the frequency requested by the.
- (F) A Single-Family Generator or Single-Family Responsible Party that Self-Hauls Recyclable Materials, Organic Waste, or Solid Waste is not required to record or report information in Section 5430 (c) and (d).
- (G) Pursuant to 14 CCR Section 18815.9, Food Waste Self-Haulers are required to maintain records and report to CalRecycle information on the Tons of Food Waste Self-Hauled and the facilities or each use of such material. Food Waste Self-Haulers shall provide to the City on a quarterly basis copies of all reports they are required to report to CalRecycle.

Section 5431. Inspections and Investigations

- (A) City representatives or its Designee(s) are authorized to conduct Inspections and investigations, at random or otherwise, of any collection container, collection vehicle loads, or transfer, processing, or disposal facility for materials collected from Generators, or Source Separated materials to confirm compliance with this Chapter by Generators, Responsible Parties of Single-Family Premises, Responsible Parties of Commercial Businesses, Responsible Parties of Multi-Family Premises, Commercial Edible Food Generators, haulers, Self-Haulers, Food Recovery Services, and Food Recovery Organizations, subject to applicable laws. This Section does not allow City or its Designee to enter the interior of a private residential property for Inspection or any other portion of the property that would otherwise be subject to an inspection warrant before inspection by the City.
- (B) Entities regulated by this Chapter shall provide or arrange for access during all Inspections (with the exception of residential property interiors or other areas subject to the issuance of an inspection warrant) and shall cooperate with the City's representative or its Designee 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 Chapter. Failure of a Responsible Party to provide or arrange for: (i) access to an entity's Premises; or (ii) access to records for any Inspection or investigation is a violation of this Chapter and may result in penalties described in Section 5432 .
- (C) Any records obtained by a City or its Designee during its Inspections, and other reviews shall be subject to the requirements and applicable disclosure exemptions of the Public Records Act as set forth in Government Code Section 6250 et seq.
- (D) City representatives or their Designee are authorized to conduct any Inspections, or other investigations as reasonably necessary to further the goals of this Chapter, subject to applicable laws.

- (E) City or its Designee shall receive written complaints from persons regarding an entity that may be potentially non-compliant with SB 1383 Regulations, including receipt of anonymous complaints.
- (F) City representatives and/or their Designee are authorized to provide informational notices to entities regulated by this Chapter regarding compliance with this Chapter.

Section 5432. Enforcement

- (A) Violation of any provision of this Chapter shall constitute grounds for issuance of a Notice of Violation and assessment of a fine by a City Enforcement Official or representative. Enforcement Actions under this Chapter are issuance of an administrative citation and assessment of a fine. The City's procedures on imposition of administrative fines as specified in Chapter 4, of Article I, of this Code are hereby incorporated in their entirety, as modified from time to time, and shall govern the imposition, enforcement, collection, and review of administrative citations issued to enforce this Chapter and any rule or regulation adopted pursuant to this Chapter, except as otherwise indicated in this Chapter.
- (B) Other remedies allowed by law may be used, including civil action or prosecution as misdemeanor or infraction. City may pursue civil actions in the California courts to seek recovery of unpaid administrative citations. City 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 City staff and resources. In any judicial action, administrative proceeding, or special proceeding or action of any kind to enforce this Chapter 4.1, the prevailing party shall be entitled to recovery of attorney's fees. The recovery of attorney's fees is limited solely to causes of action directly associated with the enforcement of this Chapter 4.1. In no action, administrative hearing, or special proceeding shall an award of attorney's fees to a prevailing party exceed the amount of reasonable attorney's fees incurred by the City in the action or proceeding. Such attorney's fees shall be recoverable as costs of enforcement of this Chapter 4.1.
- (C) Responsible Entity for Enforcement
 - (1) Enforcement pursuant to this Chapter may be undertaken by the City Enforcement Official, which may be the City Manager or his or her designated entity, legal counsel, or combination thereof.
 - (2) City Enforcement Official(s) may issue Notices of Violation(s).
- (D) Process for Enforcement
 - (1) City Enforcement Officials and/or their Designee will monitor compliance with the ordinance through Compliance Reviews, Route Reviews, investigation of complaints, and an Inspection program. City Enforcement Officials and/or their designee may also monitor compliance with the

ordinance randomly. Section 5431 and GBMC Section 1400.1 establishes City's right to conduct Inspections and investigations.

- (2) City may issue an official notification to notify regulated entities of its obligations under this Chapter.
- (3) For incidences of Prohibited Container Contaminants found in containers, City or its designee will issue an informational notice of contamination to any Generator or Responsible Party found to have Prohibited Container Contaminants in a container. Such notice will be provided via a cart tag or other communication immediately upon identification of the Prohibited Container Contaminants or within 5 days after determining that a violation has occurred. If the City or its Designee observes Prohibited Container Contaminants in a Responsible Party's containers on more than two (2) consecutive occasion(s), the City may assess contamination processing fees or contamination penalties on the Generator.
- (4) With the exception of violations of contamination of container contents addressed under Section 5432 (K), City shall 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, City shall commence an action to impose penalties, via an administrative citation and fine, pursuant to GBMC Chapter 4, Article 1 and this Chapter.

Notices shall be sent to "owner" at the official address of the owner maintained by the tax collector for the County Assessor or if no such address is available, to the owner at the address of the Multi-Family Premises or Commercial Premises or to the Responsible Party for the collection services, depending upon available information.

(E) Penalty Amounts for Types of Violations

The penalty amounts for violations are as follows:

- (1) For a first violation, the amount of the penalty shall be \$50.
- (2) For a second violation, the amount of the penalty shall be \$100.
- (3) For a third or subsequent violation, the amount of the penalty shall be \$250 per violation.

(F) Factors Considered in Imposing Penalties.

The following factors shall be used when imposing penalties for violations:

- (1) The nature, circumstances, and severity of the violation(s).

- (2) The violator's ability to pay.
- (3) The willfulness of the violator's misconduct.
- (4) Whether the violator took measures to avoid or mitigate violations of this chapter.
- (5) Evidence of any economic benefit resulting from the violation(s).
- (6) The deterrent effect of the penalty on the violator.
- (7) Whether the violation(s) were due to conditions outside the control of the violator.

(G) Compliance Deadline Extension Considerations

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

- (1) Acts of God such as earthquakes, wildfires, flooding, and other emergencies or natural disasters;
- (2) Delays in obtaining discretionary permits or other government agency approvals; or,
- (3) Deficiencies in Organic Waste recycling infrastructure or Edible Food Recovery capacity and the City is under a corrective action plan with CalRecycle pursuant to 14 CCR Section 18996.2 due to those deficiencies.

(H) 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 and consistent with City's procedures in GBMC Chapter 4, Article I for appeals of administrative citations. Evidence may be presented at the hearing. The City will appoint a hearing officer who shall conduct the hearing and issue a final written order.

(I) Education Period for Non-Compliance

Beginning January 1, 2022 and through December 31, 2023, City or its Designee will conduct Inspections, Route Reviews or waste evaluations, and Compliance Reviews, depending upon the type of regulated entity, to determine compliance, and if City or its Designee determines that Generator, Responsible Party, Self-Hauler, hauler, Tier One Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance, it shall

provide educational materials to the entity describing its obligations under this Chapter and a notice that compliance is required by January 1, 2022, and that violations may be subject to administrative civil penalties starting on January 1, 2024.

(J) Civil Penalties for Non-Compliance

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

(K) Enforcement Table

Table 1. List of Violations

Requirement	Description of Violation
Commercial Business Multi-Family Premises Responsibility Requirement Sections 5424 and 5425	Responsible Party for a Commercial Business or Multi-Family Premises fails to provide or arrange for Organic Waste collection services consistent with City requirements and as outlined in this Chapter, for employees, contractors, tenants, and customers, including supplying and allowing access to adequate numbers, size, and location of containers and sufficient signage and container color.
Organic Waste Generator or Responsible Party Requirement Section 5423, 5424, and 54254.1.060	Organic Waste Generator or Responsible Party fails to comply with requirements pursuant to this Chapter.
Hauler Requirement Section 5429	A hauler providing Single-Family, Multi-Family or Commercial collection service fails to transport Discarded Materials to a facility, operation, activity, or property that recovers Organic Waste, as prescribed by this Chapter.
Hauler Requirement Section 5429	A hauler providing Single-Family, Multi-Family or Commercial Recyclable Materials, Organic Materials, or Solid Waste collection service fails to obtain applicable approval issued by the City to haul

Requirement	Description of Violation
	Recyclable Materials, Organic Materials, or Solid Waste as prescribed by this Chapter.
Hauler Requirement Section 5429	A hauler fails to keep a record of the applicable documentation of its approval by the City, as prescribed by this Chapter.
Self-Hauler Requirement Section 5429	A Generator or Responsible Party who is a Self-Hauler fails to comply with the requirements of this Chapter.
Commercial Edible Food Generator Requirement Section 5427	Tier One Commercial Edible Food Generator fails to arrange to recover the maximum amount of its Edible Food that would otherwise be disposed by establishing a contract or written agreement with a Food Recovery Organization or Food Recovery Service and/or fails to comply with other requirement of this Chapter commencing Jan. 1, 2022.
Commercial Edible Food Generator Requirement Section 5427	Tier Two Commercial Edible Food Generator fails to arrange to recover the maximum amount of its Edible Food that would otherwise be disposed by establishing a contract or written agreement with a Food Recovery Organization or Food Recovery Service and/or fails to comply with other requirements of this Chapter commencing Jan. 1, 2024.
Commercial Business Responsible Party, Multi-Family Premises Responsible Party, Commercial Edible Food Generator, Food Recovery Organization or Food Recovery Service Sections 5424, 5425, 5427, and 5428	Failure to provide or arrange for access to an entity's Premises for any Inspection or investigation.

Requirement	Description of Violation
Recordkeeping Requirements for Commercial Edible Food Generator Section 5427	Tier One or Tier Two Commercial Edible Food Generator fails to keep records, as prescribed by Section 5427 of this Chapter.
Recordkeeping Requirements for Food Recovery Services and Food Recovery Organizations Section 5428	A Food Recovery Organization or Food Recovery Service that has established a contract or written agreement to collect or receive Edible Food directly from a Commercial Edible Food Generator pursuant to 14 CCR Section 18991.3(b) fails to keep records, as prescribed by Section 5428 of this Chapter.