

# HEBER PUBLIC UTILITY DISTRICT

## REPORT TO BOARD OF DIRECTORS

**MEETING DATE:** March 17, 2022

**FROM:** Laura Fischer, General Manager

**SUBJECT:** Waive second Reading and Adopt Ordinance 2022-01 Establishing Mandatory Organic Waste Disposal Reduction Requirements Under SB 1383 Related to Short-Lived Climate Pollutants.

**ISSUE:** Shall the Board waive the second reading and adopt Ordinance 2022-01 Establishing Mandatory Organic Waste Disposal Reduction Requirements Under SB 1383 Related to Short-Lived Climate Pollutants?

**General Manager's Recommendation:**

Waive the second reading and adopt Ordinance 2022-01 Establishing Mandatory Organic Waste Disposal Reduction Requirements Under SB 1383 Related to ShortLived Climate Pollutants.

**FISCAL IMPACT:**

Cost associated with the adoption and implementation of Ordinance 2022-01 will be covered by the \$20,000 grant from CalRecycle, which authorized via Resolution on February agenda.

**BACKGROUND:**

SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016, requires CalRecycle to develop regulations to reduce organics in landfills as a source of methane. The regulations place requirements on multiple entities such as cities, counties and Special Districts. SB 1383, specifically states that Special Districts are considered a jurisdiction. This means that even as the HPUD is not considered a jurisdiction for other recycling regulations, as we fall within the County's jurisdiction, for the purposes of SB 1383, we are a separate jurisdiction. Thus we are responsible to ensure that SB 1383 guidelines as they apply to Heber are implemented, and we must have a mechanism in place to enforce compliance should that become necessary.

Waiving the second reading and adopting Ordinance 2022-01 will meet the requirements to have the enforcement mechanism in place to being compliance with SB 1383. At this time, laying the groundwork and complying with the CalRecycle guidelines is the important first step for SB 1383.

**DISCUSSION:**

Representatives from IRecycle will be presenting information regarding SB 1383 at the March meeting.

The next step is to adopt an enforcement 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.

I also had a meeting with CR&R who is our contracted waste hauler to review the impacts to our Franchise Agreement. We agreed that the Franchise Agreement will need to be amended to include the requirements of SB 1383. CR&R is working on contract modifications for their other local agencies and HPUD will be included in the discussion and review of the modifications to the agreement. We hope to have this on your next agenda for consideration.

CR&R has an organic waste facility in Yuma AZ and our product will be transported to that site, CR&R will assist the District in conducting organic waste audits and reporting requirements. CR&R will be presenting this information for the Board.

**CONCLUSION:**

Adopting Ordinance 2022-01 is a requirement to meet compliance with SB 1383. Thus, staff recommends that the Board waive the second reading and adopt Ordinance 202201 Establishing Mandatory Organic Waste Disposal Reduction Requirements Under SB 1383 Related to Short-Lived Climate Pollutants.

**ALTERNATIVES:**

- 1) Direct staff to make changes to Ordinance 2022-02 prior to the second reading and possible adoption, which will not meet the CalRecycle timeline and HPUD will need to adopt as soon as possible to avoid possible violations for non compliance.
- 2) Direct staff to present Ordinance 2022-2 for the second reading and possible adoption at the March 2022 meeting.
- 3) Provide alternative direction to staff regarding compliance with SB 1383.

Respectfully Submitted,

Laura Fischer, General Manager

Attachments: Ordinance 2022-02



## ORDINANCE 2022-01

### AN ORDINANCE OF THE HEBER PUBLIC UTILITY DISTRICT ESTABLISHING MANDATORY ORGANIC WASTE DISPOSAL REDUCTION REQUIREMENTS UNDER SENATE BILL (SB) 1383 RELATED TO SHORT-LIVED CLIMATE POLLUTANTS (SLCP)

#### SECTION 1. PURPOSE AND FINDINGS

The Heber Public Utility District finds and declares:

- SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016, requires CalRecycle to develop regulations to reduce organics in landfills as a source of methane. The regulations place requirements on multiple entities including cities, residential households, Commercial Businesses and business owners, Commercial Edible Food Generators, haulers, SelfHaulers, Food Recovery Organizations, and Food Recovery Services to support achievement of statewide Organic Waste disposal reduction targets.
- SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016, requires Special Districts 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.
- Requirements in this ordinance are consistent with other adopted goals and policies of the District including: publishing how green waste and recycling should be sorted on the District website, providing assistance to help recycle Christmas trees, and providing recycling information to customers.

#### SECTION 2. TITLE OF ORDINANCE

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

#### SECTION 3. DEFINITIONS

(a) "Blue Container" has the same meaning as in 14 CCR Section 18982(a)(5) and shall be used for the purpose of storage and collection of Source Separated Recyclable Materials or Source Separated Blue Container Organic Waste. (b) "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). (c) “California Code of Regulations” or “CCR” means the State of California Code of Regulations. CCR references in this ordinance are preceded with a number that refers to the relevant Title of the CCR (e.g., “14 CCR” refers to Title 14 of CCR). (d) “District Enforcement Official” means the general manager or his or her designee in charge or their authorized Designee(s) who is/are partially or whole responsible for enforcing the ordinance.

- (e) “Commercial Business” or “Commercial” means a firm, partnership, proprietorship, joint-stock company, corporation, or association, whether for-profit or nonprofit, strip mall, industrial facility, or a multifamily residential dwelling, or as otherwise defined in 14 CCR section 18982(a)(6). A Multi-Family Residential Dwelling that consists of fewer than five (5) units is not a Commercial Business for purposes of implementing this ordinance.
- (f) “Commercial Edible Food Generator” includes a Tier One Commercial Edible Food Generator or a Tier Two Commercial Edible Food Generator as defined in Sections 3(iii) and 3(jjj) of this ordinance or as otherwise defined in 14 CCR section 18982(a)(73) and (a)(74). For the purposes of this definition, Food Recovery Organizations and Food Recovery Services are not Commercial Edible Food Generators pursuant to 14 CCR section 18982(a)(7).
- (g) “Compliance Reviews” means reviews of records by the District to determine compliance with this ordinance.
- (h) “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).
- (i) “Compost” has the same meaning as in 14 CCR section 17896.2(a)(4), which stated, as of the effective date of this ordinance, that “Compost” means the product resulting from the controlled biological decomposition of organic Solid Wastes that are Source Separated from the municipal Solid Waste stream, or which are separated at a centralized facility.
- (j) “Compostable Plastics” or “Compostable Plastic” means plastic materials that meet the ASTM D6400 standard for compostability, or as otherwise described in 14 CCR Section 18984.1(a)(1)(A) or 18984.2(a)(1)(C).
- (k) “Container Contamination” or “Contaminated Container” means a container, regardless of color, that contains Prohibited Container Contaminants, or as otherwise defined in 14 CCR section 18982(a)(55).

- (l) "C&D" means construction and demolition debris.
- (m) "Designee" means an entity that the District contracts with or otherwise arranges to carry out any of the District's responsibilities of this ordinance 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.
- (n) "Edible Food" means food intended for human consumption, or as otherwise defined in 14 CCR section 18982(a)(18). For the purposes of this ordinance or as otherwise defined in 14 CCR section 18982(a)(18), "Edible Food" is not Solid Waste if it is recovered and not discarded. Nothing in this ordinance or in 14 CCR, Division 7, Chapter 12 requires or authorizes the Recovery of Edible Food that does not meet the food safety requirements of the California Retail Food Code.
- (o) "Enforcement Action" or "Enforcement Actions" means an action or actions of the District to address non-compliance with this ordinance including, but not limited to, issuing administrative citations, fines, penalties, or using other remedies. (p) "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 District and its generators, reasonably believe(s) would, as a result of or upon acceptance, transfer, processing, or disposal, be a violation of local, State, or federal law, regulation, or ordinance, including: land use restrictions or conditions, waste that cannot be disposed of in Class III landfills or accepted at the facility by permit conditions, waste that in the District's, 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 the District, 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 California Public Resources Code sections 41500 and 41802.
- (q) "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).
- (r) "Food Facility" or "Food Facilities" has the same meaning as in Health and Safety Code section 113789.
- (s) "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).
- (t) "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 Health and Safety Code section 113783;
  - (2) A nonprofit charitable organization as defined in Health and Safety Code section 113841; and
  - (3) A nonprofit charitable temporary Food Facility as defined in Health and Safety Code section 113842.
  - (4) A Food Recovery Organization is not a Commercial Edible Food Generator for the purposes of this ordinance and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR section 18982(a)(7).
    - i. If the definition in 14 CCR section 18982(a)(25) for Food Recovery Organization differs from this definition, the definition in 14 CCR section 18982(a)(25) shall apply to this ordinance.
- (u) “Food Recovery Service” means a person or entity that collects and transports Edible Food from a Commercial Edible Food Generator to a Food Recovery Organization or other entities for Food Recovery, or as otherwise defined in 14 CCR section 18982(a)(26). A Food Recovery Service is not a Commercial Edible Food Generator for the purposes of this ordinance and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR section 18982(a)(7).
- (v) “Food Scraps” means all food such as, but not limited to, fruits, vegetables, meat, poultry, seafood, shellfish, bones, rice, beans, pasta, bread, cheese, and eggshells. Food Scraps excludes fats, oils, and grease when such materials are Source Separated from other Food Scraps.
- (w) “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).
- (x) “Food-Soiled Paper” is compostable paper material that has come in contact with food or liquid, such as, but not limited to, compostable paper plates, paper coffee cups, napkins, pizza boxes, and milk cartons.
- (y) “Food Waste” means Food Scraps, Food-Soiled Paper, and Compostable Plastics.
- (z) “Gray Container” has the same meaning as in 14 CCR section 18982.2(a)(28) and shall be used for the purpose of storage and collection of Mixed Waste.

- (aa) “Gray Container Waste” means Solid Waste that is collected in a Gray or Black Container as specified in 14 CCR Sections 18984.1(a) and (b), or as otherwise defined in 14 CCR Section 17402(a)(6.5). Gray/Black Container Waste may specifically include carpet, [Non-Compostable Paper] and textiles.
- (bb) “Green Container” has the same meaning as in 14 CCR Section 18982(a)(29) and shall be used for the purpose of storage and collection of Source Separated Green Container Organic Waste.
- (cc) “Grocery Store” means a store primarily engaged in the retail sale of canned food; dry goods; fresh fruits and vegetables; fresh meats, fish, and poultry; and any area that is not separately owned within the store where the food is prepared and served, including a bakery, deli, and meat and seafood departments, or as otherwise defined in 14 CCR section 18982(a)(30).
- (dd) “Hauler Route” means the designated itinerary or sequence of stops for each segment of the City’s collection service area, or as otherwise defined in 14 CCR section 18982(a)(31.5).
- (ee) “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).
- (ff) “Inspection” means a site visit where the District reviews records, containers, and an entity’s collection, handling, recycling, or landfill disposal of Organic Waste or Edible Food handling to determine if the entity is complying with requirements set forth in this ordinance, or as otherwise defined in 14 CCR section 18982(a)(35).
- (gg) “Large Event” means an event, including, but not limited to, a sporting event or a flea market, that charges an admission price, or is operated by a local agency, and serves an average of more than 2,000 individuals per day of operation of the event, at a location that includes, but is not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for an event. If the definition in 14 CCR section 18982(a)(38) differs from this definition, the definition in 14 CCR section 18982(a)(38) shall apply to this ordinance.
- (hh) “Large Venue” means a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of



operation of the venue facility. For purposes of this ordinance and implementation of 14 CCR, Division 7, Chapter 12, a venue facility includes, but is not limited to, a public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts center, fairground, museum, theater, or other public attraction facility. For purposes of this ordinance and implementation of 14 CCR, Division 7, Chapter 12, a site under common ownership or control that includes more than one Large Venue that is contiguous with other Large Venues in the site, is a single Large Venue. If the definition in 14 CCR section 18982(a)(39) differs from this definition, the definition in 14 CCR section 18982(a)(39) shall apply to this ordinance.

- (ii) "Local Education Agency" means a school district, charter school, or county office of education that is not subject to the control of city or county regulations related to Solid Waste, or as otherwise defined in 14 CCR section 18982(a)(40).
- (jj) "Multi-Family Residential Dwelling" or "Multi-Family" means of, from, or pertaining to residential premises with five (5) or more dwelling units. Multi-Family premises do not include hotels, motels, or other transient occupancy facilities, which are considered Commercial Businesses.
- (ll) "Non-Compostable Paper" includes but is not limited to paper that is coated in a plastic material that will not breakdown in the composting process, or as otherwise defined in 14 CCR Section 18982(a)(41).
- (mm) "Non-Organic Recyclables" means non-putrescible and non-hazardous recyclable wastes including but not limited to bottles, cans, metals, plastics and glass, or as otherwise defined in 14 CCR Section 18982(a)(43).
- (nn) "Notice of Violation" means a notice that a violation has occurred that includes a compliance date to avoid an action to seek penalties, or as otherwise defined in 14 CCR section 18982(a)(45) or further explained in 14 CCR section 18995.4.
- (oo) "Organic Waste" means Solid 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 Papers, 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).

- (pp) "Organic Waste Generator" means a person or entity that is responsible for the initial creation of Organic Waste, or as otherwise defined in 14 CCR section 18982(a)(48).
- (qq) "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).
- (rr) "Printing and Writing Papers" shall 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).
- (ss) "Prohibited Container Contaminants" means the following: (i) discarded materials placed in the Blue Container that are not identified as acceptable Source Separated Recyclable Materials for the District's Blue Container; (ii) discarded materials placed in the Green Container that are not identified as acceptable Source Separated Green Container Organic Waste for the District's Green Container; (iii) discarded materials placed in the Gray/Black Container that are acceptable Source Separated Recyclable Materials and/or Source Separated Green Container Organic Wastes to be placed in the District's Green Container and/or Blue Container; and, (iv) Excluded Waste placed in any container.
- (tt) "Recovered Organic Waste Product" means products made from California, landfilldiverted recovered Organic Waste processed in a permitted or otherwise authorized facility, or as otherwise defined in 14 CCR section 18982(a)(60).
- (uu) "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).
- (vv) "Recycled-Content Paper" means Paper Products and Printing and Writing Papers that consists of at least 30 percent, by fiber weight, postconsumer fiber, or as otherwise defined in 14 CCR section 18982(a)(61).
- (ww) "Remote Monitoring" means the use of the internet of things (IoT) and/or wireless electronic devices to visualize the contents of Blue Containers, Green Containers, and Gray/Black Containers for purposes of identifying the quantity of materials in containers (level of fill) and/or presence of Prohibited Container Contaminants.
- (xx) "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).

- (yy) "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).
- (zz) "Regional or County Agency Enforcement Official" means a regional or county agency enforcement official, designated by the District with responsibility for enforcing the ordinance in conjunction or consultation with District Enforcement Official.
- (aaa) "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.
- (bbb) "SB 1383 Regulations" means or refers to, for the purposes of this ordinance, the Short-Lived Climate Pollutants: Organic Waste Reduction regulations developed by CalRecycle and adopted in 2020 that created 14 CCR, Division 7, Chapter 12 and amended portions of regulations of 14 CCR and 27 CCR.
- (ccc) "Self-Hauler" means a person, who hauls Solid Waste, Organic Waste or recyclable material he or she has generated to another person. Self-Hauler also includes a person who back-hauls waste, or as otherwise defined in 14 CCR section 18982(a)(66). Back-haul means generating and transporting Organic Waste to a destination owned and operated by the generator using the generator's own employees and equipment, or as otherwise defined in 14 CCR section 18982(a)(66)(A).
- (ddd) "Single-Family" means of, from, or pertaining to any residential premises with fewer than five (5) units.
- (eee) "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 semisolid 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.

(fff) "Source Separated" means materials, including commingled recyclable materials, that have been separated or kept separate from the Solid Waste stream, at the point of generation, for the purpose of additional sorting or processing those materials for recycling or reuse in order to return them to the economic mainstream in the form of raw material for new, reused, or reconstituted products, which meet

the quality standards necessary to be used in the marketplace, or as otherwise defined in 14 CCR section 17402.5(b)(4). For the purposes of the ordinance, Source Separated shall include separation of materials by the generator, property owner, property owner's employee, property manager, or property manager's employee into different containers for the purpose of collection such that Source Separated materials are separated from Mixed Waste or other Solid Waste for the purposes of collection and processing.

(ggg) "Source Separated Blue Container Organic Waste" means Source Separated Organic Wastes that can be placed in a Blue Container that is limited to the collection of those Organic Wastes and Non-Organic Recyclables as defined in Section 18982(a)(43), or as otherwise defined by Section 17402(a)(18.7).

(hhh) "Source Separated Green Container Organic Waste" means Source Separated Organic Waste that can be placed in a Green Container that is specifically intended for the separate collection of Organic Waste by the generator, excluding Source Separated Blue Container Organic Waste, carpets, Non-Compostable Paper, and textiles.

(iii) "Source Separated Recyclable Materials" means Source Separated Non-Organic Recyclables and Source Separated Blue Container Organic Waste.

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

(kkk) "Supermarkets" 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).

(III) "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.

(mmm) "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.

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

(nnn) "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).

#### SECTION 4. REQUIREMENTS FOR SINGLE-FAMILY GENERATORS

Single-Family Organic Waste Generators shall comply with the following requirements:

- (a) Shall subscribe to District's Organic Waste collection services for all Organic Waste generated as described below in Section 4(b). The District shall have the right to review the number, size, and location 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; and, Single-Family generators shall adjust its service level for its collection services as requested by the District.
- (b) Shall participate in the District's three-container collection system by placing designated materials in designated containers and shall not place Prohibited Container Contaminants in collection containers. Generator shall place Source Separated Green Container Organic Waste, including Food Waste, in the Green Container, Source Separated Recyclable Materials in the Blue Container, and Gray/Black Container Waste in the Gray/Black Container. Generator participation in the collection programs requires that generators place only approved materials in the appropriate colored containers. Generators shall not place materials designated for the Gray/Black Container into the Green Container or Blue Container.
- (c) Notwithstanding the above, and in accordance with the SB 1383 Regulations, the District is not required to replace functional containers, including containers purchased prior to April 1, 2022, that do not comply with the color requirements of this Chapter and the Regulations, prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first. Labels will be placed on the containers indicating the primary materials accepted and the primary materials prohibited in the containers. Until SB 1383 compliant colored containers are provided (Blue Container, Green Container, and Gray/Black Container), Single-Family Waste Generators shall comply with the container label requirements.
- (d) Nothing in this Section prohibits a generator from preventing or reducing waste generation, managing Organic Waste on site, and/or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).

## SECTION 5. REQUIREMENTS FOR COMMERCIAL BUSINESSES

Generators that are Commercial Businesses, including Multi-Family Residential Dwellings, shall:

- (a) Subscribe to the District's three-container Organic Waste collection services and comply with the requirements of those services as described below in Section 5(b) except Commercial Businesses that meet all applicable Self-Hauler requirements in this Chapter. The District shall have the right to review the number, size, and

location of a generator's containers and frequency of collection to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and, Commercial Business shall adjust its service level for its collection services as requested by the District.

- (b) Except Commercial Businesses that meet all applicable Self-Hauler requirements in this Chapter, participate in and comply with the District's three-container (Blue Container, Green Container, and Gray/Black Container) collection service by placing designated materials in designated containers. Generator shall place Source Separated Green Container Organic Waste, including Food Waste, in the Green Container, Source Separated Recyclable Materials in the Blue Container, and Gray/Black Container Waste in the Gray/Black Container. Generator shall place only approved materials in the appropriate colored containers. Generators shall not place materials designated for the Gray/Black Container into the Green Container or Blue Container.
  - (1) When arranging for gardening or landscaping services, the contract or work agreement between a Commercial Business subject to this section and a gardening or landscaping service shall require that the organic waste generated by those services be managed in compliance with this section.
- (c) Supply and allow access to adequate number, size, and location of collection containers with sufficient labels or colors (conforming with Section 5(d)(1) and (d)(2) below), for employees, contractors, tenants and customers, consistent with the District's Blue Container, Green Container, and Gray/Black Container collection service, or, if self-hauling, per the Commercial Businesses' instructions to support its compliance with its self-haul program.
- (d) Excluding Multi-Family Residential Dwellings, provide clearly visible and easily accessible containers for the collection of Source Separated Green Container Organic Waste, and Source Separated Recyclable Materials in all indoor and outdoor areas where disposal containers are provided for customers, for materials generated by that business. Such containers do not need to be provided in restrooms. If a Commercial Business does not generate any of the materials that would be collected in one type of container, then the business does not have to provide that particular container in all areas where disposal containers are provided for customers. Pursuant to 14 CCR Section 18984.9(b), the containers provided by the business shall have either:
  - (1) A body or lid that conforms with the container colors provided through the collection service provided by the District, with either lids conforming to the color requirements or bodies conforming to the color requirements or both lids and bodies conforming to color requirements. A Commercial Business is not required to replace functional containers, including containers purchased prior to April 1, 2022, that do not comply with the requirements

of the subsection prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first.

- (2) Container labels that include language or graphic images or both indicating the primary material accepted and the primary materials prohibited in that container or containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the container. Pursuant 14 CCR Section 18984.8, the container labels are required on new containers commencing April 1, 2022.
- (e) Multi-Family Residential Dwellings are not required to comply with container placement requirements or labeling requirement pursuant to 14 CCR Section 18984.9(b).
- (f) To the extent practical through education, training, Inspection, and/or other measures, excluding Multi-Family Residential Dwellings, prohibit employees from placing materials in a container not designated for those materials per the District's Blue Container, Green Container, and Gray/Black Container collection service or, if self-hauling, per the Commercial Businesses' instructions to support its compliance with its self-haul program.
- (g) Excluding Multi-Family Residential Dwellings, periodically inspect Blue Container, Green Container, and Gray/Black 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).
- (h) Annually provide information to employees, contractors, tenants, and customers about Organic Waste Recovery requirements and about proper sorting of Source Separated Green Container Organic Waste and Source Separated Recyclable Materials.
- (i) Provide education information before or within fourteen (14) days of occupation of the premises to new tenants that describes requirements to keep Source Separated Green Container Organic Waste and Source Separated Recyclable Materials separate from Gray Container Waste (when applicable) and the location of containers and the rules governing their use at each property.
- (j) Provide or arrange access for the District or its agent to their properties during all Inspections conducted in accordance with this Chapter to confirm compliance with the requirements of this Chapter.
- (k) If implemented, accommodate and cooperate with the District's Remote Monitoring program for Inspection of the contents of containers for Prohibited



Container Contaminants, to evaluate generator's compliance with this Chapter. The Remote Monitoring program shall involve installation of Remote Monitoring equipment on or in the Blue Containers, Green Containers, and Gray/Black Containers.

- (l) If the Commercial Business wants to self-haul, meet all requirements of this Chapter.
- (m) Notwithstanding the above, and in accordance with the SB 1383 Regulations, the District is not required to replace functional containers, including containers purchased prior to April 1, 2022, that do not comply with the color requirements of this Chapter and the Regulations, prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first. Labels will be placed on the containers indicating the primary materials accepted and the primary materials prohibited in the containers. Until SB 1383 compliant colored containers are provided (Blue Container, Green Container, and Gray/Black Container), Commercial Businesses shall comply with the container label requirements.
- (n) Nothing in this Section prohibits a generator from preventing or reducing waste generation, managing Organic Waste on site, or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).
- (o) Commercial Businesses that are Tier One or Tier Two Commercial Edible Food Generators shall comply with Food Recovery requirements of this Chapter.
  - (1) Full-service restaurants which are not under Tier Two Commercial Edible Food Generators are exempt from the Recycling requirements (i.e. involving the Blue Container) of this subdivision if the full-service restaurant, on or before July 1, 2020, provides its employees a commercial solid waste recycling bin or container to collect material purchased on the premises and implements a program to collect recyclable commercial solid waste.
- (p) For a park that is subject to this subsection, this subsection shall apply on and after April 1, 2022.
- (q) The District may charge and collect a fee from any business that fails to comply with this section in order to recover the costs incurred in enforcing compliance this section.
- (r) In the event state and/or federal law or regulations are implemented which are more stringent or comprehensive than the requirements of this Chapter related to recycling or organic waste disposal and/or diversion, all residents and/or businesses, as applicable, shall be responsible for complying with those requirements.

## SECTION 6. WAIVERS FOR GENERATORS

- (a) De Minimis Waivers: The District may, at its discretion, waive a Commercial Business' obligation (including Multi-Family Residential Dwellings) to comply with some or all of the Organic Waste requirements of this Chapter if the Commercial Business provides documentation that the business generates below a certain amount of Organic Waste material as described in Section 8(a)(2) below. Commercial Businesses requesting a de minimis waiver shall:
- (1) Submit an application specifying the services that they are requesting a waiver from and provide documentation as noted in Section 6(a)(2) below.
  - (2) Provides documentation that either: (A) The Commercial Business' total Solid Waste collection service is two cubic yards or more per week and Organic Waste subject to collection in a Blue Container or Green Container comprises less than 20 gallons per week per applicable container of the business' total waste; or,  
  
(B) The Commercial Business' total Solid Waste collection service is less than two cubic yards per week and Organic Waste subject to collection in a Blue Container or Green Container comprises less than 10 gallons per week per applicable container of the business' total waste; and
  - (3) Notifies the District if circumstances change such that Commercial Business's Organic Waste exceeds the threshold required for waiver, in which case waiver will be rescinded; and
  - (4) Provides written verification of eligibility for de minimis waiver every 5 years, if the City has approved de minimis waiver.
- (b) Physical Space Waivers: The District may, at its discretion, waive a Commercial Business' or property owner's obligations (including Multi-Family Residential Dwellings) to comply with some or all of the recyclable materials and/or Organic Waste collection service requirements if the District has evidence from its own staff, a hauler, licensed architect, or licensed engineer demonstrating that the premises lack adequate space for the collection containers required for compliance with the Organic Waste collection requirements of this Chapter. A Commercial Business or property owner may request a physical space waiver through the following process:
- (1) Submit an application form specifying the type(s) of collection services for which they are requesting a compliance waiver.
  - (2) Provide documentation that the premises lack adequate space for Blue Containers and/or Green Containers, including documentation from its hauler, licensed architect, or licensed engineer.

- (3) Provide written verification to the District that it is still eligible for physical space waiver every five years, if the District has approved application for a physical space waiver.

## SECTION 7. REQUIREMENTS FOR COMMERCIAL EDIBLE FOOD GENERATORS

- (a) Tier One Commercial Edible Food Generators must comply with the requirements of this Section 7 commencing April 1, 2022, and Tier Two Commercial Edible Food Generators must comply commencing January 1, 2024, pursuant to 14 CCR section 18991.3.
- (b) Large Venue or Large Event operators not providing food services, but allowing for food to be provided by others, shall require Food Facilities operating at the Large Venue or Large Event to comply with the requirements of this Section, commencing January 1, 2024.
- (c) Commercial Edible Food Generators shall comply with the following requirements:
  - (1) Arrange to recover the maximum amount of Edible Food that would otherwise be disposed.
  - (2) Contract with, or enter into a written agreement with Food Recovery Organizations or Food Recovery Services for: (i) the collection of Edible Food for Food Recovery; or, (ii) acceptance of the Edible Food that the Commercial Edible Food Generator self-hauls to the Food Recovery Organization for Food Recovery.
  - (3) Shall not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery Organization or a Food Recovery Service.
  - (4) Allow District'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:
    - i. A list of each Food Recovery Service or Food Recovery Organization that collects or receives its Edible Food pursuant to a contract or written agreement established under 14 CCR section 18991.3(b).
    - ii. A copy of all contracts or written agreements established under 14 CCR section 18991.3(b).

- iii. A record of the following information for each of those Food Recovery Services or Food Recovery Organizations:
  - A. The name, address and contact information of the Food Recovery Service or Food Recovery Organization.
  - B. The types of food that will be collected by or self-hauled to the Food Recovery Service or Food Recovery Organization.
  - C. The established frequency that food will be collected or selfhauled.
  - D. The quantity of food, measured in pounds recovered per month, collected or self-hauled to a Food Recovery Service or Food Recovery Organization for Food Recovery.
- (d) Nothing in this ordinance shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share table and school food donation guidance pursuant to Senate Bill 557 of 2017 (approved by the Governor of the State of California on September 25, 2017, which added Article 13 [commencing with section 49580] to Chapter 9 of Part 27 of Division 4 of Title 2 of the Education Code, and to amend Health and Safety Code section 114079, relating to food safety, as amended, supplemented, superseded and replaced from time to time).

## SECTION 8. REQUIREMENTS FOR FOOD RECOVERY ORGANIZATIONS AND SERVICES

- (a) Food Recovery Services collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(1).
  - (1) The name, address, and contact information for each Commercial Edible Food Generator from which the service collects Edible Food.
  - (2) The quantity in pounds of Edible Food collected from each Commercial Edible Food Generator per month.
  - (3) 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) Commencing April 1, 2022, Food Recovery Organizations and Food Recovery Services that have their primary address physically located in the District 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 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), as applicable.
  
- (d) Food Recovery Capacity Planning
  - (1) Food Recovery Services and Food Recovery Organizations. In order to support Edible Food Recovery capacity planning assessments or other studies conducted by the District that provides solid waste collection services, or its designated entity, Food Recovery Services and Food Recovery Organizations operating in the District shall provide information and consultation to the District, upon request, regarding existing, or proposed new or expanded, Food Recovery capacity that could be accessed by the District and its Commercial Edible Food Generators. A Food Recovery Service or Food Recovery Organization contacted by the District shall respond to such request for information within 60 days, unless a shorter time frame is otherwise specified by the District.
  
  - (2) Commencing no later than January 1, 2022, Food Recovery Services and Organization shall provide a quarterly report to the District which includes the information required in 14 CCR Section 18991.5 “Food Recovery Services and Organizations.”

SECTION 9. REQUIREMENTS FOR HAULERS, FACILITY OPERATORS, AND COMMUNITY COMPOSTING OPERATIONS

(a) Requirements for Haulers

(1) Franchised haulers shall provide residential, Commercial, or industrial Organic Waste collection services to generators within the District's boundaries shall meet the following requirements and standards as a condition of approval of a contract, agreement, or other authorization with the District to collect Organic Waste:

- a. Through written notice to the District annually on or before April 1, 2022, identify the facilities to which they will transport Organic Waste including the facilities for Source Separated Recyclable Materials and Source Separated Green Container Organic Waste, as applicable.
- b. Transport Source Separated Recyclable Materials and Source Separated Green Container Organic Waste to a facility, operation, activity, or property that recovers Organic Waste, as defined in 14 CCR, Division 7, Chapter 12, Article 2.
- c. Obtain approval from the District 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.

(3) The authorized hauler shall comply with education, equipment, signage, container labelling, container color, contamination monitoring, reporting, and other requirements contained within its Franchise Agreement, as may be amended from time to time.

(4) Notwithstanding any the foregoing, nothing in this Chapter shall restrict or otherwise prohibit the authorized Self-Hauler from meeting its compliance requirements by any alternative methods or procedures, provided it complies with SB 1383, the SB 1383 Regulations, and/or any other applicable law, as may be amended from time to time.

(b) Requirements for Facility Operators and Community Composting Operations

(1) Owners of facilities, operations, and activities that recover Organic Waste, including, but not limited to, Compost facilities, in-vessel digestion facilities, and publicly-owned treatment works shall, upon the District 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 District shall respond within 60 days.

- (2) Community Composting operators, upon District request, shall provide information to the District 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 District shall respond within 60 days.

## SECTION 10. SELF HAULER REQUIREMENTS

- (a) Authorized Self-Haulers shall source separate all recyclable materials and Organic Waste (materials that the District otherwise requires generators to separate for collection in the District's organics and recycling collection program) generated on-site from Solid Waste in a manner consistent with 14 CCR Sections 18984.1 and 18984.2, or shall haul Organic Waste to a High Diversion Organic Waste Processing Facility as specified in 14 CCR Section 18984.3.
- (b) Self-Haulers shall haul their Source Separated Recyclable Materials to a facility that recovers those materials; and haul their Source Separated Green Container Organic Waste to a Solid Waste facility, operation, activity, or property that processes or recovers Source Separated Organic Waste. Alternatively, SelfHaulers may haul Organic Waste to a High Diversion Organic Waste Processing Facility.
- (c) Self-Haulers that are Commercial Businesses (including Multi-Family Residential Dwellings) shall keep a record of the amount of Organic Waste delivered to each Solid Waste facility, operation, activity, or property that processes or recovers Organic Waste; this record shall be subject to Inspection by the District. The records shall include the following information:
  - (1) Delivery receipts and weight tickets from the entity accepting the waste.
  - (2) The amount of material in cubic yards or tons transported by the generator to each entity.
  - (3) If the material is transported to an entity that does not have scales on-site, or employs scales incapable of weighing the Self-Hauler's vehicle in a manner that allows it to determine the weight of materials received, the SelfHauler is not required to record the weight of material but shall keep a record of the entities that received the Organic Waste.
- (d) Self-Haulers that are Commercial Businesses (including Multi-Family SelfHaulers) shall provide information collected in subsection(c) to the District or its authorized designee or other representative, if requested.
- (e) A residential Organic Waste Generator that self hauls Organic Waste is not required to record or report information in subsections (c) and (d).

#### SECTION 14. INSPECTIONS AND INVESTIGATIONS BY DISTRICT

- (a) District representatives and/or its designated entity, including Designees are authorized to conduct Inspections and investigations, at random or otherwise, of any collection container, collection vehicle loads, or transfer, processing, or disposal facility for materials collected from generators, or Source Separated materials to confirm compliance with this ordinance by Organic Waste Generators, Commercial Businesses (including Multi-Family Residential Dwellings), property owners, Commercial Edible Food Generators, haulers, Self-Haulers, Food Recovery Services, and Food Recovery Organizations, subject to applicable laws. This Section does not allow City to enter the interior of a private residential property for Inspection.
- (b) Regulated entity shall provide or arrange for access during all Inspections (with the exception of residential property interiors) and shall cooperate with the District's employee or its designated entity/Designee during such Inspections and investigations. Such Inspections and investigations may include confirmation of proper placement of materials in containers, Edible Food Recovery activities, records, or any other requirement of this ordinance described herein. Failure 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 ordinance and may result in penalties described.
- (c) Any records obtained by a District 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) District representatives, its designated entity, and/or Designee are authorized to conduct any Inspections or other investigations as reasonably necessary to further the goals of this ordinance, subject to applicable laws.



- (e) District shall receive written complaints from persons regarding an entity that may be potentially non-compliant with SB 1383 Regulations, including receipt of anonymous complaints.

## SECTION 15. ENFORCEMENT

- (a) Violation of any provision of this ordinance shall constitute grounds for issuance of a Notice of Violation and assessment of a fine by a District Enforcement Official or representative. Enforcement Actions under this ordinance are issuance of an administrative citation and assessment of a fine. The District's procedures on imposition of administrative fines 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 ordinance and any rule or regulation adopted pursuant to this ordinance, except as otherwise indicated in this ordinance.
- (b) Other remedies allowed by law may be used, including civil action or prosecution as misdemeanor or infraction. District may pursue civil actions in the California courts to seek Recovery of unpaid administrative citations. District 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 District staff and resources.
- (c) Responsible Entity for Enforcement
  - (1) Enforcement pursuant to this ordinance may be undertaken by the District Enforcement Official, which may be the General Manager or their designated entity, legal counsel, or combination thereof.
  - (2) Enforcement may also be undertaken by an enforcement official, designated by the District, in consultation with District Enforcement Official.
    - i. District Enforcement Official(s) will interpret ordinance; determine the applicability of waivers, if violation(s) have occurred; implement Enforcement Actions; and, determine if compliance standards are met.
    - ii. District Enforcement Official(s) may issue Notices of Violation(s).
- (d) Process for Enforcement
  - (1) District Enforcement Officials and/or their Designee will monitor compliance with the ordinance randomly and through Compliance Reviews, Route

Reviews, investigation of complaints, and an Inspection program, which may include Remote Monitoring. Section 16 establishes District's right to conduct Inspections and investigations.

- (2) District may issue an official notification to notify regulated entities of its obligations under the ordinance.
- (3) For incidences of Prohibited Container Contaminants found in containers, District's Designee will issue a Courtesy Pick-up Notice to any generator found to have Prohibited Container Contaminants in a container. Such notice will be provided upon identification of the Prohibited Container Contaminants after determining that a violation has occurred. If the District's Designee observes Prohibited Container Contaminants in a generator's containers, the District may assess contamination processing fees or contamination penalties on the generator no more than two months after the District's Designee issues the Courtesy Pick-up Notice.
- (4) With the exception of violations of generator contamination of container contents addressed under Section 17(d)(3), District 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, District shall commence an action to impose penalties, via an administrative citation and fine, pursuant to the District's requirements contained in Section 11(k), Table 1, List of Violations. (6) Notices shall be sent to "owner" at the official address of the owner maintained by the District or if no such address is available, to the owner at the address of the dwelling or Commercial property or to the party responsible for paying for the collection services, depending upon available information.

(e) Penalty Amounts

- (1) Any person, firm, or corporation violating any of the provisions of the District's Mandatory Organic Waste Disposal Reduction Ordinance shall be deemed guilty of an infraction punishable as set forth in this Code.

(f) Education Period for Non-Compliance

Beginning April 1, 2022 and through December 31, 2023, District Enforcement Officials and/or their Designee will conduct Inspections, Route Reviews or waste evaluations, and Compliance Reviews, depending upon the type of regulated entity, to determine compliance, and if District determines that Organic Waste Generator, Self-Hauler, hauler, Tier One Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in

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

(g) Civil Penalties for Non-Compliance

Beginning January 1, 2024, if the District determines that an Organic Waste Generator, Self-Hauler, hauler, Tier One Commercial Edible Food Generator, Tier Two Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance with this ordinance, it shall document the noncompliance or violation, issue a Notice of Violation, and take Enforcement Action pursuant to Section 11, as needed.

(h) Enforcement Table

**Table 1. List of Violations**

Requirement	Description of Violation
Organic Waste Generator Requirement Section 4 and 5	Organic Waste Generator fails to comply with requirements adopted pursuant to this ordinance for the collection and Recovery of Organic Waste.
Commercial Business and Commercial Business Owner Responsibility Requirement Sections 5	Commercial Business fails to provide or arrange for Organic Waste collection services consistent with District requirements and as outlined in this ordinance, 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.
Commercial Edible Food Generator Requirement Section 7	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 comply with this Section commencing April. 1, 2022.
Commercial Edible Food Generator Requirement Section 7	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 comply with this Section commencing Jan. 1, 2024.
Commercial Edible Food Generator Requirement Section 7	Tier One Commercial Edible Food Generator or Tier Two Commercial Edible Food Generator intentionally spoils Edible Food that is capable of being recovered by a Food Recovery Organization or Food Recovery Service.

Commercial Edible Food Food Recovery Organization or Food Recovery Service Sections 7	Failure to provide or arrange for access to an entity's Generator, premises for any Inspection or investigation.
Recordkeeping Requirements for Commercial Edible Food Generator Section 7	Tier One Commercial Edible Food Generator or Tier Two Commercial Edible Food Generator fails to keep records, as prescribed by Section 9.
Hauler Requirement Section, Section 9	A hauler providing residential, Commercial or industrial Organic Waste collection service fails to transport Organic Waste to a facility, operation, activity, or property that recovers Organic Waste, as prescribed by this ordinance.
Hauler Requirement Section 9	A hauler providing residential, Commercial, or industrial Organic Waste collection service fails to obtain applicable approval issued by the District to haul Organic Waste as prescribed by this ordinance.
Hauler Requirement Section 9	A hauler fails to keep a record of the applicable documentation of its approval by the District, as prescribed by this ordinance.

**SECTION 16. SEVERABILITY**

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or application thereof to any person or place, 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 Board of Directors hereby declares that it would have adopted this Ordinance and each and every section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact than any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

**SECTION 17. CERTIFICATION AND PUBLICATION**

The Board Secretary shall certify to the passage of this Ordinance and shall cause same to be published pursuant to state law within fifteen (15) days after its passage, and this Ordinance shall be effective commencing the 1st day of April, 2022.

PASSED, APPROVED, and ADOPTED this 17th day of February, 2022.

Kaine Garcia, President ATTEST:

\_\_\_\_\_

\_\_\_\_\_

Raquel Carrillo, Board Secretary

## ORDINANCE 2022-01

### AN ORDINANCE OF THE HEBER PUBLIC UTILITY DISTRICT ESTABLISHING MANDATORY ORGANIC WASTE DISPOSAL REDUCTION REQUIREMENTS UNDER SENATE BILL (SB) 1383 RELATED TO SHORT-LIVED CLIMATE POLLUTANTS (SLCP)

#### SECTION 1. PURPOSE AND FINDINGS

The Heber Public Utility District finds and declares:

- SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016, requires CalRecycle to develop regulations to reduce organics in landfills as a source of methane. The regulations place requirements on multiple entities including cities, residential households, Commercial Businesses and business owners, Commercial Edible Food Generators, haulers, Self-Haulers, Food Recovery Organizations, and Food Recovery Services to support achievement of statewide Organic Waste disposal reduction targets.
- SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016, requires Special Districts 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.
- Requirements in this ordinance are consistent with other adopted goals and policies of the District including: publishing how green waste and recycling should be sorted on the District website, providing assistance to help recycle Christmas trees, and providing recycling information to customers.

## SECTION 2. TITLE OF ORDINANCE

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

## SECTION 3. DEFINITIONS

- (a) “Blue Container” has the same meaning as in 14 CCR Section 18982(a)(5) and shall be used for the purpose of storage and collection of Source Separated Recyclable Materials or Source Separated Blue Container Organic Waste.
- (b) “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).
- (c) “California Code of Regulations” or “CCR” means the State of California Code of Regulations. CCR references in this ordinance are preceded with a number that refers to the relevant Title of the CCR (e.g., “14 CCR” refers to Title 14 of CCR).
- (d) “District Enforcement Official” means the general manager or his or her designee in charge or their authorized Designee(s) who is/are partially or whole responsible for enforcing the ordinance.
- (e) “Commercial Business” or “Commercial” means a firm, partnership, proprietorship, joint-stock company, corporation, or association, whether for-profit or nonprofit, strip mall, industrial facility, or a multifamily residential dwelling, or as otherwise defined in 14 CCR section 18982(a)(6). A Multi-Family Residential Dwelling that consists of fewer than five (5) units is not a Commercial Business for purposes of implementing this ordinance.

- (f) “Commercial Edible Food Generator” includes a Tier One Commercial Edible Food Generator or a Tier Two Commercial Edible Food Generator as defined in Sections 3(iii) and 3(jjj) of this ordinance or as otherwise defined in 14 CCR section 18982(a)(73) and (a)(74). For the purposes of this definition, Food Recovery Organizations and Food Recovery Services are not Commercial Edible Food Generators pursuant to 14 CCR section 18982(a)(7).
- (g) “Compliance Reviews” means reviews of records by the District to determine compliance with this ordinance.
- (h) “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).
- (i) “Compost” has the same meaning as in 14 CCR section 17896.2(a)(4), which stated, as of the effective date of this ordinance, that “Compost” means the product resulting from the controlled biological decomposition of organic Solid Wastes that are Source Separated from the municipal Solid Waste stream, or which are separated at a centralized facility.
- (j) “Compostable Plastics” or “Compostable Plastic” means plastic materials that meet the ASTM D6400 standard for compostability, or as otherwise described in 14 CCR Section 18984.1(a)(1)(A) or 18984.2(a)(1)(C).
- (k) “Container Contamination” or “Contaminated Container” means a container, regardless of color, that contains Prohibited Container Contaminants, or as otherwise defined in 14 CCR section 18982(a)(55).
- (l) “C&D” means construction and demolition debris.
- (m) “Designee” means an entity that the District contracts with or otherwise arranges to carry out any of the District’s responsibilities of this ordinance 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.
- (n) “Edible Food” means food intended for human consumption, or as otherwise defined in 14 CCR section 18982(a)(18). For the purposes of this ordinance or as otherwise defined in 14 CCR section 18982(a)(18), “Edible Food” is not Solid Waste if it is recovered and not discarded. Nothing in this ordinance or in 14 CCR, Division 7, Chapter 12 requires or authorizes the Recovery of Edible Food that does not meet the food safety requirements of the California Retail Food Code.

- (o) "Enforcement Action" or "Enforcement Actions" means an action or actions of the District to address non-compliance with this ordinance including, but not limited to, issuing administrative citations, fines, penalties, or using other remedies.
- (p) "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 District and its generators, reasonably believe(s) would, as a result of or upon acceptance, transfer, processing, or disposal, be a violation of local, State, or federal law, regulation, or ordinance, including: land use restrictions or conditions, waste that cannot be disposed of in Class III landfills or accepted at the facility by permit conditions, waste that in the District's, 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 the District, 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 California Public Resources Code sections 41500 and 41802.
- (q) "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).
- (r) "Food Facility" or "Food Facilities" has the same meaning as in Health and Safety Code section 113789.
- (s) "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).
- (t) "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 Health and Safety Code section 113783;
  - (2) A nonprofit charitable organization as defined in Health and Safety Code section 113841; and
  - (3) A nonprofit charitable temporary Food Facility as defined in Health and Safety Code section 113842.



- (4) A Food Recovery Organization is not a Commercial Edible Food Generator for the purposes of this ordinance and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR section 18982(a)(7).
- i. If the definition in 14 CCR section 18982(a)(25) for Food Recovery Organization differs from this definition, the definition in 14 CCR section 18982(a)(25) shall apply to this ordinance.
- (u) “Food Recovery Service” means a person or entity that collects and transports Edible Food from a Commercial Edible Food Generator to a Food Recovery Organization or other entities for Food Recovery, or as otherwise defined in 14 CCR section 18982(a)(26). A Food Recovery Service is not a Commercial Edible Food Generator for the purposes of this ordinance and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR section 18982(a)(7).
- (v) “Food Scraps” means all food such as, but not limited to, fruits, vegetables, meat, poultry, seafood, shellfish, bones, rice, beans, pasta, bread, cheese, and eggshells. Food Scraps excludes fats, oils, and grease when such materials are Source Separated from other Food Scraps.
- (w) “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).
- (x) “Food-Soiled Paper” is compostable paper material that has come in contact with food or liquid, such as, but not limited to, compostable paper plates, paper coffee cups, napkins, pizza boxes, and milk cartons.
- (y) “Food Waste” means Food Scraps, Food-Soiled Paper, and Compostable Plastics.
- (z) “Gray Container” has the same meaning as in 14 CCR section 18982.2(a)(28) and shall be used for the purpose of storage and collection of Mixed Waste.
- (aa) “Gray Container Waste” means Solid Waste that is collected in a Gray or Black Container as specified in 14 CCR Sections 18984.1(a) and (b), or as otherwise defined in 14 CCR Section 17402(a)(6.5). Gray/Black Container Waste may specifically include carpet, [Non-Compostable Paper] and textiles.
- (bb) “Green Container” has the same meaning as in 14 CCR Section 18982(a)(29) and shall be used for the purpose of storage and collection of Source Separated Green Container Organic Waste.
- (cc) “Grocery Store” means a store primarily engaged in the retail sale of canned food; dry goods; fresh fruits and vegetables; fresh meats, fish, and poultry; and any area that is not separately owned within the store where the food is prepared and

served, including a bakery, deli, and meat and seafood departments, or as otherwise defined in 14 CCR section 18982(a)(30).

- (dd) “Hauler Route” means the designated itinerary or sequence of stops for each segment of the City’s collection service area, or as otherwise defined in 14 CCR section 18982(a)(31.5).
- (ee) “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).
- (ff) “Inspection” means a site visit where the District reviews records, containers, and an entity’s collection, handling, recycling, or landfill disposal of Organic Waste or Edible Food handling to determine if the entity is complying with requirements set forth in this ordinance, or as otherwise defined in 14 CCR section 18982(a)(35).
- (gg) “Large Event” means an event, including, but not limited to, a sporting event or a flea market, that charges an admission price, or is operated by a local agency, and serves an average of more than 2,000 individuals per day of operation of the event, at a location that includes, but is not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for an event. If the definition in 14 CCR section 18982(a)(38) differs from this definition, the definition in 14 CCR section 18982(a)(38) shall apply to this ordinance.
- (hh) “Large Venue” means a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility. For purposes of this ordinance and implementation of 14 CCR, Division 7, Chapter 12, a venue facility includes, but is not limited to, a public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts center, fairground, museum, theater, or other public attraction facility. For purposes of this ordinance and implementation of 14 CCR, Division 7, Chapter 12, a site under common ownership or control that includes more than one Large Venue that is contiguous with other Large Venues in the site, is a single Large Venue. If the definition in 14 CCR section 18982(a)(39) differs from this definition, the definition in 14 CCR section 18982(a)(39) shall apply to this ordinance.

- (ii) "Local Education Agency" means a school district, charter school, or county office of education that is not subject to the control of city or county regulations related to Solid Waste, or as otherwise defined in 14 CCR section 18982(a)(40).
- (jj) "Multi-Family Residential Dwelling" or "Multi-Family" means of, from, or pertaining to residential premises with five (5) or more dwelling units. Multi-Family premises do not include hotels, motels, or other transient occupancy facilities, which are considered Commercial Businesses.
  
- (ll) "Non-Compostable Paper" includes but is not limited to paper that is coated in a plastic material that will not breakdown in the composting process, or as otherwise defined in 14 CCR Section 18982(a)(41).
- (mm) "Non-Organic Recyclables" means non-putrescible and non-hazardous recyclable wastes including but not limited to bottles, cans, metals, plastics and glass, or as otherwise defined in 14 CCR Section 18982(a)(43).
- (nn) "Notice of Violation" means a notice that a violation has occurred that includes a compliance date to avoid an action to seek penalties, or as otherwise defined in 14 CCR section 18982(a)(45) or further explained in 14 CCR section 18995.4.
- (oo) "Organic Waste" means Solid 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 Papers, 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).
- (pp) "Organic Waste Generator" means a person or entity that is responsible for the initial creation of Organic Waste, or as otherwise defined in 14 CCR section 18982(a)(48).
- (qq) "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).
- (rr) "Printing and Writing Papers" shall 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).

- (ss) "Prohibited Container Contaminants" means the following: (i) discarded materials placed in the Blue Container that are not identified as acceptable Source Separated Recyclable Materials for the District's Blue Container; (ii) discarded materials placed in the Green Container that are not identified as acceptable Source Separated Green Container Organic Waste for the District's Green Container; (iii) discarded materials placed in the Gray/Black Container that are acceptable Source Separated Recyclable Materials and/or Source Separated Green Container Organic Wastes to be placed in the District's Green Container and/or Blue Container; and, (iv) Excluded Waste placed in any container.
- (tt) "Recovered Organic Waste Product" means products made from California, landfill-diverted recovered Organic Waste processed in a permitted or otherwise authorized facility, or as otherwise defined in 14 CCR section 18982(a)(60).
- (uu) "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).
- (vv) "Recycled-Content Paper" means Paper Products and Printing and Writing Papers that consists of at least 30 percent, by fiber weight, postconsumer fiber, or as otherwise defined in 14 CCR section 18982(a)(61).
- (ww) "Remote Monitoring" means the use of the internet of things (IoT) and/or wireless electronic devices to visualize the contents of Blue Containers, Green Containers, and Gray/Black Containers for purposes of identifying the quantity of materials in containers (level of fill) and/or presence of Prohibited Container Contaminants.
- (xx) "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).
- (yy) "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).
- (zz) "Regional or County Agency Enforcement Official" means a regional or county agency enforcement official, designated by the District with responsibility for enforcing the ordinance in conjunction or consultation with District Enforcement Official.
- (aaa) "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.

(bbb) "SB 1383 Regulations" means or refers to, for the purposes of this ordinance, the Short-Lived Climate Pollutants: Organic Waste Reduction regulations developed by CalRecycle and adopted in 2020 that created 14 CCR, Division 7, Chapter 12 and amended portions of regulations of 14 CCR and 27 CCR.

(ccc) "Self-Hauler" means a person, who hauls Solid Waste, Organic Waste or recyclable material he or she has generated to another person. Self-Hauler also includes a person who back-hauls waste, or as otherwise defined in 14 CCR section 18982(a)(66). Back-haul means generating and transporting Organic Waste to a destination owned and operated by the generator using the generator's own employees and equipment, or as otherwise defined in 14 CCR section 18982(a)(66)(A).

(ddd) "Single-Family" means of, from, or pertaining to any residential premises with fewer than five (5) units.

(eee) "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 semisolid 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.

(fff) "Source Separated" means materials, including commingled recyclable materials, that have been separated or kept separate from the Solid Waste stream, at the point of generation, for the purpose of additional sorting or processing those materials for recycling or reuse in order to return them to the economic mainstream in the form of raw material for new, reused, or reconstituted products, which meet

the quality standards necessary to be used in the marketplace, or as otherwise defined in 14 CCR section 17402.5(b)(4). For the purposes of the ordinance, Source Separated shall include separation of materials by the generator, property owner, property owner's employee, property manager, or property manager's employee into different containers for the purpose of collection such that Source Separated materials are separated from Mixed Waste or other Solid Waste for the purposes of collection and processing.

(ggg) "Source Separated Blue Container Organic Waste" means Source Separated Organic Wastes that can be placed in a Blue Container that is limited to the collection of those Organic Wastes and Non-Organic Recyclables as defined in Section 18982(a)(43), or as otherwise defined by Section 17402(a)(18.7).

(hhh) "Source Separated Green Container Organic Waste" means Source Separated Organic Waste that can be placed in a Green Container that is specifically intended for the separate collection of Organic Waste by the generator, excluding Source Separated Blue Container Organic Waste, carpets, Non-Compostable Paper, and textiles.

(iii) "Source Separated Recyclable Materials" means Source Separated Non-Organic Recyclables and Source Separated Blue Container Organic Waste.

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

(kkk) "Supermarkets" 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).

(III) "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.

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

(nnn) "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).

#### SECTION 4. REQUIREMENTS FOR SINGLE-FAMILY GENERATORS

Single-Family Organic Waste Generators shall comply with the following requirements:

- (a) Shall subscribe to District's Organic Waste collection services for all Organic Waste generated as described below in Section 4(b). The District shall have the right to review the number, size, and location 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; and, Single-Family generators shall adjust its service level for its collection services as requested by the District.
- (b) Shall participate in the District's three-container collection system by placing designated materials in designated containers and shall not place Prohibited Container Contaminants in collection containers. Generator shall place Source Separated Green Container Organic Waste, including Food Waste, in the Green Container, Source Separated Recyclable Materials in the Blue Container, and Gray/Black Container Waste in the Gray/Black Container. Generator participation in the collection programs requires that generators place only approved materials in the

appropriate colored containers. Generators shall not place materials designated for the Gray/Black Container into the Green Container or Blue Container.

- (c) Notwithstanding the above, and in accordance with the SB 1383 Regulations, the District is not required to replace functional containers, including containers purchased prior to April 1, 2022, that do not comply with the color requirements of this Chapter and the Regulations, prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first. Labels will be placed on the containers indicating the primary materials accepted and the primary materials prohibited in the containers. Until SB 1383 compliant colored containers are provided (Blue Container, Green Container, and Gray/Black Container), Single-Family Waste Generators shall comply with the container label requirements.
- (d) Nothing in this Section prohibits a generator from preventing or reducing waste generation, managing Organic Waste on site, and/or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).

#### SECTION 5. REQUIREMENTS FOR COMMERCIAL BUSINESSES

Generators that are Commercial Businesses, including Multi-Family Residential Dwellings, shall:

- (a) Subscribe to the District's three-container Organic Waste collection services and comply with the requirements of those services as described below in Section 5(b) except Commercial Businesses that meet all applicable Self-Hauler requirements in this Chapter. The District shall have the right to review the number, size, and location of a generator's containers and frequency of collection to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and, Commercial Business shall adjust its service level for its collection services as requested by the District.
- (b) Except Commercial Businesses that meet all applicable Self-Hauler requirements in this Chapter, participate in and comply with the District's three-container (Blue Container, Green Container, and Gray/Black Container) collection service by placing designated materials in designated containers. Generator shall place Source Separated Green Container Organic Waste, including Food Waste, in the Green Container, Source Separated Recyclable Materials in the Blue Container, and Gray/Black Container Waste in the Gray/Black Container. Generator shall place only approved materials in the appropriate colored containers. Generators shall not place materials designated for the Gray/Black Container into the Green Container or Blue Container.
  - (1) When arranging for gardening or landscaping services, the contract or work agreement between a Commercial Business subject to this section and a



gardening or landscaping service shall require that the organic waste generated by those services be managed in compliance with this section.

- (c) Supply and allow access to adequate number, size, and location of collection containers with sufficient labels or colors (conforming with Section 5(d)(1) and (d)(2) below), for employees, contractors, tenants and customers, consistent with the District's Blue Container, Green Container, and Gray/Black Container collection service, or, if self-hauling, per the Commercial Businesses' instructions to support its compliance with its self-haul program.
- (d) Excluding Multi-Family Residential Dwellings, provide clearly visible and easily accessible containers for the collection of Source Separated Green Container Organic Waste, and Source Separated Recyclable Materials in all indoor and outdoor areas where disposal containers are provided for customers, for materials generated by that business. Such containers do not need to be provided in restrooms. If a Commercial Business does not generate any of the materials that would be collected in one type of container, then the business does not have to provide that particular container in all areas where disposal containers are provided for customers. Pursuant to 14 CCR Section 18984.9(b), the containers provided by the business shall have either:
  - (1) A body or lid that conforms with the container colors provided through the collection service provided by the District, with either lids conforming to the color requirements or bodies conforming to the color requirements or both lids and bodies conforming to color requirements. A Commercial Business is not required to replace functional containers, including containers purchased prior to April 1, 2022, that do not comply with the requirements of the subsection prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first.
  - (2) Container labels that include language or graphic images or both indicating the primary material accepted and the primary materials prohibited in that container or containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the container. Pursuant 14 CCR Section 18984.8, the container labels are required on new containers commencing April 1, 2022.
- (e) Multi-Family Residential Dwellings are not required to comply with container placement requirements or labeling requirement pursuant to 14 CCR Section 18984.9(b).
- (f) To the extent practical through education, training, Inspection, and/or other measures, excluding Multi-Family Residential Dwellings, prohibit employees from placing materials in a container not designated for those materials per the District's Blue Container, Green Container, and Gray/Black Container collection service or, if self-

hauling, per the Commercial Businesses' instructions to support its compliance with its self-haul program.

- (g) Excluding Multi-Family Residential Dwellings, periodically inspect Blue Container, Green Container, and Gray/Black 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).
- (h) Annually provide information to employees, contractors, tenants, and customers about Organic Waste Recovery requirements and about proper sorting of Source Separated Green Container Organic Waste and Source Separated Recyclable Materials.
- (i) Provide education information before or within fourteen (14) days of occupation of the premises to new tenants that describes requirements to keep Source Separated Green Container Organic Waste and Source Separated Recyclable Materials separate from Gray Container Waste (when applicable) and the location of containers and the rules governing their use at each property.
- (j) Provide or arrange access for the District or its agent to their properties during all Inspections conducted in accordance with this Chapter to confirm compliance with the requirements of this Chapter.
- (k) If implemented, accommodate and cooperate with the District's Remote Monitoring program for Inspection of the contents of containers for Prohibited Container Contaminants, to evaluate generator's compliance with this Chapter. The Remote Monitoring program shall involve installation of Remote Monitoring equipment on or in the Blue Containers, Green Containers, and Gray/Black Containers.
- (l) If the Commercial Business wants to self-haul, meet all requirements of this Chapter.
- (m) Notwithstanding the above, and in accordance with the SB 1383 Regulations, the District is not required to replace functional containers, including containers purchased prior to April 1, 2022, that do not comply with the color requirements of this Chapter and the Regulations, prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first. Labels will be placed on the containers indicating the primary materials accepted and the primary materials prohibited in the containers. Until SB 1383 compliant colored containers are provided (Blue Container, Green Container, and Gray/Black Container), Commercial Businesses shall comply with the container label requirements.
- (n) Nothing in this Section prohibits a generator from preventing or reducing waste generation, managing Organic Waste on site, or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).

- (o) Commercial Businesses that are Tier One or Tier Two Commercial Edible Food Generators shall comply with Food Recovery requirements of this Chapter.
  - (1) Full-service restaurants which are not under Tier Two Commercial Edible Food Generators are exempt from the Recycling requirements (i.e. involving the Blue Container) of this subdivision if the full-service restaurant, on or before July 1, 2020, provides its employees a commercial solid waste recycling bin or container to collect material purchased on the premises and implements a program to collect recyclable commercial solid waste.
- (p) For a park that is subject to this subsection, this subsection shall apply on and after April 1, 2022.
- (q) The District may charge and collect a fee from any business that fails to comply with this section in order to recover the costs incurred in enforcing compliance this section.
- (r) In the event state and/or federal law or regulations are implemented which are more stringent or comprehensive than the requirements of this Chapter related to recycling or organic waste disposal and/or diversion, all residents and/or businesses, as applicable, shall be responsible for complying with those requirements.

## SECTION 6. WAIVERS FOR GENERATORS

- (a) De Minimis Waivers: The District may, at its discretion, waive a Commercial Business' obligation (including Multi-Family Residential Dwellings) to comply with some or all of the Organic Waste requirements of this Chapter if the Commercial Business provides documentation that the business generates below a certain amount of Organic Waste material as described in Section 8(a)(2) below. Commercial Businesses requesting a de minimis waiver shall:
  - (1) Submit an application specifying the services that they are requesting a waiver from and provide documentation as noted in Section 6(a)(2) below.
  - (2) Provides documentation that either:
    - (A) The Commercial Business' total Solid Waste collection service is two cubic yards or more per week and Organic Waste subject to collection in a Blue Container or Green Container comprises less than 20 gallons per week per applicable container of the business' total waste; or,
    - (B) The Commercial Business' total Solid Waste collection service is less than two cubic yards per week and Organic Waste subject to collection in a Blue Container or Green Container comprises less

than 10 gallons per week per applicable container of the business' total waste; and

- (3) Notifies the District if circumstances change such that Commercial Business's Organic Waste exceeds the threshold required for waiver, in which case waiver will be rescinded; and
  - (4) Provides written verification of eligibility for de minimis waiver every 5 years, if the City has approved de minimis waiver.
- (b) Physical Space Waivers: The District may, at its discretion, waive a Commercial Business' or property owner's obligations (including Multi-Family Residential Dwellings) to comply with some or all of the recyclable materials and/or Organic Waste collection service requirements if the District has evidence from its own staff, a hauler, licensed architect, or licensed engineer demonstrating that the premises lack adequate space for the collection containers required for compliance with the Organic Waste collection requirements of this Chapter. A Commercial Business or property owner may request a physical space waiver through the following process:
- (1) Submit an application form specifying the type(s) of collection services for which they are requesting a compliance waiver.
  - (2) Provide documentation that the premises lack adequate space for Blue Containers and/or Green Containers, including documentation from its hauler, licensed architect, or licensed engineer.
  - (3) Provide written verification to the District that it is still eligible for physical space waiver every five years, if the District has approved application for a physical space waiver.

## SECTION 7. REQUIREMENTS FOR COMMERCIAL EDIBLE FOOD GENERATORS

- (a) Tier One Commercial Edible Food Generators must comply with the requirements of this Section 7 commencing April 1, 2022, and Tier Two Commercial Edible Food Generators must comply commencing January 1, 2024, pursuant to 14 CCR section 18991.3.

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

(c) Commercial Edible Food Generators shall comply with the following requirements:

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

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

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

(4) Allow District'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:

i. A list of each Food Recovery Service or Food Recovery Organization that collects or receives its Edible Food pursuant to a contract or written agreement established under 14 CCR section 18991.3(b).

ii. A copy of all contracts or written agreements established under 14 CCR section 18991.3(b).

iii. A record of the following information for each of those Food Recovery Services or Food Recovery Organizations:

A. The name, address and contact information of the Food Recovery Service or Food Recovery Organization.

B. The types of food that will be collected by or self-hauled to the Food Recovery Service or Food Recovery Organization.

C. The established frequency that food will be collected or self-hauled.

D. The quantity of food, measured in pounds recovered per month, collected or self-hauled to a Food Recovery Service or Food Recovery Organization for Food Recovery.

(d) Nothing in this ordinance shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share table and school food donation guidance pursuant to Senate Bill 557 of 2017 (approved by the Governor of the State of California on September 25, 2017, which added Article 13 [commencing with section 49580] to Chapter 9 of Part 27 of Division 4 of Title 2 of the Education Code, and to amend Health and Safety Code section 114079, relating to food safety, as amended, supplemented, superseded and replaced from time to time).

## SECTION 8. REQUIREMENTS FOR FOOD RECOVERY ORGANIZATIONS AND SERVICES

(a) Food Recovery Services collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(1).

- (1) The name, address, and contact information for each Commercial Edible Food Generator from which the service collects Edible Food.
- (2) The quantity in pounds of Edible Food collected from each Commercial Edible Food Generator per month.
- (3) 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) Commencing April 1, 2022, Food Recovery Organizations and Food Recovery Services that have their primary address physically located in the District 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 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), as applicable.
- (d) Food Recovery Capacity Planning
  - (1) Food Recovery Services and Food Recovery Organizations. In order to support Edible Food Recovery capacity planning assessments or other studies conducted by the District that provides solid waste collection services, or its designated entity, Food Recovery Services and Food Recovery Organizations operating in the District shall provide information and consultation to the District, upon request, regarding existing, or proposed new or expanded, Food Recovery capacity that could be accessed by the District and its Commercial Edible Food Generators. A Food Recovery Service or Food Recovery Organization contacted by the District shall respond to such request for information within 60 days, unless a shorter time frame is otherwise specified by the District.
  - (2) Commencing no later than January 1, 2022, Food Recovery Services and Organization shall provide a quarterly report to the District which includes the information required in 14 CCR Section 18991.5 “Food Recovery Services and Organizations.”

**SECTION 9. REQUIREMENTS FOR HAULERS, FACILITY OPERATORS, AND COMMUNITY COMPOSTING OPERATIONS**

- (a) Requirements for Haulers
  - (1) Franchised haulers shall provide residential, Commercial, or industrial Organic Waste collection services to generators within the District's boundaries shall meet the following requirements and standards as a condition of approval of a contract, agreement, or other authorization with the District to collect Organic Waste:
    - a. Through written notice to the District annually on or before April 1, 2022, identify the facilities to which they will transport Organic Waste including the facilities for Source Separated Recyclable Materials

and Source Separated Green Container Organic Waste, as applicable.

- b. Transport Source Separated Recyclable Materials and Source Separated Green Container Organic Waste to a facility, operation, activity, or property that recovers Organic Waste, as defined in 14 CCR, Division 7, Chapter 12, Article 2.
  - c. Obtain approval from the District 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.
- (3) The authorized hauler shall comply with education, equipment, signage, container labelling, container color, contamination monitoring, reporting, and other requirements contained within its Franchise Agreement, as may be amended from time to time.
- (4) Notwithstanding any the foregoing, nothing in this Chapter shall restrict or otherwise prohibit the authorized Self-Hauler from meeting its compliance requirements by any alternative methods or procedures, provided it complies with SB 1383, the SB 1383 Regulations, and/or any other applicable law, as may be amended from time to time.

(b) Requirements for Facility Operators and Community Composting Operations

- (1) Owners of facilities, operations, and activities that recover Organic Waste, including, but not limited to, Compost facilities, in-vessel digestion facilities, and publicly-owned treatment works shall, upon the District 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 District shall respond within 60 days.
- (2) Community Composting operators, upon District request, shall provide information to the District 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 District shall respond within 60 days.

## SECTION 10. SELF HAULER REQUIREMENTS



- (a) Authorized Self-Haulers shall source separate all recyclable materials and Organic Waste (materials that the District otherwise requires generators to separate for collection in the District's organics and recycling collection program) generated on-site from Solid Waste in a manner consistent with 14 CCR Sections 18984.1 and 18984.2, or shall haul Organic Waste to a High Diversion Organic Waste Processing Facility as specified in 14 CCR Section 18984.3.
- (b) Self-Haulers shall haul their Source Separated Recyclable Materials to a facility that recovers those materials; and haul their Source Separated Green Container Organic Waste to a Solid Waste facility, operation, activity, or property that processes or recovers Source Separated Organic Waste. Alternatively, Self-Haulers may haul Organic Waste to a High Diversion Organic Waste Processing Facility.
- (c) Self-Haulers that are Commercial Businesses (including Multi-Family Residential Dwellings) shall keep a record of the amount of Organic Waste delivered to each Solid Waste facility, operation, activity, or property that processes or recovers Organic Waste; this record shall be subject to Inspection by the District. The records shall include the following information:
  - (1) Delivery receipts and weight tickets from the entity accepting the waste.
  - (2) The amount of material in cubic yards or tons transported by the generator to each entity.
  - (3) If the material is transported to an entity that does not have scales on-site, or employs scales incapable of weighing the Self-Hauler's vehicle in a manner that allows it to determine the weight of materials received, the Self-Hauler is not required to record the weight of material but shall keep a record of the entities that received the Organic Waste.
- (d) Self-Haulers that are Commercial Businesses (including Multi-Family Self-Haulers) shall provide information collected in subsection(c) to the District or its authorized designee or other representative, if requested.
- (e) A residential Organic Waste Generator that self hauls Organic Waste is not required to record or report information in subsections (c) and (d).

#### SECTION 14. INSPECTIONS AND INVESTIGATIONS BY DISTRICT

- (a) District representatives and/or its designated entity, including Designees are authorized to conduct Inspections and investigations, at random or otherwise, of any collection container, collection vehicle loads, or transfer, processing, or disposal facility for materials collected from generators, or Source Separated materials to confirm compliance with this ordinance by Organic Waste Generators, Commercial Businesses (including Multi-Family Residential Dwellings), property owners, Commercial Edible Food Generators, haulers, Self-Haulers, Food Recovery Services, and Food Recovery Organizations, subject to applicable laws. This Section does not allow City to enter the interior of a private residential property for Inspection.
- (b) Regulated entity shall provide or arrange for access during all Inspections (with the exception of residential property interiors) and shall cooperate with the District's employee or its designated entity/Designee during such Inspections and investigations. Such Inspections and investigations may include confirmation of proper placement of materials in containers, Edible Food Recovery activities, records, or any other requirement of this ordinance described herein. Failure 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 ordinance and may result in penalties described.
- (c) Any records obtained by a District 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) District representatives, its designated entity, and/or Designee are authorized to conduct any Inspections or other investigations as reasonably necessary to further the goals of this ordinance, subject to applicable laws.
- (e) District shall receive written complaints from persons regarding an entity that may be potentially non-compliant with SB 1383 Regulations, including receipt of anonymous complaints.

## SECTION 15. ENFORCEMENT

- (a) Violation of any provision of this ordinance shall constitute grounds for issuance of a Notice of Violation and assessment of a fine by a District Enforcement Official or representative. Enforcement Actions under this ordinance are issuance of an administrative citation and assessment of a fine. The District's procedures on imposition of administrative fines 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 ordinance and any rule or regulation adopted pursuant to this ordinance, except as otherwise indicated in this ordinance.
- (b) Other remedies allowed by law may be used, including civil action or prosecution as misdemeanor or infraction. District may pursue civil actions in the California courts to seek Recovery of unpaid administrative citations. District 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 District staff and resources.
- (c) Responsible Entity for Enforcement
  - (1) Enforcement pursuant to this ordinance may be undertaken by the District Enforcement Official, which may be the General Manager or their designated entity, legal counsel, or combination thereof.
  - (2) Enforcement may also be undertaken by an enforcement official, designated by the District, in consultation with District Enforcement Official.
    - i. District Enforcement Official(s) will interpret ordinance; determine the applicability of waivers, if violation(s) have occurred; implement Enforcement Actions; and, determine if compliance standards are met.
    - ii. District Enforcement Official(s) may issue Notices of Violation(s).
- (d) Process for Enforcement
  - (1) District Enforcement Officials and/or their Designee will monitor compliance with the ordinance randomly and through Compliance Reviews, Route

Reviews, investigation of complaints, and an Inspection program, which may include Remote Monitoring. Section 16 establishes District's right to conduct Inspections and investigations.

- (2) District may issue an official notification to notify regulated entities of its obligations under the ordinance.
- (3) For incidences of Prohibited Container Contaminants found in containers, District's Designee will issue a Courtesy Pick-up Notice to any generator found to have Prohibited Container Contaminants in a container. Such notice will be provided upon identification of the Prohibited Container Contaminants after determining that a violation has occurred. If the District's Designee observes Prohibited Container Contaminants in a generator's containers, the District may assess contamination processing fees or contamination penalties on the generator no more than two months after the District's Designee issues the Courtesy Pick-up Notice.
- (4) With the exception of violations of generator contamination of container contents addressed under Section 17(d)(3), District 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, District shall commence an action to impose penalties, via an administrative citation and fine, pursuant to the District's requirements contained in Section 11(k), Table 1, List of Violations.
- (6) Notices shall be sent to "owner" at the official address of the owner maintained by the District or if no such address is available, to the owner at the address of the dwelling or Commercial property or to the party responsible for paying for the collection services, depending upon available information.

(e) Penalty Amounts

- (1) Any person, firm, or corporation violating any of the provisions of the District's Mandatory Organic Waste Disposal Reduction Ordinance shall be deemed guilty of an infraction punishable as set forth in this Code.

(f) Education Period for Non-Compliance

Beginning April 1, 2022 and through December 31, 2023, District Enforcement Officials and/or their Designee will conduct Inspections, Route Reviews or waste evaluations, and Compliance Reviews, depending upon the type of regulated entity, to determine compliance, and if District determines that Organic Waste Generator, Self-Hauler, hauler, Tier One Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in

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

(g) Civil Penalties for Non-Compliance

Beginning January 1, 2024, if the District determines that an Organic Waste Generator, Self-Hauler, hauler, Tier One Commercial Edible Food Generator, Tier Two Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance with this ordinance, it shall document the noncompliance or violation, issue a Notice of Violation, and take Enforcement Action pursuant to Section 11, as needed.

(h) Enforcement Table

**Table 1. List of Violations**

<b>Requirement</b>	<b>Description of Violation</b>
Organic Waste Generator Requirement Section 4 and 5	Organic Waste Generator fails to comply with requirements adopted pursuant to this ordinance for the collection and Recovery of Organic Waste.
Commercial Business and Commercial Business Owner Responsibility Requirement Sections 5	Commercial Business fails to provide or arrange for Organic Waste collection services consistent with District requirements and as outlined in this ordinance, 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.
Commercial Edible Food Generator Requirement Section 7	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 comply with this Section commencing April. 1, 2022.
Commercial Edible Food Generator Requirement Section 7	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 comply with this Section commencing Jan. 1, 2024.
Commercial Edible Food Generator Requirement Section 7	Tier One Commercial Edible Food Generator or Tier Two Commercial Edible Food Generator intentionally spoils Edible Food that is capable of being recovered by a Food Recovery Organization or Food Recovery Service.

Commercial Edible Food Generator, Food Recovery Organization or Food Recovery Service Sections 7	Failure to provide or arrange for access to an entity's premises for any Inspection or investigation.
Recordkeeping Requirements for Commercial Edible Food Generator Section 7	Tier One Commercial Edible Food Generator or Tier Two Commercial Edible Food Generator fails to keep records, as prescribed by Section 9.
Hauler Requirement Section, Section 9	A hauler providing residential, Commercial or industrial Organic Waste collection service fails to transport Organic Waste to a facility, operation, activity, or property that recovers Organic Waste, as prescribed by this ordinance.
Hauler Requirement Section 9	A hauler providing residential, Commercial, or industrial Organic Waste collection service fails to obtain applicable approval issued by the District to haul Organic Waste as prescribed by this ordinance.
Hauler Requirement Section 9	A hauler fails to keep a record of the applicable documentation of its approval by the District, as prescribed by this ordinance.

**SECTION 16. SEVERABILITY**

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or application thereof to any person or place, 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 Board of Directors hereby declares that it would have adopted this Ordinance and each and every section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact than any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

**SECTION 17. CERTIFICATION AND PUBLICATION**

The Board Secretary shall certify to the passage of this Ordinance and shall cause same to be published pursuant to state law within fifteen (15) days after its passage, and this Ordinance shall be effective commencing the 1st day of April, 2022.

PASSED, APPROVED, and ADOPTED this 17th day of February, 2022.

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Kaine Garcia, President

ATTEST:

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Raquel Carrillo, Board Secretary