

ORDINANCE NO. 0008-2021

**AN ORDINANCE OF THE CITY OF
MCFARLAND ADDING CHAPTER 8.11, ORGANIC
WASTE DISPOSAL REDUCTION, TO THE MCFARLAND
MUNICIPAL CODE.**

Section 1. Chapter 8.11 is hereby added to the McFarland Municipal Code to read as follows:

8.11.010 Purpose and Findings

- A. SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016, which is codified at Public Resources Code §§42652-42654 and Health & Safety Code §§39730.5 – 39730.8, places requirements on multiple entities including Citys, 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.
- B. The Final Regulation Text of SB 1383 Regulations implementing SB 1383 was adopted by CalRecycle in November 2020; and
- C. SB 1383 requires Citys to adopt and enforce an ordinance or enforceable mechanism to implement relevant provisions of SB 1383 Regulations.
- D. This ordinance is intended to authorize the City Administrator to make determinations and undertake or arrange for programs and activities required to implement relevant provisions of SB 1383 Regulations.

8.11.020 Definitions

The following definitions shall be utilized for purposes of implementation of this ordinance. Where a definition is included in the SB 1383 Regulations, that definition shall be utilized unless otherwise included in this ordinance, in which case the definition set forth herein shall prevail.

- A. "Authorized Collector" means a private contractor authorized to provide exclusive collection services on behalf of the City through permit, contract, exclusive franchise agreement, or otherwise.
- B. "Blue Container" has the same meaning as in 14 CCR Section 18982.2(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.
- C. "CalRecycle" means the California Department of Resources Recycling and Recovery, which is the Department designated with responsibility for developing, implementing, and enforcing SB 1383 Regulations on Citys (and others).
- D. "California Code of Regulations" or "CCR" means the State of California Code of Regulations. CCR references in this ordinance are preceded with a number that refers to the relevant Title of the CCR (e.g., "14 CCR" refers to Title 14 of CCR).
- E. "Commercial Business" or "Commercial" means a firm, partnership, proprietorship, joint-stock company, corporation, or association, whether for-profit or nonprofit, strip mall, industrial facility, or a multifamily residential dwelling having five (5) or more dwelling units.
- F. "Commercial Edible Food Generator" means a Commercial Business that generates Edible Food that would otherwise be disposed.
- G. "Commercial Organic Waste Generator" means a Commercial Business that serves food or beverages on its premises for immediate consumption but does not generate Edible Food.

- H. "Compliance Review" means a review of records by a City to determine compliance with this ordinance.
- I. "Community Composting" means any activity that composts green material, agricultural material, food material, and vegetative food material, alone or in combination, and the total amount of feedstock and Compost on-site at any one time does not exceed 100 cubic yards and 750 square feet, as specified in 14 CCR Section 17855(a)(4); or, as otherwise defined by 14 CCR Section 18982(a)(8).
- J. "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.
- K. "Compostable Plastics" or "Compostable Plastic" means plastic materials that meet the ASTM D6400 standard for composability, or as otherwise described in 14 CCR Section 18984.1(a)(1)(A) or 18984.2(a)(1)(C).
- L. "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).
- M. "C&D" means construction and demolition debris.
- N. "Contamination" means materials placed in a container other than those (as applicable) appropriate for collection in that container.
- O. "Designee" means an entity that a City contracts with or otherwise arranges to carry out any of the City'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.
- P. "Edible Food" means food intended for human consumption.
- Q. "Edible Food Recovery" means the recovery of food from Tier 1 or Tier 2 edible food generators, for recovery and reuse consistent with food safety requirements of the California Retail Food Code.
- R. "Enforcement Action" means an action of the City to address non-compliance with this ordinance including, but not limited to, issuing administrative citations, fines, penalties, or using other remedies.
- S. "Excluded Waste" means hazardous substance, hazardous waste, infectious waste, designated waste, volatile, corrosive, medical waste, infectious, regulated radioactive waste, and toxic substances or material that facility operator(s), which receive materials from the City and its generators, reasonably believe(s) would, as a result of or upon acceptance, transfer, processing, or disposal, be a violation of local, State, or Federal law, regulation, or ordinance, including: land use restrictions or conditions, waste that cannot be disposed of in Class III landfills or accepted at the facility by permit conditions, waste that in City'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 City, or its Designee, to potential liability; but not including de minimis volumes or concentrations of waste of a type and amount normally found in Single-Family or Multi-Family Solid Waste after implementation of programs for the safe collection, processing, recycling, treatment, and disposal of batteries and paint in compliance with Sections 41500 and 41802 of the California Public Resources Code.
- T. "Food Distributor" means a company that distributes food to entities including, but not limited to, Supermarkets and Grocery Stores, or as otherwise defined in 14 CCR Section 18982(a)(22).
- U. "Food Facility" has the same meaning as in Section 113789 of the Health and Safety Code.

- V. "Food Recovery" means actions to collect and distribute food for human consumption that otherwise would be disposed, or as otherwise defined in 14 CCR Section 18982(a)(24).
- W. "Food Recovery Organization" means an entity that engages in the collection or receipt of Edible Food from Commercial Edible Food Generators and distributes that Edible Food to the public for Food Recovery either directly or through other entities or as otherwise defined in 14 CCR Section 18982(a)(25), including, but not limited to:
1. A food bank as defined in Section 113783 of the Health and Safety Code.
 2. A nonprofit charitable organization as defined in Section 113841 of the Health and Safety code; and,
 3. A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.
- X. "Food Recovery Service" means a person or entity that collects and transports Edible Food from a Commercial Edible Food Generator to a Food Recovery Organization or other entities for Food Recovery, or as otherwise defined in 14 CCR Section 18982(a)(26). A Food Recovery Service is not a Commercial Edible Food Generator for the purposes of this ordinance and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7).
- Y. "Food Scraps" means all 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.
- Z. "Food Service Provider" means an entity primarily engaged in providing food services to institutional, governmental, Commercial, or industrial locations of others based on contractual arrangements with these types of organizations, or as otherwise defined in 14 CCR Section 18982(a)(27).
- AA. "Food-Soiled Paper" is compostable paper material that has come in contact with food or liquid, such as, but not limited to, compostable paper plates, paper coffee cups, napkins, pizza boxes, and milk cartons
- BB. "Food Waste" means compostable Organics, excluding Green Waste, that will readily decompose and/or putrefy, including, but not limited to: (i) all food (including fruits, vegetables, meat, poultry, seafood, shellfish, bones, rice, beans, pasta, bread, cheese, and eggshells); and (ii) tea bags and coffee grounds. Food Waste may include compostable paper and plastic if accepted by the processing facility.
- CC. "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 Gray Container Waste.
- DD. "Gray Container Waste" means Solid Waste that is collected in a Gray Container that is part of a three-container Organic Waste collection service that prohibits the placement of Organic Waste in the Gray Container as specified in 14 CCR Sections 18984.1(a) and (b), or as otherwise defined in 14 CCR Section 17402(a)(6.5).
- EE. "Green Container" has the same meaning as in 14 CCR Section 18982.2(a)(29) and shall be used for the purpose of storage and collection of Source Separated Green Container Organic Waste.
- FF. "Green Waste" means tree trimmings, grass cuttings, dead plants, leaves, branches, and similar materials generated through landscaping activities other than construction activities.
- GG. "Grocery Store" means a store primarily engaged in the retail sale of canned food; dry goods; fresh fruits and vegetables; fresh meats, fish, and poultry; and any area that is not separately owned within the store where the food is prepared and served, including a bakery, deli, and meat and seafood departments, or as otherwise defined in 14 CCR Section 18982(a)(30).

- HH. "Hauler Route" means the designated itinerary or sequence of stops for each segment of the City's collection service area, or as otherwise defined in 14 CCR Section 18982(a)(31.5).
- II. "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).
- JJ. "Inspection" means a site visit where City reviews records, containers, and a Commercial Business' handling of Organic Waste or Edible Food, and related education and recordkeeping, to determine if it is complying with requirements set forth in this ordinance.
- KK. "City Enforcement Official" means the city manager, county administrative official, chief operating officer, executive director, or other executive in charge or their authorized Designee(s) who is/are partially or whole responsible for enforcing the ordinance.
- LL. "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.
- MM. "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, including, but 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, 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.
- NN. "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).
- OO. "Mixed Waste Organic Collection Stream" or "Mixed Waste" means Organic Waste collected in a container that is required by 14 CCR Sections 18984.1, 18984.2 or 18984.3 to be taken to a High Diversion Organic Waste Processing Facility or as otherwise defined in 14 CCR Section 17402(a)(11.5).
- PP. "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.
- QQ. "MWELO" refers to the Model Water Efficient Landscape Ordinance (MWELO), 23 CCR, Division 2, Chapter 2.7.
- RR. "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).
- SS. "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).
- TT. "Notice of Violation (NOV)" means a notice that a violation has occurred that includes a compliance date to avoid an action to seek penalties, or as otherwise defined in 14 CCR Section 18982(a)(45) or further explained in 14 CCR Section 18995.4.

- UU. "Organic Waste" means Food Waste, Green Waste, landscape and pruning waste, and nonhazardous wood waste.
- VV. "Organic Waste Generator" means a person or entity that is responsible for the initial creation of Organic Waste.
- WW. "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).
- XX. "Printing and Writing Papers" include, but are not limited to, copy, xerographic, watermark, cotton fiber, offset, forms, computer printout paper, white wove envelopes, manila envelopes, book paper, note pads, writing tablets, newsprint, and other uncoated writing papers, posters, index cards, calendars, brochures, reports, magazines, and publications, or as otherwise defined in 14 CCR Section 18982(a)(54).
- YY. "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 City'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 City's Green Container; (iii) discarded materials placed in the Gray Container that are acceptable Source Separated Recyclable Materials and/or Source Separated Green Container Organic Wastes to be placed in City's Green Container and/or Blue Container; and, (iv) Excluded Waste placed in any container.
- ZZ. "Recovered Organic Waste Products" means products made from California, landfill-diverted recovered Organic Waste processed in a permitted or otherwise authorized facility.
- AAA. "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).
- BBB. "Recycled-Content Paper" means Paper Products and Printing and Writing Paper that consists of at least 30 percent, by fiber weight, postconsumer fiber, or as otherwise defined in 14 CCR Section 18982(a)(61).
- CCC. "Recyclable Material" means materials source-separated by the generator for the purpose of sorting, processing and being returned to the economic mainstream for use in the altered form for manufacture of new products through available processes and markets. A listing of materials considered as Recyclable Material shall be provided by the Authorized Collector and may be revised from time to time by agreement of the City and the Authorized Collector. Notwithstanding any provision to the contrary, the Authorized Collector is not required to collect or recycle any material for which a viable market for resale is not available.
- DDD. "Regional Agency" means regional agency as defined in Public Resources Code Section 40181.
- EEE. "Regional or County Agency Enforcement Official" means a regional or county agency enforcement official, designated by the City with responsibility for enforcing the ordinance in conjunction or consultation with City Enforcement Official.
- FFF. "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 Containers for purposes of identifying the quantity of materials in containers (level of fill) and/or presence of Prohibited Container Contaminants.
- GGG. "Renewable Gas" means gas derived from Organic Waste that has been diverted from a California landfill and processed at an in-vessel digestion facility that is permitted or otherwise authorized by 14 CCR to recycle Organic Waste, or as otherwise defined in 14 CCR Section 18982(a)(62).

- HHH. "Residential" means properties utilized for full-time human habitation, including single-family properties and multi-family properties with four (4) or less dwelling units.
- III. "Residential Edible Food Generator" means a Residential that generates Edible Food that would otherwise be disposed.
- JJJ. "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).
- KKK. "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).
- LLL. "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.
- MMM. "SB 1383 Regulations" means the Short-Lived Climate Pollutants: Organic Waste Reduction regulations developed by Cal Recycle and adopted in 2020 that created 14 CCR, Division 7, Chapter 12 and amended portions of regulations of 14 CCR and 27 CCR.
- NNN. "Self-Hauler" means a person, who hauls Organic Waste he or she has generated to another person.
- OOO. "Single-Family" means of, from, or pertaining to any residential premises with fewer than five (5) units.
- PPP. "Solid Waste" shall mean and include all discarded putrescible and non- putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, rubbish, Construction and Demolition Debris, and any other discarded solid, semisolid, and liquid waste permitted to be disposed of at a Class III landfill and which are included within the definition of "Nonhazardous Solid Waste" set forth in the California Code of Regulations. 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.
- QQQ. "Solid Waste Generator" means a person or entity that is responsible for the initial creation of Solid Waste.
- RRR. "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 Gray Container Waste or other Solid Waste for the purposes of collection and processing.

- SSS. "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).
- TTT. "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.
- UUU. "Source Separated Recyclable Materials" means Source Separated Non-Organic Recyclables and Source Separated Blue Container Organic Waste.
- VVV. "State" means the State of California.
- WWW. "Supermarket" means a full-line, self-service retail store with gross annual sales of two million dollars (\$2,000,000), or more, and which sells a line of dry grocery, canned goods, or nonfood items and some perishable items, or as otherwise defined in 14 CCR Section 18982(a)(71).
- XXX. "Tier One Commercial Edible Food Generator" means a Commercial Edible Food Generator that is one of the following:
1. Supermarket.
 2. Grocery Store with a total facility size equal to or greater than 10,000 square feet
 3. Food Service Provider.
 4. Food Distributor.
 5. Wholesale Food Vendor.
- YYY. "Tier Two Commercial Edible Food Generator" means a Commercial Edible Food Generator that is one of the following:
1. Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.
 2. Hotel with an on-site Food Facility and 200 or more rooms.
 3. Health facility with an on-site Food Facility and 100 or more beds.
 4. Large Venue.
 5. Large Event.
 6. A State agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet.
 7. A Local Education Agency facility with an on-site Food Facility.
- ZZZ. "Uncontainerized Green Waste and Yard Waste Collection Service" or "Uncontainerized Service" means a collection service that collects green waste and yard waste that is placed in a pile or bagged for collection on the street in front of a generator's house or place of business for collection and transport to a facility that recovers Source Separated Organic Waste, or as otherwise defined in 14 CCR Section 189852(a)(75).
- AAAA. " Wholesale Food Vendor" means a business or establishment engaged in the merchant wholesale distribution of food, where food (including fruits and vegetables) is received, shipped, stored, prepared for distribution to a retailer, warehouse, distributor, or other destination, or as otherwise defined in 14 CCR Section 189852(a)(76).

8.11.030 Authorization

The City Administrator, or his or her designee, is hereby authorized to make any determinations, or undertake or arrange for any programs or activities required to implement relevant provisions of SB 1383 Regulations.

8.11.040 Non-Delegable Responsibilities

In undertaking his or her obligations under Section 8.10.030, the City Administrator, or his or her designee, shall have sole responsibility for and may undertake the following determinations, programs, or activities, and in so doing may utilize City personnel.

- A. Granting of approval for self-hauling or waivers from SB 1383 requirements to an Organic Waste Generator.
- B. Applying for waivers from SB 1383 requirements granted by Cal Recycle.
- C. Applying for waivers from SB 1383 requirements granted by Cal Recycle in the event of emergencies or disasters.
- D. Regulating Authorized Collectors for their compliance with relevant SB 1383 Regulations.
- E. Initiating and prosecuting enforcement actions against Organic Waste Generators for violation of this ordinance, including the determination and assessment of penalties.
- F. Procuring of recycled content paper for use by the City.
- G. Adopting CAL Green building codes and adopting a water efficient landscaping ordinance.
- H. Undertaking Organic Waste capacity planning, and Edible Food Recovery capacity planning.
- J. Maintaining and submitting records and reports required by the SB 1383 Regulations.

8.11.050 Delegable Responsibilities

In undertaking his or her obligations under Section 8.10.030, the City Administrator, or his or her designee, may undertake programs or activities implementing relevant provisions of SB 1383 Regulations, and in so doing may utilize City personnel or may make arrangements for these programs or activities with the Authorized Collector, other private or non-profit entities, or through agreements with other jurisdictions, including the following:

- A. Providing for collection of Organic Waste, Solid Waste and Recyclable Materials utilizing a three (3) container, two (2) container or one (1) container collection system, and delivery of collected Organic Waste to an appropriate facility for recovery in accordance with SB 1383 Regulations.
- B. Minimizing container contamination through public education and periodic monitoring of container contents.
- C. Review, analysis, recommendation and tracking related to waiver requests from SB 1383 requirements submitted by Organic Waste Generators.
- D. Providing for container colors and labels in accordance with SB 1383 Regulations.
- E. Providing for operations in the event of emergencies or disasters.
- F. Identifying Commercial Organic Waste Generators and Commercial Edible Food Generators and providing education and outreach regarding SB 1383 Regulations.
- G. Arranging for recovery of Edible Food from Tier One Commercial Edible Food Generators and Tier Two Commercial Edible Food Generators through, among other means, a Food Recovery Organization or Food Recovery Service.
- H. Recovery of Organic Waste generated at Large Events or Large Venues.
- I. Providing information to assist with Organic Waste capacity planning, and Edible Food Recovery capacity planning.
- J. Procuring recovered Organic Waste products
- K. Providing periodic inspections of Organic Waste Generators and investigation of complaints, and creation and maintenance of records regarding such activities.

L. Providing information and other data for purposes of tracking, recordkeeping and reporting in accordance with SB 1383 Regulations. **8.11.060 Generator Requirements**

Owners of Residential or Commercial properties, and other persons utilizing such properties, that are Solid Waste Generators, must subscribe and pay for collection service for Solid Waste, Recyclable Material and Organic Waste, unless waived by the City, or the Solid Waste Generator self-hauls such materials, with City approval. Owners of such properties are responsible for any failure to subscribe and pay for such service, or to undertake other allowable methods of diversion.

8.11.070 Commercial Business and Commercial Organic Waste Generator Requirements

- A. Generators that are Commercial Businesses, including Multi-Family Residential Dwellings, shall:
1. Subscribe to City's three-container collection services and comply with requirements of those services as described below in 8.11.070(A)(2), except Commercial Businesses that meet the Self-Hauler requirements in 8.11.170 of this ordinance. City shall have the right to review the number and size of a generator's containers and frequency of collection to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and Commercial Businesses shall adjust their service level for their collection services as requested by the City.
 2. Except Commercial Businesses that meet the Self-Hauler requirements in 8.11.170 of this ordinance, participate in the City's Organic Waste collection service(s) by placing designated materials in designated containers as described below.
 - a. A three-container collection service (Blue Container, Green Container, and Gray Container)
 - i. Generator shall place Source Separated Green Container Organic Waste, except Food Waste, in the Green Container; Source Separated Recyclable Materials in the Blue Container; and Mixed Waste, including Food Waste, in the Gray Container. Generator shall not place materials designated for the Green Containers or Blue Containers in the Gray Containers.
 3. Supply and allow access to adequate number, size and location of collection containers with sufficient labels or colors (conforming with 8.11.070(4)(a) AND 8.11.070(4)(b) below) for employees, contractors, tenants, and customers, consistent with City's Blue Container, Green Container, and Gray Container collection service or, if self-hauling, per the Commercial Businesses' instructions to support its compliance with its self-haul program, in accordance with 8.11.170.
 4. Excluding Multi-Family Residential Dwellings, provide 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:
 - a. A body or lid that conforms with the container colors provided through the collection service provided by City, with either lids conforming to the color requirements or bodies conforming to the color requirements or both lids and bodies conforming to color requirements. A Commercial Business is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the requirements of the subsection prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first.
 - b. Container labels that include language or graphic images, or both, indicating the primary material accepted and the primary materials prohibited in that container, or containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the container. Pursuant 14 CCR Section 18984.8, the container labeling requirements are required on new containers commencing January 1, 2022.

5. Multi-Family Residential Dwellings are not required to comply with container placement requirements or labeling requirement in 8.11.070(4) pursuant to 14 CCR Section 18984.9(b).
6. 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 City's Blue Container, Green Container, and Gray Container collection service or, if self-hauling, per the Commercial Businesses' instructions to support its compliance with its self-haul program, in accordance with 8.11.170.
7. Excluding Multi-Family Residential Dwellings, periodically inspect Blue Containers, Green Containers, and Gray 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).
8. 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.
9. 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.
10. Provide or arrange access for City or its agent to their properties during all Inspections conducted in accordance with 8.11.140 of this ordinance to confirm compliance with the requirements of this ordinance.
11. Accommodate and cooperate with City's Remote Monitoring program for Inspection of the contents of containers for Prohibited Container Contaminants, which may be implemented at the later date, to evaluate generator's compliance with 8.11.070(4)(b). The Remote Monitoring program shall involve installation of Remote Monitoring equipment on or in the Blue Container, Green Container, and Gray Containers.
12. At Commercial Business's option and subject to any approval required from the City, implement a Remote Monitoring program for Inspection of the contents of its Blue Container, Green Container, and Gray Containers for the purpose of monitoring the contents of containers to determine appropriate levels of service and to identify Prohibited Container Contaminants. Generators may install Remote Monitoring devices on or in the Blue Container, Green Container, and Gray Containers subject to written notification to or approval by the City or its Designee.
13. If a Commercial Business wants to self-haul, meet the Self-Hauler requirements in 8.11.170 of this ordinance.
14. 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).
15. Commercial Businesses that are Tier One or Tier Two Commercial Edible Food Generators shall comply with Food Recovery requirements, pursuant to Section 9.

8.11.080 Commercial Edible Food Generator Requirements

- A. Tier One Commercial Edible Food Generators shall comply with the requirements of this section commencing January 1, 2022. Tier two Commercial Edible Food Generators shall comply with the requirements of this section commencing January 1, 2024.
- B. A Large Venue or Large Event operator that does not provide food services, but allows for food to be provided, 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. A Commercial Edible Food Generator 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 City's designated enforcement entity or designated third party enforcement entity to access the premises and review records pursuant to 14 CCR Section 18991.4.
5. Keep records that include the following information, or as otherwise specified in 14 CCR Section 18991.4:
 - a. A list of each Food Recovery Service or organization that collects or receives its Edible Food pursuant to a contract or written agreement established under 14 CCR Section 18991.3(b).
 - b. A copy of all contracts or written agreements established under 14 CCR Section 18991.3(b).
 - c. A record of the following information for each of those Food Recovery Services or Food Recovery Organizations:
 - (i) The name, address and contact information of the Food Recovery Service or Food Recovery Organization.
 - (ii) The types of food that will be collected by or self-hauled to the Food Recovery Service or Food Recovery Organization.
 - (iii) The established frequency that food will be collected or self-hauled.
 - (iv) The quantity of food, measured in pounds recovered per month, collected or self-hauled to a Food Recovery Service or Food Recovery Organization for Food Recovery.

8.11.90 Residential Edible/Single-Family Food Generator Requirements

- A. Residential Edible Food Generator shall comply with the requirements of this section and Section 8.10.060 commencing January 1, 2024.
- B. Residential Edible Food Generator shall arrange to recover the maximum amount of edible food that would otherwise be disposed.
- C. Single-Family Organic Waste Generators shall comply with the following requirements except Single-Family generator that meet the Self-Hauler requirements in 8.11.170 of this ordinance:
 1. Shall subscribe to City's Organic Waste collection services for all Organic Waste generated as described below in 8.11.090(D)(2). City shall have the right to review the number and size of a generator's containers to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and Single-Family generators shall adjust its service level for its collection services as requested by the City. Generators may additionally manage their Organic Waste by preventing or reducing their Organic Waste, managing Organic Waste on site, and/or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).
 2. Shall participate in the City's Organic Waste collection service(s) by placing designated materials in designated containers as described below and shall not place Prohibited Container Contaminants in collection containers.
 - i. A three- and three-plus-container collection service (Blue Container, Green Container, and Gray Container)
 1. Generator shall place Source Separated Green Container Organic Waste, except Food Waste, in the Green Container; Source Separated Recyclable Materials in the Blue Container; and Mixed Waste, including Food Waste, in the Gray Container. Generator shall not place materials designated for the Green Containers or Blue Containers in the Gray Containers.
- D. Single-Family Organic Waste Generators except Single-Family generators that meet the Self-Hauler requirements in 8.11.170 of this ordinance:
 1. Shall be automatically enrolled in the City's three-container Organic Waste collection services with a minimum Source Separated Recyclable Materials service level of 64 gallons per week, and with a minimum Source Separated Green Container Organic Waste service level of 48 gallons per week, approved by the public works director. City shall have the authority to change this minimum required levels of service over time. City 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, generator shall adjust its service level for its collection services as requested by the City.

2. Shall participate in the City's three-container system for Source Separated Recyclable Materials, Source Separated Green Container organic materials, and Gray Container Waste collection services. Generator participation in the collection programs requires that generators place Source Separated Green Container Organic Waste, including Food Waste, in the Green Container; Source Separated Recyclable Materials in the Blue Container; and Gray Container Waste in the Gray Container. Generators shall not place materials designated for the Gray Container into the Green Container or Blue Container.
3. 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).

8.11.100 Waivers for Generators

- A. De Minimis Waivers. A City may waive a Commercial Business' obligation (including Multi-Family Residential Dwellings) to comply with some or all of the Organic Waste requirements of this ordinance if the Commercial Business provides documentation that the business generates below a certain amount of Organic Waste material as described in 8.11.100(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 8.11.100(A)(2) below.
 2. Provide documentation that either:
 - i. 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,
 - ii. 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.
 3. Notify City if circumstances change such that Commercial Business's Organic Waste exceeds threshold required for waiver, in which case waiver will be rescinded.
 4. Provide written verification of eligibility for de minimis waiver every 5 years, if City has approved de minimis waiver.
- B. Physical Space Waivers. City may 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 City has evidence from its own staff, a hauler, licensed architect, or licensed engineer demonstrating that the premises lacks adequate space for the collection containers required for compliance with the Organic Waste collection requirements of 8.11.070.

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 lacks adequate space for Blue Containers and/or Green Containers including documentation from its hauler, licensed architect, or licensed engineer.
 3. Provide written verification to City that it is still eligible for physical space waiver every five years, if City has approved application for a physical space waiver.
- C. Collection Frequency Waiver. City, at its discretion and in accordance with 14 CCR Section 18984.11(a)(3), may allow the owner or tenant of any residence, premises, business establishment or industry that subscribes to the City's three-, three-plus, or two-container Organic Waste collection service to arrange for the collection of their Blue Container, Gray Container, or both once every fourteen days, rather than once per week.

- D. Review and Approval of Waivers. The City Enforcement Official, or designee will review and approve waivers.

8.11.110 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 City Enforcement Official or representative. Enforcement Actions under this ordinance are issuance of an administrative citation and assessment of a fine. The City'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. City may pursue civil actions in the California courts to seek recovery of unpaid administrative citations. City may choose to delay court action until such time as a sufficiently large number of violations, or cumulative size of violations exist such that court action is a reasonable use of City staff and resources.
- C. Responsible Entity for Enforcement
1. Enforcement pursuant to this ordinance may be undertaken by the City Enforcement Official, which may be the city manager or their designated entity, legal counsel, or combination thereof.
 2. Enforcement may also be undertaken by a Regional or County Agency Enforcement Official, designated by the City, in consultation with City Enforcement Official.
 - a. City Enforcement Official(s) (and Regional or County Agency Enforcement Official, if using) will interpret ordinance; determine the applicability of waivers, if violation(s) have occurred; implement Enforcement Actions; and, determine if compliance standards are met.
 - b. City Enforcement Official(s) (and Regional or County Agency Enforcement Official, if used) may issue Notices of Violation(s).
- D. Process for Enforcement
1. City Enforcement Officials or Regional or County 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 (that may include Remote Monitoring). Section 16 establishes City's right to conduct Inspections and investigations.
 2. City 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, City will issue a Notice of Violation to any generator found to have Prohibited Container Contaminants in a container. Such notice will be provided via a cart tag or other communication immediately upon identification of the Prohibited Container Contaminants or within 10 days after determining that a violation has occurred. If the City observes Prohibited Container Contaminants in a generator's containers on more than three (3) consecutive occasion(s), the City may assess contamination processing fees or contamination penalties on the generator.
 4. With the exception of violations of generator contamination of container contents addressed under 8.11.110(D)(3), City shall issue a Notice of Violation requiring compliance within 60 days of issuance of the notice.
 5. Absent compliance by the respondent within the deadline set forth in the Notice of Violation, City shall commence an action to impose penalties, via an administrative citation and fine, pursuant to the City's guidelines/requirements contained in 8.11.110 (K), Table 1 List of Violations.
Notices shall be sent to "owner" at the official address of the owner maintained by the tax collector for the City 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 for Types of Violations

The penalty levels are as follows:

1. For a first violation, the amount of the base penalty shall be \$100 per violation.
2. For a second violation, the amount of the base penalty shall be \$200 per violation.
3. For a third or subsequent violation, the amount of the base penalty shall be \$500 per violation.

G. Compliance Deadline Extension Considerations

The City may extend the compliance deadlines set forth in a Notice of Violation issued in accordance with 8.11.110 if it finds that there are extenuating circumstances beyond the control of the respondent that make compliance within the deadlines impracticable, including the following:

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

H. Appeals Process

Persons receiving an administrative citation containing a penalty for an uncorrected violation may request a hearing to appeal the citation. A hearing will be held only if it is requested within the time prescribed and consistent with City's procedures in the City's codes for appeals of administrative citations. Evidence may be presented at the hearing. The City will appoint a hearing officer who shall conduct the hearing and issue a final written order.

I. Education Period for Non-Compliance

Beginning January 1, 2022 and through December 31, 2023, City will conduct Inspections, Remote Monitoring, Route Reviews or waste evaluations, and Compliance Reviews, depending upon the type of regulated entity, to determine compliance, and if City 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 January 1, 2022, and that violations may be subject to administrative civil penalties starting on January 1, 2024.

J. Civil Penalties for Non-Compliance

Beginning January 1, 2024, if the City determines that an Organic Waste Generator, Self-Hauler, hauler, Tier One or Tier Two Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance with this ordinance, it shall document the noncompliance or violation, issue a Notice of Violation, and take Enforcement Action pursuant to 8.11.110, as needed.

K. Enforcement Table

Table 1. List of Violations

Requirement	Description of Violation
Commercial Business and Commercial Business Owner Responsibility Requirement 8.11.070	Commercial Business fails to provide or arrange for Organic Waste collection services consistent with City 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.
Organic Waste Generator Requirement 8.11.060,8.11.070,8.11.090	Organic Waste Generator fails to comply with requirements adopted pursuant to this ordinance for the collection and Recovery of Organic Waste.
Hauler Requirement 8.11.070	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 8.11.160	A hauler providing residential, Commercial, or industrial Organic Waste collection service fails to obtain applicable approval issued by the City to haul Organic Waste as prescribed by this ordinance.
Hauler Requirement 8.11.160	A hauler fails to keep a record of the applicable documentation of its approval by the City, as prescribed by this ordinance.
Self-Hauler Requirement 8.11.170	A generator who is a Self-Hauler fails to comply with the requirements of 14 CCR Section 18988.3(b).
Commercial Edible Food Generator Requirement 8.11.180	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 Jan. 1, 2022.
Commercial Edible Food Generator Requirement 8.11.080	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 8.11.080	Tier One 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.
Organic Waste Generator, Commercial Business Owner, Commercial Edible Food Generator, Food Recovery Organization or Food Recovery Service 8.11.070, 8.11.080	Failure to provide or arrange for access to an entity's premises for any Inspection or investigation.
Recordkeeping Requirements for Commercial Edible Food Generator 8.11.080	Tier One or Tier Two Commercial Edible Food Generator fails to keep records, as prescribed by 8.11.080.
Recordkeeping Requirements for Food Recovery Services and Food Recovery Organizations 8.11.150	A Food Recovery Organization or Food Recovery Service that has established a contract or written agreement to collect or receive Edible Food directly from a Commercial Edible Food Generator pursuant to 14 CCR Section 18991.3(b) fails to keep records, as prescribed by 8.11.150.

8.11.120 Model Water Efficient Landscaping Ordinance Requirements

- A. Property owners or their building or landscape designers, including anyone requiring a building or planning permit, plan check, or landscape design review from the City, who are constructing a new (Single-Family, Multi-Family, public, institutional, or Commercial) project with a landscape area greater than 500 square feet, or rehabilitating an existing landscape with a total landscape area greater than 2,500 square feet, shall comply with Sections 492.6(a)(3)(B) (C), (D), and (G) of the MWELO, including sections related to use of Compost and mulch as delineated in this 8.11.160.
- B. The following Compost and mulch use requirements that are part of the MWELO are now also included as requirements of this ordinance. Other requirements of the MWELO are in effect and can be found in 23 CCR, Division 2, Chapter 2.7.
- C. Property owners or their building or landscape designers that meet the threshold for MWELO compliance outlined in 8.11.120(A) above shall:
 - 1. Comply with Sections 492.6 (a)(3)(B)(C),(D) and (G) of the MWELO, which requires the submittal of a landscape design plan with a soil preparation, mulch, and amendments section to include the following:
 - a. For landscape installations, Compost at a rate of a minimum of four cubic yards per 1,000 square feet of permeable area shall be incorporated to a depth of six (6) inches into the soil. Soils with greater than six percent (6%) organic matter in the top six (6) inches of soil are exempt from adding Compost and tilling.
 - b. For landscape installations, a minimum three- (3-) inch layer of mulch shall be applied on all exposed soil surfaces of planting areas except in turf areas, creeping or rooting groundcovers, or direct seeding applications where mulch is contraindicated. To provide habitat for beneficial insects and other wildlife up to five percent (5%) of the landscape area may be left without mulch. Designated insect habitat must be included in the landscape design plan as such.
 - c. Organic mulch materials made from recycled or post-consumer materials shall take precedence over inorganic materials or virgin forest products unless the recycled post-consumer organic products are not locally available. Organic mulches are not required where prohibited by local fuel modification plan guidelines or other applicable local ordinances.
 - 2. The MWELO compliance items listed in this Section are not an inclusive list of MWELO requirements; therefore, property owners or their building or landscape designers that meet the threshold for MWELO compliance outlined in 8.11.120(a) shall consult the full MWELO for all requirements.
- D. If, after the adoption of this ordinance, the California Department of Water Resources, or its successor agency, amends 23 CCR, Division 2, Chapter 2.7, Sections 492.6(a)(3)(B) (C), (D), and (G) of the MWVELO September 15, 2015 requirements in a manner that requires Citys to incorporate the requirements of an updated MWELO in a local ordinance, and the amended requirements include provisions more stringent than those required in this Section, the revised requirements of 23 CCR, Division 2, Chapter 2.7 shall be enforced.

8.11.130 Procurement Requirements for City Departments, Direct Service Providers, and Vendors

- A. City departments, and direct service providers to the City, as applicable, must comply with the City's Recovered Organic Waste Product procurement policy, and Recycled-Content Paper procurement policy, both of which will be adopted no later than March 31, 2021.
- B. All vendors providing Paper Products and Printing and Writing Paper shall:
 - 1. If fitness and quality are equal, provide Recycled-Content Paper Products and Recycled-Content Printing and Writing Paper that consists of at least 30 percent, by fiber weight, postconsumer fiber instead of non-recycled products whenever recycled Paper Products and Printing and Writing Paper are available at the same or lesser total cost than non-recycled items.

2. Provide Paper Products and Printing and Writing Paper that meet Federal Trade Commission recyclability standard as defined in 16 Code of Federal Regulations (CFR) Section 260.12.
3. Certify in writing, under penalty of perjury, the minimum percentage of postconsumer material in the Paper Products and Printing and Writing Paper offered or sold to the City. This certification requirement may be waived if the percentage of postconsumer material in the Paper Products, Printing and Writing Paper, or both can be verified by a product label, catalog, invoice, or a manufacturer or vendor internet website.
4. Certify in writing, on invoices or receipts provided, that the Paper Products and Printing and Writing Paper offered or sold to the City is eligible to be labeled with an unqualified recyclable label as defined in 16 Code of Federal Regulations (CFR) Section 260.12 (2013).
5. Provide records to the City's Recovered Organic Waste Product procurement recordkeeping Designee, in accordance with the City's Recycled-Content Paper procurement policy(ies) of all Paper Products and Printing and Writing Paper purchases within thirty (30) days of the purchase (both recycled-content and non-recycled content, if any is purchased) made by any division or department or employee of the City. Records shall include a copy (electronic or paper) of the invoice or other documentation of purchase, written certifications as required in 8.11.130(B)(3) and 8.11.130(B)(4) of this ordinance for recycled-content purchases, purchaser name, quantity purchased, date purchased, and recycled content (including products that contain none), and if non-recycled content Paper Products or Printing and Writing Papers are provided, include a description of why Recycled-Content Paper Products or Printing and Writing Papers were not provided.

8.11.140 Inspections and Investigations by City

City 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. For the purposes of inspecting Commercial Business containers for compliance with 8.11.070 (2) of this ordinance, City may conduct container Inspections for Prohibited Container Contaminants using Remote Monitoring, and Commercial Business shall accommodate and cooperate with the Remote Monitoring pursuant to 8.11.070 (11) of this ordinance. (Optional)

Regulated entity shall provide or arrange for access during all Inspections (with the exception of residential property interiors) and shall cooperate with the City'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; (ii) installation and operation of Remote Monitoring equipment (optional); or (ii) access to records for any Inspection or investigation is a violation of this ordinance and may result in penalties described.

- A. Any records obtained by a City during its Inspections, Remote Monitoring, and other reviews shall be subject to the requirements and applicable disclosure exemptions of the Public Records Act as set forth in Government Code Section 6250 et seq.
- B. City representatives, its designated entity, and/or Designee are authorized to conduct any Inspections, Remote Monitoring, or other investigations as reasonably necessary to further the goals of this ordinance, subject to applicable laws.
- C. City shall receive written complaints from persons regarding an entity that may be potentially non-compliant with SB 1383 Regulations, including receipt of anonymous complaints.

8.11.150 Requirements for Food Recovery Organizations and Services, City, and Regional Agencies

- 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. Food Recovery Organizations and Food Recovery Services that have their primary address physically located in the City and contract with or have written agreements with one or more Commercial Edible Food Generators pursuant to 14 CCR Section 18991.3(b) shall report to the City the total pounds of Edible Food recovered in the previous calendar year from the Tier One and Tier Two Commercial Edible Food Generators they have established a contract or written agreement with pursuant to 14 CCR Section 18991.3(b) no later than March 1 of each year.

8.11.160 Requirements for Haulers and Facility Operators

- A. Requirements for Haulers.
 - 1. An Exclusive Franchised Hauler providing residential, Commercial, or industrial Organic Waste collection services to generators within the City's boundaries shall meet the following requirements and standards as a condition of approval of a contract, agreement, or other authorization with the City to collect Organic Waste:
 - a. Through written notice to the City annually on or before March 1, identify the facilities to which they will transport Organic Waste including facilities for Source Separated Recyclable Materials, Source Separate Green Container Organic Waste, and Mixed Waste.
 - b. Transport Source Separated Recyclable Materials, Source Separated Green Container Organic Waste, and Mixed 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 City to haul Organic Waste, unless it is transporting Source Separated Organic Waste to a Community Composting site or lawfully transporting C&D in a manner that complies with 14 CCR Section 18989.1, Section 13 of this ordinance, and City's C&D ordinance.
 - 2. An Exclusive Franchised Hauler authorization to collect Organic Waste shall comply with education, equipment, signage, container labeling, container color, contamination monitoring, reporting, and other requirements contained within its franchise agreement, permit, license, or other agreement entered into with City.

- 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 City request, provide information regarding available and potential new or expanded capacity at their facilities, operations, and activities, including information about throughput and permitted capacity necessary for planning purposes. Entities contacted by the City shall respond within 60 days.
2. Community Composting operators, upon City request, shall provide information to the City to support Organic Waste capacity planning, including, but not limited to, an estimate of the amount of Organic Waste anticipated to be handled at the Community Composting operation. Entities contacted by the City shall respond within 60 days.

8.11.170 Self-Hauler Requirements

- A. Self-Haulers shall source separate all recyclable materials and Organic Waste (materials that City otherwise requires generators to separate for collection in the City'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 City. 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 8.11.170 (c) to City if requested.
- E. A residential Organic Waste Generator that self-hauls Organic Waste is not required to record or report information in 8.11.170 (C) and (D).

Section 2. Severability. If any section, subsection, sentence, clause, phrase, or word of this Ordinance is, for any reason, deemed or held to be invalid or unconstitutional by the decision of any court of competent City, or preempted by legislative enactment, such decision or legislation shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of McFarland hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or word thereof, regardless of the fact that any one or more sections, subsections, clauses, phrases, or word might subsequently be declared invalid or unconstitutional or preempted by subsequent legislation.

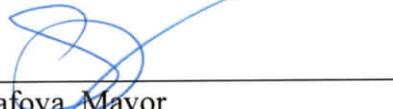
Section 3. Effective Date. This Ordinance shall January 1, 2022.

Section 4. Certification; Publication. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

INTRODUCED at the regular meeting of the City Council of the City of McFarland, California on the 9th day of December 2021.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of McFarland, California on the 22nd day of December 2021, by the following vote:

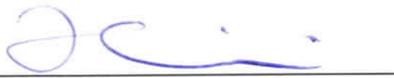
	Aye	Nae	Abstain	Absent
Sally Tafoya	X			
Maria T. Perez				X
Saul Ayon	X			
Ricardo Cano	X			



Sally Tafoya, Mayor

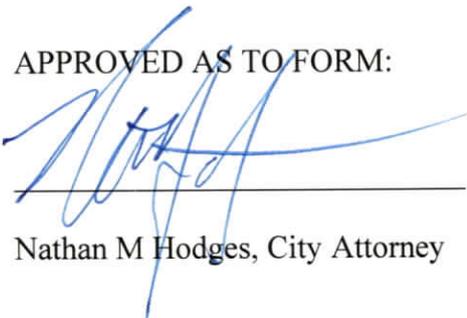
I hereby certify that the foregoing Ordinance was duly and regularly adopted by the City Council of the City of McFarland by a regular meeting thereof held on December 22nd, 2021.

ATTEST:



Francisca Alvarado, City Clerk

APPROVED AS TO FORM:



Nathan M Hodges, City Attorney

Posted: December 28, 2021