

**REGIONAL WASTE MANAGEMENT AUTHORITY
ORDINANCE NO. 22-1**

MANDATORY ORGANIC WASTE DISPOSAL REDUCTION ORDINANCE

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MANDATORY ORGANIC WASTE DISPOSAL REDUCTION ORDINANCE

The Board of Directors of the Regional Waste Management Authority hereby ordains as follows:

SECTION 1. PURPOSE AND FINDINGS

- (a) State recycling law, Assembly Bill 939 of 1989, the California Integrated Waste Management Act of 1989 (California Public Resources Code Section 40000, et seq., as amended, supplemented, superseded, and replaced from time to time), requires cities and counties to reduce, reuse, and recycle (including composting) solid waste generated in their cities and counties to the maximum extent feasible before any incineration or landfill disposal of waste, to conserve water, energy, and other natural resources, and to protect the environment.
- (b) 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 and counties, residential households, Commercial Businesses and property 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.
- (c) SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016, requires cities and counties to adopt and enforce an ordinance or enforceable mechanism to implement relevant provisions of the 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.
- (d) The County of Sutter, County of Yuba, City of Live Oak, City of Marysville, City of Wheatland and City of Yuba City entered into a Joint Powers Agreement on July 1, 1990, establishing the Bi-County Integrated Waste Management Authority to jointly address the provision of waste management services including the planning for future provision of said services on a regional basis rather than individually; the Joint Powers Agreement was amended July 1, 1994 to add the City of Gridley and to change the name of the agency to the Regional Waste Management Authority; the Joint Powers Agreement was amended again on July 1, 2001 to delete the City

of Gridley as a party to the agreement; and, the adopted Fourth Amended and Restated Regional Waste Management Authority Joint Powers Agreement became effective on November 1, 2021. The Fourth Amended and Restated Regional Waste Management Authority Joint Powers Agreement delegates the Regional Waste Management Authority to act on behalf of each of the member agencies for compliance with specific provisions of SB 1383, including coordinating, administering and/or implementing certain organic waste collection and diversion programs and the edible food recovery program, including the associated education and outreach, monitoring, record keeping and reporting and enforcement programs. The powers and authority of the Regional Waste Management Authority were expanded to include the adoption, amendment and enforcement of some or all ordinances governing compliance with the Senate Bill 1383 regulatory compliance requirements by organic waste generators, haulers, commercial edible food generators and other subject entities.

- (e) The County of Sutter, County of Yuba, City of Live Oak, City of Marysville, City of Wheatland and City of Yuba City also entered into a Regional Agency Formation Agreement on May 1, 1995, as last amended November 1, 2021, specifically to form a Regional Agency for purposes of combining disposal and diversion quantities for determining compliance with the California Integrated Waste Management Act of 1989; to allow for the efficient operation of diversion programs on a region-wide basis; to develop regional planning documents; and, to assign responsibility for any civil penalties incurred pursuant to the California Integrated Waste Management Act of 1989 to the Regional Waste Management Authority.
- (f) Requirements in this ordinance are intended to be consistent with and read in harmony with federal, state, and local law, and other adopted ordinances, agreements, goals and policies of the Regional Waste Management Authority and its Member Agencies. To the extent this ordinance is inconsistent with or preempted by federal, state, or local law, such federal, state or local law shall control.
- (g) This ordinance will be reevaluated periodically, and may be amended or repealed as the Board of Directors of the Regional Waste Management Authority deems necessary.
- (h) This ordinance is not a project under the California Environmental Quality Act of 1970, together with related State CEQA Guidelines (collectively, CEQA) because it has no potential for resulting in physical change in the environment, either directly or ultimately. In the event that this ordinance is found to be a project under CEQA,

it is subject to the CEQA exemptions contained in 14 CCR Sections 15061(b)(3) and 15308 because it can be seen with certainty that the action will not have a significant impact on the environment and this ordinance is an action taken by a regulatory agency for the protection of the environment.

SECTION 2. TITLE OF ORDINANCE

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

SECTION 3. DEFINITIONS

- (a) “Bin” means a metal or plastic container, with a capacity of one (1) cubic yard up to, and including, eight (8) cubic yards, designed or intended to be mechanically dumped into a loader packer type truck.
- (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 California cities and counties (and others).
- (c) “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) “C&D” means construction and demolition debris.
- (e) “Cart” means a heavy plastic receptacle with a rated capacity of at least thirty-two (32) gallons and not more than ninety-six (96) gallons, having a hinged, tight-fitting lid and wheels.
- (f) “Commercial Business” or “Commercial” means a firm, partnership, proprietorship, joint-stock company, corporation, or association, whether for-profit or nonprofit, strip mall, industrial facility, or a Multi-Family Residential Dwelling.
- (g) “Commercial Edible Food Generator” includes a Tier One or a Tier Two Commercial Edible Food Generator as defined herein or as otherwise defined in 14 CCR Section 18982(a)(73) and (a)(74). For the purposes of this definition, Food Recovery Organizations and Food Recovery Services are not Commercial Edible Food Generators pursuant to 14 CCR Section 18982(a)(7).

- (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 one hundred (100) cubic yards and seven hundred fifty (750) square feet, as specified in 14 CCR Section 17855(a)(4); or, as otherwise defined by 14 CCR Section 18982(a)(8).
- (i) “Compactor” means a mechanical apparatus that compresses materials together within the Container that holds the compressed materials or the Container that holds the compressed materials if it is detached from the mechanical compaction apparatus. Compactors include two (2) to eight (8) cubic yard Bin Compactors serviced by front-end loader collection vehicles and ten (10) to fifty (50) cubic yard Drop Box Compactors serviced by roll-off collection vehicles.
- (j) “Compliance Review” means a review of records by the Regional Waste Management Authority, Regional Waste Management Authority Enforcement Official, and/or Designee(s) to determine compliance with this ordinance.
- (k) “Container” means Bins, Carts, Compactors, and Drop Boxes.
- (l) “Container Contamination” means a Container, regardless of type, that contains Contamination.
- (m) “Contamination (or any variation thereof)” means the inclusion in any Container of materials in any amount not permitted pursuant to the Member Agency’s solid waste collection program. Contamination (or any variation thereof) also means the inclusion of materials other than Organic Materials in an Organic Materials Container or materials other than Recyclable Materials in a Recyclable Materials Container, which render more than ten percent (10%) of the contents of the Container materially unsuitable for the intended type of diversion.
- (n) “Designee” means an entity that the Regional Waste Management Authority contracts with or otherwise arranges to carry out any of the Regional Waste Management Authority’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.
- (o) “Drop Box” means Containers with a typical capacity of eight (8) to forty (40) cubic yards that are serviced by a roll-off collection vehicle.
- (p) “Edible Food” means food intended for human consumption, or as otherwise defined in 14 CCR Section 18982(a)(18). 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.

- (q) "Enforcement Action" means an action of the Member Agency to address non-compliance with this ordinance including, but not limited to, issuing administrative citations, fines, penalties, or using other remedies.
- (r) "Food Distributor" means a company that distributes food to entities including, but not limited to, Supermarkets and Grocery Stores, or as otherwise defined in 14 CCR Section 18982(a)(22).
- (s) "Food Facility" has the same meaning as in Section 113789 of the State Health and Safety Code.
- (t) "Food Recovery" means actions to collect and distribute food for human consumption that otherwise would be disposed, or as otherwise defined in 14 CCR Section 18982(a)(24).
- (u) "Food Recovery Organization" means an entity that engages in the collection or receipt of Edible Food from Commercial Edible Food Generators and distributes that Edible Food to the public for Food Recovery either directly or through other entities or as otherwise defined in 14 CCR Section 18982(a)(25), including, but not limited to:
 - (1) A food bank as defined in Section 113783 of the State Health and Safety Code;
 - (2) A nonprofit charitable organization as defined in Section 113841 of the State Health and Safety code; and,
 - (3) A nonprofit charitable temporary food facility as defined in Section 113842 of the State Health and Safety Code.

A Food Recovery Organization is not a Commercial Edible Food Generator for the purposes of this ordinance and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7).

If the definition in 14 CCR Section 18982(a)(25) for Food Recovery Organization differs from this definition, the definition in 14 CCR Section 18982(a)(25) shall apply to this ordinance.

- (v) "Food Recovery Service" means a person or entity that collects and transports Edible Food from a Commercial Edible Food Generator to a Food Recovery

Organization or other entities for Food Recovery, or as otherwise defined in 14 CCR Section 18982(a)(26). A Food Recovery Service is not a Commercial Edible Food Generator for the purposes of this ordinance and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7).

- (w) “Food 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) “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).
- (y) “Hauler Route” means the weekly designated itinerary or sequence of stops for each segment of the Member Agencies’ collection service area, or as otherwise defined in 14 CCR Section 18982(a)(31.5).
- (z) “Health facility” has the same meaning as in Section 1250 of the State Health and Safety Code.
- (aa) “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).
- (bb) “Inspection” means a paper, electronic or on-site review of records, Containers, and an entity’s collection, handling, recycling, or landfill disposal of Organic Waste or Edible Food handling to determine if the entity is complying with requirements set forth in this ordinance, or as otherwise defined in 14 CCR Section 18982(a)(35).
- (cc) “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.

- (dd) “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.
- (ee) “Local Education Agency” means a school district, charter school, or county office of education that is not subject to the control of the Regional Waste Management Authority, city or county regulations related to solid waste, or as otherwise defined in 14 CCR Section 18982(a)(40).
- (ff) “Low-Population Census Tract Areas With Approved Waivers” means those Census Tract areas for which applications for low-population waivers are approved by CalRecycle as provided for in 14 CCR Section 18984(a).
- (gg) “Member Agency” or “Member Agencies” means the County of Sutter, County of Yuba, City of Live Oak, City of Marysville, City of Wheatland and/or City of Yuba City which provide solid waste collection services.
- (hh) “Multi-Family Residential Dwelling” or “Multi-Family” means of, from, or pertaining to residential premises with five (5) or more dwelling units with shared Bin service. Multi-Family does not include hotels, motels, or other transient occupancy facilities; such uses are considered other types of Commercial Businesses.
- (ii) “Non-Local Entity” means the following entities that are not subject to the Regional Waste Management Authority’s enforcement authority, or as otherwise defined in 14 CCR Section 18982(a)(42):
 - (1) Special district(s) located within the boundaries of the Member Agencies.

- (2) Federal facilities, including military installations, located within the boundaries of the Member Agencies.
 - (3) Prison(s) located within the boundaries of the Member Agencies, except for private prisons which are considered to be Commercial Businesses.
 - (4) Facilities operated by the State park system located within the boundaries of the Member Agencies.
 - (5) Public universities (including community colleges) located within the boundaries of the Member Agencies.
 - (6) County fairgrounds located within the boundaries of the Member Agencies.
 - (7) State agencies located within the boundaries of the Member Agencies.
- (jj) “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).
- (kk) “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.
- (ll) “Organic Materials Collection Program” means the respective Member Agency’s collection program for vegetative matter resulting from normal yard and landscaping maintenance (i.e., plant debris, such as yucca and cactus, ivy, grass clippings, leaves, pruning, weeds, branches and brush); holiday trees (without stands, flocking or ornamentation); kitchen and table food scraps; animal, fruit, grain, dairy, fish, or vegetable waste that is generated during or results from the storage, preparation, cooking, or handling of food stuffs; and, non-recyclable paper or discarded paper that is contaminated with food scraps and is ink-free, as may be amended from time to time.
- (mm) “Organic Waste” means those solid waste materials containing material originated from living organisms and their metabolic waste products, including but not limited to food, green material, landscape and pruning waste, un-treated lumber, wood, paper products, printing and writing paper that are accepted in the Member Agencies’ Organic Materials, Recyclable Materials and Construction and Demolition Debris (C&D) Containers.

- (nn) "Organic Waste Generator" means a person or entity that is responsible for the initial creation of Organic Waste.
- (oo) "Recovery" means any activity or process described in 14 CCR Section 18983.1(b).
- (pp) "Recyclable Materials Collection Program" means the respective Member Agency's collection program for newspaper (including inserts, coupons, and store advertisements); mixed paper (including office paper, computer paper, magazines, junk mail, catalogs, brown paper bags, brown paper, paperboard, paper egg cartons, telephone books, grocery bags, colored paper, construction paper, envelopes, legal pad backings, shoe boxes, cereal and other similar food boxes); chipboard; corrugated cardboard; glass containers, all colors; aluminum (including beverage containers, foil, food containers, small pieces of scrap metal); scrap metal weighing less than ten (10) pounds (without cords or chains and fitting into the Container); steel, tin or bi-metal cans; plastic containers, (numbers 1 to 7) and in addition those materials added or removed from the respective Member Agency's program from time to time.
- (qq) "Regional Agency" means regional agency as defined in State Public Resources Code Section 40181.
- (rr) "Regional Waste Management Authority " means the agency created by a Joint Powers Authority Agreement as last amended November 1, 2021, and as may be amended from time to time.
- (ss) "Regional Waste Management Authority Enforcement Official" means the Executive Director or their authorized Designee(s) who is/are partially or wholly responsible for enforcing this ordinance.
- (tt) "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).
- (uu) "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).
- (vv) "SB 1383" means Senate Bill 1383 of 2016, the Short-lived Climate Pollutant Reduction Act of 2016.

- (ww) “SB 1383 Regulations” means 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.
- (xx) “Self-Hauler” (or any variation thereof) means a person, who hauls solid waste, Organic Waste or Non-Organic Recyclable material they have generated to another person, as may be allowed under the “Limitations to the Scope of Exclusive Agreement” provisions of the respective Member Agency’s Collection Service Agreement or Collection Services Franchise Agreement with a hauler. Self-hauler also includes a person who back-hauls such materials. “Back-haul” means a Commercial Business generating and transporting Organic Waste to a destination owned and operated by the generator using the generator’s own employees and equipment.
- (yy) “Single-Family” means of, from, or pertaining to any residential premises with fewer than five (5) dwelling units.
- (zz) “Special district” has the same meaning as Section 41821.2 of the State Public Resources Code.
- (aaa) “State” means the State of California.
- (bbb) “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).
- (ccc) “Tier One Commercial Edible Food Generator” means a Commercial Edible Food Generator that is one of the following:
- (1) Supermarket.
 - (2) Grocery Store with a total facility size equal to or greater than 10,000 square feet.
 - (3) Food Service Provider.
 - (4) Food Distributor.
 - (5) Wholesale Food Vendor.

If the definition in 14 CCR Section 18982(a)(73) of Tier One Commercial Edible Food Generator differs from this definition, the definition in 14 CCR Section 18982(a)(73) shall apply to this ordinance.

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

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

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

(eee) “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

Except those Single-Family generators located in Low-Population Census Tract Areas With Approved Waivers, Single-Family Organic Waste Generators shall:

- (a) Separate and Self-Haul Organic Waste per the requirements in Section 10 of this ordinance or participate in their respective Member Agency’s Organic Materials Collection Program and Recyclable Materials Collection Program for all Organic Waste generated as described below in Section 4(b). The Regional Waste Management Authority Enforcement Official shall have the right to review the

number and size of a generator's containers to evaluate the adequacy of capacity provided for each type of collection service and to review the proper separation of materials and containment of materials.

- (b) Except Single-Family generators that Self-Haul Organic Waste per the requirements in Section 10 of this ordinance, participate in their respective Member Agency's Recyclable Material Collection Program and Organic Materials Collection Program by placing designated materials in the respective designated Containers, and shall not place Contaminants in collection Containers or Organic Waste and Non-Organic Recyclables in solid waste Containers.
- (c) Nothing in the 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), and in compliance with applicable state and local laws, regulations and ordinances.

SECTION 5. REQUIREMENTS FOR COMMERCIAL BUSINESSES

Commercial Business Organic Waste Generators (including Multi-Family Residential Dwelling Organic Waste Generators) shall:

- (a) Separate and Self-Haul Organic Waste per the requirements in Section 10 of this ordinance or subscribe to their respective Member Agency's Recyclable Material Collection Program and/or Organic Material Collection Program for all Organic Waste generated and comply with requirements of those services as described below in Section 5(b), except Commercial Businesses that have been granted a waiver pursuant to Section 6 of this ordinance or those Commercial Businesses located in Low-Population Census Tract Areas With Approved Waivers. The Regional Waste Management Authority Enforcement Official shall have the right to review the number and size of a generator's containers and frequency of collection to evaluate the adequacy of capacity provided for each type of collection service and to review the proper separation of materials and containment of materials.
- (b) Participate in their respective Member Agency's Recyclable Material Collection Program and/or Organic Material Collection Program by placing designated materials in the respective designated Containers, and not place Contaminants in collection Containers or Organic Waste and Non-Organic Recyclables in solid waste Containers, except Commercial Businesses that meet the Self-Hauler requirements in Section 10 of this ordinance, have been granted a waiver pursuant

to Section 6 of this ordinance, or those Commercial Businesses located in Low-Population Census Tract Areas With Approved Waivers.

- (c) Supply and allow access to adequate number, size and location of collection containers with sufficient labels or colors (conforming with Sections 5(d)(1) and 5(d)(2) below) for employees, contractors, tenants, and customers, consistent with the respective Member Agency's Recyclable Materials Collection Program, Organic Materials Collection Program, and solid waste collection services or, if Self-Hauling, per the Commercial Business' instructions to support its compliance with its Self-Haul program, in accordance with Section 10.
- (d) Provide containers for the collection of materials collected in the respective Member Agency's Recyclable Materials Collection Program and Organic Materials Collection Program in all indoor and outdoor areas where disposal containers are provided for customers, for materials generated by that business, excluding Multi-Family Residential Dwellings. 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 and/or lid that is blue for Recyclable Materials and green for Organic Materials, although Commercial Businesses are not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the requirements of 14 CCR Section 18984.9(b)(1)(A) prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first.
 - (2) Container labels that include language or graphic images, or both, indicating the primary material accepted and the primary materials prohibited in that container, or containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the container. Pursuant 14 CCR Section 18984.8, the container labeling requirements are required on new containers commencing January 1, 2022.
- (e) To the extent practical through education, training, inspection, and/or other measures, prohibit employees from placing materials in a container not designated for those materials per the respective Member Agency's Recyclable Materials Collection Program, Organic Materials Collection Program, and solid waste collection services or, if Self-Hauling, per the Commercial Business' instructions to

support its compliance with its Self-Haul program, in accordance with Section 10, excluding Multi-Family Residential Dwellings.

- (f) Periodically inspect Recyclable Materials Collection Program Containers, Organic Materials Collection Program Containers, and solid waste collection 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), excluding Multi-Family Residential Dwellings.
- (g) Annually provide information to employees, contractors, tenants, and customers about Organic Waste Recovery requirements and about proper sorting of materials for the respective Member Agency's Recyclable Materials Collection Program and Organic Materials Collection Program.
- (h) Provide education information before or within fourteen (14) days of occupation of the premises to new tenants that describes requirements to keep materials collected in the respective Member Agency's Recyclable Materials Collection Program and Organic Materials Collection Program separate from other solid waste materials (when applicable) and the location of Containers and the rules governing their use at each property.
- (i) Provide or arrange access for Inspections conducted in accordance with Section 11 of this ordinance to confirm compliance with the requirements of this ordinance.
- (j) Meet the Self-Hauler requirements in Section 10 of this ordinance, if a Commercial Business wants to Self-Haul.
- (k) Nothing in the 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), and in compliance with applicable state and local laws, regulations and ordinances.

SECTION 6. WAIVERS FOR GENERATORS

(a) De Minimis Waivers

The Regional Waste Management Authority Enforcement Official may waive a Commercial Business' (including Multi-Family Residential Dwelling's) obligation 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 Section 6(a)(2) below. A Commercial Business requesting a de minimis waiver shall:

- (1) Submit an application specifying the service or requirements for which it is requesting a waiver.
 - (2) Provide documentation that either:
 - (A) The Commercial Business' total solid waste collection service is two cubic yards or more per week and Organic Waste subject to collection in a Recyclable Materials Collection Program Container comprises less than twenty (20) gallons per week of the business' total waste per week and/or Organic Waste subject to collection in an Organic Materials Collection Program Container comprises less than 20 gallons per week of the business' total waste per week; 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 Recyclable Materials Collection Program Container comprises less than ten (10) gallons per week of the business' total waste per week and/or Organic Waste subject to collection in an Organic Materials Collection Program Container comprises less than 10 gallons per week of the business' total waste per week.
 - (C) For purposes of subsections (A) and (B) above, total solid waste collection service shall be the sum of weekly container capacity measured in cubic yards for the Recyclable Materials Collection Program, Organic Materials Collection Program and solid waste collection services.
 - (3) Notify the Regional Waste Management Authority Enforcement Official if circumstances change such that the Commercial Business' Organic Waste exceeds thresholds required for the de minimis waiver, in which case the waiver will be rescinded.
 - (4) Provide written verification of eligibility for de minimis waiver every five years, if the Regional Waste Management Authority Enforcement Official has approved a de minimis waiver.
- (b) Physical Space Waivers

The Regional Waste Management Authority Enforcement Official may waive a Commercial Business' or property owner's (including Multi-Family Residential Dwelling's) obligations to comply with some or all of the Recyclable Materials Collection Program and/or Organic Materials Collection Program service

requirements if the Regional Waste Management Authority has evidence from its own staff, a hauler, licensed architect, or licensed engineer demonstrating that the premises lacks adequate space for the collection containers required for compliance with the Organic Waste collection requirements of Section 5.

A Commercial Business or property owner requesting a physical space waiver shall:

- (1) Submit an application 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 Recyclable Materials Collection Program Containers and/or Organic Materials Collection Program Containers including documentation from its hauler, licensed architect, or licensed engineer.
- (3) Notify the Regional Waste Management Authority Enforcement Official if circumstances change such that the Commercial Business' physical space configuration(s) change, in which case the waiver will be rescinded.
- (4) Provide written verification to the Regional Waste Management Authority that it is still eligible for physical space waiver every five years, if the Regional Waste Management Authority has approved 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 January 1, 2022, and Tier Two Commercial Edible Food Generators must comply commencing January 1, 2024, pursuant to 14 CCR Section 18991.3.
- (b) Large Venue or Large Event operators not providing food services, but allowing for food to be provided by others, shall require Food Facilities operating at the Large Venue or Large Event to comply with the requirements of this Section, commencing January 1, 2024.
- (c) Commercial Edible Food Generators shall comply with the following requirements:
 - (1) Arrange to recover for human consumption 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) Not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery Organization or a Food Recovery Service.
- (4) Allow the Regional Waste Management Authority Enforcement Official 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.
- (d) Nothing in this ordinance shall be construed to limit or conflict with (1) the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share table and school food donation guidance pursuant to Senate Bill 557 of 2017 (approved by the Governor of the State of

California on September 25, 2017, which added Article 13 [commencing with Section 49580] to Chapter 9 of Part 27 of Division 4 of Title 2 of the State Education Code, and to amend Section 114079 of the State Health and Safety Code, relating to food safety, as amended, supplemented, superseded and replaced from time to time); or (2) otherwise applicable food safety and handling laws and regulations.

SECTION 8. REQUIREMENTS FOR FOOD RECOVERY ORGANIZATIONS AND FOOD RECOVERY 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) Food Recovery Organizations and Food Recovery Services that have their primary address physically located in one or more of the Member Agencies 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 Regional Waste Management Authority 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 31st for the previous calendar year.

- (d) Food Recovery Capacity Planning. In order to support Edible Food Recovery capacity planning assessments and similar studies, Food Recovery Services and Food Recovery Organizations operating in one or more of the Member Agencies shall provide, upon request, information and consultation to the Regional Waste Management Authority and/or its Designee(s), regarding existing, or proposed new or expanded, Food Recovery capacity that could be accessed by Commercial Edible Food Generators within the Member Agencies. A Food Recovery Service or Food Recovery Organization contacted by the Regional Waste Management Authority and/or its Designee(s) shall respond to such request for information within 60 days, unless a shorter timeframe is otherwise specified by the Regional Waste Management Authority.

SECTION 9. REQUIREMENTS FOR HAULERS AND FACILITY OPERATORS

- (a) Requirements for Haulers
 - (1) Exclusive franchised haulers providing residential, Commercial, or industrial Organic Waste collection services to generators within the respective Member Agencies' boundaries shall meet the following requirements and standards:
 - (A) Through written notice to the Regional Waste Management Authority, identify the facilities to which the hauler will transport Organic Waste including facilities for materials collected in the respective Member Agencies' Recyclable Materials Collection Program and Organic Materials Collection Program, unless such facilities are specified in the hauler's franchise agreement or contract with the respective Member Agency(ies).
 - (B) Transport materials collected in the respective Member Agencies' Recyclable Materials Collection Program and Organic Materials Collection Program to a facility, operation, activity, or property that

recovers Organic Waste as defined in 14 CCR, Division 7, Chapter 12, Article 2.

- (2) Self-Haulers shall comply with the requirements of Section 10.
 - (3) Nothing in this Section is applicable to haulers transporting Organic Waste to a Community Composting site in a manner otherwise consistent with law, or lawfully transporting C&D in a manner that complies with 14 CCR Section 18989.1, and the respective Member Agencies' ordinances.
- (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 provide, upon request, information to the Regional Waste Management Authority, Regional Waste Management Authority Enforcement Official and/or Designee(s), 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 shall respond to such request for information within sixty (60) days.
 - (2) Community Composting operators shall provide, upon request, information to the Regional Waste Management Authority, Regional Waste Management Authority Enforcement Official and/or Designee(s), 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 shall respond to such request for information within sixty (60) days.

SECTION 10. REQUIREMENTS FOR SELF-HAULERS

Except for Self-Haul activities transporting Organic Waste to a Community Composting site; lawfully transporting C&D in a manner that complies with 14 CCR Section 18989.1(a)(2) regarding projects covered by the CALGeen Building Standards Code as determined by the respective Member Agency; or, for Self-Haul activity from within Low-Population Census Tract Areas With Approved Waivers:

- (a) Self-Haulers shall source separate all materials generated on-site that would be collected separately in the respective Member Agency's Recyclable Materials Collection Program, Organic Waste Collection Program, and solid waste collection

program, 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 Organic Waste materials that would be collected separately in the respective Member Agency's Recyclable Materials Collection Program and Organic Materials Collection Program to a facility, operation, activity, or property that processes or recovers those respective Organic Waste materials. Alternatively, Self-Haulers may haul Organic Waste to a High Diversion Organic Waste Processing Facility as specified in 14 CCR Section 18984.3.
- (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 facility, operation, activity, or property that processes or recovers Organic Waste; this record shall be subject to Inspection by the Regional Waste Management Authority Enforcement Official. 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 Residential Dwellings) shall provide information collected in Section 10(c) to the Regional Waste Management Authority Enforcement Official if requested. Entities shall respond to such request for information within sixty (60) days.
- (e) A Single-Family Organic Waste Generator that self-hauls Organic Waste is not required to record or report information in Section 10(c) and 10(d).

SECTION 11. INSPECTIONS AND INVESTIGATIONS

- (a) The Regional Waste Management Authority Enforcement Official is authorized to conduct Inspections and investigations, at random or otherwise, of any collection container, collection vehicle loads, or transfer, processing, or disposal facility for materials collected from generators, or source separated materials, to confirm compliance with this ordinance by Organic Waste Generators, Commercial

Businesses (including Multi-Family Residential Dwellings), 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 entry in the interior of a private residential property for Inspection.

- (b) Regulated entities shall provide or arrange for access during all Inspections (with the exception of residential property interiors) and shall cooperate with the Regional Waste Management Authority Enforcement Official during such Inspections and investigations. Such Inspections and investigations may include confirmation of proper placement of materials in containers, inspection of Edible Food Recovery activities, review of required records, or other verifications or Inspections to confirm compliance with any other requirement of this ordinance. Failure of the regulated entity 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 in Section 12.
- (c) Any records obtained by the Regional Waste Management Authority or its Designee(s) during 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) The Regional Waste Management Authority Enforcement Official is authorized to conduct any Inspections or other investigations as reasonably necessary to further the goals of this ordinance, subject to applicable laws.
- (e) The Regional Waste Management Authority Enforcement Official shall receive written complaints from persons regarding an entity that may be potentially non-compliant with this ordinance, including receipt of anonymous complaints.

SECTION 12. ENFORCEMENT

- (a) Beginning January 1, 2024, with the exception of violations of the Container Contamination provisions of Sections 4(b) and 5(b) of this ordinance, violation of any provision of this ordinance shall constitute grounds for issuance of a Notice of Violation and assessment of a fine by the Regional Waste Management Authority Enforcement Official. Enforcement Actions under this ordinance are issuance of an administrative citation and assessment of a fine. The Regional Waste Management Authority's procedures on imposition of administrative citations and fines, as modified from time to time, shall govern the imposition, enforcement, collection, and review of administrative citations and fines issued to enforce this

ordinance and any rule or regulation adopted pursuant to this ordinance, except as otherwise indicated in this ordinance.

- (b) Other remedies allowed by law may be used, including a civil action or prosecution as misdemeanor or infraction. The Regional Waste Management Authority may pursue civil actions in the California courts to seek recovery of unpaid administrative citations and fines. The Regional Waste Management Authority 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 Regional Waste Management Authority staff and resources.
- (c) Responsible Entity for Enforcement
 - (1) Enforcement pursuant to this ordinance may be undertaken by the Regional Waste Management Authority Enforcement Official, which may be their designated entity, legal counsel, or combination thereof.
- (d) Process for Enforcement
 - (1) The Regional Waste Management Authority Enforcement Official will monitor compliance with the ordinance randomly and through Compliance Reviews, Route Reviews, investigation of complaints, and an Inspection program. Section 11 establishes the Regional Waste Management Authority's right to conduct Inspections and investigations.
 - (2) The Regional Waste Management Authority Enforcement Official may issue an official notification to notify regulated entities of its obligations under the SB 1383 Regulations and this ordinance.
 - (3) The Regional Waste Management Authority Enforcement Official may issue a Notice of Violation requiring compliance within 60 days of issuance of the notice.
 - (4) Absent compliance by the respondent within the deadline set forth in the Notice of Violation, or provision of information otherwise documenting compliance, the Regional Waste Management Authority Enforcement Official may commence an action to impose penalties, via an administrative citation and fine, pursuant to the Regional Waste Management Authority's procedures.

Notices shall be sent to "owner" at the official address of the owner maintained by the tax collector for the respective Member Agency 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 Violations

Pursuant to 14 CCR Section 18997.2, the Regional Waste Management Authority is required to impose penalties for violations of the requirements of this ordinance consistent with the applicable requirements prescribed in State Government Code Sections 53069.4, 25132, and 36900. 14 CCR Section 18997.2 establishes ranges of penalties and the Regional Waste Management Authority selected the lowest penalty amounts for each range as follows:

- (1) For a first violation, the amount of the base penalty shall be \$50 per violation.
- (2) For a second violation, the amount of the base penalty shall be \$100 per violation.
- (3) For a third or subsequent violation, the amount of the base penalty shall be \$250 per violation.
- (4) After issuance of a Notice of Violation and expiration of the time set forth to come into compliance pursuant to Section 12(d)(3) of this Ordinance, each day a violation exists after expiration of the time set forth in the Notice of Violation, shall be a separate violation for which an additional penalty may be assessed for each and every day.

(f) Compliance Deadline Extension Considerations

The Regional Waste Management Authority Enforcement Official may extend the compliance deadlines set forth in a Notice of Violation issued in accordance with Section 12 if it finds that there are extenuating circumstances beyond the control of the respondent that make compliance within the deadlines impracticable, including the following:

- (1) Acts of nature such as earthquakes, wildfires, flooding, and other emergencies or natural disasters;
- (2) Delays in obtaining discretionary permits or other government agency approvals; or,
- (3) Deficiencies in Organic Waste recycling infrastructure or Edible Food Recovery capacity and the Regional Waste Management Authority and/or

respective Member Agency is under a corrective action plan with CalRecycle pursuant to 14 CCR Section 18996.2 due to those deficiencies.

(g) Education Period for Non-Compliance

Beginning January 1, 2022 and through December 31, 2023, the Regional Waste Management Authority Enforcement Official will conduct Inspections, Route Reviews or waste evaluations, and Compliance Reviews, depending upon the type of regulated entity, to determine compliance, and if the Regional Waste Management Authority Enforcement Official 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.

(h) Civil Penalties for Non-Compliance

Beginning January 1, 2024, if the Regional Waste Management Authority Enforcement Official 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 may document the noncompliance or violation, issue a Notice of Violation, and take Enforcement Action pursuant to Section 12, as needed.

SECTION 13. SEVERABILITY

If any provision of this ordinance or the application thereof is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such invalidity shall not affect the remaining provisions or application of the remaining provisions of this ordinance, which can be given effect without the invalid provisions or application. The Board of Directors of the Regional Waste Management Authority hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, portion, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared illegal, invalid or unconstitutional.

SECTION 14. NO VESTED RIGHTS CREATED OR IMPLIED

This Ordinance does not create directly, or indirectly, or imply any right to claim any vested right.

SECTION 15. EFFECTIVE DATE

This Ordinance shall take effect thirty (30) days after adoption as provided in State Government Code Section 36937.

PASSED AND ADOPTED by the Regional Waste Management Authority Board of Directors this 20th day of January, 2022, by the following vote:

AYES: Directors Bains, Blaser (Alternate for Vasquez), Buttacavoli, Pendergraph, Shaw and Woten

NOES: None

ABSENT: Director Vasquez

ABSTAIN: None

ATTEST:

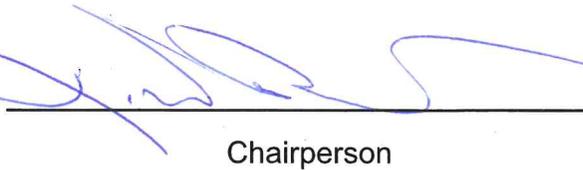
REGIONAL WASTE MANAGEMENT AUTHORITY
BY ITS BOARD OF DIRECTORS

By:



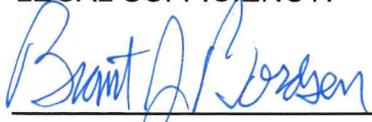
Janet Frye, Board Clerk

By:



Chairperson

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:



Brant J. Bordsen, Counsel for the
Regional Waste Management Authority