

ORDINANCE NO. 781

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COMMERCE, CALIFORNIA, AMENDING THE COMMERCE MUNICIPAL CODE BY ENACTING A NEW CHAPTER 6.12 (“ORGANIC WASTE DISPOSAL REDUCTION”) TO TITLE 6 (“HEALTH AND SANITATION”)

WHEREAS, the City of Commerce, California (“City”) is a municipal corporation, duly organized under the constitution and laws of the State of California; and

WHEREAS, Senate Bill (SB) 1383 (Chapter 395, Statutes of 2016) directed the California Department of Resources Recycling and Recovery (“CalRecycle”) to adopt regulations to reduce organic waste by 50 percent from its 2014 baseline level by 2020 and 75 percent by 2025; and

WHEREAS, SB 1383 also requires the regulations to recover, for human consumption, at least 20 percent of edible food that is currently thrown away; and

WHEREAS, CalRecycle promulgated regulations as directed in SB 1383 in Chapter 12 (Short-Lived Climate Pollutants) of Division 7 of Title 14 of the California Code of Regulations (the “SB 1383 Regulations”); and

WHEREAS, the SB 1383 Regulations take effect January 1, 2022, and require the City to adopt an Ordinance to enforce the SB 1383 Regulations by said date; and

WHEREAS, the City Council desires to add an Organic Waste Collection Ordinance to comply with the SB 1383 Regulations.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COMMERCE DOES ORDAIN AS FOLLOWS:

SECTION 1: Chapter 6.12 (“Organic Waste Disposal Reduction”) of Title 6 (“Health and Sanitation”) of the Commerce Municipal Code is hereby added to read as follows:

“CHAPTER 6.12”

ORGANIC WASTE DISPOSAL REDUCTION

Sections:

- 6.12.010 Definitions.
- 6.12.020 Requirements for Single-Family Generators (Standard Compliance Approach).
- 6.12.030 Requirements for Commercial Businesses (Standard Compliance Approach).
- 6.12.040 Waivers for Generators.
- 6.12.050 Requirements for Commercial Edible Food Generators.
- 6.12.060 Requirements for Food Recovery Organizations and Services.
- 6.12.070 Requirements for Haulers and Facility Operators.
- 6.12.080 Self-Hauler Requirements.
- 6.12.090 Inspections and Investigations.
- 6.12.100 Enforcement.

6.12.010. Definitions.

As used in this Chapter, the following definitions shall apply. For purposes of this Chapter, these definitions shall supersede any other definitions of the same terms in this Code.

“Blue Container” has the same meaning as in 14 CCR § 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 Waste.

“California Code of Regulations” or “CCR” means the State of California Code of Regulations.

“CalRecycle” means California's Department of Resources Recycling and Recovery.

“City” means the City of Commerce, California.

“Commercial” or “Commercial Business” means a business, industrial, commercial establishment or construction site, and any multiple-family, residential dwelling with five (5) units or more on one (1) account.

“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 § 17855(a)(4); or, as otherwise defined by 14 CCR § 18982(a)(8).

“Compliance Review” means a review of records by the City to determine compliance with this chapter.

“Container” means a cart, bin, roll-off, compactor or similar receptacle used to temporarily store solid waste, organics or recyclables for collection service.

“Container Contamination” or “Contaminated Container” means a container, regardless of color, that contains Prohibited Container Contaminants, or as otherwise defined in 14 CCR § 18982(a)(55).

“Designated Source Separated Organic Waste Facility” shall have the same definition as 14 CCR § 18982(14.5).

“Designee” means an entity that the City contracts with or otherwise arranges to carry out any of the City's responsibilities as authorized in 14 CCR § 18981.2. A Designee may be a government entity, a hauler, a private entity, or a combination of those entities.

“Edible Food” means food intended for human consumption, or as otherwise defined in 14 CCR § 18982(a)(18). “Edible Food” is not Solid Waste if it is recovered and not discarded.

“Enforcement Action” means an action of the City to address non-compliance including, but not limited to, issuing administrative citations, fines, penalties, or using other remedies.

“Enforcement Officer” means the city manager, county administrative official, chief operating officer, executive director, public works director or other executive in charge or their authorized Designee(s) who is/are partially or whole responsible for enforcing this chapter.

“Food Recovery” means actions to collect and distribute food for human consumption that otherwise would be disposed, or as otherwise defined in 14 CCR § 18982(a)(24).

“Food Recovery Organization” means an entity that engages in the collection or receipt of Edible Food from Commercial Edible Food Generators and distributes that Edible Food to the public for Food Recovery either directly or through other entities or as otherwise defined in 14 CCR § 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.

“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 § 18982(a)(26).

“Food Waste” means food scraps separated from Solid Waste and offered for collection by Franchisee, that will decompose and/or putrefy including (i) all kitchen and table food waste, and animal or vegetable waste that attends or results from the storage, preparation, cooking or handling of food stuffs, and (ii) paper waste contaminated with food waste.

“Generator” or “Waste Generator” means a person or entity that is responsible for the initial creation of waste.

“Gray Container” has the same meaning as in 14 CCR § 18982.2(a)(28) and shall be used for the purpose of storage and collection of Gray Container Waste.

“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 §§ 18984.1(a)-(b), or as otherwise defined in 14 CCR § 17402(a)(6.5).

“Green Container” has the same meaning as in 14 CCR § 18982.2(a)(29) and shall be used for the purpose of storage and collection of Source Separated Green Container Organic Waste.

“Green Waste” means any and all forms of biodegradable plant material which can be placed in a covered Container, such as wastes generated from the maintenance or alteration of public, commercial or residential landscapes including, but not limited to, yard clippings, leaves, tree trimmings, pruning’s, brush, and weeds as well as green waste. Tree stumps and limbs greater than three (3) inches in diameter are excluded unless they are reduced to a chipped form; otherwise, such large portions of Green Waste shall be considered Bulky Waste.

“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 § 18982(a)(30).

“High Diversion Organic Waste Processing Facility” means a facility that is in compliance with the reporting requirements of 14 CCR § 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 § 18815.5(e) for Organic Waste received from the “Mixed waste organic collection stream” as defined in 14 CCR § 17402(a)(11.5); or, as otherwise defined in 14 CCR § 18982(a)(33).

“Inspection” means a site visit where a City reviews records, containers, and an entity’s collection, handling, recycling, or landfill disposal of Organic Waste or

Edible Food handling to determine if the entity is complying with requirements set forth in this chapter, or as otherwise defined in 14 CCR § 18982(a)(35).

“Integrated Waste Collection” means the collection of Source Separated Green Container Organic Waste in the Green Container, Source Separated Recyclable Materials in the Blue Container; and Gray Container Waste in the Gray Container.

“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.

“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. 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. 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.

“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 § 18982(a)(40).

“Mixed Waste Organic Collection Stream” or “Mixed Waste” means Organic Waste collected in a container that is required by 14 CCR §§ 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 § 17402(a) (11.5).

“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.

“Notice of Violation” or “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 § 18982(a)(45) or further explained in 14 CCR § 18995.4

“Organics,” “Organic Waste,” and “Organic Material.” means solid wastes containing material originated from living organisms and their metabolic waste products, including, but not limited to, Food Waste, Green Waste, non-hazardous wood waste, and unwaxed food-soiled paper.

“Organic Waste Generator” means a person or entity that is responsible for the initial creation of Organic Waste, or as otherwise defined in 14 CCR § 18982(a)(48).

“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 § 18982(a)(51).

“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 § 18982(a)(54).

“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 the City’s Green Container and/or Blue Container; and, (iv) non-Solid Waste items placed in any container.

“Recovered Organic Waste Products” means products made from California, landfill-diverted recovered Organic Waste processed in a permitted or otherwise authorized facility, or as otherwise defined in 14 CCR § 18982(a)(60).

“Recovery” means any activity or process described in 14 CCR § 18983.1(b), or as otherwise defined in 14 CCR § 18982(a)(49).

“Recyclable Material” means material such as, but not limited to, paper, cardboard, glass, metal and aluminum cans, and plastics which is separated from other waste or refuse for the purpose of recycling.

“Recycling” means the process of collecting and turning used products into new products by reprocessing or remanufacturing them.

“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 § 18982(a)(61).

“Remote Monitoring” means the use of the internet of things 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.

“Residential” Any residential dwelling or apartment house.

“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 § 18982(a)(65).

“SB 1383” means Senate Bill 1383 of 2016 approved by the California Governor on September 19, 2016.

“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.

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

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

“Solid Waste” means all putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, construction and demolition wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge that is not hazardous waste, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes. Solid waste does not include hazardous, radioactive waste or medical waste.

“Source Separating” or “Source Separation” means the process of removing recyclable materials from solid waste at the place of generation, prior to collection, and placing them into separate containers that are separately designated for recyclable materials.

“Source Separated Blue Container Waste” means Source Separated 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 14 CCR § 18982(a)(43), or as otherwise defined by 14 CCR § 17402(a)(18.7).

“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 Waste, carpets, non-compostable Paper, and textiles.

“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 § 18982(a)(71).

“Tier One Commercial Edible Food Generator” means a Commercial Edible Food Generator that is one of the following:

1. Supermarket.
2. Grocery Store with a total facility size equal to or greater than 10,000 square feet.
3. Food Service Provider.
4. Food Distributor.
5. Wholesale Food Vendor.

“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.

“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 § 189852(a)(76).

6.12.020 Requirements for Single-Family Generators (Standard Compliance Approach).

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

1. Shall subscribe to the City's Organic Waste collection services for all Organic Waste generated as described below in Section 6.12.020(A)(2). The 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 through backyard residential composting, and/or using a community composting site.

2. Shall participate in the City's Organic Waste collection service(s) by placing designated materials in designated containers.

6.12.030 Requirements for Commercial Businesses (Standard Compliance Approach).

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

1. Subscribe to the City's licensed haulers designated container/bin collection service(s) and comply with requirements of those services as described below in Section 6.12.030(A)(2). The City shall have the right to review the number and size of a generator's containers/bins 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. Participate in the City's licensed haulers designated container/bin collection service(s) by placing Source Separated Organic Waste, Source Separated Recyclable Waste, and Trash Container Waste into the applicable colored bins. Generator shall not place materials designated for the Trash Container/Bin into the Organic Waste or Recyclable Waste Container/Bin, nor place materials designated for the Organic Waste or Recyclable Waste Container/Bin into the Trash Container/Bin.

3. Supply and allow access to an adequate number, size and location of collection containers/bins with sufficient labels or colors (conforming with Section 6.12.030(A)(4)(a)-(b) for employees, contractors, tenants, and customers, consistent with the City's licensed haulers designated container/bin collection service(s) or, if self-hauling, per the Commercial Businesses' instructions to support its compliance with its self-haul program, in accordance with Sections 6.11.060 and 6.11.080.

4. Excluding Multi-Family Residential Dwellings, provide containers/bins for the collection of Source Separated Container Organic Waste and Source Separated Recyclable Materials in all indoor and outdoor areas where disposal containers/bins are provided for customers, for materials generated by that business. Such containers/bins 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/bin, then the business does not have to provide that particular container/bin in all areas where disposal containers are provided for customers. Pursuant to 14 CCR § 18984.9(b), the containers provided by the business shall have either:

a. A body or lid that conforms with the container/bin colors provided through the collection service provided by the City's licensed haulers, 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/bins, including containers/bins 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/bins, or prior to January 1, 2036, whichever comes first.

b. Container/bin labels that include language or graphic images, or both, indicating the primary material accepted and the primary materials prohibited in that container/bin, or containers/bins with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the container/bin. Pursuant 14 CCR § 18984.8, the container/bin labeling requirements are required on new containers/bins commencing January 1, 2022.

5. Multi-Family Residential Dwellings are not required to comply with container/bin placement requirements or labeling requirements in Section 6.12.030(A)(4) pursuant to 14 CCR § 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/bin not designated for those materials in accordance with Section 6.12.030(A)(2), or if recycling organics onsite or self-hauling under Section 6.11.060 per the Commercial Businesses' instructions to support its compliance with its onsite recycling or self-haul program.

7. Excluding Multi-Family Residential Dwellings, periodically inspect containers/bins for contamination and inform employees if containers/bins are contaminated and of the requirements to keep contaminants out of those containers/bins pursuant to 14 CCR § 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 Organic Waste Container/Bin 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 Organic Waste Container/Bin and Source Separated Recyclable Materials separate from Trash Container/Bin Waste (when applicable) and the location of containers/bins and the rules governing their use at each property.

10. Provide or arrange access for the City or its agent to their properties during all inspections conducted in accordance with Section 6.12.090 to confirm compliance with the requirements of this Chapter.

11. Accommodate and cooperate with City's Remote Monitoring program for inspection of the contents of containers/bins for Prohibited Container/Bin Contaminants, to evaluate generator's compliance with Section 6.12.030(A)(2). The Remote Monitoring program shall involve installation of Remote Monitoring equipment on all designated Containers/Bins.

12. If a Commercial Business wants to self-haul, meet the Self-Hauler requirements in Sections 6.11.060 and 6.11.080.

13. Nothing in this section prohibits a generator from preventing or reducing waste generation, managing Organic Waste on site, or using a community composting site.

14. Commercial Businesses that are Tier One or Tier Two Commercial Edible Food Generators shall comply with Food Recovery requirements, pursuant to 6.12.050.

6.12.040 Waivers for Generators.

A. De Minimis Waivers. The City may waive a Commercial Business' obligation (including Multi-Family Residential Dwellings) to comply with some or all of the Organic Waste requirements if the Commercial Business provides documentation that the business generates below a certain amount of Organic Waste material as described in Section 6.12.040(A)(2) below. Commercial Businesses requesting a de minimis waiver shall:

1. Submit an exemption waiver form specifying the services that they are requesting a waiver from and provide documentation as noted in Section 6.12.040(A)(2) below.

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 Blue Container or Green Container comprises less than 20 gallons per week per applicable container of the business' total waste; or

b. The Commercial Business' total Solid Waste collection service is less than two cubic yards per week and Organic Waste subject to collection in a Blue Container or Green Container comprises less than 10 gallons per week per applicable container of the business' total waste.

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 the City has approved de minimis waiver.

B. Physical Space Waivers. The 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.

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 the City that it is still eligible for physical space waiver every five years, if the City has approved application for a physical space waiver.

C. Additional Waivers. The City may provide any additional waivers of the requirements of this chapter to the extent permitted by applicable law. The Public Works Director or his or her designee shall be responsible for determining the grounds for the waiver, its scope, and appropriate administration.

D. Review and Approval of Waivers by City. Review and approval of waivers will be the responsibility of the Public Works Director or his or her designee.

6.12.050 Requirements for Commercial Edible Food Generators.

A. Tier One Commercial Edible Food Generators must comply with the requirements of this section commencing January 1, 2022, and Tier Two Commercial Edible Food Generators must comply commencing January 1, 2024.

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

2. Allow the City's designated enforcement entity or designated third party enforcement entity to access the premises and review records pursuant to 14 CCR § 18991.4.

3. Keep records that include the following information, or as otherwise specified in 14 CCR § 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 § 18991.3(b).

b. A copy of all contracts or written agreements established under 14 CCR § 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 chapter shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share table and school food donation guidance pursuant to Senate Bill 557, Chapter 557, Statutes of 2017.

6.12.060 Requirements for Food Recovery Organizations and Services.

A. Food Recovery Services collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement

established under 14 CCR § 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR § 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 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 § 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR § 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 § 18991.3(b) shall report to the City it is located in 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 § 18991.3(b) no later than March 1, July 1, and September 1 annually.

D. Food Recovery Capacity Planning

1. Food Recovery Services and Food Recovery Organizations. In order to support Edible Food Recovery capacity planning assessments or other studies, Food Recovery Services and Food Recovery Organizations operating in the City shall provide information and consultation to the City, upon request, regarding existing, or proposed new or expanded, Food Recovery capacity that could be accessed by the City and its Commercial Edible Food Generators. A Food Recovery Service or Food Recovery Organization contacted by the City shall respond to such request for information within 60 days, unless a shorter timeframe is otherwise specified by the City.

6.12.070 Requirements for Haulers and Facility Operators.

A. Requirements for Haulers

1. Haulers shall meet the following requirements and standards as a condition of approval of a permit or other authorization with the City to collect Organic Waste.

a. Through written notice to the City annually on or before June 1, identify the facilities to which they will transport Organic Waste including facilities for Source Separated Recyclable Materials, and Source Separated Green Container Organic Waste.

b. Transport Source Separated Recyclable Materials or 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 construction and demolition debris.

2. Haulers authorized to collect Organic Waste shall comply with education, equipment, signage, container labeling, container color, contamination monitoring, reporting, and other requirements contained within its permit or other agreement entered into with the 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 the City's 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 the City's 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.

6.12.080 Self-Hauler Requirements.

A. Self-Haulers shall source separate all recyclable materials and Organic Waste generated on-site from Solid Waste in a manner consistent with 14 CCR §§ 18984.1 and 18984.2, or shall haul Organic Waste to a High Diversion Organic Waste Processing Facility.

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 Section 6.12.090(C) to the City if requested.

E. A residential Organic Waste Generator that self-hauls Organic Waste is not required to record information in Section 6.12.090(C) or report information in Section 6.12.090(D).

6.12.090 Inspections and Investigations.

A. 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 chapter by Organic Waste Generators, Commercial Businesses (including Multi-Family Residential Dwellings), property owners, Commercial Edible Food Generators, Self-Haulers, hauler, Food Recovery Service, and Food Recovery Organizations, subject to applicable laws. This Section does not allow the City to enter the interior of a private residential property for Inspection. For the purposes of inspecting Commercial Business containers for compliance with Sections 6.12.030, the City may conduct container Inspections for Prohibited Container Contaminants using Remote Monitoring, and Commercial Businesses shall accommodate and cooperate with the Remote Monitoring pursuant to Sections 6.12.030.

B. The 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 described herein. Failure to provide or arrange for: (i) access to an entity's premises; or (ii) access to records for any Inspection or investigation is a violation of this chapter and may result in penalties described in Section 6.12.100.

C. Any records obtained by the 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.

D. 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 chapter, subject to applicable laws.

E. 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.

6.12.100 Enforcement.

A. Violation of any provision of this Chapter shall constitute grounds for issuance of a Notice of Violation and assessment of a fine by a Enforcement Officer. Enforcement Actions under this Chapter are issuance of an administrative citation and assessment of a fine. The procedures in this Chapter shall govern the imposition, enforcement, collection, and review of administrative citations issued to enforce this Chapter and any rule or regulation adopted pursuant to this chapter, except as otherwise indicated in this Chapter.

B. Other remedies allowed by law may be used, including civil action or prosecution as misdemeanor or infraction. City may pursue civil actions in the California courts to seek recovery of unpaid administrative citations.

C. 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 \$50 to \$100 per violation.
2. For a second violation, the amount of the base penalty shall be \$100 to \$200 per violation.
3. For a third or subsequent violation, the amount of the base penalty shall be \$250 to \$500 per violation.

D. Factors Considered in Determining Penalty Amount.

The following factors shall be used to determine the amount of the penalty for each violation within the appropriate penalty amount range:

1. The nature, circumstances, and severity of the violation(s).
2. The violator's ability to pay.
3. The willfulness of the violator's misconduct.
4. Whether the violator took measures to avoid or mitigate violations of this chapter.
5. Evidence of any economic benefit resulting from the violation(s).
6. The deterrent effect of the penalty on the violator.

E. Appeals Process.

Persons receiving an administrative citation containing a penalty for an uncorrected violation may request a hearing to appeal the citation pursuant to Section 6.11.100.

F. Education Period for Non-Compliance.

Beginning January 1, 2022 and through December 31, 2023, the 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 the 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 Chapter and a notice that compliance is required by January 1, 2022, and that violations may be subject to administrative civil penalties starting on January 1, 2024.

G. 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 Chapter, it shall document the noncompliance or violation, issue a Notice of Violation, and take Enforcement Action pursuant to this Chapter.

H. Civil Penalties for Non-Compliance.

This Chapter shall be interpreted consistent with the City's regulatory authority and shall only apply to local education agencies and other state or federal entities to the extent permitted by law, including SB 1383 Regulations.

SECTION 2. Severability.

If any section, subsection, paragraph, sentence, clause or phrase of this Chapter is declared by a court of competent jurisdiction to be unconstitutional of otherwise invalid, such decision shall not affect the validity of the remaining portions of this Chapter. The City Council declares that it would have adopted this Chapter, and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, phrases, or portions be declared invalid or unconstitutional.


SECTION 3. Effective Date.

This Ordinance shall become effective thirty (30) calendar days from and after its adoption.

SECTION 4. Publication.

The City Clerk shall attest to the adoption of this Ordinance and shall cause this Ordinance to be posted in the manner required by law.

PASSED, APPROVED AND ADOPTED this 7th day of December, 2021.


Leonard Mendoza
Mayor

ATTEST:


Lena Shumway
City Clerk