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CalRecycle

SB 1383 Implementation Tools

Model Mandatory Organic Waste Disposal Reduction Ordinance

**DRAFT**

**DATE**

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# Disclaimer

This Model Tool is for informational and example purposes only. It should not merely be duplicated without consideration of an individual jurisdiction’s particular needs or circumstances. It is not intended to cover each and every situation, nor can it anticipate specific needs. In developing this Model Tool, CalRecycle and its consultants (HF&H Consultants in conjunction with Debra Kaufman Consulting) have attempted to ensure that the language herein aligns with the SB 1383 regulations; however, in the event of any conflict, the language in the regulations shall prevail over language in the Model Tool and determination of regulatory intent and interpretation should be appropriately guided by the regulatory language and the official rulemaking record of which this Model Tool is not a component. CalRecycle and its consultants make no representation that use of this Model Tool will ensure compliance with regulatory requirements. This Model Tool does not constitute legal advice. Jurisdictions are encouraged to seek legal counsel appropriate to their particular circumstances regarding compliance with regulatory requirements.

SB 1383 regulations do not dictate that jurisdictions use this Model Ordinance or other ordinance to establish an enforceable mechanism to regulate entities compliance with SB 1383 requirements and standards. Jurisdictions may use an ordinance or other enforceable mechanisms as appropriate pursuant to SB 1383 regulations (14 CCR Section 18981.2(a)).

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GUIDANCE ON THE MODEL MANDATORY ORGANIC WASTE DISPOSAL REDUCTION ORDINANCE

The California Department of Resources Recycling and Recovery (CalRecycle) oversees a variety of programs and policy initiatives to reduce the amount of solid waste sent to landfills and promote recycling in California, including organic waste recycling under SB 1383. SB 1383, as enacted in 2017 (Lara, Chapter 395, Statutes of 2016), establishes statewide targets to reduce the statewide disposal of organic waste by 50 percent by 2020 and 75 percent by 2025; and requires that not less than 20 percent of edible food that is currently disposed be recovered for human consumption by 2025. For the purposes of this document, “SB 1383 regulations” or “SB 1383 regulatory” requirements refer to the Short-Lived Climate Pollutants (SLCP): Organic Waste Reductions regulations developed by CalRecycle and adopted in 2020 that created Chapter 12 of Title 14, Division 7 of the California Code of Regulations (CCR), and amended portions of regulations of Title 14 CCR and Title 27 CCR. The SB 1383 regulations set forth a variety of programmatic and policy-related requirements for jurisdictions, generators, and other entities to support the Statewide goals of SB 1383.

To support jurisdictions and other regulated entities with implementing programs and policies to reach compliance with SB 1833 regulations, CalRecycle offers four Model Implementation Tools including a Model Franchise Agreement, Model Mandatory Organic Waste Disposal Reduction Ordinance, Model Recovered Organic Waste Product Procurement Policy, and Model Food Recovery Agreement. These tools are available for jurisdictions to use and customize to meet their unique needs.

INTRODUCTION

This Guidance supports the use of the Model Mandatory Organic Waste Disposal Reduction Ordinance (Model). The Model was created recognizing that jurisdictions throughout the State are required by SB 1383 regulations to adopt an ordinance or other similarly enforceable mechanism by January 1, 2022, to mandate that organic waste generators, haulers, and other entities subject to the requirements of SB 1383 regulations and subject to the jurisdiction’s authority, comply with SB 1383 regulatory requirements. The Model supports establishment of enforceable SB 1383-related requirements for organic waste generators, haulers, and other entities subject to the jurisdiction’s authority. It also provides a tool for jurisdictions to regulate those entities’ compliance with SB 1383 regulations. Some jurisdictions may choose to adopt such an ordinance or amend an existing ordinance earlier than January 1, 2022. While a jurisdiction may designate a public or private entity to fulfill some of its SB 1383 regulatory responsibilities via contracts or written agreements, the jurisdiction itself remains responsible for its SB 1383 compliance and enforcing other entities’ compliance with the SB 1383 regulatory items contained in the ordinance. Under SB 1383 regulations, the jurisdiction is also not allowed to delegate the authority to impose civil penalties to a private entity.

Note: SB 1383 regulations do not dictate that jurisdictions use this Model Ordinance or other ordinance to establish an enforceable mechanism to regulate entities’ compliance with SB 1383 regulatory requirements and standards. Jurisdictions may use an ordinance or other enforceable mechanisms as appropriate, pursuant to SB 1383 regulations (14 CCR Section 18981.2(a)).

The Model includes and addresses the SB 1383 regulatory requirements that jurisdictions need to enforce on other entities, including requirements for generators to participate in organic waste collection programs or self-haul organic waste to processing; multi-family and business owners and property managers to support organic waste disposal reduction; commercial edible food generators to recover edible food through contracts or written agreements with food recovery organizations and services; and more. There are other SB 1383 regulatory requirements placed on the jurisdictions that are not included in this Model that may be enforced by CalRecycle on the jurisdiction (and others) including certain recordkeeping, contamination monitoring, procurement, and outreach requirements. These other jurisdictional requirements of SB 1383 regulations may need to be addressed in the jurisdiction’s ordinance or separately from their ordinance via incorporation into jurisdiction’s other internal policies, guidance, municipal code, and/or other planning documents and guidelines.

Jurisdictions should consult with their legal counsel to determine the best avenue for incorporating these other requirements into their relevant policies, codes, and practices. For example, procurement requirements specified in 14 CCR, Division 7, Chapter 12, Article 12 are presented in the Model Procurement Policy; however, some jurisdictions may determine that some or all of the procurement requirements should be addressed in their ordinance. In such case, the ordinance shall be expanded beyond the scope provided herein to incorporate additional procurement requirements.

The Model has been developed to provide an easy-to-use and highly customizable template for creating an ordinance. The guidance provided herein highlights important considerations to keep in mind when using the Model; customization strategies to adapt the Model to fit jurisdictions’ unique conditions, and includes tips and list of additional resources. The jurisdiction may use this model ordinance in its entirety or use only relevant parts of the ordinance.

IMPORTANT CONSIDERATIONS

* **New Ordinance or Amendment of Existing Ordinance.** The Model is designed to be highly customizable for jurisdictions, providing options to address a range of program and policy choices. It can be used by jurisdictions drafting a new ordinance and those amending an existing ordinance. If jurisdictions are amending an existing ordinance, example provisions from the Model can be integrated into their existing ordinance. Jurisdictions should be mindful of the fact that this Model is intended to focus on SB 1383 regulatory requirements. A jurisdiction may choose to integrate additional provisions into its ordinance to: (i) provide more clarification on how regulated entities are expected to comply; (ii) expand beyond the SB 1383 regulatory requirements; and/or (iii) include other solid waste handling and diversion requirements.
* **SB 1383 Regulatory Requirements**. Each jurisdiction is responsible for understanding and achieving compliance with SB 1383 regulations. Use of the Model Ordinance does not exempt a jurisdiction from complying with all SB 1383 regulatory requirements. The Model Ordinance includes example language that supports compliance with some, but not all SB 1383 regulatory requirements. The Model Ordinance is designed to enable the jurisdiction to require and enforce provisions that SB 1383 regulations require jurisdictions to require and enforce. It does not include the requirements on the jurisdiction itself, which CalRecycle will be enforcing on the jurisdiction, including recordkeeping, contamination monitoring, recovered organic waste product procurement target attainment, and outreach and education. It is advised that jurisdictions thoroughly review the SB 1383 regulations and take necessary actions to ensure full compliance.

In instances where language from the SB 1383 regulations are incorporated into the Model Ordinance, the language is shown in blue font. The SB 1383 regulation-specific content in blue font follows closely with SB 1383 regulatory language; however, in many cases, the wording of SB 1383 regulatory requirements was adapted to fit the context of the Model Ordinance, conform with defined terms, or be framed with sufficient detail for the Model Ordinance. Additional information on SB 1383 regulations is embedded in many of the guidance notes.

Black font identifies language that is not specific to SB 1383 regulations. In most cases, it relates to the requirements of SB 1383 regulations and has been included to provide the context to understand how SB 1383 regulation-related provisions can be integrated into an ordinance. In other cases, it presents example language to provide the framework of a typical ordinance and guidance notes generally indicate that it is example language that is not required by SB 1383 regulations.

* **Involve Legal Counsel**. Any ordinance that results from use of the Model shall not be considered to have undergone legal counsel review. Each jurisdiction is responsible for involving its legal counsel to perform legal review and approval processes typically required by the jurisdiction for approval of such ordinances.
* **Engage with Affected Entities** When adopting a new or amended ordinance, it is advised that the review and adoption process involve engagement with the regulated entities, which will help with the implementation process as they will be more aware of the upcoming requirements. For example, engagement with organic waste generators, haulers, food recovery organizations, and food recovery services may help jurisdictions to obtain useful input from these stakeholders.
* **Example Language Only**. The provisions in the Model Ordinance are examples of how some SB 1383 regulatory requirements may be integrated and worded in an ordinance. Jurisdictions are not required to use this exact language. The language does, however, reflect the requirements that jurisdictions are required to place on others. All language should be considered in the context of the specific requirements contained in the SB 1383 regulations and the jurisdictions’ unique conditions.

CUSTOMIZATION CONSIDERATIONS

The Model Ordinance is designed to be customizable for a diverse range of jurisdictions, while providing flexibility for each jurisdiction using the Model to reflect their needs. For example, the Model includes a range of options for collection programs (three-, three-plus, two-, and one-container programs; split carts; uncontainerized collection; etc.).

Each jurisdiction will want to capture its local systems and unique approach to its organics collection program and services. As such, jurisdictions are advised to consider the following general items when crafting their ordinance. More specific guidance is included in the Model.

1. Guidance and Option Notes

Guidance notes are integrated into the Model Ordinance to explain how specific sections and provisions of the Model can be customized for a jurisdiction’s needs. General guidance notes are highlighted green. Notes in blue identify various options or areas where specific information is to be inserted or selected.

The Model Ordinance addresses common variations of programs and service options; however, addressing all jurisdictional scenarios was not practical. Given this, some jurisdictions may need to customize some sections of the Model to reflect their conditions by drawing on example provisions in the Model as a starting point. This may be especially true for rural, low-population, or high-elevation jurisdictions that may qualify under SB 1383 regulations for waivers or exemptions from specific requirements (subject to CalRecycle approval of such waivers).

2. Standard Compliance or Performance-Based Compliance Approach

The terms “Standard Compliance Approach” and “Performance-Based Compliance Approach” are used throughout the Model Ordinance in some section titles, guidance notes, and customization notes. For the purpose of the Model, “Standard Compliance Approach” means the method for complying with the SB 1383 regulations through implementation of organic waste collection programs and policies in accordance with 14 CCR Division 7, Chapter 12, Article 3 and associated requirements. Generally, all provisions in the SB 1383 regulations, other than 14 CCR, Division 7, Chapter 12, Article 17, apply to the Standard-Compliance Approach, unless the Performance-Based Compliance Approach is specifically referenced. For the purpose of the Model, “Performance-Based Compliance Approach” means the “performance-based source separated collection service” that meets the requirements of 14 CCR Division 7, Chapter 12, Article 17, or as otherwise defined by 14 CCR Section 18982(a)(52.5), and all associated requirements.

The compliance approach chosen will affect the provisions and structure of a jurisdiction’s ordinance. Some sections in the Model Ordinance are specific to jurisdictions using the Standard Compliance Approach and Performance-Based Compliance Approach and are labeled accordingly. Jurisdictions should use only the sections relevant to their compliance approach and delete the other sections. If section labeling does not identify either of these approaches, the section is applicable to jurisdictions using either type of approach.

For jurisdictions that are adopting a Performance-Based Compliance Approach, jurisdictions should consider the requirements from which they are exempt pursuant to SB 1383 regulations (14 CCR Section 18998.2). Some jurisdictions may decide it is prudent to include these requirements in their ordinance with a mechanism that allows the provisions to be triggered automatically, within a specified time frame, in the event the jurisdiction does not meet the requirements of the Performance-Based Compliance Approach and such compliance exceptions are no longer valid. Other jurisdictions may choose not to include provisions related to the compliance exceptions and amend their ordinance in the future if the jurisdiction does not meet the requirements of the Performance-Based Compliance Approach. The Model Ordinance reflects the later approach.

3. Type of Jurisdiction

Some SB 1383 regulatory requirements differ based on the type of jurisdiction (e.g., city, county, regional agency, special district that provides solid waste collection services, etc.). Jurisdictions should choose the customization options that best match the requirements of their jurisdiction type. Ordinance provisions that differ based on the jurisdiction type will be identified in the guidance notes of the Model Ordinance. Note that the Model does not address the full framework a regional agency or special district will need to capture for its relationship with its member agencies. These types of jurisdictions will need to make modifications to the ordinance depending on their specific requirements.

4. Waivers and Exemptions

SB 1383 regulations allow jurisdictions to grant waivers to some generators for de minimis volumes, physical space limitations, and less-than-weekly collection frequency, although these waivers are not required. Jurisdictions are advised to review SB 1383 regulations (14 CCR Section 18984.11) on allowable generator waivers and decide whether or not to include one or more of these generator waivers in their ordinance. The Model Ordinance includes sample language should a jurisdiction decide to include de minimis, physical space, and/or less-than-weekly collection frequency waivers for generators that meet specified requirements.

SB 1383 regulations (14 CCR Section 18984.12) also provide for CalRecycle to grant waivers and exemptions to jurisdictions and some or all of its generators for compliance with some or all of the organic waste collection requirements of SB 1383 regulations (14 CCR Division 7, Chapter 12, Article 3) when the jurisdictions meet low-population, rural area, or high-elevation criteria. Jurisdictions are advised to review the relevant SB 1383 regulations to assess their eligibility for jurisdiction waivers and exemptions and decide whether they plan to apply for a low population or high elevation waiver or a rural exemption. The Model Ordinance does not include language for low population and high elevation waivers and rural exemptions, as the Model Ordinance is focused on requirements on generators and those regulated by the jurisdiction. These types of waivers are granted by CalRecycle to the jurisdiction. Jurisdictions may need to modify their ordinance language depending upon whether they plan to apply for and are granted these specific waivers from CalRecycle.

While waivers for low-population areas and high-elevation areas waive some SB 1383 regulatory requirements for generators and jurisdictions, AB 341 and AB 1826 requirements apply for jurisdictions and for multi-family and commercial generators that are covered by AB 341 and AB 1826 and located in these areas. As a result, jurisdictions with these waivers may need to amend their ordinances to require generators that are covered by AB 341 and AB 1826 to comply with those requirements, to address waivers allowed under AB 341 and AB 1826, and to align with the jurisdiction’s AB 341 commercial recycling program and AB 1826 organic waste recycling programs.

5. Collection Method

The manner in which a jurisdiction arranges for organic waste collection services to be provided to generators will impact the necessary provisions of their ordinance. General guidance and options are presented in the Model Ordinance to give jurisdictions insight on which language to select and adapt for their collection program conditions.

6. Delegation of Responsibilities & Enforcement

Users of the Model Ordinance are also advised to consider which enforcement requirements of the SB 1383 regulations will remain the responsibility of the jurisdiction or whether they will be delegated to another jurisdiction, including regional agencies. For example, some jurisdictions may choose to conduct inspections and enforcement themselves and others may enter an agreement with another jurisdiction to conduct such inspections and enforcement on their behalf (such as a regional agency or County Environmental Health Department). Jurisdictions should consider whether it is sharing responsibility for enforcement with any other jurisdictions when considering what language to include. Example language to reflect a shared enforcement methodology is presented in the Model Ordinance as an option. It is important to note that regardless of how a jurisdiction chooses to handle enforcement, the jurisdiction itself remains responsible for enforcement, and could be subject to penalties based on non-enforcement, according to SB 1383 regulations. It is also important to understand that SB 1383 regulations prohibit a jurisdiction from delegating its authority to impose civil penalties, or to maintain an action to impose civil penalties, to a private entity. Jurisdictions should change the enforcement language in the Model Ordinance to be consistent with their own administrative procedures on enforcement actions; the enforcement process and timeline outlined in SB 1383 regulations; and California Government Code Section 53069.4.

7. **Alignment of Defined Terms**

The Model Ordinance includes dozens of defined terms, many of which were obtained from SB 1383 regulatory definitions and some from example ordinances and franchise agreements. The nuances of defined terms and their relationship to one another can have a significant impact on the meaning of the provisions of the ordinance. For this reason, jurisdictions are advised to carefully review the definitions they are using in existing ordinances, franchises, processing agreements, and municipal code, as well as the definitions in SB 1383 regulations, and modify existing definitions, delete non-applicable definitions, and integrate new ones where needed. It is likely that some of the definitions in the Model can be used without modification, while others will need to be tailored to the jurisdiction’s unique conditions, collection program, and contractual arrangements. For example, if a jurisdiction is considering use of an anaerobic digestion facility that only accepts clean food scraps, the jurisdiction may want to exclude food-soiled paper in the definition of food scraps, or create an additional subdivision of the definition.

Additionally, the Model refers to containers by their colors (gray, green, blue, and brown) as done in the SB 1383 regulations. Users may need to add, remove, or change colors of containers in the definitions to match the container lid and body color options selected for their program, pursuant to the container color requirements and compliance dates in Article 3 of the SB 1383 regulations. Additionally, definitions are included that would work for each type of organics collection system: three, three-plus, two-, and one-container, and the allowable permutations thereof. Once the jurisdiction determines their collection system(s), they should retain the definitions that are most appropriate for their collection program and delete the others. Guidance notes in the Model provide direction on the instances in which some definitions are applicable or non-applicable.

The following figure identifies the defined terms used in the Model Ordinance to describe the various material streams associated with each color container. This is provided for convenience to orient the user to the terminology, which, in some cases, is likely to be different than their current terminology.

**Defined Terms Used in Model Ordinance**

|  |  |
| --- | --- |
| Container Color | Terminology of Material Streams |
| Blue Containers | * Source separated recyclable materials
* Non-organic recyclables - glass, metal, plastic, etc.
* Source separated blue container organic waste (SSBCOW) – organic recyclables such as fibers and cardboard
 |
| Green containers | * Source separated Green Container organic waste (SSGCOW)
 |
| Gray containers | * Gray container waste (three- and three-plus container systems that do not allow organic waste, such as food waste, in the gray container)
* Mixed waste organic collection stream or mixed waste (two- and one-container systems and three- and three-plus-container systems that allow organic waste, such as food waste, in the gray container)
 |

*Note: Organic waste is a defined term that serves as an umbrella for all organics including SSBCOW, SSGCOW, textiles, carpet, etc. Organic wastes are collected in a combination of containers depending on the collection system and therefore not separately identified in the table above.*

Not all of the definitions contained within the SB 1383 regulations have been included in the ordinance. It is advised that the jurisdiction review all of the SB 1383 regulatory definitions and determine whether it would be beneficial to add any additional terms. While the user may also modify or create their own definitions, the jurisdiction must ensure that all SB 1383 regulatory requirements are met. For example, material streams can be defined, renamed, or further subdivided, or the jurisdiction may wish to refer to the containers by material stream type rather than color; however, the ordinance must include requirements to assure that all organic waste specified in SB 1383 regulations for collection is collected and processed or managed in a compliant manner.

In addition, jurisdictions will need to amend the definitions in their municipal/county code to align with updated definitions in their ordinance and franchise agreement. Jurisdictions should attempt to coordinate definitions used in the ordinance, their franchise agreement, and their municipal/county code sections related to solid waste collection and recycling.

8. Document Structure

The Model Ordinance is structured to include sections on definitions and requirements on: single-family and multi-family generators, commercial businesses, self-haulers, commercial edible food generators, food recovery organizations and services, vendors of paper products, and sections on waivers, compliance with CALGreen and MWELO, inspections, and enforcement. Where applicable, separate sections are included for those using the standard compliance approach vs. the performance-based compliance approach.

ADDITIONAL TIPS
FOR USING THE MODEL

1. **Modify Language.** Adjust the Model language to fit the jurisdiction’s specific needs. For example, a jurisdiction using only a three-container system will need to delete all provisions related to three-plus, two-, and one-container systems.
2. **Change Jurisdiction.** The term “jurisdiction” is used throughout this Model Ordinance; however, the entity responsible for adopting this Ordinance will need to change “jurisdiction” throughout the document to the appropriate term, which may be City, County, City and County, Special District that provides solid waste handling services, Joint Powers Authority, Regional Agency, etc.
3. **Delete Guidance Notes and Unused Options.** Green highlighting identifies guidance notes presented in the Model for reference only, which are to be removed by the user when preparing its final Ordinance. In cases where the Model offers multiple options, blue highlighting identifies optional provisions and areas where customization is advised. Options and customization items that are not selected are to be deleted and section numbers must be modified accordingly.
4. **Blend Existing Provisions with Model Provisions.** When using the Model Ordinance, users may want to select provisions from both the Model Ordinance and their existing ordinance(s) to create an ordinance that best suits its needs.
5. **Style and Design.** The use of multiple font colors and highlighting to differentiate content in the Model Ordinance, as described above, is not required in any final document produced, and the colors should be eliminated or made consistent with the user’s standard document styles. The Model Ordinance has been designed in accordance with CalRecycle’s accessibility guidelines. SB 1383 regulations do not require specific styles or design to be used for ordinances, and the final document style is at each jurisdiction’s discretion.

ADDITIONAL CALRECYCLE RESOURCES

1. SB 1383 General Information: <https://www.calrecycle.ca.gov/organics/slcp>
2. SB 1383 Regulations: [Insert Link]
3. SB 1383 Model Implementation Tools:

<https://www.calrecycle.ca.gov/organics/slcp/education>

This webpage includes the following Model Tools:

* Model Franchise Agreement
* Model Mandatory Organic Waste Disposal Reduction Ordinance
* Model Recovered Organic Waste Product Procurement Policy
* Model Food Recovery Agreement
1. Other Recovered Organic Waste Product Procurement Resources
* Calculator for Annual Recovered Organic Waste Product Procurement: [Insert Link]
1. SB 1383 Case Studies: <https://www.calrecycle.ca.gov/organics/slcp/education>

Eight case studies are available including two each on franchise agreements, mandatory organic waste disposal reduction ordinances, recovered organic waste product procurement, and food recovery programs and policies.

1. Other Relevant SB 1383 CalRecycle Reports
* SB 1383 Local Services Rates Analysis: [Insert Link]
* SB 1383 Infrastructure and Market Analysis: <https://www2.calrecycle.ca.gov/Publications/Details/1652>
1. Relevant Regulations Referenced in the Model Policy:
* Title 14 of California Code of Regulations, Division 7, Department of Resources Recycling and Recovery:
<https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=IFF17BBCC72F5412C8FEEF78290C1526E&originationContext=documenttoc&transitionType=Default&contextData=(sc.Default)>
* Title 27 of California Code of Regulations, Division 2, Environmental Protection, Solid Waste (27 CCR Division 2):
<https://www.calrecycle.ca.gov/laws/regulations/title27>
* Model Water Efficient Landscape Ordinance, Title 23, Division 2, Chapter 2.7 of California Code of Regulations:
<https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=I55B69DB0D45A11DEA95CA4428EC25FA0&transitionType=Default&contextData=%28sc.Default%29>
* Public Contract Code (including recycled-content paper requirements):
<https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=PCC&division=2.&title=&part=2.&chapter=&article=&goUp=Y>
* Public Resources Code: <http://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?lawCode=PRC&division=30.&title=&part=1.&chapter=2.&article=&goUp=Y>
* Code of Federal Regulations, Title 16 (including relevant definitions):
<https://www.govinfo.gov/app/details/CFR-2013-title16-vol1/CFR-2013-title16-vol1-sec260-12/context>

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# Model Mandatory Organic Waste Disposal Reduction Ordinance

## Section 1. Purpose and Findings

The Jurisdiction finds and declares:

(a) State recycling law, Assembly Bill 939 of 1989, the California Integrated Waste Management Act of 1989 (California Public Resources Code Section 40000, et seq., as amended, supplemented, superseded, and replaced from time to time), requires cities and counties to reduce, reuse, and recycle (including composting) Solid Waste generated in their Jurisdictions to the maximum extent feasible before any incineration or landfill disposal of waste, to conserve water, energy, and other natural resources, and to protect the environment.

(b) State recycling law, Assembly Bill 341 of 2011 (approved by the Governor of the State of California on October 5, 2011, which amended Sections 41730, 41731, 41734, 41735, 41736, 41800, 42926, 44004, and 50001 of, and added Sections 40004, 41734.5, and 41780.01 and Chapter 12.8 (commencing with Section 42649) to Part 3 of Division 30 of, and added and repealed Section 41780.02 of, the Public Resources Code, as amended, supplemented, superseded and replaced from time to time), places requirements on businesses and Multi-Family property owners that generate a specified threshold amount of Solid Waste to arrange for recycling services and requires Jurisdictions to implement a Mandatory Commercial Recycling program.

(c) State organics recycling law, Assembly Bill 1826 of 2014 (approved by the Governor of the State of California on September 28, 2014, which added Chapter 12.9 (commencing with Section 42649.8) to Part 3 of Division 30 of the Public Resources Code, relating to Solid Waste, as amended, supplemented, superseded, and replaced from time to time), requires businesses and Multi-Family property owners that generate a specified threshold amount of Solid Waste, Recycling, and Organic Waste per week to arrange for recycling services for that waste, requires Jurisdictions to implement a recycling program to divert Organic Waste from businesses subject to the law, and requires Jurisdictions to to implement a Mandatory Commercial Organics Recycling program. Guidance: Rural Jurisdictions that are exempt from AB 1826 may not need the preceding statement.

(d) 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 Jurisdictions, residential households, Commercial Businesses and business owners, Commercial Edible Food Generators, haulers, Self-Haulers, Food Recovery Organizations, and Food Recovery Services to support achievement of Statewide Organic Waste disposal reduction targets.

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

(f) Requirements in this ordinance are consistent with other adopted goals and policies of the Jurisdiction including: \_\_\_\_\_\_\_\_\_\_ (Jurisdiction to insert description). Guidance: At Jurisdiction’s option, Jurisdictions may want to include this subsection (f) to add Jurisdiction-specific diversion goals or policies here such as a 75% diversion or zero waste goal, C&D recovery ordinance, greenhouse gas reduction goals, local climate action plan, etc.

## Section 2. Title of Ordinance

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

Guidance: This is a suggested title for the ordinance. Jurisdictions may choose a different name for the ordinance.

## Section 3. Definitions

Guidance: Most of the following definitions are excerpted from the SB 1383 Regulations (14 CCR Section 18982) with SB 1383 Regulation-specific text noted in green font. There are additional definitions in the SB 1383 Regulations that are not included here. Jurisdiction may want to review that list of definitions in 14 CCR Section 18982 to determine whether it wants to add any additional definitions to its ordinance. Jurisdiction may also choose to delete definitions not appropriate for its system and/or to include additional definitions that are appropriate for its system and ordinance.

(a) “Blue Container” has the same meaning as in 14 CCR Section 18982.2(a)(5) and shall be used for the purpose of storage and collection of Source Separated Recyclable Materials or Source Separated Blue Container Organic Waste. Guidance: For three-container, three-plus-container, and two-container blue/gray systems, include this “Blue Container” definition. For two-container green/gray systems and one-container systems, delete this definition.

(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 Jurisdictions (and others).

(c) “California Code of Regulations” or “CCR” means the State of California Code of Regulations. CCR references in this ordinance are preceded with a number that refers to the relevant Title of the CCR (e.g., “14 CCR” refers to Title 14 of CCR).

(d) “Commercial Business” or “Commercial” means a firm, partnership, proprietorship, joint-stock company, corporation, or association, whether for-profit or nonprofit, strip mall, industrial facility, or a multifamily residential dwelling, or as otherwise defined in 14 CCR Section 18982(a)(6). A Multi-Family Residential Dwelling that consists of fewer than five (5) units is not a Commercial Business for purposes of implementing this ordinance.

(e) “Commercial Edible Food Generator” includes a Tier One or a Tier Two Commercial Edible Food Generator as defined in Sections 3(rrr) and 3(sss) of this ordinance or as otherwise defined in 14 CCR Section 18982(a)(73) and (a)(74). For the purposes of this definition, Food Recovery Organizations and Food Recovery Services are not Commercial Edible Food Generators pursuant to 14 CCR Section 18982(a)(7).

(f) “Compliance Review” means a review of records by a Jurisdiction to determine compliance with this ordinance.

(g) “Community Composting” means any activity that composts green material, agricultural material, food material, and vegetative food material, alone or in combination, and the total amount of feedstock and Compost on-site at any one time does not exceed 100 cubic yards and 750 square feet, as specified in 14 CCR Section 17855(a)(4); or, as otherwise defined by 14 CCR Section 18982(a)(8).

(h) “Compost” has the same meaning as in 14 CCR Section 17896.2(a)(4), which stated, as of the effective date of this ordinance, that “Compost” means the product resulting from the controlled biological decomposition of organic Solid Wastes that are Source Separated from the municipal Solid Waste stream, or which are separated at a centralized facility.

(i) “Compostable Plastics” or “Compostable Plastic” means plastic materials that meet the ASTM D6400 standard for compostability, or as otherwise described in 14 CCR Section 18984.1(a)(1)(A) or 18984.2(a)(1)(C).

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

(k) “C&D” means construction and demolition debris.

(l) “Designated Source Separated Organic Waste Facility”, as defined in 14 CCR Section 18982(14.5), means a Solid Waste facility that accepts a Source Separated Organic Waste collection stream as defined in 14 CCR Section 17402(a)(26.6) and complies with one of the following:

(1) The facility is a “transfer/processor,” as defined in 14 CCR Section 18815.2(a)(62), that is in compliance with the reporting requirements of 14 CCR Section 18815.5(d), and meets or exceeds an annual average Source Separated organic content Recovery rate of 50 percent between January 1, 2022 and December 31, 2024 and 75 percent on and after January 1, 2025 as calculated pursuant to 14 CCR Section 18815.5(f) for Organic Waste received from the Source Separated Organic Waste collection stream.

(A) If a transfer/processor has an annual average Source Separated organic content Recovery rate lower than the rate required in Paragraph 1 of this definition for two (2) consecutive reporting periods, or three (3) reporting periods within three (3) years, the facility shall not qualify as a “Designated Source Separated Organic Waste Facility”.

(2) The facility is a “composting operation” or “composting facility” as defined in 14 CCR Section 18815.2(a)(13), that pursuant to the reports submitted under 14 CCR Section 18815.7 demonstrates that the percent of the material removed for landfill disposal that is Organic Waste is less than the percent specified in 14 CCR Section 17409.5.8(c)(2) or 17409.5.8(c)(3), whichever is applicable, and, if applicable, complies with the digestate handling requirements specified in 14 CCR Section 17896.5. Guidance: Note that the definition of composting operation includes in-vessel digestion as regulated in 14 CCR Section 17896.

(A) If the percent of the material removed for landfill disposal that is Organic Waste is more than the percent specified in 14 CCR Section 17409.5.8(c)(2) or 17409.5.8(c)(3), for two (2) consecutive reporting periods, or three (3) reporting periods within three (3) years, the facility shall not qualify as a “Designated Source Separated Organic Waste Facility.” For the purposes of this ordinance, the reporting periods shall be consistent with those defined in 14 CCR Section 18815.2(a)(49). Guidance: The reporting periods identified in the above Section 3(l)(2)(A) are consistent with reporting that facilities must submit to CalRecycle under RDRS regulations and not reporting to be submitted under this ordinance.

Guidance: This definition is only needed when the Jurisdiction is using the Performance-Based Compliance Approach; delete this definition if using the Standard Compliance Approach.

(m) “Designee” means an entity that a Jurisdiction contracts with or otherwise arranges to carry out any of the Jurisdiction’s responsibilities of this ordinance as authorized in 14 CCR Section 18981.2. A Designee may be a government entity, a hauler, a private entity, or a combination of those entities.

(n) “Edible Food” means food intended for human consumption, or as otherwise defined in 14 CCR Section 18982(a)(18). For the purposes of this ordinance or as otherwise defined in 14 CCR Section 18982(a)(18), “Edible Food” is not Solid Waste if it is recovered and not discarded. Nothing in this ordinance or in 14 CCR, Division 7, Chapter 12 requires or authorizes the Recovery of Edible Food that does not meet the food safety requirements of the California Retail Food Code.

(o) “Enforcement Action" means an action of the Jurisdiction to address non-compliance with this ordinance including, but not limited to, issuing administrative citations, fines, penalties, or using other remedies.

(p) “Excluded Waste” means hazardous substance, hazardous waste, infectious waste, designated waste, volatile, corrosive, medical waste, infectious, regulated radioactive waste, and toxic substances or material that facility operator(s), which receive materials from the Jurisdiction and its generators, reasonably believe(s) would, as a result of or upon acceptance, transfer, processing, or disposal, be a violation of local, State, or Federal law, regulation, or ordinance, including: land use restrictions or conditions, waste that cannot be disposed of in Class III landfills or accepted at the facility by permit conditions, waste that in Jurisdictions, or its Designee’s reasonable opinion would present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose Jurisdiction, or its Designee, to potential liability; but not including de minimis volumes or concentrations of waste of a type and amount normally found in Single-Family or Multi-Family Solid Waste after implementation of programs for the safe collection, processing, recycling, treatment, and disposal of batteries and paint in compliance with Sections 41500 and 41802 of the California Public Resources Code. Excluded Waste does not include used motor oil and filters, household batteries, universal wastes, and/or latex paint when such materials are defined as allowable materials for collection through the Jurisdiction’s collection programs and the generator or customer has properly placed the materials for collection pursuant to instructions provided by Jurisdiction or its Designee for collection services.

Guidance: Jurisdictions should modify the above Excluded Waste definition based on the specific types of accepted or prohibited materials in their program. For example, the final sentence of this definition is an example of a customization option that a Jurisdiction might include if the Jurisdiction has a special collection or recycling program for items like motor oil and filters, household batteries, or other such items as applicable.

(q) “Food Distributor” means a company that distributes food to entities including, but not limited to, Supermarkets and Grocery Stores, or as otherwise defined in 14 CCR Section 18982(a)(22).

(r) “Food Facility” has the same meaning as in Section 113789 of the Health and Safety Code.

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

(t) “Food Recovery Organization” means an entity that engages in the collection or receipt of Edible Food from Commercial Edible Food Generators and distributes that Edible Food to the public for Food Recovery either directly or through other entities or as otherwise defined in 14 CCR Section 18982(a)(25), including, but not limited to:

(1) A food bank as defined in Section 113783 of the Health and Safety Code;

(2) A nonprofit charitable organization as defined in Section 113841 of the Health and Safety code; and,

(3) A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.

A Food Recovery Organization is not a Commercial Edible Food Generator for the purposes of this 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.

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

(v) “Food Scraps” means all food such as, but not limited to, fruits, vegetables, meat, poultry, seafood, shellfish, bones, rice, beans, pasta, bread, cheese, and eggshells. Food Scraps excludes fats, oils, and grease when such materials are Source Separated from other Food Scraps. Guidance: Jurisdictions should modify the above definition of Food Scraps to be consistent with their specific list of accepted Food Scraps. For example, Jurisdictions that accept fats, oils, and grease in their collection program should modify the final sentence of this definition accordingly.

(w) “Food Service Provider” means an entity primarily engaged in providing food services to institutional, governmental, Commercial, or industrial locations of others based on contractual arrangements with these types of organizations, or as otherwise defined in 14 CCR Section 18982(a)(27).

(x) “Food-Soiled Paper” is compostable paper material that has come in contact with food or liquid, such as, but not limited to, compostable paper plates, paper coffee cups, napkins, pizza boxes, and milk cartons.

(y) “Food Waste” means Food Scraps, Food-Soiled Paper, and Compostable Plastics.

 Guidance: Jurisdictions should modify the above definition of Food Waste according to the materials accepted in their program. For example, some programs do not accept Food-Soiled Paper in their collection programs based on the processing technologies used. In that case, Jurisdictions should modify this definition to remove or restrict Food-Soiled Paper if desired. It should be noted; however, that Jurisdictions are still required to handle Food-Soiled Paper in a manner that results in landfill disposal reduction pursuant to 14 CCR Section 18983.1. However, if the Food-Soiled Paper is not included in Food Waste or Food Scraps collection, the Jurisdiction is still responsible for providing a method of properly handling and processing all Organic Waste that are required by SB 1383 Regulations to be handled in a manner that results in landfill disposal reduction in accordance with 14 CCR Section 18983.1.

Jurisdictions may choose to include Compostable Plastics in their definition of Food Waste if such materials are accepted in their program. If the Jurisdiction does not allow Compostable Plastics to be collected with Food Waste, delete “Compostable Plastics” from the Food Waste definition.

(z) “Gray Container” has the same meaning as in 14 CCR Section 18982.2(a)(28) and shall be used for the purpose of storage and collection of Gray Container Waste. Guidance: For two- and one-container systems and three- and three-plus-container systems that allow Organic Waste, such as Food Waste, for collection in the Gray Container, replace “Gray Container Waste” with “Mixed Waste” in this sentence.

(aa) “Gray Container Waste” means Solid Waste that is collected in a Gray Container that is part of a three-container Organic Waste collection service that prohibits the placement of Organic Waste in the Gray Container as specified in 14 CCR Sections 18984.1(a) and (b), or as otherwise defined in 14 CCR Section 17402(a)(6.5). Guidance: This definition is only needed for Jurisdictions using three- or three-plus-container systems that prohibit Organic Waste, such as Food Waste, to be collected in the Gray Container. For Jurisdictions using a two- or one-container system, or a three- or three-plus-container system that allows Organic Waste, such as Food Waste, for collection in the Gray Container, delete this definition and instead include only the definition of “Mixed Waste” below.

(bb) “Green Container” has the same meaning as in 14 CCR Section 18982.2(a)(29) and shall be used for the purpose of storage and collection of Source Separated Green Container Organic Waste. Guidance: For three-container, three-plus-container, and two-container green/gray systems, include this “Green Container” definition. For two-container blue/gray systems and one-container systems, delete this definition.

(cc) “Grocery Store” means a store primarily engaged in the retail sale of canned food; dry goods; fresh fruits and vegetables; fresh meats, fish, and poultry; and any area that is not separately owned within the store where the food is prepared and served, including a bakery, deli, and meat and seafood departments, or as otherwise defined in 14 CCR Section 18982(a)(30).

(dd) “Hauler Route” means the designated itinerary or sequence of stops for each segment of the Jurisdiction’s collection service area, or as otherwise defined in 14 CCR Section 18982(a)(31.5). Guidance: The SB 1383 Regulations do not specify the time unit or frequency of a “Hauler Route.” Jurisdictions may wish to modify this definition to specify whether a route is daily, weekly, etc., for the purposes of the ordinance.

(ee) “High Diversion Organic Waste Processing Facility” means a facility that is in compliance with the reporting requirements of 14 CCR Section 18815.5(d) and meets or exceeds an annual average Mixed Waste organic content Recovery rate of 50 percent between January 1, 2022 and December 31, 2024, and 75 percent after January 1, 2025, as calculated pursuant to 14 CCR Section 18815.5(e) for Organic Waste received from the “Mixed waste organic collection stream” as defined in 14 CCR Section 17402(a)(11.5); or, as otherwise defined in 14 CCR Section 18982(a)(33).

(ff) “Inspection” means a site visit where a Jurisdiction reviews records, containers, and an entity’s collection, handling, recycling, or landfill disposal of Organic Waste or Edible Food handling to determine if the entity is complying with requirements set forth in this ordinance, or as otherwise defined in 14 CCR Section 18982(a)(35).

(gg) “Jurisdiction” Guidance: No definition has been included for Jurisdiction. Users of the Model Ordinance are instructed to replace Jurisdiction throughout the Model with the term appropriate to their organization (e.g., City, County, Special District that provides solid waste collection services, Agency, etc.).

(hh) “Jurisdiction Enforcement Official” means the city manager, county administrative official, chief operating officer, executive director, or other executive in charge or their authorized Designee(s) who is/are partially or whole responsible for enforcing the ordinance. See also “Regional or County Agency Enforcement Official”. Guidance: If the Jurisdiction chooses a different enforcement model, then it should change or delete this definition. Other approaches may be enforcement by committee, task force, or elected body, should such entities be designated by the Jurisdiction with those responsibilities. Enforcement does not have to be limited to one person; however, the Jurisdiction may not delete its authority to impose any civil penalties that are required by the SB 1383 Regulations to a private entity pursuant to 14 CCR Section 18981.2(d).

(ii) “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.

(jj) “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.

(kk) “Local Education Agency” means a school district, charter school, or county office of education that is not subject to the control of city or county regulations related to Solid Waste, or as otherwise defined in 14 CCR Section 18982(a)(40).

(ll) “Mixed Waste Organic Collection Stream” or “Mixed Waste” means Organic Waste collected in a container that is required by 14 CCR Sections 18984.1, 18984.2 or 18984.3 to be taken to a High Diversion Organic Waste Processing Facility or as otherwise defined in 14 CCR Section 17402(a)(11.5). Guidance: This definition is only to be used by Jurisdictions using two- or one-container systems or three- or three-plus-container systems that allow Organic Waste, such as Food Waste, for collection in the Gray Container. In these cases, materials in the Gray Containers are to be processed at a High Diversion Organic Waste Processing Facility. Delete if using a three- or three-plus container system that does not allow Organic Waste to be collected in the Gray Containers.

(mm) “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. Guidance: Under the SB 1383 Regulations and in this Model Ordinance, Multi-Family Residential Dwellings with five (5) or more units are included under the definition of a Commercial Business per 14 CCR Section 18982(a)(6).

(nn) “MWELO” refers to the Model Water Efficient Landscape Ordinance (MWELO), 23 CCR, Division 2, Chapter 2.7.

(oo) “Non-Compostable Paper” includes but is not limited to paper that is coated in a plastic material that will not breakdown in the composting process, or as otherwise defined in 14 CCR Section 18982(a)(41). Guidance: In the definition of Non-Compostable Paper, Jurisdictions may wish to provide additional detail on the materials and coatings that their processing facility is able to accept. However, the Jurisdiction is still responsible for properly handling and processing all Organic Waste required by the SB 1383 Regulations to be handled in a manner that results in landfill disposal reduction in accordance with 14 CCR Section 18983.1.

(pp) “Non-Local Entity” means the following entities that are not subject to the Jurisdiction’s enforcement authority, or as otherwise defined in 14 CCR Section 18982(a)(42):

Guidance: Jurisdiction should include one or more of the items below as appropriate for Jurisdiction, and delete non-applicable items.

(1) Special district(s) located within the boundaries of the Jurisdiction, including \_\_\_\_\_\_\_\_ (insert names of special districts).

(2) Federal facilities, including military installations, located within the boundaries of the Jurisdiction, including \_\_\_\_\_\_\_\_ (insert names of federal facilities).

(3) Prison(s) located within the boundaries of the Jurisdiction, including \_\_\_\_\_\_\_\_ (insert names of prisons). Guidance: Private prisons are considered Commercial Businesses and should not be listed here.

(4) Facilities operated by the State park system located within the boundaries of the Jurisdiction, including \_\_\_\_\_\_\_\_ (insert names of State park facilities).

(5) Public universities (including community colleges) located within the boundaries of the Jurisdiction, including \_\_\_\_\_\_\_\_ (insert names of universities).

(6) County fairgrounds located within the boundaries of the Jurisdiction, including \_\_\_\_\_\_\_\_ (insert names of fairgrounds).

(7) State agencies located within the boundaries of the Jurisdiction, including \_\_\_\_\_\_\_\_ (insert names of State agencies).

(qq) “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). Guidance: Only Jurisdictions that have three-, three-plus-, or two-container collection service will include “Non-Organic Recyclables” definition. Delete if using a one-container collection service.

(rr) “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.

(ss) “Organic Waste” means Solid Wastes containing material originated from living organisms and their metabolic waste products, including but not limited to food, green material, landscape and pruning waste, organic textiles and carpets, lumber, wood, Paper Products, Printing and Writing Paper, manure, biosolids, digestate, and sludges or as otherwise defined in 14 CCR Section 18982(a)(46). Biosolids and digestate are as defined by 14 CCR Section 18982(a).

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

(uu) “Paper Products” include, but are not limited to, paper janitorial supplies, cartons, wrapping, packaging, file folders, hanging files, corrugated boxes, tissue, and toweling, or as otherwise defined in 14 CCR Section 18982(a)(51).

(vv) “Printing and Writing Papers” include, but are not limited to, copy, xerographic, watermark, cotton fiber, offset, forms, computer printout paper, white wove envelopes, manila envelopes, book paper, note pads, writing tablets, newsprint, and other uncoated writing papers, posters, index cards, calendars, brochures, reports, magazines, and publications, or as otherwise defined in 14 CCR Section 18982(a)(54).

(ww) “Prohibited Container Contaminants”

Guidance: Jurisdictions shall include one or more of the definitions of Prohibited Container Contaminants listed below, corresponding with the collection service(s) it is using, and delete the others.

(1) Option 1, Three-container or three-plus-container collection service (Blue Container, Green Container, and Gray Containers): “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 Jurisdiction’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 Jurisdiction’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 Jurisdiction’s Green Container and/or Blue Container; and, (iv) Excluded Waste placed in any container.

(2) Option 2a, Two-container (green/gray) collection service for Source Separated Green Container Organic Waste and mixed materials): “Prohibited Container Contaminants” means the following: (i) discarded materials placed in a Green Container that are not identified as acceptable Source Separated Green Container Organic Waste for the Jurisdiction’s Green Container; (ii) discarded materials placed in the Gray Container that are identified as acceptable Source Separated Green Container Organic Waste, which are to be separately collected in Jurisdiction’s Green Container; and, (iii) Excluded Waste placed in any container.

(3) Option 2b, Two-container (blue/gray) collection service for Source Separated Recyclable Materials and mixed materials): “Prohibited Container Contaminants” means the following: (i) discarded materials placed in a Blue Container that are not identified as acceptable Source Separated Recyclable Materials for Jurisdiction’s Blue Container; (ii) discarded materials placed in the Gray Container that are identified as acceptable Source Separated Recyclable Materials, which are to be separately collected in Jurisdiction’s Blue Container; and, (iii) Excluded Waste placed in any container.

(4) Option 3, One-container collection service: “Prohibited Container Contaminants” means Excluded Waste placed in any container. Guidance: The term “Prohibited Container Contaminants” under the SB 1383 Regulations does not apply to one-container systems; however, Jurisdictions may wish to use this definition to explicitly state that Excluded Waste is a contaminant in a one-container system.

(xx) “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 Section 18982(a)(60).

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

(zz) “Recycled-Content Paper” means Paper Products and Printing and Writing Paper that consists of at least 30 percent, by fiber weight, postconsumer fiber, or as otherwise defined in 14 CCR Section 18982(a)(61).

(aaa) “Regional Agency” means regional agency as defined in Public Resources Code Section 40181.

(bbb) “Regional or County Agency Enforcement Official” means a regional or county agency enforcement official, designated by the Jurisdiction with responsibility for enforcing the ordinance in conjunction or consultation with Jurisdiction Enforcement Official. Guidance: Include Regional or County Agency Enforcement Official only if Jurisdiction plans to designate another public entity with enforcement responsibilities. Jurisdiction should stay involved in Enforcement Actions as the responsibility for enforcement remains with each Jurisdiction.

(ccc) “Remote Monitoring” means the use of the internet of things (IoT) and/or wireless electronic devices to visualize the contents of Blue Containers, Green Containers, and Gray Containers for purposes of identifying the quantity of materials in containers (level of fill) and/or presence of Prohibited Container Contaminants.

(ddd) “Renewable Gas” means gas derived from Organic Waste that has been diverted from a California landfill and processed at an in-vessel digestion facility that is permitted or otherwise authorized by 14 CCR to recycle Organic Waste, or as otherwise defined in 14 CCR Section 18982(a)(62).

(eee) “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).

(fff) “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).

(ggg) “SB 1383” means Senate Bill 1383 of 2016 approved by the Governor on September 19, 2016, which added Sections 39730.5, 39730.6, 39730.7, and 39730.8 to the Health and Safety Code, and added Chapter 13.1 (commencing with Section 42652) to Part 3 of Division 30 of the Public Resources Code, establishing methane emissions reduction targets in a Statewide effort to reduce emissions of short-lived climate pollutants as amended, supplemented, superseded, and replaced from time to time.

(hhh) “SB 1383 Regulations” or “SB 1383 Regulatory” means or refers to, for the purposes of this ordinance, the Short-Lived Climate Pollutants: Organic Waste Reduction regulations developed by CalRecycle and adopted in 2020 that created 14 CCR, Division 7, Chapter 12 and amended portions of regulations of 14 CCR and 27 CCR. Guidance: Throughout the Model, Sections of the SB 1383 Regulations are referenced in the format “14 CCR Section XXXX,” or “27 CCR Section XXXX” with the exception of certain cases where a more general reference to “SB 1383 Regulations” was appropriate. “14 CCR” means Title 14 of the California Code of Regulations, and “27 CCR” means Title 27 of the California Code of Regulations.

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

(jjj) “Single-Family” means of, from, or pertaining to any residential premises with fewer than five (5) units. Guidance: Jurisdiction may amend this definition to be consistent with the current definition and the Jurisdiction’s current codes; however, the threshold unit number of five (5) must remain consist with the SB 1383 Regulations (refer to Commercial Business definition in 14 CCR Section 18982(a)(6), which includes Multi-Family dwellings of five (5) or more units and excludes Multi-Family Residential Dwellings with fewer than five (5) units).

(kkk) “Solid Waste” has the same meaning as defined in State Public Resources Code Section 40191, which defines Solid Waste as all putrescible and nonputrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semi-solid wastes, and other discarded solid and semisolid wastes, with the exception that Solid Waste does not include any of the following wastes:

(1) Hazardous waste, as defined in the State Public Resources Code Section 40141.

(2) Radioactive waste regulated pursuant to the State Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the State Health and Safety Code).

(3) Medical waste regulated pursuant to the State Medical Waste Management Act (Part 14 (commencing with Section 117600) of Division 104 of the State Health and Safety Code). Untreated medical waste shall not be disposed of in a Solid Waste landfill, as defined in State Public Resources Code Section 40195.1. Medical waste that has been treated and deemed to be Solid Waste shall be regulated pursuant to Division 30 of the State Public Resources Code.

(lll) “Source Separated” means materials, including commingled recyclable materials, that have been separated or kept separate from the Solid Waste stream, at the point of generation, for the purpose of additional sorting or processing those materials for recycling or reuse in order to return them to the economic mainstream in the form of raw material for new, reused, or reconstituted products, which meet the quality standards necessary to be used in the marketplace, or as otherwise defined in 14 CCR Section 17402.5(b)(4). For the purposes of the ordinance, Source Separated shall include separation of materials by the generator, property owner, property owner’s employee, property manager, or property manager’s employee into different containers for the purpose of collection such that Source Separated materials are separated from Gray Container Waste/Mixed Waste or other Solid Waste for the purposes of collection and processing. Guidance: In the preceding sentence, use “Gray Container Waste” for three- and three-plus container systems that prohibit Organic Waste, such as Food Waste, in the Gray Containers; use “Mixed Waste” for two- and one-container systems and three- or three-plus-container systems that allow Organic Waste, such as Food Waste, to be collected in the Gray Container.

(mmm) “Source Separated Blue Container Organic Waste” means Source Separated Organic Wastes that can be placed in a Blue Container that is limited to the collection of those Organic Wastes and Non-Organic Recyclables as defined in Section 18982(a)(43), or as otherwise defined by Section 17402(a)(18.7). Guidance: This definition is intended to reflect recyclable materials that are considered Organic Waste such as Paper Products and Printing and Writing Paper, and, if permitted by the Jurisdiction to be placed in the Blue Container, wood, dry lumber, and textiles. This definition is only needed for Jurisdictions using three‑, three-plus-, or two-container (blue/gray) systems.

(nnn) “Source Separated Green Container Organic Waste” means Source Separated Organic Waste that can be placed in a Green Container that is specifically intended for the separate collection of Organic Waste by the generator, excluding Source Separated Blue Container Organic Waste, carpets, Non-Compostable Paper, and textiles. Guidance: This definition should only be included for Jurisdictions using a three-, three-plus, or two-container (green/gray) system. This definition is not included in the SB 1383 Regulations. It is provided as a term for materials collected in a Green Container.

(ooo) “Source Separated Recyclable Materials” means Source Separated Non-Organic Recyclables and Source Separated Blue Container Organic Waste. Guidance: This definition is only needed for Jurisdictions using three-, three-plus, or two-container (blue/gray) systems. This definition is not included in the SB 1383 Regulations. It is provided as a term for materials collected in a Blue Container.

(ppp) “State” means the State of California.

(qqq) “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).

(rrr) “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.

(sss) “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.

(ttt) “Uncontainerized Green Waste and Yard Waste Collection Service” or “Uncontainerized Service” means a collection service that collects green waste and yard waste that is placed in a pile or bagged for collection on the street in front of a generator’s house or place of business for collection and transport to a facility that recovers Source Separated Organic Waste, or as otherwise defined in 14 CCR Section 189852(a)(75).

(uuu) “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 (Standard Compliance Approach)

Guidance: Pursuant to the SB 1383 Regulations (14 CCR Section 18984.12), Jurisdictions that are eligible for, apply for, and receive low population, rural, and/or high elevation waivers may exempt Single-Family Organic Waste Generators from some generator requirements as specified in the waiver applied for and granted by CalRecycle. The process for receiving such waivers is described in 14 CCR Section 18984.12. Those Jurisdictions receiving such waivers shall modify the following requirements according to the specifics of the waiver granted.

Single-Family Organic Waste Generators shall comply with the following requirements except Single-Family generators that meet the Self-Hauler requirements in Section 12 of this ordinance: Guidance: Include the text highlighted in blue in the preceding sentence if the Jurisdiction allows Single-Family generators to self-haul materials they generate. By virtue of adding this language and requirements on Self-Haulers in Section 12, Jurisdiction is thereby allowing self-hauling, and creating the required enforceable mechanism for self-hauling, as required in 14 CCR Section 18988.1(b).

(a) Shall subscribe to Jurisdiction’s Organic Waste collection services for all Organic Waste generated as described below in Section 4(b). Jurisdiction 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 Jurisdiction. Generators may additionally manage their Organic Waste by preventing or reducing their Organic Waste, managing Organic Waste on site, and/or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).

(b) Shall participate in the Jurisdiction’s Organic Waste collection service(s) by placing designated materials in designated containers as described below, and shall not place Prohibited Container Contaminants in collection containers.

Guidance: The collection service options are provided below. Jurisdictions are to choose the collection service(s) they are using and delete the options they are not using. For Options 1 and 2 below, Jurisdiction may need to add other streams collected in their program as appropriate (e.g., dual-stream recycling, Uncontainerized Green Waste and Yard Waste Collection Service, and other additional containers as allowed under the SB 1383 Regulations, such as a brown container or brown section of a split container for separated Food Waste, etc.).

(1) Option 1: A three- and three-plus-container collection service (Blue Container, Green Container, and Gray Container) (choose Option 1a or 1b)

(A) Option 1a: Generator shall place Source Separated Green Container Organic Waste, including Food Waste, in the Green Container; Source Separated Recyclable Materials in the Blue Container; and Gray Container Waste in the Gray Container. Generators shall not place materials designated for the Gray Container into the Green Container or Blue Container.

(B) Option 1b: Generator shall place Source Separated Green Container Organic Waste, except Food Waste, in the Green Container; Source Separated Recyclable Materials in the Blue Container; and Mixed Waste, including Food Waste, in the Gray Container. Generator shall not place materials designated for the Green Containers or Blue Containers in the Gray Containers.

(2) Option 2: Two-container collection service (Green Container/Gray Container system or Blue Container/Gray Container system) (choose Option 2a or 2b)

(A) Option 2a, Green Container/Gray Container: Generator shall place only Source Separated Green Container Organic Waste in a Green Container. Generator shall place all other materials (Mixed Waste) in a Gray Container.

(B) Option 2b, Blue Container/Gray Container: Generator shall place only Source Separated Recyclable Materials in a Blue Container. Generator shall place all other materials (Mixed Waste) in a Gray Container.

(3) Option 3: An unsegregated single container (one-container) collection service

(A) Generator shall place all materials (Mixed Waste) in a Gray Container.

## Section 5. Requirements for Single-Family Generators (Performance-Based Compliance Approach)

Guidance: Note that the regulations do not require Jurisdictions using a Performance-Based Compliance Approach to include the following items in their ordinance: the regulation of haulers and Self-Haulers; the generator waivers for physical space, di minimis volumes, and collection frequency; and the enforcement provisions with the exception of enforcement related to Edible Food generators and Food Recovery Organizations and services. There are other regulatory requirements that the Jurisdiction would also be exempt from related to CalRecycle requirements on the Jurisdiction itself (e.g., certain recordkeeping, education, container labeling, outreach, and reporting requirements) that are not intended to be addressed by this ordinance that can be found in 14 CCR Section 18998.2.

Pursuant to SB 1383 Regulations (14 CCR Section 18984.12), Jurisdictions that are eligible for, apply for, and receive low population, rural, and/or high elevation waivers may exempt Single-Family Organic Waste Generators from some generator requirements as specified in the waiver applied for and granted by CalRecycle, provided that the Jurisdiction meets the ninety (90%) participation requirements in the areas not subject to the waiver(s). The process for receiving such waivers is described in 14 CCR Section 18984.12. Those Jurisdictions receiving such waivers shall modify the following requirements, if needed, according to the specifics of the waiver granted.

Single-Family Organic Waste Generators except Single-Family generators that meet the Self-Hauler requirements in Section 12 of this ordinance: Guidance: Include the text highlighted in blue in the preceding sentence if the Jurisdiction allows Single-Family generators to self-haul materials they generate. By virtue of adding this language and requirements on Self-Haulers in Section 12, Jurisdiction is thereby allowing self-hauling, and creating the required enforceable mechanism for self-hauling, as required in 14 CCR, Section 18988.1(b).

(a) Shall be automatically enrolled in the Jurisdiction’s three-container Organic Waste collection services with a minimum Source Separated Recyclable Materials service level of \_\_\_\_\_\_\_ gallons per week (Jurisdiction to insert minimum required service level)*,* and with a minimum Source Separated Green Container Organic Waste service level of \_\_\_\_\_\_\_ gallons per week (Jurisdiction to insert minimum required service level), approved by the \_\_\_\_\_\_\_\_\_\_\_ (Jurisdiction to insert solid waste manager, public works director or other authorized entity). Jurisdiction shall have the authority to change this minimum required levels of service over time. Jurisdiction shall have the right to review the number, size, and location of a generator’s containers to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and, generator shall adjust its service level for its collection services as requested by the Jurisdiction.

Guidance: In subsection (a) above, auto enrollment means that Single-Family generators will be subscribed to Organic Waste collection service as determined to be appropriate by the Jurisdiction. Such service provision will not be optional and shall be provided to all generators. This will help the Jurisdiction meet the Performance-Based Compliance Approach requirement that such service shall be provided without requiring businesses or residents to request it prior to enrollment pursuant to 14 CCR Section 18998.1(a)(4).

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

(c) Nothing in this Section prohibits a generator from preventing or reducing waste generation, managing Organic Waste on site, and/or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).

## Section 6. Requirements for Commercial Businesses (Standard-Compliance Approach)

Guidance: Jurisdictions using a Standard Compliance Approach and a three-, three-plus, or two-container collection service shall include this Section. Note that Commercial Businesses by the definition in the SB 1383 Regulations and the definition provided in this Model Ordinance includes Multi-Family Residential Dwellings of five (5) and more units.

Pursuant to SB 1383 Regulations (14 CCR Section 18984.12), Jurisdictions that are eligible for, apply for, and receive low population, rural and/or high elevation waivers may exempt Commercial Businesses and owners (including Multi-Family) from some generator requirements as specified in the waiver applied for and granted by CalRecycle. Those Jurisdictions receiving such waivers shall modify the following requirements according to the specifics of the waiver granted.

While waivers for low-population areas and high-elevation areas waiver some SB 1383 regulatory requirements for generators and Jurisdictions, AB 341 and AB 1826 requirements apply for Commercial Businesses that are covered by AB 341 and AB 1826 and located in these areas. As a result, Jurisdictions with these waivers may need to this Section to require Commercial Businesses that are covered by AB 341 and AB 1826 and located in these areas to comply with AB 341 and AB 1826 requirements in alignment with the Jurisdiction’s AB 341 Commercial recycling program and AB 1826 Organic Waste recycling programs.

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

(a) Subscribe to Jurisdiction’s three-, three-plus, two-, or one-container collection services and comply with requirements of those services as described below in Section 6(b), except Commercial Businesses that meet the Self-Hauler requirements in Section 12 of this ordinance. Guidance: Refer to Section 4 for guidance on inclusion of the preceding Self-Hauler option. Jurisdiction shall have the right to review the number and size of a generator’s containers and frequency of collection to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and, Commercial Businesses shall adjust their service level for their collection services as requested by the Jurisdiction.

(b) Except Commercial Businesses that meet the Self-Hauler requirements in Section 12 of this ordinance, participate in the Jurisdiction’s Organic Waste collection service(s) by placing designated materials in designated containers as described below.

Guidance: The collection service options are provided below. Jurisdictions are to choose the collection service(s) they are using and delete the options they are not using. For Options 1 and 2 below, Jurisdiction may need to add other streams collected in their program as appropriate (e.g., dual-stream recycling, Uncontainerized Green Waste and Yard Waste Collection Service, and other additional containers as allowed under the SB 1383 Regulations, such as a brown container or brown section of a split container for separated Food Waste, etc.).

(1) Option 1: A three- and three-plus-container collection service (Blue Container, Green Container, and Gray Container) (choose Option 1a or 1b)

(A) Option 1a: Generator shall place Source Separated Green Container Organic Waste, including Food Waste, in the Green Container; Source Separated Recyclable Materials in the Blue Container; and Gray Container Waste in the Gray Container. Generator shall not place materials designated for the Gray Container into the Green Container or Blue Container.

(B) Option 1b: Generator shall place Source Separated Green Container Organic Waste, except Food Waste, in the Green Container; Source Separated Recyclable Materials in the Blue Container; and Mixed Waste, including Food Waste, in the Gray Container. Generator shall not place materials designated for the Green Containers or Blue Containers in the Gray Containers.

(2) Option 2: Two-container collection service (Green Container/Gray Container system or Blue Container/Gray Container system) (choose Option 2a or 2b)

(A) Option 2a, Green Container/Gray Containers: Generator shall place only Source Separated Green Container Organic Waste in a Green Container. Generator shall place all other materials (Mixed Waste) in a Gray Container.

(B) Option 2b, Blue Container/Gray Containers: Generator shall place only Source Separated Recyclable Materials in a Blue Container. Generator shall place all other materials (Mixed Waste) in a Gray Container.

(3) Option 3: An unsegregated single container (one-container) collection service

(A) Generator shall place all materials (Mixed Waste) in a Gray Container.

(c) Supply and allow access to adequate number, size and location of collection containers with sufficient labels or colors (conforming with Sections 6(d)(1) and 6(d)(2) below) for employees, contractors, tenants, and customers, consistent with Jurisdiction’s Blue Container, Green Container, and Gray Container collection service or, if self-hauling, per the Commercial Businesses’ instructions to support its compliance with its self-haul program, in accordance with Section 12. Guidance: For Jurisdictions using a two-container system, delete Blue Container or Green Container as applicable from the first sentence. Jurisdictions using a one-container system may delete this subsection.

(d) Excluding Multi-Family Residential Dwellings, provide containers for the collection of Source Separated Green Container Organic Waste and Source Separated Recyclable Materials in all indoor and outdoor areas where disposal containers are provided for customers, for materials generated by that business. Guidance: For Jurisdictions using a two-container system, delete “Source Separated Green Container Organic Waste” or “Source Separated Recyclable Materials” as applicable. Jurisdictions using a one-container system may delete this subsection. Such containers do not need to be provided in restrooms. If a Commercial Business does not generate any of the materials that would be collected in one type of container, then the business does not have to provide that particular container in all areas where disposal containers are provided for customers. Pursuant to 14 CCR Section 18984.9(b), the containers provided by the business shall have either:

(1) A body or lid that conforms with the container colors provided through the collection service provided by Jurisdiction, with either lids conforming to the color requirements or bodies conforming to the color requirements or both lids and bodies conforming to color requirements. A Commercial Business is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the requirements of the subsection prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first.

(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) Multi-Family Residential Dwellings are not required to comply with container placement requirements or labeling requirement in Section 6(d) pursuant to 14 CCR Section 18984.9(b). Guidance: Jurisdictions using a one-container system may delete this subsection

(f) To the extent practical through education, training, Inspection, and/or other measures, excluding Multi-Family Residential Dwellings, prohibit employees from placing materials in a container not designated for those materials per the Jurisdiction’s Blue Container, Green Container, and Gray Container collection service or, if self-hauling, per the Commercial Businesses’ instructions to support its compliance with its self-haul program, in accordance with Section 12. Guidance: Jurisdictions using a one-container system may delete this subsection

(g) Excluding Multi-Family Residential Dwellings, periodically inspect Blue Containers, Green Containers, and Gray Containers for contamination and inform employees if containers are contaminated and of the requirements to keep contaminants out of those containers pursuant to 14 CCR Section 18984.9(b)(3). Guidance: For Jurisdictions using a two-container system, delete Blue Container or Green Container, as applicable. Jurisdictions using a one-container system may delete this subsection.

Guidance: In the above subsection (g), Jurisdictions may wish to specify a frequency upon which business owners shall inspect containers for contamination such as quarterly, twice annually, or annually instead of periodically, but this specified frequency is not required by the SB 1383 Regulations.

(h) Annually provide information to employees, contractors, tenants, and customers about Organic Waste Recovery requirements and about proper sorting of Source Separated Green Container Organic Waste and Source Separated Recyclable Materials. Guidance: For Jurisdictions using a two-container system, delete Source Separated Green Container Organic Waste or Source Separated Recyclable Materials, as applicable. Jurisdictions using a one-container system may delete this subsection.

(i) Provide education information before or within fourteen (14) days of occupation of the premises to new tenants that describes requirements to keep Source Separated Green Container Organic Waste and Source Separated Recyclable Materials separate from Gray Container Waste (when applicable) and the location of containers and the rules governing their use at each property. Guidance: For Jurisdictions using a two-container system, delete Source Separated Green Container Organic Waste or Source Separated Recyclable Materials, as applicable. For two-container system and three- and three-plus container systems that allow for Organic Waste, such as Food Waste, to be collected it the Gray Container, replace Gray Container Waste with Mixed Waste. Jurisdictions using a one-container system may delete this subsection.

(j) Provide or arrange access for Jurisdiction or its agent to their properties during all Inspections conducted in accordance with Section 16 of this ordinance to confirm compliance with the requirements of this ordinance.

(k) Accommodate and cooperate with Jurisdiction’s Remote Monitoring program for Inspection of the contents of containers for Prohibited Container Contaminants, which may be implemented at a later date, to evaluate generator’s compliance with Section 6(b). The Remote Monitoring program shall involve installation of Remote Monitoring equipment on or in the Blue Containers, Green Containers, and Gray Containers. Guidance: This subsection is an optional provision. It is not required by the SB 1383 Regulations. Jurisdictions may include this if they choose to use a Remote Monitoring system to monitor for Prohibited Container Contaminants to support their compliance with 14 CCR Section 18984.5, Container Contamination minimization requirements. Jurisdictions granting collection frequency waivers may choose to require Remote Monitoring for generators granting such waivers. For Jurisdictions using a two- container system, delete Blue Container or Green Container as applicable from the first sentence. For Jurisdictions using a one-container system, delete this subsection.

(l) At Commercial Business’s option and subject to any approval required from the Jurisdiction, implement a Remote Monitoring program for Inspection of the contents of its Blue Containers, Green Containers, and Gray Containers for the purpose of monitoring the contents of containers to determine appropriate levels of service and to identify Prohibited Container Contaminants. Generators may install Remote Monitoring devices on or in the Blue Containers, Green Containers, and Gray Containers subject to written notification to or approval by the Jurisdiction or its Designee. Guidance: This subsection is an optional provision. It is not required by the SB 1383 Regulations. It is provided to address scenarios in which Commercial Businesses want to implement their own Remote Monitoring systems, which involves installation of equipment on containers owned by the Jurisdiction or its hauler. Commercial Businesses may want to implement the Remote Monitoring system to monitor their compliance with 14 CCR Section 18984.9. For Jurisdictions using a two- container system, delete Blue Container or Green Container as applicable from the first sentence.

(m) If a Commercial Business wants to self haul, meet the Self-Hauler requirements in Section 12 of this ordinance.

(n) Nothing in this Section prohibits a generator from preventing or reducing waste generation, managing Organic Waste on site, or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).

(o) Commercial Businesses that are Tier One or Tier Two Commercial Edible Food Generators shall comply with Food Recovery requirements, pursuant to Section 9.

## Section 7. Requirements for Commercial Businesses(Performance-Based Compliance Approach)

Guidance: Jurisdictions using a Performance-Based Compliance Approach with a three-container collection service shall include this Section. Note that Commercial Business by the definition in the SB 1383 Regulations and the definition provided in this Model Ordinance includes Multi-Family Residential Dwellings of five (5) and more units. Under a Performance-Based Compliance Approach, businesses must be automatically enrolled in the Jurisdiction’s three-container Organic Waste collection service, as opposed to requesting service. Auto enrollment means that Commercial generators will be subscribed to Organic Waste collection service as determined to be appropriate by the Jurisdiction. Such service provision will not be optional and shall be provided to all generators. Pursuant to 14 CCR Section 18998.1(a)(1), at least ninety percent (90%) of Commercial Businesses and ninety percent (90%) of the residential sector subject to a Jurisdiction’s authority must be provided with three-container Organic Waste collection service for a Jurisdiction to use the Performance-Based Compliance Approach.

Pursuant to SB 1383 Regulations (14 CCR Section 18984.12), Jurisdictions that are eligible for, apply for, and receive low population, rural and/or high elevation waivers may exempt Commercial Businesses and owners (including Multi-Family) from some generator requirements as specified in the waiver applied for and granted by CalRecycle, provided that the Jurisdiction meets the ninety percent (90%) participation requirements in the areas not subject to the waiver(s). Those Jurisdictions receiving such waivers shall modify the following requirements, if needed, according to the specifics of the waiver granted.

While waivers for low-population areas and high-elevation areas waiver some SB 1383 regulatory requirements for generators and Jurisdictions, AB 341 and AB 1826 requirements apply for Commercial Businesses that are covered by AB 341 and AB 1826 and located in these areas. As a result, Jurisdictions with these waivers may need to this Section to require Commercial Businesses that are covered by AB 341 and AB 1826 and located in these areas to comply with AB 341 and AB 1826 requirements in alignment with the Jurisdiction’s AB 341 Commercial recycling program and AB 1826 Organic Waste recycling programs.

Commercial Businesses, which includes Multi-Family Residential Dwellings, shall:

(a) Except Commercial Businesses that meet the Self-Hauler requirements in Section 12 of this ordinance, be automatically enrolled in the Jurisdiction’s three-container Organic Waste collection services with a Source Separated Recyclable Materials service level of \_\_\_\_\_\_\_ (Jurisdiction to insert minimum required service level, which could be a specified number of gallons or cubic yards of weekly service, a level equal to the garbage service level, or other basis)*,* and with a Source Separated Green Container Organic Waste service level of \_\_\_\_\_\_\_\_ (Jurisdiction to insert minimum required service level, which could be a specified number of gallons or cubic yards of weekly service, a level equal to the garbage service level, or other basis)*,* approved by the \_\_\_\_\_\_\_\_ (Jurisdiction to insert solid waste manager, public works director or other authorized entity). Jurisdiction shall have the authority to change the minimum required service levels over time. The Commercial Business’ Source Separated Recyclable Materials service level and Source Separated Green Container Organic Waste service level must be sufficient for the amount of Source Separated Recyclable Materials and Source Separated Green Container Organic Waste generated by the Commercial Business. Jurisdiction shall have the right to review the number, size, and location of a generator’s containers and frequency of collection to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and, Commercial Business shall adjust its service level for its collection services as requested by the Jurisdiction.

Guidance: In subsection (a) above, auto enrollment means that Multi-Family and Commercial generators will be subscribed to Organic Waste collection service as determined to be appropriate by the Jurisdiction. Such service provision will not be optional and shall be provided to all generators. This will help the Jurisdiction meet the Performance-Based Compliance Approach requirement that such service shall be provided without requiring businesses or residents to request it prior to enrollment pursuant to 14 CCR Section 18998.1(a)(4).

(b) Except Commercial Businesses that meet the Self-Hauler requirements in Section 12 of this ordinance, participate in and comply with the Jurisdiction’s three-container (Blue Container, Green Container, and Gray Container) collection service by placing designated materials in designated containers as described below. Generator shall place Source Separated Green Container Organic Waste, including Food Waste, in the Green Container; Source Separated Recyclable Materials in the Blue Container; and Gray Container Waste in the Gray Container. Generators shall not place materials designated for the Gray Container into the Green Container or Blue Container.

(c) Supply and allow access to adequate number, size, and location of collection containers with sufficient labels or colors (conforming with Section 7(d)(1) and 7(d)(2) below), for employees, contractors, tenants and customers, consistent with Jurisdiction’s Blue Container, Green Container, and Gray Container collection service.

(d) Excluding Multi-Family Residential Dwellings, provide containers for the collection of Source Separated Green Container Organic Waste, and Source Separated Recyclable Materials in all indoor and outdoor areas where disposal containers are provided for customers, for materials generated by that business. Such containers do not need to be provided in restrooms. If a Commercial Business does not generate any of the materials that would be collected in one type of container, then the business does not have to provide that particular container in all areas where disposal containers are provided for customers. Pursuant to 14 CCR Section 18984.9(b), the containers provided by the business shall have either:

(1) A body or lid that conforms with the container colors provided through the collection service provided by Jurisdiction, with either lids conforming to the color requirements or bodies conforming to the color requirements or both lids and bodies conforming to color requirements. A Commercial Business is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the requirements of the subsection prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first.

(2) Container labels that include language or graphic images or both indicating the primary material accepted and the primary materials prohibited in that container or containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the container. Pursuant 14 CCR Section 18984.8, the container labels are required on new containers commencing January 1, 2022.

(e) Excluding Multi-Family Residential Dwellings, prohibit employees from placing materials in a container not designated for those materials per the Jurisdiction’s Organic Waste, Non-Organic Recyclables, and non-Organic Waste collection service to the extent practical through education, training, Inspection, and/or other measures.

(f) Excluding Multi-Family Residential Dwellings, periodically inspect Blue Container, Green Container, and Gray Containers for contamination and inform employees if containers are contaminated and of the requirements to keep contaminants out of those containers pursuant to 14 CCR Section 18984.9(b)(3).

Guidance: In subsection (g) above, Jurisdictions may wish to specify a frequency upon which business owners shall inspect containers for contamination such as quarterly, twice annually, or annually instead of periodically, but this specified frequency is not required by the SB 1383 Regulations.

(g) Annually provide information to employees, contractors, tenants, and customers about Organic Waste Recovery requirements and about proper sorting of Source Separated Green Container Organic Waste and Source Separated Recyclable Materials.

(h) Provide education information before or within fourteen (14) days of occupation of the premises to new tenants that describes requirements to keep Source Separated Green Container Organic Waste and Source Separated Recyclable Materials separate from Gray Container Waste (when applicable) and the location of containers and the rules governing their use at each property.

(i) Provide or arrange access for Jurisdiction or its agent to their properties during all Inspections conducted in accordance with Section 16 of this ordinance to confirm compliance with the requirements of this Ordinance.

(j) Accommodate and cooperate with Jurisdiction’s Remote Monitoring program for Inspection of the contents of containers for Prohibited Container Contaminants, which may be implemented at a later date, to evaluate generator’s compliance with Section 6(b). The Remote Monitoring program shall involve installation of Remote Monitoring equipment on or in the Blue Containers, Green Containers, and Gray Containers. Guidance: This subsection is an optional provision. It is not required by the SB 1383 Regulations. Jurisdictions may include this if they choose to use a Remote Monitoring system to monitor for Prohibited Container Contaminants to support their compliance with 14 CCR Section 18984.5, Container Contamination minimization requirements. Jurisdictions granting collection frequency waivers may choose to require Remote Monitoring for generators granting such waivers. For Jurisdictions using a two- container system, delete Blue Container or Green Container as applicable from the first sentence. For Jurisdictions using a one-container system, delete this subsection.

(k) At Commercial Business’ option and subject to any approval required from the Jurisdiction, implement a Remote Monitoring program for Inspection of the contents of its Blue Containers, Green Containers, and Gray Containers for the purpose of monitoring the contents of containers to determine appropriate levels of service and to identify Prohibited Container Contaminants. Generators may install Remote Monitoring devices on or in the Blue Containers, Green Containers, and Gray Containers subject to written notification to or approval by the Jurisdiction or its Designee. Guidance: This subsection is an optional provision. It is not required by the SB 1383 Regulations. It is provided to address scenarios in which Commercial Businesses want to implement their own Remote Monitoring systems, which involves installation of equipment on containers owned by the Jurisdiction or its hauler. Commercial Businesses may want to implement the Remote Monitoring system to monitor their compliance with 14 CCR Section 18984.9. For Jurisdictions using a two- container system, delete Blue Container or Green Container as applicable from the first sentence.

(l) If a Commercial Business wants to self haul, meet the Self-Hauler requirements in Section 12 of this ordinance.

(m) Nothing in this Section prohibits a generator from preventing or reducing waste generation, managing Organic Waste on site, or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).

(n) Commercial Businesses that are Tier One or Tier Two Commercial Edible Food Generators shall comply with Food Recovery requirements, pursuant to Section 9.

## Section 8. Waivers for Generators

Guidance: Pursuant to 14 CCR Section 18984.11, the SB 1383 Regulations allow Jurisdictions, at their option, to grant waivers to generators for physical space limitations, de minimis volumes, and/or collection frequency waivers. These waivers are applicable only to three-, three-plus, and two-container systems and are optional for Jurisdictions using either the Standard Compliance Approach or the Performance-Based Compliance Approach. This Section 8 of the Model Ordinance focuses on the requirements that must be met by Organic Waste Generators or businesses applying to the Jurisdiction for physical space, de minimis, and collection frequency waivers. Other waivers covered in 14 CCR Section 18984.12, including low population, rural, and high elevation can only be applied for by the Jurisdiction to CalRecycle and are not covered herein.

Jurisdictions using the Performance-Based Compliance Approach may issue waivers at their discretion provided that the minimum ninety percent (90%) Commercial and ninety percent (90%) residential collection program participation levels are met. Jurisdictions using the Performance-Based Compliance Approach are not subject to the recordkeeping requirements for documentation evidencing the need for such waivers to CalRecycle pursuant to 14 CCR Section 18998.2(a)(7), as provided in this Section or the reporting requirement on the number and type of waivers issued.

Jurisdictions may choose to include one or more of the three options presented below (de minimis, physical space, and collection frequency waivers), or any combination thereof, if Jurisdiction chooses to allow such waivers. Jurisdictions that choose not to a specific type of waiver shall omit provisions below applicable to that waiver.

For Jurisdictions with low-population area and/or high-elevation area waivers, it is important to recognize that the SB 1383 waivers are different than the waivers allowed under AB 341 and AB 1826. As a result, Jurisdictions with low-population area and/or high-elevation area waiver(s) that choose to offer waivers to Commercial Businesses that are covered by AB 341 and/or AB 1826 and located in these areas may need to include a separate section that describes the waivers for these generators.

(a) De Minimis Waivers (Optional for Three-, Three-Plus, and Two-Container Systems per 14 CCR Section 18984.11). Guidance: Pursuant to 14 CCR Section 18984.11(a)(1), the SB 1383 Regulations limit de minimis waivers to Commercial Businesses as reflected in this language. A Jurisdiction may waive a Commercial Business’ obligation (including Multi-Family Residential Dwellings) to comply with some or all of the Organic Waste requirements of this ordinance if the Commercial Business provides documentation that the business generates below a certain amount of Organic Waste material as described in Section 8(a)(2) below. Commercial Businesses requesting a de minimis waiver shall:

(1) Submit an application specifying the services that they are requesting a waiver from and provide documentation as noted in Section 8(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 Jurisdiction 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 Jurisdiction has approved de minimis waiver.

(b) Physical Space Waivers (Optional for Three-, Three-Plus, and Two-Container Systems) Guidance: Pursuant to 14 CCR Section 18984.11(a)(1), SB 1383 Regulations limit de minimis waivers to Commercial Businesses as reflected in this language. Jurisdiction 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 Jurisdiction 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 6 or 7.

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. Guidance: For Jurisdictions using a two-container system, delete Blue Container or Green Container, as applicable.

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

(c) Collection Frequency Waiver (Optional for Three-, Three-Plus, and Two-Container Systems) Guidance: Include Section 8(c) only if Jurisdiction offers waivers for less-than-weekly Gray Container and/or Blue Container collection service (meeting the requirements in 14 CCR Section 18984.11 3(A)1) to Single-Family or Commercial Business owners or tenants subscribing to a two-, three-, or three-plus container collection service. Jurisdiction to indicate below whether their collection service is a two-, three-, or three-plus-container system, and specify whether these waivers are available for the Blue Container, Gray Container, or both, as appropriate for the collection system.. Jurisdiction, at its discretion and in accordance with 14 CCR Section 18984.11(a)(3), may allow the owner or tenant of any residence, premises, business establishment or industry that subscribes to the Jurisdiction’s three-, three-plus, or two-container Organic Waste collection service to arrange for the collection of their Blue Container, Gray Container, or both once every fourteen days, rather than once per week.

(d) Review and Approval of Waivers by Jurisdiction (Optional)

Guidance: At its option, Jurisdictions may wish to include a provision that identifies which staff person or department will be responsible for review and approval of waivers. Note that Jurisdictions’ authority to issue a waiver cannot be delegated to a private entity pursuant to the SB 1383 Regulations (14 CCR Section 18984.11(c)).

## Section 9. Requirements for Commercial Edible Food Generators

(a) Tier One Commercial Edible Food Generators must comply with the requirements of this Section 9 commencing January 1, 2022, and Tier Two Commercial Edible Food Generators must comply commencing January 1, 2024, pursuant to 14 CCR Section 18991.3.

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

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

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

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

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

(4) Allow Jurisdiction’s designated enforcement entity or designated third party enforcement entity to access the premises and review records pursuant to 14 CCR Section 18991.4.

(5) Keep records that include the following information, or as otherwise specified in 14 CCR Section 18991.4:

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

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

(C) A record of the following information for each of those Food Recovery Services or Food Recovery Organizations:

(i) The name, address and contact information of the Food Recovery Service or Food Recovery Organization.

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

(iii) The established frequency that food will be collected or self-hauled.

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

(6) (Optional) No later than \_\_\_\_\_\_\_\_ of each year (Jurisdiction to insert date) commencing no later than \_\_\_\_\_\_\_\_ for Tier One Commercial Edible Food Generators and \_\_\_\_\_\_\_\_ for Tier Two Commercial Edible Food Generators (Jurisdiction to insert dates), provide an annual Food Recovery report to the Jurisdiction that includes the following information: \_\_\_\_\_\_\_\_. Guidance: While the SB 1383 Regulations do not require reporting by Commercial Edible Food Generators, Jurisdictions may want to consider adding this optional requirement that generators submit records of their contracts or written agreements and Food Recovery activities annually to monitor Commercial Edible Food Generator compliance and gather information for capacity planning purposes. While it is also not required, Jurisdictions may want to require reporting on the amount and type of Edible Food that was not accepted by Food Recovery Organizations or services for donation.

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

## Section 10. Requirements for Food Recovery Organizations and Services, Jurisdictions, and Regional Agencies

Guidance: The inclusion of “Jurisdictions and Regional Agencies” in the title of this Section 10 is specific to County ordinances in reference to the Food Recovery capacity planning requirements specified in subsection 10(e) below. Remove this part of the title if Jurisdiction is not drafting a County ordinance, or modify the title to remove “Regional Agencies” if no such agencies operate within the County.

(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) (Optional provision) Food Recovery Organizations and Food Recovery Services shall inform generators about California and Federal Good Samaritan Food Donation Act protection in written communications, such as in their contract or agreement established under 14 CCR Section 18991.3(b). Guidance: This Section 10(c) provides information about Good Samaritan protections. This is not required by SB 1383 Regulations, but the California Good Samaritan Food Act requires Environmental Health Department inspectors to promote Food Recovery and educate local businesses and organizations about liability protections for businesses donating food. Inclusion of this language will expand education requirements for Food Recovery beyond that required by SB 1383 Regulations.

(d) Food Recovery Organizations and Food Recovery Services that have their primary address physically located in the Jurisdiction 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 Jurisdiction 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 Section 18991.3(b) no later than \_\_\_\_\_\_\_ (Jurisdiction to insert date). Guidance: This Section 10(d) is included to capture the reporting requirements specified in 14 CCR Section 18994.2(h)(2)(A), which only requires reporting by Food Recovery Organizations and Food Recovery Services on the total pounds of Edible Food recovered from Commercial Edible Food Generators annually. Jurisdictions may choose to expand these reporting requirements to capture additional information to support their capacity planning efforts and for other purposes. For example, while SB 1383 Regulations do not require reporting on amount and type of Edible Food not accepted by Food Recovery Organizations and Food Recovery Services, Jurisdictions may want to consider adding such a requirement.

(e) Food Recovery Capacity Planning

(1) Food Recovery Services and Food Recovery Organizations. In order to support Edible Food Recovery capacity planning assessments or other studies conducted by the County, City, special district that provides solid waste collection services, or its designated entity, Food Recovery Services and Food Recovery Organizations operating in the Jurisdiction shall provide information and consultation to the Jurisdiction, upon request, regarding existing, or proposed new or expanded, Food Recovery capacity that could be accessed by the Jurisdiction and its Commercial Edible Food Generators. A Food Recovery Service or Food Recovery Organization contacted by the Jurisdiction shall respond to such request for information within 60 days, unless a shorter timeframe is otherwise specified by the Jurisdiction. Guidance: SB 1383 Regulations (14 CCR Section 18992.2) require that counties conduct Edible Food Recovery capacity planning, in coordination with Jursidictions and Regional Agencies, and consult with Food Recovery Organizations and services regarding existing, or proposed new and expanded, capacity that could be accessed by the Jurisdiction and its Commercial Edible Food Generators. Entities contacted by a Jurisdiction shall respond within 60 days regarding available and potential new or expanded capacity, pursuant to 14 CCR Section 18992.2(b), or another timeframe could be inserted within the ordinance that is less than 60 days, but this is not required.

(2) Jurisdictions and Regional Agencies. (Provision for County ordinances) Guidance: SB 1383 Regulations require that counties conduct Food Recovery capacity planning in coordination with cities, special districts that provide solid waste collection services, and Regional Agencies within the county. Jurisdictions that are not counties may remove this subsection (e), as their ordinances would not regulate other Jurisdictions or regional agencies; however, cities and special districts that provide solid waste collection services, and regional agencies should be aware of their requirement to conduct capacity planning in coordination with the County. Cities, special districts that provide solid waste collection services, and regional agencies located within the county shall conduct Edible Food Recovery capacity planning, in coordination with the county.

(A) If the county identifies that new or expanded capacity to recover Edible Food is needed, then each Jurisdiction within the county that lacks capacity shall:

(i) Submit an implementation schedule to CalRecycle and the county that demonstrates how it will ensure there is enough new or expanded capacity to recover the Edible Food currently disposed by Commercial Edible Food Generators within its Jurisdiction by the end of the reporting period set forth in 14 CCR Section 18992.3. The implementation schedule shall include the information specified in 14 CCR Section 18992.2(c)(1)(A).

(ii) Consult with Food Recovery Organizations and Food Recovery Services regarding existing, or proposed new and expanded capacity that could be accessed by the Jurisdiction and its Commercial Edible Food Generators.

(B) If the county finds that new or expanded capacity is needed, the county shall notify the Jurisdiction(s) that lack sufficient capacity.

(C) A City, Special District that provides solid waste collection services, or Regional Agency contacted by the county pursuant to this Section shall respond to the county’s request for information within 120 days of receiving the request from the county, unless a shorter timeframe is otherwise specified by the county.

 Guidance: If a City, Special District that provides solid waste collection services, or Regional Agency fails to provide the necessary information within 120 days, the county is not required to include estimates for that Jurisdiction in its capacity plan in the report it submits pursuant to 14 CCR Section 18992.3.

## Section 11. Requirements for Haulers and Facility Operators

(a) Requirements for Haulers (Standard Compliance Approach; Optional for Performance-Based Compliance Approach)

Guidance: Jurisdictions using the Standard Compliance Approach are required to adopt an ordinance or other enforceable mechanism for hauler regulation requirements specified in 14 CCR, Division 7, Chapter 12, Article 7. This Section 11(a) of the Model Ordinance provides language to document the hauler regulations. Jurisdictions that are exempt from the Organic Waste collection requirements pursuant to rural, low-population, or high-elevation waivers granted by CalRecycle pursuant to 14 CCR Section 18984.12, and haulers and Self-Haulers operating or located within exempt areas of those Jurisdictions, are not required to comply with the SB 1383 Regulations for the duration of an exemption issued pursuant to 14 CCR Section 18984.12. As a result, these Jurisdictions may omit this Section 11(a).

Jurisdictions adopting the Performance-Based Compliance Approach are not required to impose these requirements on haulers, and do not need to include Section 11(a). However, pursuant to SB 1383 Regulations (14 CCR Section 18998.1(d)(2)) these Jurisdictions must require haulers to keep a record of the documentation of its approval as a hauler by the Jurisdiction. These Jurisdictions may, however, choose to adopt some of these other requirements as well to support their compliance with the requirements of the Performance-Based Compliance Approach collection service requirements.

This Section and this Model address specific regulatory requirements that Jurisdictions must enforce on haulers and other entities as specified in 14 CCR, Division 7, Chapter 12, Article 7. There are other requirements in the SB 1383 Regulations on the Jurisdiction that the Jurisdiction may delegate to a hauler to comply with on their behalf such as Container Contamination requirements, outreach and education requirements, container color requirements, and container labeling requirements. Some of these requirements are more appropriately addressed in franchise agreements, hauler permits, or licensing systems.

Jurisdiction shall place requirements on one or more of the following types of haulers depending upon which type(s) of hauler regulation system(s) are allowed in the Jurisdiction:

Option 1: Exclusive franchised hauler

Option 2: Non-exclusive franchised haulers

Option 3: Permitted haulers

Option 4: Licensed haulers

Option 5: Include a combination of Options 1 through 4 as appropriate

(1) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(Jurisdiction to insert type(s) of hauler(s) from list above) providing residential, Commercial, or industrial Organic Waste collection services to generators within the Jurisdiction’s boundaries shall meet the following requirements and standards as a condition of approval of a contract, agreement, or other authorization with the Jurisdiction to collect Organic Waste:

(A) Through written notice to the Jurisdiction annually on or before \_\_\_\_\_ (Jurisdiction to insert date), identify the facilities to which they will transport Organic Waste including facilities for Source Separated Recyclable Materials, Source Separated Green Container Organic Waste, and Mixed Waste. Guidance: For Jurisdictions with three- and three-plus container systems that do not allow Organic Waste, such as Food Waste to be collected in the Gray Container, delete Mixed Waste. For Jurisdictions with two-container systems, delete Source Separated Recyclable Materials or Source Separated Green Container Organic Waste as applicable.

(B) Transport Source Separated Recyclable Materials, Source Separated Green Container Organic Waste, and Mixed Waste to a facility, operation, activity, or property that recovers Organic Waste as defined in 14 CCR, Division 7, Chapter 12, Article 2. Guidance: For Jurisdictions with three- and three-plus container systems that prohibit Organic Waste, such as Food Waste to be collected in the Gray Container, delete Mixed Waste. For Jurisdictions with two-container systems, delete Source Separated Recyclable Materials or Source Separated Green Container Organic Waste as applicable.

(C) Obtain approval from the Jurisdiction to haul Organic Waste, unless it is transporting Source Separated Organic Waste to a Community Composting site or lawfully transporting C&D in a manner that complies with 14 CCR Section 18989.1, Section 13 of this ordinance, and Jurisdiction’s C&D ordinance.

(2) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(Jurisdiction to insert type(s) of hauler(s) from list above) authorization to collect Organic Waste shall comply with education, equipment, signage, container labeling, container color, contamination monitoring, reporting, and other requirements contained within its franchise agreement, permit, license, or other agreement entered into with Jurisdiction. Guidance: This Section 11(a)(2) is not a requirement of SB 1383 Regulations, but Jurisdictions may want to include it as a cross-reference to other documents that contain hauler requirements.

(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 Jurisdiction 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 Jurisdiction shall respond within 60 days. Guidance: The SB 1383 Regulations include specific requirements for processing and facility standards. CalRecycle’s Model Franchise Agreement Tool includes more specific detail on those operative requirements for facilities. In addition to the capacity planning requirements, Jurisdictions may consider including a reference here to a franchise agreement, facility agreement, different section of the Jurisdiction’s municipal/county code, or other relevant document(s) where facility standards are specified.

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

## Section 12. Self-Hauler Requirements

Guidance: The SB 1383 Regulations (14 CCR Division 7, Chapter 12, Article 7) specify requirements for Self-Haulers (which includes back-haulers per the Self-Hauler definition of the SB 1383 Regulations). Jurisdictions that allow for self-hauling and are using either the Standard Compliance Approach or Performance-Based Compliance Approach are required to adopt an ordinance or other enforceable mechanism for Self-Hauler regulation requirements. This Section 12 of the Model Ordinance provides language to document the Self-Hauler regulations. If Jurisdictions do not allow self-hauling, this Section 12 may be deleted.

Jurisdictions that are exempt from the Organic Waste collection requirements pursuant to rural, low-population, or high-elevation waivers granted by CalRecycle pursuant to SB 1383 Regulations (14 CCR Section 18984.12), and haulers and Self-Haulers operating or located within exempt areas of those Jurisdictions, are not required to comply with the SB 1383 Regulations for the duration of an exemption issued pursuant to 14 CCR Section 18984.12. As a result, these Jurisdictions may omit this Section 12.

(a) Self-Haulers shall source separate all recyclable materials and Organic Waste (materials that Jurisdiction otherwise requires generators to separate for collection in the Jurisdiction’s organics and recycling collection program) generated on-site from Solid Waste in a manner consistent with 14 CCR Sections 18984.1 and 18984.2, or shall haul Organic Waste to a High Diversion Organic Waste Processing Facility as specified in 14 CCR Section 18984.3.

(b) Self-Haulers shall haul their Source Separated Recyclable Materials to a facility that recovers those materials; and haul their Source Separated Green Container Organic Waste to a Solid Waste facility, operation, activity, or property that processes or recovers Source Separated Organic Waste. Alternatively, Self-Haulers may haul Organic Waste to a High Diversion Organic Waste Processing Facility.

(c) Self-Haulers that are Commercial Businesses (including Multi-Family Residential Dwellings) shall keep a record of the amount of Organic Waste delivered to each Solid Waste facility, operation, activity, or property that processes or recovers Organic Waste; this record shall be subject to Inspection by the Jurisdiction. 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) (Optional) Self-Haulers that are Commercial Businesses (including Multi-Family Self-Haulers) shall provide information collected in Section 12(c) to Jurisdiction if requested. Guidance: Self-Hauler reporting is not required by the SB 1383 Regulations. If a Jurisdiction includes this subsection, Jurisdiction may want to identify who the information should be provided to and on what dates, either in this subsection or in other online or other communications to Self-Haulers. Jurisdiction may also want to include a provision specifying that Self-Haulers need to register with the Jurisdiction, if such a system is available or desired, in order to more consistently track this information.

(e) A residential Organic Waste Generator that self hauls Organic Waste is not required to record or report information in Section 12(c) and (d).

## Section 13. Compliance with CALGreen Recycling Requirements

Guidance: SB 1383 Regulations (14 CCR Section 18989.1) require that a Jurisdiction, which is a city, county, or a city and county, adopt an ordinance or other enforceable requirement that requires compliance with C&D recycling requirements for Organic Waste commingled with C&D and for provision of adequate space for recycling for Multi-Family and Commercial premises pursuant to Sections 4.408.1, 4.410.2, 5.408.1, and 5.410.1 of the California Green Building Standards Code, 24 CCR, Part 11 as amended July 1, 2019 and effective January 1, 2020 (“CALGreen SB 1383 Baseline Requirements”). This Section 13 provides example language that is structured to fulfill this requirement related narrowly on the CALGreen SB 1383 Baseline Requirements. Pursuant to SB 1383 Regulations (14 CCR Section 18989.1(b)), a Jurisdiction that is not a city, county, or city and county, is not required to include these CALGreen requirements and may delete this Section 13.

SB 1383 Regulations (14 CCR Section 18989.1) cite specific date of effectiveness for CALGreen of January 1, 2020. Jurisdictions’ ordinances need to meet or exceed these CALGreen SB 1383 Baseline Requirements. If Jurisdictions have the ability to adopt an ordinance that allows for an “auto” update of the Jurisdiction’s ordinance as the CALGreen requirements change, that approach is allowable. If the “auto” update results in changes in CALGreen with standards that are less than those in the CALGreen SB 1383 Baseline Requirements, then the Jurisdiction will need to maintain the standards in the CALGreen SB 1383 Baseline Requirements.

Jurisdictions with an ordinance or similarly enforceable mechanism requiring compliance with CALGreen can omit this Section. Jurisdictions should note that while these CALGreen provisions are included in this Model Ordinance, a Jurisdiction may determine it is more appropriate to include these CALGreen requirements in a separate ordinance or in a different, more relevant municipal code section (e.g., building or planning code). Also note that Jurisdictions are not required to address the CALGreen requirements through an ordinance if they prefer to use another type of enforceable mechanism. In such case, Jurisdictions should delete this Section.

If Jurisdictions do not have a separate C&D ordinance or municipal code that address other C&D related policies, Jurisdictions may want to expand this Section to address collection, recycling, diversion, tracking, and/or reporting of C&D.

(a) Persons applying for a permit from the Jurisdiction for new construction and building additions and alternations shall comply with the requirements of this Section and all required components of the California Green Building Standards Code, 24 CCR, Part 11, known as CALGreen, as amended, if its project is covered by the scope of CALGreen or more stringent requirements of the Jurisdiction. If the requirements of CALGreen are more stringent then the requirements of this Section, the CALGreen requirements shall apply.

Project applicants shall refer to Jurisdiction’s building and/or planning code for complete CALGreen requirements.

(b) For projects covered by CALGreen or more stringent requirements of the Jurisdiction, the applicants must, as a condition of the Jurisdiction’s permit approval, comply with the following:

(1) Where five (5) or more Multi-Family dwelling units are constructed on a building site, provide readily accessible areas that serve occupants of all buildings on the site and are identified for the storage and collection of Blue Container and Green Container materials, consistent with the three-, three-plus, or two-container collection program offered by the Jurisdiction, or comply with provision of adequate space for recycling for Multi-Family and Commercial premises pursuant to Sections 4.408.1, 4.410.2, 5.408.1, and 5.410.1 of the California Green Building Standards Code, 24 CCR, Part 11 as amended provided amended requirements are more stringent than the CALGreen requirements for adequate recycling space effective January 1, 2020. Guidance: Include only for three- and two-container systems. For a two-container system, delete reference to Blue Container or Green Container as appropriate. Note that the last portion of the requirement beginning with “…or comply with provisions of adequate space…” is intended to create an “auto-update” of the ordinance when CALGreen changes over time. Jurisdictions may choose to eliminate this provision at their option, if they prefer to update their ordinance each time CALGreen changes.

(2) New Commercial construction or additions resulting in more than 30% of the floor area shall provide readily accessible areas identified for the storage and collection of Blue Container and Green Container materials, consistent with the three-, three-plus, or two-container collection program offered by the Jurisdiction, or shall comply with provision of adequate space for recycling for Multi-Family and Commercial premises pursuant to Sections 4.408.1, 4.410.2, 5.408.1, and 5.410.1 of the California Green Building Standards Code, 24 CCR, Part 11 as amended provided amended requirements are more stringent than the CALGreen requirements for adequate recycling space effective January 1, 2020. Guidance: Include only for three-, three-plus, and two-container systems. For a two-container system, delete reference to Blue Container or Green Container as appropriate. Note that the last portion of the requirement beginning with “…or comply with provisions of adequate space…” is intended to create an “auto-update” of the ordinance when CALGreen changes over time. Jurisdictions may choose to eliminate this provision at their option, if they prefer to update their ordinance each time CALGreen changes.

(3) Comply with CALGreen requirements and applicable law related to management of C&D, including diversion of Organic Waste in C&D from disposal. Comply with Jurisdiction’s C&D ordinance, Section \_\_\_ of Jurisdiction’s municipal code, and all written and published Jurisdiction policies and/or administrative guidelines regarding the collection, recycling, diversion, tracking, and/or reporting of C&D. Guidance: Jurisdictions with a C&D ordinance may choose to add a link to their ordinance in this subsection.\*

## Section 14. Model Water Efficient Landscaping Ordinance Requirements

Guidance: SB 1383 Regulations (14 CCR Section 18989.2) require that a Jurisdiction, which is a city, county, or a City and county, adopt an ordinance or other enforceable requirement that requires compliance with Sections 492.6(a)(3)(B) (C), (D), and (G) of the MWWELO as amended September 15, 2015 (“MWELO SB 1383 Baseline Requirements”). This Section 14 provides example language that is structured to fulfill this requirement related narrowly on the MWELO SB 1383 Baseline Requirements. As a result, the Model does not broadly address all requirements of MWELO. Pursuant to SB 1383 Regulations (14 CCR Section 18989.2(b)), a Jurisdiction that is not a city, county, or city and county, is not required to include these MWELO requirements and may delete this Section 14.

SB 1383 Regulations (14 CCR Section 18989.2) cite a specific date of effectiveness for MWELO of September 15, 2015. Jurisdictions’ ordinances need to meet or exceed these MWELO SB 1393 Baseline Requirements. If a Jurisdiction has the ability to adopt an ordinance that allows for an “auto” update of the Jurisdiction’s ordinance as the MWELO requirements change, that approach is allowable. If the “auto” update results in changes in MWELO with standards that are less than those in the MWELO SB 1383 Baseline Requirements, then the Jurisdiction will need to maintain the standards in the MWELO SB 1383 Baseline Requirements.

Jurisdictions that have an existing MWELO ordinance or other enforceable mechanism that covers the MWELO SB 1383 Baseline Requirements may omit this provision. Jurisdictions should note that while these MWELO provisions are included in this Model Ordinance, a Jurisdiction may determine it is more appropriate to include these MWELO requirements in a separate ordinance or in a different, more relevant municipal code section (e.g., building or planning code). Also note that Jurisdictions are not required to address the MWELO requirements through an ordinance if they prefer to use another type of enforceable mechanism. In such case, Jurisdictions should delete this Section.

(a) Property owners or their building or landscape designers, including anyone requiring a building or planning permit, plan check, or landscape design review from the Jurisdiction, who are constructing a new (Single-Family, Multi-Family, public, institutional, or Commercial) project with a landscape area greater than 500 square feet, or rehabilitating an existing landscape with a total landscape area greater than 2,500 square feet, shall comply with Sections 492.6(a)(3)(B) (C), (D), and (G) of the MWELO, including sections related to use of Compost and mulch as delineated in this Section 14.

(b) The following Compost and mulch use requirements that are part of the MWELO are now also included as requirements of this ordinance. Other requirements of the MWELO are in effect and can be found in 23 CCR, Division 2, Chapter 2.7. Guidance: In the preceding sentence, Jurisdictions can insert link to its own WELO if the provisions are equal to or greater in stringency than Sections 492.6(a)(3)(B) (C), (D), and (G) of the September 15, 2015 MWELO, but proof of these requirements will need to be submitted to CalRecycle.

(c) Property owners or their building or landscape designers that meet the threshold for MWELO compliance outlined in Section 14(a) above shall:

(1) Comply with Sections 492.6 (a)(3)(B)(C),(D) and (G) of the MWELO, which requires the submittal of a landscape design plan with a soil preparation, mulch, and amendments section to include the following:

(A) For landscape installations, Compost at a rate of a minimum of four cubic yards per 1,000 square feet of permeable area shall be incorporated to a depth of six (6) inches into the soil. Soils with greater than six percent (6%) organic matter in the top six (6) inches of soil are exempt from adding Compost and tilling.

(B) For landscape installations, a minimum three- (3-) inch layer of mulch shall be applied on all exposed soil surfaces of planting areas except in turf areas, creeping or rooting groundcovers, or direct seeding applications where mulch is contraindicated. To provide habitat for beneficial insects and other wildlife up to five percent (5%) of the landscape area may be left without mulch. Designated insect habitat must be included in the landscape design plan as such.

(C) Organic mulch materials made from recycled or post-consumer materials shall take precedence over inorganic materials or virgin forest products unless the recycled post-consumer organic products are not locally available. Organic mulches are not required where prohibited by local fuel modification plan guidelines or other applicable local ordinances.

(2) The MWELO compliance items listed in this Section are not an inclusive list of MWELO requirements; therefore, property owners or their building or landscape designers that meet the threshold for MWELO compliance outlined in Section 14(a) shall consult the full MWELO for all requirements.

(d) If, after the adoption of this ordinance, the California Department of Water Resources, or its successor agency, amends 23 CCR, Division 2, Chapter 2.7, Sections 492.6(a)(3)(B) (C), (D), and (G) of the MWWELO September 15, 2015 requirements in a manner that requires Jurisdictions to incorporate the requirements of an updated MWELO in a local ordinance, and the amended requirements include provisions more stringent than those required in this Section, the revised requirements of 23 CCR, Division 2, Chapter 2.7 shall be enforced.

## Section 15. Procurement Requirements for Jurisdiction Departments, Direct Service Providers, and Vendors

Guidance: This Section 15 of the Model Ordinance includes example procurement requirements to address the Recovered Organic Waste Product and Recycled-Content Paper procurement requirements pursuant to SB 1383 Regulations (14 CCR, Division 7, Chapter 12, Article 12). The first Section 15(a) provides a simple statement of requirements for Jurisdiction’s departments to comply with the Jurisdiction’s purchasing policy, which is anticipated to be adopted or amended to address the procurement requirements in SB 1383 Regulations. The second Section 15(b) specifies Recycled-Content Paper requirements for vendors. Jurisdictions should note that while these provisions are included in this Model Ordinance, a Jurisdiction may determine it is more appropriate to include these procurement requirements in a separate ordinance or in a different, more relevant municipal code section. Jurisdictions may also choose not to include the requirements in an ordinance, and instead use another type of enforceable mechanism to document the requirements.

This Model anticipates that Recovered Organic Waste Product and Recycled-Content Paper procurement requirements of the SB 1383 Regulations (14 CCR, Division 7, Chapter 12, Article 12) will be described fully in a separate procurement policy(ies) developed by Jurisdictions. The separate procurement policy(ies) is(are) anticipated to contain additional requirements that the Jurisdiction will place on its departments, purchasers, and others for procuring Compost, mulch, Renewable Gas, electricity from biomass, and Recycled-Content Paper products and Printing and Writing Paper and Recovered Organic Waste Products. Jurisdiction shall adopt a separate procurement policy(ies) by an action of its governing body. Requiring compliance with that policy(ies) through an ordinance is one way to ensure the provisions are enforceable, which is required for certain procurement provisions. For example, in order for mulch to qualify as a Recovered Organic Waste Product that the Jurisdiction may procure to comply with SB 1383 Regulations (14 CCR Division 7, Chapter 12, Article 12), the Jurisdiction must have an enforceable ordinance, or similarly enforceable mechanism, that requires the mulch to meet certain standards, pursuant to 14 CCR Section 18993.1(f)(4). Note that CalRecycle developed a separate Model Procurement Policy as a tool for Jurisdictions. Refer to the Additional CalRecycle Resources section in the Guidance section of this Model for a link to the Model Procurement Policy.

(a) Jurisdiction departments, and direct service providers to the Jurisdiction, as applicable, must comply with the Jurisdiction’s Recovered Organic Waste Product procurement policy adopted on \_\_\_\_\_\_\_\_\_\_ and Recycled-Content Paper procurement policy adopted on \_\_\_\_\_\_\_\_ (Jurisdiction to amend the title(s) of the “procurement policy(ies)” to reflect their title and insert date in the blank). Guidance: In this Model Ordinance, it is anticipated that Jurisdictions will adopt a Recovered Organic Waste Product procurement policy and Recycled-Content Paper procurement policy (or amend existing one(s)) to incorporate procurement requirements required by SB 1383 Regulations (14 CCR, Division 7, Chapter 12, Article 12). The purpose of this statement is to identify the requirement for all Jurisdiction’s departments and direct service providers, if applicable, to comply with the policy(ies) and ensure the policy(ies) is(are) enforceable.

(b) All vendors providing Paper Products and Printing and Writing Paper shall:

Guidance: This Section 15(b) presents Recycled-Content Paper requirements for Jurisdiction’s vendors to support Jurisdiction’s compliance with SB 1383 Regulations (14 CCR Section 18993.3). Jurisdiction may choose to use less specific language here and instead require vendors supplying Paper Products and Printing and Writing Paper to comply with the Jurisdiction’s procurement policy, if such policy is adopted prior to or at the same time as this ordinance. If Jurisdiction already has a procurement policy, it may need to be updated to address the Recycled-Content Paper procurement requirements and to address Recovered Organic Waste Product procurement.

Section 22150 of the Public Contracts Code requires local governments to purchase recycled products instead of non-recycled products whenever recycled products are available at the same or a lesser total cost than non-recycled items, if fitness and quality are equal. Under SB 1383 Regulations (14 CCR Section 18993.3), Jurisdictions are not prohibited from either using a price preference (usually 5 to 10 percent) for Recycled-Content Paper or requiring Recycled-Content Paper regardless of price. The options are presented below for consideration.

(1) If fitness and quality are equal, provide Recycled-Content Paper Products and Recycled-Content Printing and Writing Paper that consists of at least 30 percent, by fiber weight, postconsumer fiber instead of non-recycled products whenever recycled Paper Products and Printing and Writing Paper are available at the same or lesser total cost than non-recycled items or at a total cost of no more than \_\_\_% of the total cost for non-recycled items. Guidance: The procurement requirements specified here are consistent with the Public Resources Code Section 22150 with the exception of the blue highlighted text. Jurisdiction that do not want to include any pricing preference for Recycled-Content Paper should delete the blue highlighted text. Jurisdictions that want to establish a pricing preference for purchase of Recycled-Content Paper shall retain the blue highlighted text and insert a percentage amount.

(2) Provide Paper Products and Printing and Writing Paper that meet Federal Trade Commission recyclability standard as defined in 16 Code of Federal Regulations (CFR) Section 260.12.

(3) Certify in writing, under penalty of perjury, the minimum percentage of postconsumer material in the Paper Products and Printing and Writing Paper offered or sold to the Jurisdiction. This certification requirement may be waived if the percentage of postconsumer material in the Paper Products, Printing and Writing Paper, or both can be verified by a product label, catalog, invoice, or a manufacturer or vendor internet website.

(4) Certify in writing, on invoices or receipts provided, that the Paper Products and Printing and Writing Paper offered or sold to the Jurisdiction is eligible to be labeled with an unqualified recyclable label as defined in 16 Code of Federal Regulations (CFR) Section 260.12 (2013).

(5) Provide records to the Jurisdiction’s Recovered Organic Waste Product procurement recordkeeping Designee, in accordance with the Jurisdiction’s Recycled-Content Paper procurement policy(ies) of all Paper Products and Printing and Writing Paper purchases within thirty (30) days of the purchase (both recycled-content and non-recycled content, if any is purchased) made by any division or department or employee of the Jurisdiction. Records shall include a copy (electronic or paper) of the invoice or other documentation of purchase, written certifications as required in Sections 15(b)(3) and 15(b)(4) of this ordinance for recycled-content purchases, purchaser name, quantity purchased, date purchased, and recycled content (including products that contain none), and if non-recycled content Paper Products or Printing and Writing Papers are provided, include a description of why Recycled-Content Paper Products or Printing and Writing Papers were not provided.

## Section 16. Inspections and Investigations by Jurisdiction

Guidance: SB 1383 Regulations (14 CCR, Division 7, Chapter 12, Article 14) require Jurisdictions to inspect regulated entities for compliance and to take Enforcement Action against non-compliant entities including generators, Tier One and Tier Two Commercial Edible Food Generators, Food Recovery Organizations, Food Recovery Services, haulers, and Self-Haulers. This Section 16 provides example ordinance language to provide the Jurisdiction the right to conduct Inspections and investigations. Section 17 addresses enforcement. This Model language presents a simple approach to establishing the right to inspect or investigate. Some Jurisdictions may want to expand on this to include more specificity, including more specific identification of who has the authority to inspect, what entities may be inspected or investigated, and the protocols for such Inspections and investigations. Note that for Jurisdictions using the Performance-Based Compliance Approach, their Inspection and enforcement obligations under SB 1383 Regulations are limited to Tier One and Tier Two Commercial Edible Food Generators, Food Recovery Organizations, Food Recovery Services, as specified in 14 CCR Sections 18998.2(a)(8) through 18998.2(a)(11).

1. Jurisdiction representatives and/or its designated entity, including Designees are authorized to conduct Inspections and investigations, at random or otherwise, of any collection container, collection vehicle loads, or transfer, processing, or disposal facility for materials collected from generators, or Source Separated materials to confirm compliance with this ordinance by Organic Waste Generators, Commercial Businesses (including Multi-Family Residential Dwellings), property owners, Commercial Edible Food Generators, haulers, Self-Haulers, Food Recovery Services, and Food Recovery Organizations, subject to applicable laws. This Section does not allow Jurisdiction to enter the interior of a private residential property for Inspection. For the purposes of inspecting Commercial Business containers for compliance with Section 6(b) or 7(b) of this ordinance, Jurisdiction may conduct container Inspections for Prohibited Container Contaminants using Remote Monitoring, and Commercial Businesses shall accommodate and cooperate with the Remote Monitoring pursuant to Section 6(k) or 7(k) of this ordinance. (Optional) Guidance: The Remote Monitoring addressed in the preceding sentence is not required by the SB 1383 Regulations. Jurisdictions may include this if they choose to use a Remote Monitoring system to monitor for Prohibited Container Contaminants to support their compliance with 14 CCR Section 18984.5, Container Contamination minimization requirements.
2. Regulated entity shall provide or arrange for access during all Inspections (with the exception of residential property interiors) and shall cooperate with the Jurisdiction’s employee or its designated entity/Designee during such Inspections and investigations. Such Inspections and investigations may include confirmation of proper placement of materials in containers, Edible Food Recovery activities, records, or any other requirement of this ordinance described herein. Failure to provide or arrange for: (i) access to an entity’s premises; (ii) installation and operation of Remote Monitoring equipment (optional); or (ii) access to records for any Inspection or investigation is a violation of this ordinance and may result in penalties described.
3. Any records obtained by a Jurisdiction 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.
4. Jurisdiction representatives, its designated entity, and/or Designee are authorized to conduct any Inspections, Remote Monitoring, or other investigations as reasonably necessary to further the goals of this ordinance, subject to applicable laws.
5. Jurisdiction shall receive written complaints from persons regarding an entity that may be potentially non-compliant with SB 1383 Regulations, including receipt of anonymous complaints. Guidance: Jurisdiction shall develop a method to accept anonymous complaints and require that all complaints be made in writing with specified information. See SB 1383 Regulations (14 CCR Section 18995.3) for more guidance.

## Section 17. Enforcement

Guidance: SB 1383 Regulations (14 CCR, Division 7, Chapter 12, Articles 14 and 16) specify Jurisdiction’s requirements for enforcement and assessment of administrative civil penalties, respectively. Section 17 provides example language to support the enforcement process and assessment of penalties. Jurisdictions will need to make sure that the enforcement language in their ordinance conforms with their own enforcement procedures. Jurisdictions will need to modify the enforcement language to match their current and desired enforcement procedures. In addition, Jurisdictions may want to provide enforcement procedures and requirements stricter than those specified in the SB 1383 Regulations at its option.

(a) Violation of any provision of this ordinance shall constitute grounds for issuance of a Notice of Violation and assessment of a fine by a Jurisdiction Enforcement Official or representative. Enforcement Actions under this ordinance are issuance of an administrative citation and assessment of a fine. The Jurisdiction’s procedures on imposition of administrative fines are hereby incorporated in their entirety, as modified from time to time, and shall govern the imposition, enforcement, collection, and review of administrative citations issued to enforce this ordinance and any rule or regulation adopted pursuant to this ordinance, except as otherwise indicated in this ordinance.

(b) Other remedies allowed by law may be used, including civil action or prosecution as misdemeanor or infraction. Jurisdiction may pursue civil actions in the California courts to seek recovery of unpaid administrative citations. Jurisdiction 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 Jurisdiction staff and resources.

(c) Responsible Entity for Enforcement

(1) Enforcement pursuant to this ordinance may be undertaken by the Jurisdiction Enforcement Official, which may be the city manager or their designated entity, legal counsel, or combination thereof.

(2) Enforcement may also be undertaken by a Regional or County Agency Enforcement Official, designated by the Jurisdiction, in consultation with Jurisdiction Enforcement Official.

(A) Jurisdiction Enforcement Official(s) (and Regional or County Agency Enforcement Official, if using) will interpret ordinance; determine the applicability of waivers, if violation(s) have occurred; implement Enforcement Actions; and, determine if compliance standards are met.

(B) Jurisdiction Enforcement Official(s) (and Regional or County Agency Enforcement Official, if using) may issue Notices of Violation(s).

Guidance: Include Section 17(c)(2) above if Jurisdiction intends to delegate enforcement responsibilities to a Regional Agency, County, or joint powers authority. Regional or County Agency Enforcement Officials may include environmental health director or Designee; executive director of Regional Agency or joint powers authority or Designee; or county administrator or Designee.

(d) Process for Enforcement

(1) Jurisdiction Enforcement Officials or Regional or County Enforcement Officials and/or their Designee will monitor compliance with the ordinance randomly and through Compliance Reviews, Route Reviews, investigation of complaints, and an Inspection program (that may include Remote Monitoring). Section 16 establishes Jurisdiction’s right to conduct Inspections and investigations.

(2) Jurisdiction may issue an official notification to notify regulated entities of its obligations under the ordinance.

(3) For Jurisdictions assessing contamination processing fees/penalties. For incidences of Prohibited Container Contaminants found in containers, Jurisdiction will issue a Notice of Violation to any generator found to have Prohibited Container Contaminants in a container. Such notice will be provided via a cart tag or other communication immediately upon identification of the Prohibited Container Contaminants or within \_\_\_ days after determining that a violation has occurred. If the Jurisdiction observes Prohibited Container Contaminants in a generator’s containers on more than \_\_\_ (\_) consecutive occasion(s), the Jurisdiction may assess contamination processing fees or contamination penalties on the generator. Guidance: Jurisdiction to include this provision if it chooses to assess contamination penalties or contamination processing fees for additional costs of processing Contaminated Containers; otherwise Jurisdictions should delete provision. Notwithstanding the Jurisdiction enforcement requirements in SB 1383 Regulations (14 CCR Section 18995.1), do not require Jurisdictions to impose administrative civil penalties on generators for violation of Prohibited Container Contaminants requirements. If choosing to include these optional fees, Jurisdictions should modify this Section to specify the conditions and procedure for issuance of the fees. For example, a fee could be assessed per instance of contamination or could be assessed after certain number of consecutive instances. For Jurisdictions choosing not to assess contamination processing fees or contamination penalties, delete Section 17(d)(3).

(4) With the exception of violations of generator contamination of container contents addressed under Section 17(d)(3), Jurisdiction shall issue a Notice of Violation requiring compliance within 60 days of issuance of the notice.

(5) Absent compliance by the respondent within the deadline set forth in the Notice of Violation, Jurisdiction shall commence an action to impose penalties, via an administrative citation and fine, pursuant to the Jurisdiction’s \_\_\_\_\_ policy/ordinance/guidelines or requirements contained in Section 17(k), Table 1, List of Violations. Guidance: Note that the Jurisdiction shall amend the text in blue highlighting to identify its policy/ordinance/guidelines related to assessment of penalties or the penalty amounts and/or should refer to Table 1 if it has chosen to include Table 1 in its ordinance.

Notices shall be sent to “owner” at the official address of the owner maintained by the tax collector for the Jurisdiction or if no such address is available, to the owner at the address of the dwelling or Commercial property or to the party responsible for paying for the collection services, depending upon available information

(e) Penalty Amounts for Types of Violations

Guidance: SB 1383 Regulations (14 CCR Section 18997.2) require assessment of penalties with minimum penalty levels consistent with the applicable requirements prescribed in Government Code Sections 53069.4, 25132, and 36900. Jurisdictions may choose to use the ranges of penalties included in the Government Code Section and listed below, or may choose to amend the penalty amounts shown below to establish a specific penalty level (rather than a range) for each violation type. Jurisdictions that choose to pick a specific penalty amount must select an amount that is somewhere in the range or higher than the amounts shown below, but no lower than the lowest value for each range listed below, and consistent with the ranges listed in Sections 53069.4, 25132, and 36900 of the Government Code. Jurisdictions should indicate if these penalties are consistent or different than administrative penalties in Jurisdiction’s code.

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.

(f) Factors Considered in Determining Penalty Amount

Guidance: Jurisdictions may consider including this Section if the penalty amounts are defined as a range (rather than a specific penalty amount). Note that the factors listed below are the factors that will be used by CalRecycle to determine penalties against Jurisdictions and other regulated entities, rather than Jurisdictions against generators, and have been included here for example purposes. Jurisdictions may consider including these factors, but this is not required. Jurisdictions should customize this Section, if including, to list relevant factors or reference other sections of their municipal/county code if similar provisions already exist.

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.

(7) Whether the violation(s) were due to conditions outside the control of the violator.

(g) Compliance Deadline Extension Considerations

The Jurisdiction may extend the compliance deadlines set forth in a Notice of Violation issued in accordance with Section 17 if it finds that there are extenuating circumstances beyond the control of the respondent that make compliance within the deadlines impracticable, including the following:

(1) Acts of God such as earthquakes, wildfires, flooding, and other emergencies or natural disasters;

(2) Delays in obtaining discretionary permits or other government agency approvals; or,

(3) Deficiencies in Organic Waste recycling infrastructure or Edible Food Recovery capacity and the Jurisdiction is under a corrective action plan with CalRecycle pursuant to 14 CCR Section 18996.2 due to those deficiencies.

(h) Appeals Process

Persons receiving an administrative citation containing a penalty for an uncorrected violation may request a hearing to appeal the citation. A hearing will be held only if it is requested within the time prescribed and consistent with Jurisdiction’s procedures in the Jurisdiction’s codes for appeals of administrative citations. Evidence may be presented at the hearing. The Jurisdiction will appoint a hearing officer who shall conduct the hearing and issue a final written order. Guidance: Jurisdiction shall select an employee or Designee to act as hearing officer who is different from their enforcement official.

(i) Education Period for Non-Compliance

Beginning January 1, 2022 and through December 31, 2023, Jurisdiction 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 Jurisdiction 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. Guidance: Jurisdictions may initiate the education period prior to January 1, 2022, but no later than that date pursuant to SB 1383 Regulations (14 CCR Section 18995.1(a)(4)).

(j) Civil Penalties for Non-Compliance

Beginning January 1, 2024, if the Jurisdiction determines that an Organic Waste Generator, Self-Hauler, hauler, Tier One or Tier Two Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance with this ordinance, it shall document the noncompliance or violation, issue a Notice of Violation, and take Enforcement Action pursuant to Section 17, as needed. Guidance: 14 CCR Section 18995.4(a)(1) requires that Jurisdictions initiate Enforcement Actions no later than January 1, 2024. Jurisdiction may consider having penalties start earlier than January 1, 2024. If so, it shall amend the dates in Sections 17(i) and 17(j) above to fit its commencement date for enforcement.

(k) Enforcement Table

Guidance: While Jurisdictions are required to take Enforcement Actions against regulated entities, Jurisdictions are not required to include an enforcement table in their ordinance. The following table is provided as an informational tool to highlight the primary requirements that a Jurisdiction may choose to include in an enforcement table, based on the Model Ordinance requirements. If a Jurisdiction includes such an enforcement table in their ordinance, they may choose to include more items or delete items from the table depending upon the specifics of their final ordinance and their enforcement program.

Items in Table 1 below requiring enforcement by Jurisdictions using Performance-Based Compliance Approach are indicated in the table with an asterisk (🞷). Jurisdictions using the Performance-Based Compliance Approach should modify the table to include only non-compliance items it plans to enforce.

Jurisdictions using a one-container collection service shall include all items except Organic Waste Generator and Commercial Business requirements.

Table 1. List of Violations (Optional)

|  |  |
| --- | --- |
| **Requirement** | **Description of Violation** |
| Commercial Business and Commercial Business Owner Responsibility RequirementSections 6 and 7🞷 | Commercial Business fails to provide or arrange for Organic Waste collection services consistent with Jurisdiction requirements and as outlined in this ordinance, for employees, contractors, tenants, and customers, including supplying and allowing access to adequate numbers, size, and location of containers and sufficient signage and container color. |
| Organic Waste Generator RequirementSection 4, 5, 6 and 7🞷 | Organic Waste Generator fails to comply with requirements adopted pursuant to this ordinance for the collection and Recovery of Organic Waste. |
| Hauler RequirementSection, Section 11  | A hauler providing residential, Commercial or industrial Organic Waste collection service fails to transport Organic Waste to a facility, operation, activity, or property that recovers Organic Waste, as prescribed by this ordinance. |
| Hauler RequirementSection 11  | A hauler providing residential, Commercial, or industrial Organic Waste collection service fails to obtain applicable approval issued by the Jurisdiction to haul Organic Waste as prescribed by this ordinance. |
| Hauler RequirementSection 11 | A hauler fails to keep a record of the applicable documentation of its approval by the Jurisdiction, as prescribed by this ordinance. |
| Self-Hauler RequirementSection 12 | A generator who is a Self-Hauler fails to comply with the requirements of 14 CCR Section 18988.3(b). |
| Commercial Edible Food Generator Requirement Section 9🞷  | Tier One Commercial Edible Food Generator fails to arrange to recover the maximum amount of its Edible Food that would otherwise be disposed by establishing a contract or written agreement with a Food Recovery Organization or Food Recovery Service and comply with this Section commencing Jan. 1, 2022.  |
| Commercial Edible Food Generator RequirementSection 9🞷 | Tier Two Commercial Edible Food Generator fails to arrange to recover the maximum amount of its Edible Food that would otherwise be disposed by establishing a contract or written agreement with a Food Recovery Organization or Food Recovery Service and comply with this Section commencing Jan. 1, 2024. |
| Commercial Edible Food Generator RequirementSection 9🞷 | Tier One or Tier Two Commercial Edible Food Generator intentionally spoils Edible Food that is capable of being recovered by a Food Recovery Organization or Food Recovery Service. |
| Organic Waste Generator, Commercial Business Owner, Commercial Edible Food Generator, Food Recovery Organization or Food Recovery ServiceSections 6, 7, and 9🞷  | Failure to provide or arrange for access to an entity’s premises for any Inspection or investigation.  |
| Recordkeeping Requirements for Commercial Edible Food GeneratorSection 9🞷 | Tier One or Tier Two Commercial Edible Food Generator fails to keep records, as prescribed by Section 9.  |
| Recordkeeping Requirements for Food Recovery Services and Food Recovery OrganizationsSection 10🞷 | A Food Recovery Organization or Food Recovery Service that has established a contract or written agreement to collect or receive Edible Food directly from a Commercial Edible Food Generator pursuant to 14 CCR Section 18991.3(b) fails to keep records, as prescribed by Section 10. |

🞷 Required for Jurisdictions using a Performance-Based Compliance Approach. Items not marked with an 🞷 are not required for Jurisdictions using a Performance-Based Compliance Approach. All items in the table are applicable to Jurisdictions using a Standard Compliance Approach.

## Section 18. Effective Date

This ordinance shall be effective commencing on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. (Jurisdiction to insert date of effectiveness.)

Guidance: SB 1383 Regulations (14 CCR Section 18981.2(a)) require that an ordinance or other enforceable mechanism be in place no later than January 1, 2022. Jurisdiction is to determine whether to make this ordinance effective prior to January 1, 2022 to allow entities additional time to come into compliance with SB 1383 Regulations through outreach and education efforts provided by Jurisdiction, prior to Inspections, etc. Jurisdiction is required to provide education by February 1, 2022 at the latest, but six months or a year sooner for both education and effective date would give regulated entities more time to understand and comply, prior to Inspections beginning.