PURSUANT TO GOVERNOR NEWSOM’S EXECUTIVE ORDER N-29-20, THE MEETING WILL BE HELD BY TELECONFERENCE AND/OR VIDEO CONFERENCE ONLY. THE PUBLIC MAY PARTICIPATE BY JOINING THE ZOOM MEETING https://us02web.zoom.us/j/84558310949?pwd=aVY0SFp1N0diSE1DWkhqQW5WdE1Wdz09 AND SUBMITTING THEIR PUBLIC COMMENTS IN A LIVE MEETING FORMAT. ANY EMAILS SENT TO rethinker@rethinkwaste.org WILL BE PROVIDED TO THE TAC MEMBERS PRIOR TO THE MEETING.

Live verbal public comments may be made by members of the public joining the meeting via Zoom. Zoom access information is provided above. Use the “raise hand” feature (for those joining by phone, press “9 to “raise hand”) during the public comment period for the agenda item you wish to address. The TAC CHAIR will call on people to speak by name provided or last 4 digits of phone number for dial-in attendees. Please clearly state your full name for the record at the start of your public comment.

Written public comments for the record may be submitted in advance by 12:00 p.m. on the meeting date by email to: rethinker@rethinkwaste.org and will be made part of the written record but will not be read verbally at the meeting. Written public comments submitted by email should adhere to the following: 1) Clearly indicate the Agenda Item No. or specify “Public” in the Subject Line for items not on the agenda and 2) Include the submitter's full name.

TELECONFERENCE PARTICIPANTS
ALL TAC MEMBERS WILL PARTICIPATE BY TELECONFERENCE AND/OR VIDEO CONFERENCE PURSUANT TO GOVERNOR NEWSOM’S EXECUTIVE ORDER N-25-20

PURSUANT TO RALPH M. BROWN ACT, GOVERNMENT CODE SECTION 54953, ALL VOTES SHALL BE BY ROLL CALL DUE TO ALL TAC MEMBERS PARTICIPATING BY TELECONFERENCE AND/OR VIDEO CONFERENCE

ANY REQUEST FOR REASONABLE ACCOMMODATION SHOULD BE ADDRESSED TO CYNDI URMAN AT CURMAN@RETHINKWASTE.ORG.

AGENDA

1. Call to Order/Roll Call

2. Public Comment

Persons wishing to address the TAC on matters NOT on the posted agenda may do so. Each speaker is limited to three minutes. If there are more than five individuals wishing to speak during public comment, the Chairman will draw five speaker cards from those submitted to speak during this time. The balance of the Public Comment speakers will be called upon at the end of the TAC Meeting. If the item you are speaking on is not listed on the agenda, please be advised that the TAC may briefly respond to statements made or questions posed as allowed under The Brown Act (Government Code Section 54954.2). The TAC’s general policy is to refer items to staff for attention, or have a matter placed on a future TAC agenda for a more comprehensive action or report and formal public discussion and input at that time. Speakers may also submit comments via email prior to the meeting by sending those comments to rethinker@rethinkwaste.org
3. **Executive Director’s Report** *(Verbal report only)*

4. **Approval of Consent Calendar**
   Consent Calendar item(s) are considered to be routine and will be enacted by one motion. There will be no separate discussion on these items unless members of the TAC, staff or public request specific items be removed for separate action. *Items removed from the Consent Calendar will be moved to the end of the agenda for separate discussion.*
   - Approval of the Minutes from the May 13, 2021, TAC Meeting

5. **Discussion on SB 1383 Implementation Planning**
   - Discussion of SB 1383 Implementation Update and Next Steps
   - Recommend approval of the Model Mandatory Organic Waste Disposal Reduction Ordinance to the SBWMA Board of Directors

6. **Contractor Updates** *(Verbal report only)*
   - Recology
   - South Bay Recycling

7. **TAC Member Comments**

8. **Adjourn**
EXECUTIVE DIRECTOR’S REPORT

Agenda Item 3 is a verbal report only at the 06/10/2021 SBWMA TAC Meeting
CONSENT CALENDAR
Call to Order: 2:03PM

1. Roll Call

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2. Public Comment

Persons wishing to address the Board on matters NOT on the posted agenda may do so.

Each speaker is limited to two minutes. If there are more than five individuals wishing to speak during public comment, the Chairman will draw five speaker cards from those submitted to speak during this time. The balance of the Public Comment speakers will be called upon at the end of the Board Meeting.

If the item you are speaking on is not listed on the agenda, please be advised that the Board may briefly respond to statements made or questions posed as allowed under The Brown Act (Government Code Section 54954.2). The Board’s general policy is to refer items to staff for attention, or have a matter placed on a future Board agenda for a more comprehensive action or report and formal public discussion and input at that time.

None

3. Executive Director’s Update

Executive Director La Mariana welcomed all the meeting and gave the following announcements:

- Franchise agreement amendment one, and the 3rd Amended and Restated JPA decisions are beginning heard at the Member Agency council meetings starting this week, once a majority of Member Agencies adopt these (8) Amendment One will go into effect January 1, 2022, and the JPA Agreement will need to come back to the SBWMA Board for policy and procedure change decisions likely in September 2021.
- Franchise Agreements will need a second amendment in the fall of 2021 for SB1383 compliance related items.
• The Organics-to-Energy pilot is up and running after a year of COVID related delays, and two loads of material generated from the pilot are going to Silicon Valley Clean Water each day which is all they have capacity for. And additional loads are going to Central Marin Sanitary District.
• Staff is currently planning for Phase II of the MRF upgrades which will include a recommendation for robotics.
• Conceptual agreement for the first Phase of EV vehicle replacement in the Recology fleet has been reached, 15-16 support vehicles are candidates for replacement likely in 2024. The collection vehicles will not be replaced because the technology isn’t ready yet, and they are still operationally and cost prohibitive options.
• TAC Member Carol Augustine has announced her retirement, so there will be an opening on the TAC and Finance Committees.

4. Approval of Consent Calendar
Consent Calendar item(s) are considered to be routine and will be enacted by one motion. There will be no separate discussion on these items unless members of the Board, staff or public request specific items be removed for separate action. Items removed from the Consent Calendar will be moved to the end of the agenda for separate discussion.

A. Approval of the Minutes from the September 20, 2020, TAC Meeting
B. Approval of the Minutes from the October 15, 2020 Board of Directors and TAC Study Session

Motion/Second: Tong/A. Lee
Roll Call Vote 9-0-0-2

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5. Discussion on SB 1383 Implementation Planning
A. Discussion of SB 1383 Implementation Responsibilities for SBWMA, Member Agencies, the County of San Mateo and Recology

Staff Carter gave a PowerPoint presentation on SB1383 Implementation planning, the presentation included the following information.
In 2022, the SB1383 regulations take effect, and jurisdictions are ultimately responsible for compliance.
He went over the key compliance items required in 2022 and noted that in 2024 jurisdictions are required to take action against non-compliant entities.
The SBWMA is proposing that the Agency take the lead for the majority of the SB1383 requirements, while the County of San Mateo takes the lead on the edible food recovery program, and Member Agencies take the lead for enforcement, procurement and C&D and WELO ordinance compliance.
The SBWMA has written an MOU for SB1383 compliance that will be reviewed by the TAC today, which will then go to the Board, followed by Member Agency Council approval.
The SBWMA will provide a draft model enforcement ordinance to the member agencies that will be reviewed and approved by both the TAC and Board.
The model ordinance will need additional customizations by each Member Agency’s attorney.

The committee discussed the ordinance:
Chair Lorenz asked when cities will be able to take the ordinance to their Councils. Staff Carter answered that the Board will review at their June meeting, and then cities can agendize this for the end of June or July.

Chair Murray reminded TAC members that since this is an ordinance, it requires two readings and then 30 days before it can be enacted.

Member Oskouï noted that there probably needs to be an informational meeting for elected officials ahead of the ordinance readings at councils to educate them on the law and its implications for their agencies.

Staff Au noted that staff recently assisted Foster City with a Council study session on SB 1383 and the implementation effects. SBWMA staff would be happy to arrange this for all the Member Agencies. Many members expressed interest in having this presentation at their Councils.

Staff Carter went on with his presentation inviting County Staff Member Jack Johnson to speak on the Countywide Edible Food Recovery program that is being implemented by the County of San Mateo’s Office of Sustainability.

Executive Director La Mariana credited the County of their work on the edible food recovery program.

The committee then discussed the fact that SB1383 will require Member Agencies to change procurement policies and ordinances. Vice Chair Lorenz asked if Member Agencies will be able to modify existing ordinances or a new adoption would be required. Staff answered both may be needed.

Executive Director La Mariana noted that the issues with the procurement requirements is the volume required by SB1383. The amount of compost required is too vast to have space for.

Chair Murray noted there would be a large transportation cost involved in getting all of the compost to the Member Agencies for use as well.

Member Oskouï suggested a more centralized approach to distributing the compost mulch if there is no way to consume all of the volume required.

Member Brown suggested getting in touch with Bay Conservation Development Commission to see if compost could be used for sea level rise.

Member Clark shared concerns that this might trigger CEQA.

Executive Director La Mariana noted that staff would work with the Agency attorneys if any of the programs would need to be flagged for triggering CEQA.

Jack Johnson noted that County staff would be giving a presentation at the end of May on SB1383 procurement and Edible Food Recovery, and invited TAC members to attend, or reach out if they aren’t already on the email list regarding SB1383 implementation in the County.

**B. Recommend approval of the Implementation of SB 1383 Memorandum Of Understanding to the SBWMA Board of Directors**

Staff Carter gave an overview of the staff report and the proposed MOU agreement between the SBWMA and
Member Agencies to clarify roles.

Member Tong wondered if there would be adequate time for the review process for the Member Agencies staff and legal counsels. He also noted that the MOU needed clarification regarding record keeping because the County is in a unique circumstance where there are other areas of the jurisdiction that are not part of the SBWMA that they need to maintain records for.

Vice Chair Lorenz expressed concerns over several definitions and processes and requested more specific language be added in the MOU. The committee agreed that her change requests were reasonable and should be implemented before this moved forward to the Board.

Chair Murray asked if the Organics-to-Energy pilot would divert enough organic material to meet SB 1383 goals. Executive Director La Mariana answered that the pilot was likely not going to meet the diversion goals as defined in the SB 1383 regulations, but that it was still a valuable project.

Belmont now absent 3:04PM

The Committee then discussed whether there was a termination clause for the MOU. Could a Member Agency be a Member and not be part of the MOU, and if not should this be a JPA amendment and not an MOU.

Member Tong made a motion to approve recommending the MOU to the SBWMA Board with the modifications brought up during the discussion today/ A. Lee seconded the motion.

6. Contractor Updates *(Verbal report only)*
   A. Recology

   Mike Kelly quickly noted that Recology is currently focused on the rate application for 2022.

   B. South Bay Recycling

   Dan Domonoske noted that so far SBR is still able to move material, and that it is still a struggle to keep things moving, but they have not had to resort to transporting material to Los Angeles yet.

7. TAC Member Comments

8. Adjourn 3:55PM
Discussion on SB 1383 Implementation Planning
## STAFF REPORT

To: SBWMA TAC Members  
From: Tj Carter, Program Manager II, Recycling and Compliance  
Date: June 10, 2021 Technical Advisory Committee Meeting  
Subject: Discussion of SB 1383 Implementation Update and Next Steps

### Analysis

As detailed in the SBWMA SB 1383 Compliance Plan approved by the SBWMA Board of Directors on November 19, 2020, the SBWMA administrative program /staff has taken on a significant portion of the SB 1383 program responsibilities.

Staff will provide updates on the following four (4) items and, when appropriate, TAC member input will be sought during this meeting:

1. **Implementation of SB 1383 Memorandum of Understanding (MOU) with SBWMA and Member Agencies**

SB 1383 allows a jurisdiction to designate a public or private entity to fulfill its SB 1383 responsibilities through a Memorandum of Understanding. A draft of the Implementation of SB 1383 MOU was reviewed and recommended to the SBWMA Board of Directors at the May 13th TAC Meeting. SBWMA staff have revised the MOU based on feedback received at that meeting and will discuss the changes with TAC Members during the June 10th Meeting.

2. **Recordkeeping management software**

As detailed in the SBWMA SB 1383 Compliance Plan and draft Implementation of SB 1383 MOU, the SBWMA will be the primary recordkeeper for all the information and documents required in the Implementation Record. Each Member Agency will be given access to their own set of records through a cloud-based software.

SBWMA staff will discuss an available cloud-based system option and gather input with TAC members during the June 10th meeting called Recyclist. Recyclist creates cloud-based solutions to manage solid waste programs. Recyclist’s Software as a Service products provide visibility into waste stream data, ways to track commercial outreach and compliance, and digital recycling education for residents. Founded in 2015 in Truckee, California, the company is certified as both a SB (Small Business) and a DBE (Disadvantaged Business Enterprise). Recyclist works with 50+ public agencies in California, including the County of San Mateo. The anticipated cost of the software service is between $65,000 - $80,000 annually, depending on the amount of customization.

3. **Franchise Agreement Amendment Two with Recology**

SBWMA met with Recology on May 11th, 2021 to discuss expanded services related to SB 1383. This included rollout, contamination monitoring and record keeping, potential increases to organics collection services and other activities for SB 1383. It is anticipated the changes to be implemented through an amendment (Amendment Two)
to the Franchise Agreement. Staff anticipates that the proposed Amendment Two will be brought to Member Agencies in Q4 after SBWMA Board review and consideration.

4. **Model Mandatory Organic Waste Disposal Reduction Ordinance adoption by Member Agencies**

CalRecycle regulations require that, by January 1, 2022, a jurisdiction shall adopt an enforceable ordinance(s), or similarly enforceable mechanism to mandate that organic waste generators, haulers, and other entities that are subject to the jurisdiction’s authority, comply with the requirements in SB 1383 regulations. SBWMA has hired Debra Kaufman Consulting to customize the CalRecycle Model Ordinance for SBWMA Member Agencies. The Model Ordinance will be brought to the TAC for review and recommendation to the SBWMA Board of Directors in item 5B. To further support review of the Model Ordinance, the SBWMA will provide an informational webinar for city attorneys on June 14th, 2021 (to be confirmed).

**Background**

In September 2016, SB 1383 (Lara, Chapter 395, Statutes of 2016) established statewide methane emissions reduction targets in an effort to reduce emissions of short-lived climate pollutants in various sectors of California’s economy. It includes statewide goals to reduce the disposal of organic waste and recover edible food for human consumption. To accomplish these statewide goals, SB 1383 regulations were developed, which were approved on November 3rd 2020, and include prescriptive requirements for jurisdictions related to recycling and organics collection, inspection, and enforcement policies and programs and edible food recovery. The SBWMA and its Member Agencies need to comply with nearly all SB 1383 requirements by January 1, 2022 with the significant exception that enforcement actions do not need to commence until January 1, 2024. More information regarding SB 1383 can be found online at [www.calrecycle.ca.gov/organics/slcp/](http://www.calrecycle.ca.gov/organics/slcp/).

The SB 1383 Compliance Plan approved by the SBWMA Board of Directors can be found [here](http://www.calrecycle.ca.gov/organics/slcp/).

**Fiscal Impact**

None.

**Attachments:**

Attachment A: Draft Implementation of SB 1383 Memorandum of Understanding
Memorandum of Understanding
Between the Jurisdictions of Belmont, Burlingame, East Palo Alto, Foster City, Hillsborough, Menlo Park, Redwood City, San Carlos, San Mateo, West Bay Sanitary District, and the County of San Mateo and
The South Bayside Waste Management Authority
Regarding Implementation of SB 1383 Regulations

This Memorandum of Understanding (“MOU”) is made this ____ day of ____________, 2021 (“Effective Date”) by and between the COUNTY OF SAN MATEO, a political subdivision of the State of California, the CITIES OF BELMONT, BURLINGAME, EAST PALO ALTO, FOSTER CITY, HILLSBOROUGH, MENLO PARK, REDWOOD CITY, SAN CARLOS, SAN MATEO, each a municipal corporation of the State of California, the WEST BAY SANITARY DISTRICT, a California independent district, (the County and Cities and West Bay Sanitary District are referred to individually herein as a “Jurisdiction”) and the SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY, a California joint powers authority (“Agency”) (collectively the “Parties”).

RECITALS

WHEREAS, the Agency is a joint powers authority established pursuant to the California Joint Exercise of Powers Act (Gov. Code section 6500 et seq.); and

WHEREAS, each of the Jurisdictions is a member of the Agency, and the Agency operates certain core programs on behalf of and for the benefit of the Jurisdictions, including but not limited to providing education regarding recycling, composting, and other methods of waste diversion to the Jurisdictions and the public, and conducting, preparing, and submitting all monitoring and reporting pursuant to the Integrated Waste Management Act (California Public Resources Code §§40000 et seq.); and

WHEREAS, the State of California passed SB 1383 (Chapter 395, Statutes of 1383), which required the California Department of Resources Recycling and Recovery (CalRecycle) to adopt regulations to reduce organic waste by 50 percent from its 2014 baseline level by 2020 and 75 percent by 2025; and

WHEREAS, CalRecycle has finalized regulations and revised Chapter 12 (Short-lived Climate Pollutants) of Division 7 of Title 14 of the California Code of Regulations (“SB 1383 Regulations”); and

WHEREAS, the SB 1383 Regulations require local agencies or jurisdiction to implement Edible Food Recovery programs; to promote consistency within jurisdictions throughout San Mateo County and leverage economies of scale, the County has offered to lead the creation of a County-wide Edible Food Recovery Program on behalf of the unincorporated areas of the county and all the cities in the county and has developed a separate MOU in conjunction with that program;
WHEREAS, in addition, the SB 1383 Regulations require local agencies or jurisdictions, among other things, to implement programs requiring organic waste generators and waste haulers to meet minimum standards for organic waste collection services, inspect waste containers for prohibited contamination of materials, provide education and outreach information to organic waste generators, report to CalRecycle on compliance with SB 1383 Regulations, and maintain records of compliance with SB 1383 Regulations; and

WHEREAS, Jurisdictions may designate a public or private entity to fulfill the requirements of Chapter 12: Short-lived Climate Pollutants, except that the Jurisdictions shall remain ultimately responsible for compliance; and

WHEREAS, the Parties are entering into this MOU to establish certain roles and responsibilities that the Agency shall assume on behalf of the Jurisdictions to implement the SB 1383 Regulations (excluding the Edible Food Recovery Program requirements undertaken by the County in the separate MOU) that will take effect on January 1, 2022 under the terms and conditions as set forth herein.

NOW, THEREFORE, in consideration of the foregoing, the Parties hereby agree as follows:

AGREEMENT

1. Term. This MOU shall commence on the Effective Date and remain in full force and effect until terminated as set forth in Section 6 of this MOU.

2. Definitions.
   (a) “Agency” means the South Bayside Waste Management Authority.
   (b) “CalRecycle” or “Department” means the California State Department of Resources Recycling and Recovery.
   (c) “City” means one of the cities or towns that is a member of the Agency.
   (d) “County” means the County of San Mateo.
   (e) “Edible Food” means food intended for human consumption.
   (f) “Generator” means a person or entity that is responsible for the initial creation of organic waste.
   (g) “Hauler” means a person or entity who collects material from a Generator and delivers it to a reporting entity, end user, or a destination outside of the state. “Hauler” includes public contract haulers, private contract haulers, food waste
self-haulers, and self-haulers. A person who transports material from a reporting entity to another person is a transporter, not a hauler.

(h) “Implementation Record” means all records, physical or electronic, that must be stored in one central location and are required by Chapter 12: Short-lived Climate Pollutants.

(i) “Jurisdiction” means a City, or West Bay Sanitary District, or the County, each of which provides solid waste collection services within their jurisdictional boundaries.

(j) “Local Enforcement Agency” or “LEA” means the San Mateo County Department of Health Services, Solid Waste Local Enforcement Agency.

(k) “Organics,” “Organic Materials” or “Organic Waste” are materials that originate from living organisms and their metabolic waste products, including food, green material, landscape and pruning waste, vegetables, grain, meat, bones, paper towels, leaves, and wood.

(l) “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.

(m) “SB 1383 Regulations,” “Regulations,” or “Chapter” means Chapter 12 (Short-lived Climate Pollutants) of Division 7 of Title 14 of the California Code of Regulations. Regulatory references to specific sections listed in the MOU shall be to the SB 1383 Regulations, unless specifically noted otherwise.

(n) “Waste evaluation” means collecting samples from garbage, recycling, and organics from different areas in the jurisdiction so that the samples are representative of the jurisdiction’s waste stream.

3. Responsibilities of the Agency.

(a) Education and outreach. The Agency shall provide educational materials and community outreach to organic waste generators in English, Spanish, and Chinese that explain and provide information on the requirements of the SB 1383 Regulations, as more specifically described below, and will be consistent with the scope of work listed in the three-year Public Education and Recycling Technical Assistance Plan.

(i) Prior to February 1, 2022, the Agency will make available to Generators, through print and/or electronic media, information regarding §§ 18984.9, 18984.10, 18985.1, 18985.2, 18988.3, 18991.3, 18991.4, and 18991.5 of the Regulations. This information shall be maintained and updated at least annually.

(ii) The Agency shall send letters to residential and commercial Generators who have not subscribed to Organics Collection Services and those who
are found to have prohibited container contaminants by providing information and resources to comply with the Regulations related to the collection and recovery of Organic Materials. The Agency shall work with each individual Jurisdiction and the franchise Hauler to tailor the letters to the Jurisdiction’s needs.

(b) **Procurement.** The Agency shall annually notify each Jurisdiction of its Organic Waste product procurement target, as required and determined by CalRecycle. Before CalRecycle releases the official procurement targets for each Jurisdiction on January 1, 2022 and every five years thereafter, the Agency shall assist the Jurisdictions in calculating estimates of the procurement targets. (§18993.1)

(c) **Reporting and recordkeeping.**

(i) The Agency shall submit reports for Organics processing capacity and Edible Food recovery planning requirements according to the schedule established in § 18992.3.

(ii) The Agency will be the primary recordkeeper for all the information and documents required in the Implementation Record. (§ 18995.2) Each jurisdiction will be given access to their own set of records through a cloud-based software. Agency staff will upload documents within the 60-day timeframe as required in the Chapter, provided that the information is made available to the Agency by the necessary parties in a timeframe that allows for such uploading.

(iii) Upon request by a CalRecycle representative or the public through a Public Records Act request, either the Agency or the Jurisdiction will provide access to the Implementation Record. Agency and Jurisdiction shall notify the other of the request and coordinate a response.

(iv) The Agency shall submit the Initial Jurisdiction Compliance Report and Jurisdiction Annual Reports to CalRecycle as detailed in §§ 18994.1, 18994.2.

(d) **Organic waste processing capacity and diversion planning.**
The Agency shall work with the County of San Mateo to estimate existing Organics processing and Edible Food recovery capacities available in the service area (§§ 18992.1, 18992.2). If it is found that either are lacking, the Agency shall assist the Jurisdictions in creating an implementation plan to expand capacity.

(e) **Model Tools.** The Agency shall revise the Model Tools, which were created by CalRecycle and HF&H, to better fit the Jurisdictions’ needs. The Agency shall assist the Jurisdictions in tailoring the language further if necessary, although it will ultimately be the Jurisdictions’ responsibility to use or adopt them. The Model Tools are:

(i) Model Franchise Agreement Amendment and Exhibits or Scope of Services Modifications with Recology
(ii) Model Mandatory Organic Waste Disposal Reduction Ordinance, otherwise known as the Enforcement Ordinance

(iii) Model Procurement Policy

(f) **Complaints and violations.** Agency shall forward to the Jurisdictions all complaints alleging non-compliance with the Regulations for investigation. The Agency shall also provide to the Jurisdictions the names and associated contact information of Generators who repeatedly refuse to comply with the Regulations. The Agency shall notify the Jurisdictions of these complaints and violations at the time of receipt of such complaints by the Agency.

(g) **Waivers.**

(i) Since the authority to issue waivers cannot be delegated to a private entity, the Agency shall approve or deny each waiver request except as otherwise provided herein. Waivers may be granted by the Agency for de minimis volumes and physical space limitations. (§ 18984.11). Eligibility for waivers will be reviewed by the Agency every 5 years after written verification of eligibility is provided by the Commercial Business or property owner.

1. The Agency will create a standardized waiver request form for Jurisdictions and Haulers to distribute. This form will be a printable document maintained on the Agency’s website.

2. De Minimis Waivers: The Agency 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’ total Solid Waste collection service is two cubic yards or more per week and Organic Waste subject to collection in the Green Container comprises less than 20 gallons per week per applicable container of the business’ total waste; or is less than two cubic yards per week and Organic Waste subject to collection in the Green Container comprises less than 10 gallons per week per applicable container of the business’ total waste.

3. Physical Space Waivers: The Agency 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 Agency 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.

4. Since weekly pickup of solid waste is required by the LEA, Collection Frequency Waivers will not be granted to Generators in San Mateo County.

(h) **Emergency Circumstances – Waivers for Jurisdiction**
(i) The Agency will notify CalRecycle and apply for a waiver to landfill organics if any of the Jurisdictions experiences a natural disaster, has a temporary operational failure at the organics facility, or unforeseen operational restrictions have been imposed upon it by a regulatory agency. (§18984.13)

4. **Responsibilities of the Jurisdictions.**

   (a) The Jurisdictions shall assume responsibility for all other parts of the Regulations not expressly stated to be covered by the Agency in this MOU.

   (b) **Sharing of information.** Within thirty (30) days of request by the Agency, or as soon as such information is available to the Jurisdiction, the Jurisdictions shall share with the Agency all data, documents, contact information for generators within the Jurisdiction, or any other information necessary for the Agency to carry out the responsibilities listed in this MOU.

   (c) **Staff and funding.** In order for the Agency to carry out its responsibilities in connection with the administration and implementation of the SB 1383 Regulations as specified in this MOU, costs shall be jointly shared by participating Jurisdictions through the garbage tipping fee rate. Budget changes related to this MOU will be integrated into the Agency’s regular budget process, as approved by the Board of Directors.

5. **Indemnification/Hold Harmless.** Agency shall indemnify, defend, and hold harmless the Jurisdictions, their legislative bodies, officials, consultants, agents, and employees from and against any and all loss, damages, liability, claims, suits, costs and expenses, including reasonable attorney’s fees, arising from Agency’s performance of this MOU, with the exception of matters that are based upon the negligent or intentional acts or omissions of the Jurisdictions, their legislative bodies, officials, consultants, agents and employees.

6. **Withdrawal of Jurisdictions; Termination by Agency.** Any Jurisdiction may withdraw as a party to this MOU upon giving one hundred and eighty (180) calendar days’ prior written notice to the other Parties. Further, the Agency may terminate this MOU upon giving three hundred and sixty-five (365) days’ prior written notice to the Jurisdictions. Upon termination of this MOU, the Agency shall have no further obligations to carry out the Agency Responsibilities as described in this MOU. The Agency will provide the Jurisdiction all records related to the Implementation Record (§ 18995.2). In the event that a Jurisdiction withdraws from this MOU the Jurisdiction’s share of the costs are required to be paid to Agency under this MOU on a proportionate basis.

7. **Notice.** During the term of this MOU, all notices shall be made in writing and either served personally, sent by first class mail, or sent by email provided confirmation of delivery is obtained at the time of email transmission, addressed as follows:
MOU – Implementation of SB 1383 Regulations

To: Agency
South Bayside Waste Management Authority
Attention: Executive Director
610 Elm Street, Suite 202
San Carlos, CA 94070
Telephone Number:
Email:

To City of Belmont:
City of Belmont
Attention: City Manager

Belmont, CA_____
Telephone Number:
Email:

To City of Burlingame:
City of Burlingame
Attention: City Manager

Burlingame, CA_____
Telephone Number:
Email:

To City of East Palo Alto:
City of East Palo Alto
Attention: City Manager

East Palo Alto, CA_____
Telephone Number:
Email:

To City of Foster City:
City of Foster City
Attention: City Manager

Foster City, CA_____
Telephone Number:
Email:

To Town of Hillsborough:
Town of Hillsborough
Attention: City Manager

Hillsborough, CA_____
Telephone Number:
MOU – Implementation of SB 1383 Regulations

Email:

To City of Menlo Park: City of Menlo Park
Attention: City Manager
Menlo Park, CA _____
Telephone Number:
Email:

To City of Redwood City: City of Redwood City
Attention: City Manager
Redwood City, CA _____
Telephone Number:
Email:

To City of San Carlos: City of San Carlos
Attention: City Manager
San Carlos, CA _____
Telephone Number:
Email:

To City of San Mateo: City of San Mateo
Attention: City Manager
San Mateo, CA _____
Telephone Number:
Email:

To County of San Mateo: County of San Mateo
Attention: County Manager
Redwood City, CA _____
Telephone Number:
Email:

To West Bay San. District: West Bay Sanitary District
Attention: District Manager

8
Menlo Park, CA

Telephone Number:

Email:

Any Party may change the address to which notice is to be given by providing the other Parties with written notice of such change at least fifteen (15) calendar days prior to the effective date of the change.

Service of notices shall be deemed complete on the date of receipt if personally served or if served using email provided confirmation of delivery is obtained at the time of email transmission. Service of notices sent by first class mail shall be deemed complete on the fifth (5th) day following deposit in the United States mail.

8. Governing Law and Venue. This MOU shall be deemed to be executed within the State of California and construed in accordance with and governed by laws of the State of California. Venue in any proceeding or action among the participating Jurisdictions arising out of this MOU shall be in San Mateo County, California.

9. Amendment. This MOU and the exhibits hereto may only be amended in writing signed by all Parties, and any purported amendment shall be of no force or effect. This MOU may be amended to both extend the term and conditions, as well as to add tasks. Agency shall not begin new tasks without express written permission of the Cities.

10. Entire Agreement. This MOU and its exhibits constitute the entire agreement between the Jurisdictions and the Agency and supersedes all prior negotiations, representations, or agreements, whether written or oral.

[Signatures on following page]

SIGNATURE PAGE FOR MEMORANDUM OF UNDERSTANDING
Between the Jurisdictions of Belmont, Burlingame, East Palo Alto, Foster City, Hillsborough, Menlo Park, Redwood City, San Carlos, San Mateo, West Bay Sanitary District, and the County of San Mateo and The South Bayside Waste Management Authority Regarding Implementation of SB 1383

IN WITNESS WHEREOF, the Parties hereto have executed this agreement in duplicate on the day and year first above written.

CITY OF BELMONT, A Municipal Corporation of the State of California

By: ________________________________
MOU – Implementation of SB 1383 Regulations

APPROVED AS TO FORM:

______________________________________________
City Attorney

TOWN OF HILLSBOROUGH, A Municipal Corporation of the State of California

By: _____________________________

Town Manager

APPROVED AS TO FORM:

______________________________________________
Town Attorney

CITY OF MENLO PARK, A Municipal Corporation of the State of California

By: _____________________________

City Manager

APPROVED AS TO FORM:

______________________________________________
City Attorney

CITY OF REDWOOD CITY, A Municipal Corporation of the State of California

By: _____________________________

City Manager

APPROVED AS TO FORM:
MOU – Implementation of SB 1383 Regulations

City Attorney

CITY OF SAN CARLOS, A Municipal Corporation of the State of California
By: ____________________________

City Manager

APPROVED AS TO FORM:

City Attorney

CITY OF SAN MATEO, A Municipal Corporation of the State of California
By: ____________________________

City Manager

APPROVED AS TO FORM:

City Attorney

COUNTY OF SAN MATEO, A Municipal Corporation of the State of California
By: ____________________________

County Administrator

APPROVED AS TO FORM:

County Counsel
WEST BAY SANITARY DISTRICT, An Independent District of the State of California

By: ________________________________

District Manager

APPROVED AS TO FORM:

________________________________________

District Counsel

SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY, A California Joint Powers Authority

By: ________________________________

Executive Director

APPROVED AS TO FORM:

________________________________________

Agency Counsel
**STAFF REPORT**

To: SBWMA TAC Members  
From: Tj Carter, Program Manager II, Recycling and Compliance  
Date: June 10, 2021 Technical Advisory Committee Meeting  
Subject: Recommend approval of the Model Mandatory Organic Waste Disposal Reduction Ordinance to the SBWMA Board of Directors

**Recommendation**

It is recommended that the SBWMA Technical Advisory Committee recommend Resolution No 2021-XX attached hereto recommending the approval of the Model Mandatory Organic Waste Disposal Reduction Ordinance (Model Ordinance) by the SBWMA Board of Directors.

**Summary**

The SBWMA Board of Directors approved the SBWMA SB 1383 Compliance Plan on November 19, 2020 which outlined anticipated responsibilities between the SBWMA and its Member Agencies. An Implementation of SB 1383 Memorandum of Understanding was created to formalize an agreement on the roles and responsibilities of the SBWMA and Member Agencies. As agreed, the SBWMA has developed, in conjunction with Debra Kaufman Consulting (DKC), a Model Mandatory Organic Waste Disposal Reduction Ordinance for Member Agencies to use for compliance of SB 1383. If approved, the Model Mandatory Organic Waste Disposal Reduction Ordinance will be brought to the SBWMA Board of Directors for recommendation to the Member Agencies for adoption.

**Analysis**

CalRecycle regulations require that by January 1, 2022, a jurisdiction shall adopt an enforceable ordinance(s), or similarly enforceable mechanism to mandate that organic waste generators, haulers, and other entities that are subject to the jurisdiction’s authority, comply with the requirements in SB 1383 regulations. The SBWMA, in conjunction with DKC, modified the model enforcement ordinance provided by CalRecycle to fit the specific nature of the collection programs provided in the SBWMA service area and the SBWMA SB 1383 Compliance Plan. The Model Ordinance assumes the use of a Standard Compliance Approach with a 3-container collection system, as defined by SB 1383. It allows for flexibility for the potential of future use of a two-container collection system for Organics-To-Energy customers, though this outcome is pending the pilot project results.

The Model Ordinance was designed to include required sections for all Member Agencies to ensure uniformity in the service area and highlight sections Member Agencies will need to customize for their specific needs. Guidance notes are directly embedded throughout the Model Ordinance to provide context for provisions, guide users on strategies for tailoring language, and to highlight relevant SB 1383 regulations. Member Agencies are encouraged to consult their legal counsel on their particular circumstance regarding compliance with regulatory requirements. To support legal review of the Model Ordinance, the SBWMA will host an informational webinar on June 14th, 2021 (to be confirmed) with city attorneys to answer questions.
There is SBWMA funding available in the contract with DKC to support some additional technical assistance with Member Agencies to further customize the Model Ordinance to their jurisdiction. Appointments will be set up through Tj Carter, mailto:tcarter@rethinkwaste.org.

Not all requirements are addressed through the Model Ordinance. Requirements such as certain recordkeeping, contamination monitoring and outreach and reporting requirements are addressed in the SBWMA SB 1383 Memorandum of Understanding and anticipated Franchise Agreement Amendment Two with Recology.

**Background**

In September 2016, SB 1383 (Lara, Chapter 395, Statutes of 2016) established statewide methane emissions reduction targets in an effort to reduce emissions of short-lived climate pollutants in various sectors of California’s economy. It includes statewide goals to reduce the disposal of organic waste and recover edible food for human consumption. To accomplish these statewide goals, SB 1383 regulations, which were approved on November 3rd 2020, include prescriptive requirements for jurisdictions related to recycling and organics collection, inspection, and enforcement policies and programs and edible food recovery. The SBWMA and its Member Agencies need to comply with nearly all SB 1383 requirements by January 1, 2022 with the significant exception that enforcement actions do not need to commence until January 1, 2024.

More information regarding SB 1383 can be found online at [www.calrecycle.ca.gov/organics/slcp/](http://www.calrecycle.ca.gov/organics/slcp/).

**Fiscal Impact**

There is no anticipated cost to adopt the Model Ordinance. Member Agencies should anticipate potential costs related to enforcement of SB 1383. This will be on a Agency by Agency basis.

**Attachments:**

- Resolution 2021-XX
- Attachment A – Model Mandatory Organic Waste Disposal Reduction Ordinance to the SBWMA Board of Directors
RESOLUTION NO. 2021-XX

RESOLUTION OF THE SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY BOARD OF DIRECTORS RECOMMENDING THE MODEL MANDATORY ORGANIC WASTE DISPOSAL REDUCTION ORDINANCE TO MEMBER AGENCIES

WHEREAS, the State of California passed SB 1383 (Chapter 395, Statutes of 1383), which required the California Department of Resources Recycling and Recovery (CalRecycle) to adopt regulations to reduce organic waste by 50 percent from its 2014 baseline level by 2020 and 75 percent by 2025; and

WHEREAS, CalRecycle has finalized regulations and revised Chapter 12 (Short-lived Climate Pollutants) of Division 7 of Title 14 of the California Code of Regulations (“SB 1383 Regulations”); and

WHEREAS, the SB 1383 Regulations require local agencies or jurisdictions, among other things, to implement programs requiring organic waste generators and waste haulers to meet minimum standards for organic waste collection services, inspect waste containers for prohibited contamination of materials, provide education and outreach information to organic waste generators, report to CalRecycle on compliance with SB 1383 Regulations, and maintain records of compliance with SB 1383 Regulations; and

WHEREAS, Jurisdictions may utilize a Joint Powers Authority to comply with the requirements of Chapter 12: Short-lived Climate Pollutants, except that the Jurisdictions shall remain ultimately responsible for compliance; and

WHEREAS, The South Bayside Waste Management Agency (SBWMA) Board of Directors adopted the SB 1383 Compliance Plan in November 2020 outlining the roles and responsibilities between SBWMA and its Member Agencies; and

WHEREAS, The SBWMA developed a Model Mandatory Organic Waste Disposal Reduction Ordinance for Member Agencies to utilize; and

WHEREAS, The SBWMA Technical Advisory Committee reviewed and recommended the approval of the Model Mandatory Organic Waste Disposal Reduction Ordinance to the SBWMA Board of Directors; and

NOW, THEREFORE BE IT RESOLVED that the South Bayside Waste Management Authority hereby approves the recommendation of Model Mandatory Organic Waste Disposal Reduction Ordinance to the SBWMA Member Agencies for adoption.

PASSED AND ADOPTED by the Board of Directors of the South Bayside Waste Management Authority, County of San Mateo, State of California on the 24th day of June, 2021, by the following vote:

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<thead>
<tr>
<th>Agency</th>
<th>Yes</th>
<th>No</th>
<th>Abstain</th>
<th>Absent</th>
<th>Agency</th>
<th>Yes</th>
<th>No</th>
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<tr>
<td>Burlingame</td>
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<td>San Carlos</td>
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</table>
I HEREBY CERTIFY that the foregoing Resolution No. 2021-XX was duly and regularly adopted at a regular meeting of the South Bayside Waste Management Authority on June 24, 2021.

ATTEST: Alicia Aguirre, Chairperson of SBWMA

Cyndi Urman, Clerk of the Board
SBWMA
Model Mandatory Organic Waste Disposal Reduction Ordinance

DATE
May 24, 2021
DISCLAIMER

This ordinance is not intended to cover each and every situation, nor can it anticipate specific needs. In developing this Model Ordinance, Debra Kaufman Consulting has 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 Ordinance and determination of regulatory intent and interpretation should be appropriately guided by the regulatory language. SBWMA cannot guarantee that use of this Model Ordinance will ensure compliance with the regulatory requirements it is intended to address, however, it is based on the Model tool provided by CalRecycle.

The consultant modified the model tool provided by CalRecycle to fit the specific nature of the collection programs provided in the SBWMA service area and the anticipated SB 1383 compliance program. This model ordinance assumes the use of a standard SB 1383 compliance approach with a 3 container collection system. It allows for flexibility for the potential of future use of a two container collection system for O2E customers.

This Model Ordinance does not constitute legal advice. Member agencies are encouraged to seek legal counsel appropriate to their particular circumstances regarding compliance with regulatory requirements. This ordinance assumes that the member agencies will use a standard compliance approach, as defined in SB 1383 and a three container collection system.

CalRecycle regulations require that by January 1, 2022, a jurisdiction shall adopt an enforceable ordinance(s), or similarly enforceable mechanism to mandate that organic waste generators, haulers, and other entities that are subject to the jurisdiction’s authority, comply with the requirements in SB 1383 regulations.
# MODEL ORDINANCE
## TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>PURPOSE AND FINDINGS</td>
<td>1</td>
</tr>
<tr>
<td>2</td>
<td>TITLE OF ORDINANCE</td>
<td>2</td>
</tr>
<tr>
<td>3</td>
<td>DEFINITIONS</td>
<td>2</td>
</tr>
<tr>
<td>4</td>
<td>REQUIREMENTS FOR SINGLE-FAMILY GENERATORS</td>
<td>15</td>
</tr>
<tr>
<td>5</td>
<td>REQUIREMENTS FOR COMMERCIAL BUSINESSES</td>
<td>16</td>
</tr>
<tr>
<td>6</td>
<td>WAIVERS FOR GENERATORS</td>
<td>19</td>
</tr>
<tr>
<td>7</td>
<td>REQUIREMENTS FOR COMMERCIAL EDIBLE FOOD GENERATORS</td>
<td>20</td>
</tr>
<tr>
<td>8</td>
<td>REQUIREMENTS FOR FOOD RECOVERY ORGANIZATIONS AND SERVICES, JURISDICTIONS, AND SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY</td>
<td>22</td>
</tr>
<tr>
<td>9</td>
<td>REQUIREMENTS FOR HAULERS AND FACILITY OPERATORS</td>
<td>25</td>
</tr>
<tr>
<td>10</td>
<td>SELF-HAULER REQUIREMENTS</td>
<td>27</td>
</tr>
<tr>
<td>11</td>
<td>COMPLIANCE WITH CALGREEN RECYCLING REQUIREMENTS</td>
<td>28</td>
</tr>
<tr>
<td>12</td>
<td>MODEL WATER EFFICIENT LANDSCAPING ORDINANCE</td>
<td>30</td>
</tr>
<tr>
<td>13</td>
<td>PROCUREMENT REQUIREMENTS FOR JURISDICTION DEPARTMENTS, DIRECT SERVICE PROVIDERS, AND VENDORS</td>
<td>32</td>
</tr>
<tr>
<td>14</td>
<td>INSPECTIONS AND INVESTIGATIONS BY JURISDICTION</td>
<td>34</td>
</tr>
<tr>
<td>15</td>
<td>ENFORCEMENT</td>
<td>36</td>
</tr>
<tr>
<td>16</td>
<td>EFFECTIVE DATE</td>
<td>42</td>
</tr>
</tbody>
</table>
GUIDANCE ON THE MODEL MANDATORY ORGANIC WASTE DISPOSAL REDUCTION ORDINANCE

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.

INTRODUCTION

IMPORTANT CONSIDERATIONS

- Member Agencies will be referred to as Jurisdictions throughout this document.

- New Ordinance or Amendment of Existing Ordinance. If jurisdictions are amending an existing ordinance, example provisions from the Model can be integrated into an 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.

- Standard based or performance based compliance. 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.

This model assumes a standard based SB 1383 compliance approach, which offers jurisdictions more flexibility in their collection system as well as more consistency with their program parameters in the event that contamination is higher than anticipated. It does, however, come with some additional regulatory requirements. Many, but not all of those requirements are included in this model ordinance. In contrast, a performance based compliance approach requires providing 3 container service to 90 percent of a jurisdiction’s residential and commercial generators and demonstrating specified high
levels of recovery at specified facilities. If performance based recovery standards are not met, jurisdictions would be required to meet the more stringent standard based compliance requirements. If circumstances change in the future, jurisdictions can change their ordinance more easily from a standard based compliance approach to a performance based compliance approach, as the latter would have fewer requirements for the jurisdiction to enforce, but this would likely require some ordinance revision.

- **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.

- **Involve Legal Counsel.** 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 customizable to provide flexibility for each jurisdiction’s needs.

The following notes some of the sections that should be closely reviewed to ensure that the final document reflects the individual jurisdiction’s circumstances. More specific guidance is included in the Model
3. 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. The Model Ordinance includes sample language should a jurisdiction decide to include such waivers.

4. DELEGATION OF RESPONSIBILITIES & ENFORCEMENT

Jurisdictions are advised to consider which enforcement requirements of the SB 1383 regulations will remain the responsibility of the jurisdiction and which will be delegated to the under a written agreement. Some jurisdictions may choose to conduct inspections and enforcement themselves and others may enter an agreement with County Office of Sustainability to conduct such inspections and enforcement on their behalf. Jurisdictions should consider whether it is sharing responsibility for enforcement with any other public entities when considering what language to include. Example language to reflect a shared enforcement methodology is presented in the Model Ordinance. 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. As written, the language in the enforcement section of the model ordinance is consistent with the enforcement process and timeline outlined in SB 1383 regulations; and California Government Code Section 53069.4. Jurisdictions should ensure that the enforcement language is also consistent with their own administrative procedures on enforcement actions.

6. ALIGNMENT OF DEFINED TERMS

The Model Ordinance includes many terms which were obtained from SB 1383 regulatory definitions and some from example ordinances and franchise agreements. The definitions provided herein are consistent with SB 1383 regulations. The definitions have been modified to be consistent with current Recology collection program parameters including materials collected and container colors. Jurisdictions are advised to review the definitions to ensure consistency amongst definitions used in existing franchises, processing agreements, and municipal code, while still meeting SB 1383 regulatory requirements. Jurisdictions may 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.

While jurisdictions may modify or create their own definitions or delete definitions, jurisdictions 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.

Additionally, the Model refers to containers by their colors (black, green, blue) as is done in the SB 1383 regulations.

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

<table>
<thead>
<tr>
<th>Container Color</th>
<th>Terminology of Material Streams</th>
</tr>
</thead>
</table>
| Blue Containers | • Source separated recyclable materials  
• Non-organic recyclables - glass, metal, plastic, etc.  
• Source separated blue container organic waste – organic recyclables such as fibers and cardboard |
| Green containers | • Source separated Green Container organic waste including food, food soiled paper, plant debris. |
| Black containers | • Black container waste (three container system that does not allow organic waste, such as food waste, in the black 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 black container) |

Note: Organic waste is a defined term that serves as an umbrella for all organics including source separated blue container organic waste, source separated green container organic waste, 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.

ADDITIONAL TIPS FOR USING THE MODEL

1. **Modify Language.** Adjust the Model language to fit the jurisdiction’s specific needs.

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, Town, County or Special District that provides solid waste handling services.

3. **Delete Guidance Notes**

4. **Blend Existing Ordinance Provisions with Model Provisions.** When using the Model Ordinance, users may want to select provisions from both the Model Ordinance and any existing recycling or solid waste related ordinance(s), and codes to create an ordinance that best suits its needs.

ADDITIONAL CALRECYCLE RESOURCES

1. SB 1383 General Information: [https://www.calrecycle.ca.gov/organics/slc](https://www.calrecycle.ca.gov/organics/slc)
2. SB 1383 Regulations: [https://www2.calrecycle.ca.gov/Docs/Web/118371](https://www2.calrecycle.ca.gov/Docs/Web/118371) (for an accessible version, please use this link: [https://www2.calrecycle.ca.gov/Docs/Web/118368](https://www2.calrecycle.ca.gov/Docs/Web/118368))

3. SB 1383 Model Implementation Tools: [https://www.calrecycle.ca.gov/organics/slcp/education](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

4. Other Recovered Organic Waste Product Procurement Resources

   - Calculator for Annual Recovered Organic Waste Product Procurement: [https://www2.calrecycle.ca.gov/Docs/Web/118521](https://www2.calrecycle.ca.gov/Docs/Web/118521)

5. SB 1383 Case Studies: [https://www.calrecycle.ca.gov/organics/slcp/education](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.

6. Other Relevant SB 1383 CalRecycle Reports

   - SB 1383 Local Services Rates Analysis: [https://www2.calrecycle.ca.gov/Publications/Details/1698](https://www2.calrecycle.ca.gov/Publications/Details/1698)
   - SB 1383 Infrastructure and Market Analysis: [https://www2.calrecycle.ca.gov/Publications/Details/1652](https://www2.calrecycle.ca.gov/Publications/Details/1652)

7. Relevant Regulations Referenced in the Model Policy:

   - Model Water Efficient Landscape Ordinance, Title 23, Division 2, Chapter 2.7 of California Code of Regulations:
-G-7-  Guidance to the Model Ordinance

https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=I55B69DB0D45A11DEA95CA4428EC25FA0&transitionType=Default&contextData=%28sc.Default%29


- Public Resources Code: http://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?lawCode=PRC&division=30.&title=&part=1.&chapter=2.&article=&goUp=Y

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 implement a Mandatory Commercial Organics Recycling program.

(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, WELO, procurement policy, etc.

(g) Even if the jurisdiction delegates responsibility for enforcement to another public entity, the jurisdiction itself will remain ultimately responsible for compliance of this ordinance as required in 14 CCR Section 18981.2 (c).

SECTION 2. TITLE OF ORDINANCE

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

SECTION 3. DEFINITIONS

Guidance: Most of the following definitions are excerpted from the SB 1383 Regulations (14 CCR Section 18982). 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 conditions and/or to include additional definitions that are appropriate for its 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.

(b) “Black 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 Black Container Waste.

(c) Black Container Waste” means Solid Waste that is collected in a Black Container that is part of a three-container Organic Waste collection service that prohibits the placement of Organic Waste or Source Separated Recyclables in the Black Container as specified in 14 CCR Sections 18984.1(a) and (b), or as otherwise defined in 14 CCR Section 17402(a)(6.5).
(d) “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).

(e) “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).

(f) “Commercial Business” or “Commercial” means a firm, partnership, proprietorship, joint-stock company, corporation, or association, whether for-profit or nonprofit, strip mall, industrial facility, or a 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.

(g) “Commercial Edible Food Generator” includes a Tier One or a Tier Two Commercial Edible Food Generator as defined in Sections 3(qqq) and 3(rrr) 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).

(h) “Compliance Review” means a review of records by a Jurisdiction or its designated entity to determine compliance with this ordinance.

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

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

Compost eligible for meeting the Jurisdiction’s Annual Recovered Organic Waste Product Procurement Target must be produced at a compostable material handling operation or facility permitted or authorized under 14 CCR Chapter 3.1 of Division 7 or produced at a large volume in-vessel digestion facility that composts on-site as defined and permitted under 14 CCR Chapter 3.2 of Division 7. Compost shall meet the State’s composting operations regulatory requirements.
“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).

“C&D” means construction and demolition debris.

“County Agency Enforcement Official” means a County of San Mateo enforcement official, designated by the County with responsibility for enforcing parts of this ordinance related to the edible food recovery program including requirements on commercial edible food generators and food recovery organizations and services.

“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. 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.

(o) “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.

Guidance: Note 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.

(p) “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.

(q) “Enforcement Action” means an action of the Jurisdiction or County of San Mateo, for the purposes of edible food recovery, to address non-compliance with this ordinance including, but not limited to, issuing administrative citations, fines, penalties, or using other remedies.

(r) “Excluded Waste” means hazardous substance, hazardous waste, infectious waste, designated waste, volatile, corrosive, medical waste, infectious, regulated radioactive waste, and toxic substances. Excluded wastes also includes construction materials, dirt, rock and concrete, electronic waste and batteries, fluorescent lights, hazardous waste, liquids and grease, medicines and sharps and treated wood.

These include material that facility collectors and 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 household batteries placed in a sealed clear plastic bag placed on top of the black can, or any other universal wastes if 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.

(s) “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).

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

(u) “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).

(v) “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,

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.

(w) “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).
“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 not limited to Source Separated from other Food Scraps.

“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).

“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 and should be placed in the green compost container with food scraps.

“Food Waste” means Food Scraps, Food-Soiled Paper, and bio-plastics labeled “BPI Certified Compostable”.

“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.

“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).

“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).

“Inspection” means a site visit where a Jurisdiction or its designee, 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).

“Jurisdiction” is the entity responsible for ensuring solid waste, recycling and organics service is provided in accordance with SB 1383 guidelines.

“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 “County Agency Enforcement Official”.

Guidance: Enforcement does not have to be limited to one person; however, the Jurisdiction may not delegate its authority to impose civil penalties required by the SB 1383 Regulations to a private entity pursuant to 14 CCR Section 18981.2(d).

(hh) “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.

(ii) “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.

(jj) “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).

(kk) “Mixed Waste Organic Collection Stream” or “Mixed Waste” means Organic Waste collected in a black 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). This definition is only applicable to select commercial and MF customers provided with a two container collection system. Three container collection system customers will use the black container waste definition instead.

Guidance: This definition is included in the event that Jurisdictions use the O2E system in the future for selected commercial and MF customers. That collection system envisions using a two-container system that allows Organic Waste, such as Food Waste, to be collected in the Black container. In these cases, materials in the Black containers are to be processed at a High Diversion Organic Waste Facility.
Processing Facility. Generators using the three container system would not be allowed to place Organic Waste in the Black container.

“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. Under the SB 1383 Regulations and in this 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).

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

Guidance: If jurisdiction has its own WELO that meets the MWELO standards then it can be listed here instead of MWELO.

“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).

“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).

(pp) “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).

(qq) “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.

(rr) “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).

(ss) “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).

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

(uu) “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).

(vv) “Prohibited Container Contaminants”

(1) For those generators provided with a three container collection system (blue, green and black): “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 Black Container that are acceptable
For those (limited commercial and MF) generators provided with two-container (blue/black) 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 Black 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.

“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).

“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).

“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).

“Regional Agency” means the South Bayside Waste Management Authority (SBWMA) as a regional agency as defined in Public Resources Code Section 40181.

“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 Black Containers for purposes of identifying the quantity of materials in containers (level of fill) and/or presence of Prohibited Container Contaminants.

“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).

“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).

“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.

SB 1383 Eligible Mulch” means mulch eligible to meet the Annual Recovered Organic Waste Product Procurement Target, pursuant to 14 CCR Chapter 12 of Division 7. This SB 1383 Eligible Mulch shall meet the following conditions for the duration of the applicable procurement compliance year, as specified by 14 CCR Section 18993.1(f)(4):

1. Produced at one of the following facilities:
   i. A compostable material handling operation or facility as defined in 14 CCR Section 17852(a)(12), that is permitted or authorized under 14 CCR Division 7, other than a chipping and grinding operation or facility as defined in 14 CCR Section 17852(a)(10).
   ii. A transfer/processing facility or transfer/processing operation as defined in 14 CCR Sections 17402(a)(30) and (31), respectively, that is permitted or authorized under 14 CCR Division 7; or,
   iii. A solid waste landfill as defined in Public Resources Code Section 40195.1 that is permitted under 27 CCR Division 2.

2. Meet or exceed the physical contamination, maximum metal concentration, and pathogen density standards for land application specified in 14 CCR Sections 17852(a)(24.5)(A)1 through 3, as enforced with this ordinance.

Guidance: In order for mulch to qualify as a Recovered Organic Waste Product toward the Jurisdiction’s Annual Recovered Organic Waste Product Procurement Target, 14 CCR Section 18993.1 requires that Jurisdictions adopt an ordinance or similarly enforceable mechanism to require compliance with the land application standards specified above.

“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: “14 CCR” means Title 14 of the California Code of Regulations, and “27 CCR” means Title 27 of the California Code of Regulations.

SBWMA means the South Bayside Waste Management Authority, a regional agency, as defined in Public Resources Section 40181, serving its 11 member agencies on recycling and waste issues.

“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).

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

(jjj) “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.

(kkk) “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 Black container Waste or other Solid Waste for the purposes of collection and processing.
“Source Separated Blue Container Organic Waste” means Source Separated Organic Wastes that can be placed in a Blue Container including clean paper and cardboard.


“State” means the State of California.

“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).

“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.

“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.

“Wholesale Food Vendor” means a business or establishment engaged in the merchant wholesale distribution of food, where food (including fruits and vegetables) is received, shipped, stored, prepared for distribution to a retailer, warehouse, distributor, or other destination, or as otherwise defined in 14 CCR Section 189852(a)(76).

SECTION 4. REQUIREMENTS FOR SINGLE-FAMILY GENERATORS

Single-Family Organic Waste Generators shall comply with the following requirements except Single-Family generators that meet the Self-Hauler requirements in Section 10 of this ordinance:

Guidance: Include the text highlighted above only 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 10, 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 three container 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.

Generator shall place Source Separated Green Container Organic Waste, including Food Waste, in the Green Container; Source Separated blue container organic waste and recyclable Materials in the Blue Container; and Black container Waste in the Black container, per jurisdictional and collector guidelines. Generators shall not place materials designated for the Black container into the Green Container or Blue Container.

SECTION 5. REQUIREMENTS FOR COMMERCIAL BUSINESSES

Note that Commercial Businesses includes Multi-Family Residential Dwellings of five (5) and more units.

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

(a) Subscribe to Jurisdiction’s three container collection services and comply with requirements of those services as described below in Section 5(b), except Commercial Businesses that meet the Self-Hauler requirements in Section 10 of this ordinance. 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.

Guidance: Include the highlighted phrase in the preceding sentence if the Jurisdiction allows commercial businesses to self-haul materials they generate. By virtue of adding this language and requirements on Self-Haulers in Section 10, Jurisdiction is thereby allowing self-hauling, and creating the required enforceable mechanism for self-hauling, as required in 14 CCR Section 18988.1(b).

(b) Participate in the Jurisdiction’s Organic Waste collection service(s) by placing designated materials in designated containers as described below. Commercial businesses that meet the self-hauler requirements in Section 10 of this ordinance are excluded from this requirement.

Guidance: Include highlighted sentence above if jurisdiction allows self hauling.

(A) Generator shall place Source Separated Green Container Organic Waste, including Food Waste, in the Green Container; Source Separated Blue container organic waste and source separated Recyclable Materials in the Blue Container; and Black container Waste in the Black container. Generator shall not place materials designated for the Black container into the Green Container or Blue Container.
(B) Generators that are offered two container service (this will be limited to a specified number of commercial and MF generators on an invitation only basis, based on waste quantities and type, and availability of new organics to energy processing system) shall place only source separated blue container organic waste and source separated recyclable materials in a blue container and all other materials (mixed waste) in a black container.

(c) Supply and allow access to an adequate number, size and location of collection containers with sufficient labels or colors (conforming with Sections 5(d)(1) and 5(d)(2) below) for employees, contractors, tenants, and customers, consistent with Jurisdiction’s Blue Container, Green Container, and Black 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 10.

(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 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 5(d) pursuant to 14 CCR Section 18984.9(b).

(f) To the extent practical through education, training, Inspection, and/or other measures, excluding Multi-Family Residential Dwellings, prohibit employees from
placing materials in a container not designated for those materials per the Jurisdiction’s Blue Container, Green Container, and Black 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 10.

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

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

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

(j) Provide or arrange access for Jurisdiction or its agent to their properties during all Inspections conducted in accordance with Section 14 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 5(b). Should a remote monitoring program be used by the jurisdiction it shall involve installation of Remote Monitoring equipment on or in the Blue Containers, Green Containers, and Black containers.

(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 Black 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 Black containers subject to written notification to or approval by the Jurisdiction or its Designee.

(m) If a Commercial Business wants to self haul, meet the Self-Hauler requirements in Section 10 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 7.

SECTION 6. WAIVERS FOR GENERATORS

Guidance: 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. However, if waivers are used SB 1383 specifies under what conditions they may be granted, as reflected in the language presented herein. 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 specified documentation. Jurisdiction’s should delete any waivers they do not want to offer from (a), (b) and (c) below.

(a) De Minimis Waivers: The 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 6(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 below in (2) (A) or (B).

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 the 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 the 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 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 5.

Guidance: The type of evidence requested is required by regulations if physical space waivers are used. Note that Jurisdictions’ authority to issue a waiver cannot be delegated to a private entity, such as their hauler, pursuant to the SB 1383 Regulations (14 CCR Section 18984.11(c)).

A Commercial Business or property owner may request a physical space waiver through the following process:

(1) Submit an application form specifying the type(s) of collection services for which they are requesting a compliance waiver.

(2) Provide documentation that the premises lacks adequate space for Blue Containers and/or Green Containers including documentation from its hauler, licensed architect, or licensed engineer.

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

SECTION 7. REQUIREMENTS FOR COMMERCIAL EDIBLE FOOD GENERATORS

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

(b) Tier One Commercial Edible Food Generators must also comply with the requirements of Section ___ of the County of San Mateo’s Mandatory Organic Waste Disposal Reduction Ordinance commencing January 1, 2022 and Tier Two Commercial Edible Food Generators must comply commencing January 1, 2024, pursuant to 14 CCR Section 18991.3.

(c) 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, and with the requirements of the County of San Mateo’s Mandatory Organic Disposal Reduction Ordinance, Section ___, commencing January 1, 2024.

(d) 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.
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.

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

Allow Jurisdiction’s designated enforcement entity or County of San Mateo designated enforcement entity, for edible food recovery purposes, to access the premises and review records pursuant to 14 CCR Section 18991.4.

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.

(Optional) No later than ________ of each year (Jurisdiction to insert month) 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. This optional requirement could be discussed with County of San Mateo Office of Sustainability staff managing edible food recovery portions of SB 1383 to determine whether it is helpful.

(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 8. REQUIREMENTS FOR FOOD RECOVERY ORGANIZATIONS AND SERVICES, JURISDICTIONS, AND SOUTH BAYSID WASTE MANAGEMENT AUTHORITY

Guidance: The highlighted words in the title above should be deleted by all jurisdictions except 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):

-22-
(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 8(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 on 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 _____ of each year.

Guidance: This Section 8(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 of San Mateo, 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.

Guidance: SB 1383 Regulations (14 CCR Section 18992.2) require that counties conduct Edible Food Recovery capacity planning, in coordination with Jurisdictions 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) Provision for County ordinance only:

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. The Cities, special district and Authority 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, West Bay Sanitary District, or SBWMA 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.

Guidance: If a City, West Bay Sanitary District or SBWMA 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 9. REQUIREMENTS FOR HAULERS AND FACILITY OPERATORS

(a) Requirements for Haulers

Guidance: This Section addresses 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.

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) Exclusive Franchised hauler and ______(Jurisdiction to insert other type(s) of hauler(s) from list above, if allowed) 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 January 31,_____(Jurisdiction to insert date), identify, for customers with three container collection, the facilities to which they will

Through written notice to the Jurisdiction annually on or before January 31, identify, for customers with two container collection system, the facilities to which they will transport Source Separated Recyclable Materials and black container waste.

(B) For customers with three container collection, transport Source Separated Blue Container Waste to a facility that recovers those materials and Source Separated Green Container Organic Waste to a facility, operation, activity, or property that recovers Organic Waste as defined in 14 CCR, Division 7, Chapter 12, Article 2.

For customers with two container collection, transport Source Separated Blue Container Waste to a facility that recovers those materials and black container waste to a high diversion organic waste processing facility.

(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 11 of this ordinance, and Jurisdiction’s C&D ordinance.

(2) Franchised hauler (Insert any other type of haulers approved from options listed above) with 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.

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: 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...
(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 10. 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 are required to adopt an ordinance or other enforceable mechanism for Self-Hauler regulation requirements. This Section 10 of the Model Ordinance provides language to document the Self-Hauler regulations. If Jurisdictions do not allow self-hauling, this Section 10 may be deleted. If self-hauling is allowed, this section will serve as the required ordinance for self hauling. If jurisdiction has existing rules that differ or add on additional responsibilities to self haulers, that policy, ordinance or code section should be referenced here.

(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.
If the material is transported to an entity that does not have scales on-site, or employs scales incapable of weighing the Self-Hauler’s vehicle in a manner that allows it to determine the weight of materials received, the Self-Hauler is not required to record the weight of material but shall keep a record of the entities that received the Organic Waste.

(d) Self-Haulers that are Commercial Businesses (including Multi-Family Self-Haulers) shall provide information collected in Section 10(c) to Jurisdiction if requested.

Guidance: This section (d) is optional. Self hauler reporting to the jurisdiction is not required by the regs, but self hauler separation of materials and record keeping as outlined in c above is required. Jurisdiction may include (d) above if it would like to reserve the option to collect that information. If self haulers are required to register with the jurisdiction, that should be added here.

(e) A residential Organic Waste Generator that self hauls Organic Waste is not required to record or report information in Section 10(c) and (d).

SECTION 11. 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 and organics 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”). These SB 1383 CALGreen related requirements only represent a subset of all CALGreen requirements. This Section 11 provides example language that is structured to fulfill this requirement related narrowly on the CALGreen SB 1383 Baseline Requirements.

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. Auto update should specify that if any changes in CALGreen result in standards less than those in the SB 1383 CALGreen baseline requirements, then the SB 1383 CALGreen standards will be maintained.

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 such as through the building or planning code. In such case, Jurisdictions should delete this Section.

(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.

Guidance: Jurisdictions should amend sentence above to reflect where an applicant can find complete CALGreen requirements.

(b) For projects covered by CALGreen, 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, Green Container and black container materials, consistent with the three 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: Note that 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 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...
1103 11 as amended provided amended requirements are more stringent than
1104 the CALGreen requirements for adequate recycling space effective January
1105 1, 2020.

1106 (3) Comply with all applicable CALGreen requirements and applicable law
1107 related to management of C&D, including diversion of Organic Waste in
1108 C&D from disposal. Comply with Jurisdiction’s C&D ordinance, Section ___
1109 of Jurisdiction’s municipal code, and all written and published Jurisdiction
1110 policies and/or administrative guidelines regarding the collection, recycling,
1111 diversion, tracking, and/or reporting of C&D. Jurisdiction’s C&D ordinance
1112 can be found at this link: ______________

1113 Guidance: if jurisdiction has a C&D ordinance, add a link above.

1114 SECTION 12. MODEL WATER EFFICIENT LANDSCAPING
1115 ORDINANCE REQUIREMENTS

1116 Guidance: SB 1383 Regulations (14 CCR Section 18989.2) require that a Jurisdiction,
1117 which is a city, County, or a City and County, adopt an ordinance or other enforceable
1118 requirement that requires compliance with Sections 492.6(a)(3)(B) (C), (D), and (G) of the
1119 MWELO as amended September 15, 2015 (“MWELO SB 1383 Baseline Requirements”).
1120 This Section 12 provides example language that is structured to fulfill this requirement
1121 related narrowly on the MWELO SB 1383 Baseline Requirements. As a result, this section
1122 does not broadly address all requirements of MWELO. Jurisdictions that already have a
1123 compliant WELO or other enforceable mechanism, (such as enforceable requirements
1124 through their planning or building code or landscape design review process) that cover
1125 the MWELO SB 1383 Baseline Requirements, can delete this section.

1126 SB 1383 Regulations (14 CCR Section 18989.2) cite a specific date of effectiveness for
1127 MWELO of September 15, 2015. Jurisdictions’ ordinances need to meet or exceed these
1128 MWELO SB 1393 Baseline Requirements. Including a provision that allows for an auto
1129 update of the ordinance as MWELO requirements change, is allowable, which is included
1130 below. If the “auto” update results in changes in MWELO with standards that are less
1131 than those in the MWELO SB 1383 Baseline Requirements, then the Jurisdiction will need
1132 to maintain the standards in the MWELO SB 1383 Baseline Requirements.

1133 (a) Property owners or their building or landscape designers, including anyone
1134 requiring a building or planning permit, plan check, or landscape design review
1135 from the Jurisdiction, who are constructing a new (Single-Family, Multi-Family,
1136 public, institutional, or Commercial) project with a landscape area greater than 500
1137 square feet, or rehabilitating an existing landscape with a total landscape area
1138 greater than 2,500 square feet, shall comply with Sections 492.6(a)(3)(B) (C), (D),
1139 and (G) of the MWELO, including sections related to use of Compost and mulch
1140 as delineated in this Section 12.
(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 and in the jurisdiction’s WELO, which can be found at ______________.

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 12(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 12(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 13. PROCUREMENT REQUIREMENTS FOR JURISDICTION DEPARTMENTS, DIRECT SERVICE PROVIDERS, AND VENDORS

Guidance: This Section 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 provides a simple statement of requirements for Jurisdiction’s departments to comply with the Jurisdiction’s purchasing policy, if the jurisdiction has a procurement policy or intends to adopt one. Procurement policies can be either adopted or amended to meet SB 1383 procurement regulatory requirements.

Jurisdictions should note that while Recycled-Content Paper provisions are included in this Ordinance, a Jurisdiction may choose to include these requirements in a separate ordinance or policy or in a relevant municipal code section. Jurisdictions may use any type of enforceable mechanism to document the requirements, including a policy, ordinance and/or municipal code section.

Requiring compliance with a separate procurement policy through this ordinance is one way to ensure that 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).

CalRecycle has a model procurement policy available on its website to assist jurisdiction’s in adopting a compliant procurement policy, should they choose to adopt one. That policy is intended to help a jurisdiction meet its organic waste product procurement requirements which go beyond recycled content paper procurement and include annual required quantities for jurisdictional procurement of organic waste products. A separate procurement policy could contain requirements that a Jurisdiction would place on its own departments, purchasers, and contractors for procuring Compost, mulch, Renewable Gas, electricity from biomass, and Recycled-Content Paper products and Printing and Writing Paper and Recovered Organic Waste Products. 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: Jurisdictions may delete (a) if they do not plan on adopting a recovered organic waste product procurement policy to address recovered organic waste product procurement requirements and recycled content paper requirements in 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 presents Recycled-Content Paper requirements for Jurisdiction’s vendors to support Jurisdiction’s compliance with SB 1383 Regulations (14 CCR Section 18993.3). If Jurisdiction already has a procurement policy, it may need to be updated to address the Recycled-Content Paper procurement requirements in SB 1383 Regulations 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. 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: Jurisdictions that do not want to include any pricing preference for Recycled-Content Paper should delete the highlighted text. Jurisdictions that want to establish a pricing preference for purchase of Recycled-Content Paper shall insert a percentage amount, and jurisdictions that want to require recycled content paper products and printing and writing paper regardless of price, can delete the phrase “whenever recycled paper products and printing and writing paper are available at the same or lesser total cost than non-recycled items.


(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, which may be electronic, 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 13(b)(3) and 13(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.

(c) All vendors providing compost to the jurisdiction shall:

Provide compost that meets the definition in Section 3(j) of this ordinance.

(d) All vendors providing mulch to the jurisdiction shall:

Provide SB 1383 eligible mulch that meets the definition in Section 3(eee) of this ordinance.

Guidance: Only compost and mulch that meets the definitions provided will be able to be counted toward jurisdiction’s annual recovered organic waste procurement target provided by CalRecycle.

SECTION 14. 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 14 provides example ordinance language to provide the Jurisdiction the right to conduct Inspections and investigations. Section 15 addresses enforcement. This Model language presents a simple approach to establishing the right to inspect or investigate. Jurisdictions have the option to expand on this to...
include more specificity, such as who has the authority to inspect, what entities may be inspected or investigated, and the protocols for such Inspections and investigations.

(a) 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.

County of San Mateo representatives and/or its designated entity are authorized to conduct inspections and investigations, at random or otherwise, to confirm compliance with this ordinance by commercial edible food generators, 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 5(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 5(k) of this ordinance.

Guidance: Highlighted sentences in this section mentioning remote monitoring are optional in the event that jurisdiction and its hauler want to consider using a remote monitoring system to monitor for contamination. These highlighted sections can be removed if jurisdiction (and hauler) does not anticipate using remote monitoring.

(b) 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 County 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.

(c) Any records obtained by a Jurisdiction or County of San Mateo during its Inspections, Remote Monitoring, and other reviews shall be subject to the requirements and applicable disclosure exemptions of the Public Records Act as set forth in Government Code Section 6250 et seq.

(d) Jurisdiction representatives, County of San Mateo 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.

(e) Jurisdiction and County of San Mateo (County for edible food recovery generator and food recovery organization and services requirements) 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 is required to have a method to accept anonymous complaints and require that all complaints be made in writing with specified information. SB 1383 Regulations (14 CCR Section 18995.3) provide more guidance.

SECTION 15. 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. Jurisdictions will need to make sure that the enforcement language in this section conforms with their own enforcement procedures and modify the language to match current and desired procedures. Jurisdictions 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 designee, legal counsel, or combination thereof.
Enforcement pursuant to this ordinance of the edible food recovery requirements included in Section 7 may be undertaken by the Jurisdiction Enforcement Official or the County of San Mateo Enforcement Official, designated by the County in consultation with Jurisdiction Enforcement Official.

(A) Jurisdiction Enforcement Official(s) (or County of San Mateo Enforcement Official, when involved) 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) or County of San Mateo Enforcement Official, (when involved), may issue Notices of Violation(s).

Guidance: County Agency Enforcement Officials may include Designee; or County administrator or Designee.

(d) Process for Enforcement

(1) Jurisdiction Enforcement Officials or County of San Mateo Enforcement Officials (the County for edible food recovery generators and food recovery organization and services requirements) 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 14 establishes Jurisdiction’s right to conduct Inspections and investigations.

(2) Jurisdiction or County of San Mateo (the County for edible food generators and food recovery organization and services requirements) may issue an official notification to notify regulated entities of its obligations under the ordinance.

(3) For incidences of Prohibited Container Contaminants found in containers, 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 30 days after determining that a violation has occurred. If the Jurisdiction observes Prohibited Container Contaminants in a generator’s containers on more than three (3) consecutive occasion(s), the Jurisdiction may assess contamination processing fees or contamination penalties on the generator.

Guidance: SB 1383 regulations require jurisdictions, upon finding prohibited container contaminants in a container (through annual random route reviews), to notify the generator of the violation and provide information regarding the generator’s requirement to properly separate materials into the appropriate containers. The notice may be left on
the generator’s container, gate, or door at the time the violation occurs, and/or sent later.  

The regulations do not, however, require jurisdictions to impose administrative civil penalties on generators for violation of prohibited container contaminants requirements.  

Jurisdiction should amend above provision to be consistent with its process for addressing prohibited container contaminants. If jurisdictions are not planning, in conjunction with its hauler to assess contamination penalties or contamination processing fees for additional costs of processing Contaminated Containers; then it should delete the highlighted section above. If jurisdictions choose to include these optional fees, this Section should be modified 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, such as 1, 2 or 3. Assessing a fee after three instances of contamination is included here as a possibility.

(4) With the exception of violations of generator contamination of container contents addressed under Section 15(d)(3), Jurisdiction or County of San Mateo (the County for edible food generator and food recovery organization and services requirements) 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 or County of San Mateo (the County for edible food generator and food recovery organization and services requirements) shall commence an action to impose penalties, via an administrative citation and fine, pursuant to its Administrative citation and fine procedures. Violations subject to penalties are identified in Section 15(k), Table 1.

Guidance: Note that the Jurisdiction shall amend the highlighted text to identify its policy/ordinance/guidelines related to assessment of penalties or the penalty amounts and 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) Compliance Deadline Extension Considerations

The Jurisdiction or County of San Mateo may extend the compliance deadlines set forth in a Notice of Violation issued in accordance with Section 15 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.

(g) 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 and/or consistent with County’s appeals of administrative citation procedures (County for violations by edible food generators and food recovery services and organizations). Evidence may be presented at the hearing. The Jurisdiction or County 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.

**Education Period for Non-Compliance**

Beginning January 1, 2022 and through December 31, 2023, Jurisdiction and County of San Mateo (the County for edible food generator and food recovery organization and service requirements) may 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 or County of San Mateo 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)).

**Civil Penalties for Non-Compliance**

Beginning January 1, 2024, if the Jurisdiction or County of San Mateo (the County for edible food generator and food recovery organization and service requirements) 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 15, 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 15(i) and 15(j) above to fit its commencement date for enforcement.

**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 included in this Model Ordinance. If the Jurisdiction includes an enforcement table 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.

This table is designed for jurisdictions using a standard based compliance system.
### Table 1. List of Violations (Optional)

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Description of Violation</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Commercial Business Responsibility Requirement</strong>&lt;br&gt;Section 5</td>
<td>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.</td>
</tr>
<tr>
<td><strong>Organic Waste Generator Requirement</strong>&lt;br&gt;Section 4, 5</td>
<td>Organic Waste Generator fails to comply with requirements adopted pursuant to this ordinance for the collection and Recovery of Organic Waste.</td>
</tr>
<tr>
<td><strong>Hauler Requirement</strong>&lt;br&gt;Section, Section 9</td>
<td>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.</td>
</tr>
<tr>
<td><strong>Hauler Requirement</strong>&lt;br&gt;Section 9</td>
<td>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.</td>
</tr>
<tr>
<td><strong>Hauler Requirement</strong>&lt;br&gt;Section 9</td>
<td>A hauler fails to keep a record of the applicable documentation of its approval by the Jurisdiction, as prescribed by this ordinance.</td>
</tr>
<tr>
<td><strong>Self-Hauler Requirement</strong>&lt;br&gt;Section 10</td>
<td>A generator who is a Self-Hauler fails to comply with the requirements of 14 CCR Section 18988.3(b).</td>
</tr>
<tr>
<td><strong>Commercial Edible Food Generator Requirement</strong>&lt;br&gt;Section 7</td>
<td>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.</td>
</tr>
<tr>
<td><strong>Commercial Edible Food Generator Requirement</strong>&lt;br&gt;Section 7</td>
<td>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.</td>
</tr>
<tr>
<td>Commercial Edible Food Generator Requirement Section 7</td>
<td>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.</td>
</tr>
<tr>
<td>Organic Waste Generator, Commercial Business, Commercial Edible Food Generator, Food Recovery Organization or Food Recovery Service Sections 5, 7, and 8</td>
<td>Failure to provide or arrange for access to an entity’s premises for any Inspection or investigation.</td>
</tr>
<tr>
<td>Recordkeeping Requirements for Commercial Edible Food Generator Section 7</td>
<td>Tier One or Tier Two Commercial Edible Food Generator fails to keep records, as prescribed by Section 9.</td>
</tr>
<tr>
<td>Recordkeeping Requirements for Food Recovery Services and Food Recovery Organizations Section 8</td>
<td>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.</td>
</tr>
</tbody>
</table>

**SECTION 16. EFFECTIVE DATE**

This ordinance shall be effective commencing on January 1, 2022.
CONTRACTOR UPDATES
(Verbal Updates only to be given at the 06/10/2021 TAC Meeting)