

ORDINANCE 22-01

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CLOVIS ADDING CHAPTER 6.3.2 OF TITLE 6 OF THE CLOVIS MUNICIPAL CODE RELATING TO MANDATORY ORGANIC WASTE AND DISPOSAL REDUCTION REGULATIONS

The City Council of the City of Clovis does ordain as follows:

Section 1. Chapter 6.3.2 of Title 6 of the Clovis Municipal Code is hereby added to read as follows:

Chapter 6.3.2

MANDATORY ORGANIC WASTE AND DISPOSAL REDUCTION REGULATIONS

Sections:

- 6.3.2.01 Purpose and Findings.
- 6.3.2.02 Definitions.
- 6.3.2.03 Requirements for Residential Generators.
- 6.3.2.04 Requirement for Commercial Generators.
- 6.3.2.05 Waivers for Generators.
- 6.3.2.06 Requirement for Commercial Edible Food Generators.
- 6.3.2.07 Requirement for Edible Food Recovery organizations.
- 6.3.2.08 Requirements for haulers and facility operators.
- 6.3.2.09 Self-haulers requirements.
- 6.3.2.10 Procurement requirements for City departments, direct services providers, and vendors.
- 6.3.2.11 Inspection and investigation by City.
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6.3.2.01 Purpose and Findings.

The City of Clovis 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Waste Management Act of 1989 (California Public Resources Code Section 40000, et seq., as amended, supplemented, superseded, and replaced from time to time), requires cities and counties to reduce, reuse, and recycle (including composting) Solid Waste generated in their cities to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, 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41734.5, and 41780.01 and Chapter 12.8 (commencing with Section 42649) to Part 3 of Division 30 of, and added and repealed Section 41780.02 of, the Public Resources Code, as amended, supplemented, superseded and replaced from time to time), places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 City to implement a Mandatory Commercial Recycling program.

- (c) State organics recycling law, Assembly Bill 1826 of 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 City to implement a recycling program to divert Organic Waste from businesses subject to the law; and requires City 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 City, 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 City to adopt and enforce an ordinance or enforceable mechanism to implement relevant provisions of SB 1383 Regulations. This chapter 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.

6.3.2.02 Definitions.

- (a) "Act" means the California Integrated Waste Management Act of 1989, Public Resources Code section 40000 and following as it may be amended, including but not limited to, the jobs and Recycling Act of 2011 (AB 341), SB 1016 (Chapter 343, Statutes of 2008 [Wiggins, SB 1016]), the Mandatory Commercial Organics Recycling Act of 2014 (AB 1826), and the Short-Lived Climate Pollutants Bill of 2016 (SB 1383), and as implemented by the regulations of CalRecycle.
- (b) "Blue Container" has the same meaning as in 14 CCR Section 18982.2(a)(5) and shall be used for the purpose of storage and collection of Source Separated Recyclable Materials or Source Separated Blue Container Organic Waste.
- (c) "CalRecycle" means California Department of Resources Recycling and Recovery, which is the Department designated with responsibility for developing, implementing, and enforcing SB 1383 Regulations on City.
- (d) "California Code of Regulations" or "CCR" means the State of California Code of Regulations. CCR references in this chapter are preceded with a number that refers to the relevant Title of the CCR (e.g., "14 CCR" refers to Title 14 of CCR).
- (e) "City Enforcement Official" means the city manager, county administrative official, chief operating officer, executive director, or other executive in charge or their authorized Designee(s) who is/are partially or wholly responsible for enforcing this chapter.

- (f) **"Commercial Business"** means firm, retail, professional, office, wholesale and industrial facilities, and other commercial enterprises offering goods or services to the public whether for-profit or nonprofit, and multi-family residential property with five (5) or more units located within City limits.
- (g) **"Commercial Edible Food Generator"** includes Tier One or a Tier Two Commercial Edible Food Generator as defined in 14 CCR Section 1892(a)(73) and (a)(74). For the purpose 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) **"Commercial Generator"** means a commercial business which generates garbage, organics, or recyclable materials as a result of its business, commercial or property activity. Commercial generator also means any multi-family residential property of five (5) or more units. Commercial generator may also include tenants, property managers for facilities with leased space, employees and contractors of commercial generator. Commercial generators also includes the City, it's facilities, its non-residential properties and special events, its sponsors or co-sponsors, as well as mobile food vendors and the responsible party for any special events.
- (i) **"Compliance Review"** means a review of records by a City to determine compliance with this chapter.
- (j) **"Community Composting"** means any activity that compost green material, agricultural material, food material, and vegetative food material, alone or in combination, and the total amount of feedstock and Compost on-site at any one time does not exceed one-hundred (100) cubic yards and seven-hundred-fifty (750) square feet as specified in 14 CCR Section 17855(a)(4); or, as otherwise defined by 14 CCR Section 18982(a)(8).
- (k) **"Compost"** has the same meaning as in 14 CCR Section 17896.2(a)(4).
- (l) **"Container"** means any metal bin or cart used for collection of garbage, recyclable, and organic materials.
- (m) **"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).
- (n) **"C&D"** means construction and demolition debris as regulated in chapter 6.3.1 of the City's Municipal Code..
- (o) **"Designated Source Separated Organic Waste Facility"** has the same meaning as in 14 CCR Section 18982(a)(14.5), and is 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 fifty (50) percent between January 1, 2022 and December 31, 2024 and seventy-five (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.**
- (p) "Designee" means an entity that City contracts with or otherwise arranges to carry out any of the City's responsibilities of this chapter as authorized in 14 CCR Section 18981.2. A Designee may be a government entity, a hauler, a private entity, or any combination thereof.**
- (q) "Edible Food" means food intended for human consumption, or as otherwise defined in 14 CCR Section 18982(a)(18). For the purposes of this chapter 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 chapter 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.**
- (r) "Enforcement Action" means an action of the City to address non-compliance with this chapter including, but not limited to, issuing warning notices, administrative citations, fines, penalties, or any other available remedies.**
- (s) "Excluded Waste" means hazardous substance, hazardous waste, infectious waste, designated waste, volatile, corrosive, medical waste, infectious, regulated radioactive waste, and toxic substances or material that facility operator(s), which receive materials from the City and its generators, reasonably believe(s) would, as a result of or upon acceptance, transfer, processing, or disposal, be a violation of local, State, or Federal law, regulation, or ordinance, including: land use restrictions or conditions, waste that cannot be disposed of in Class III landfills or accepted at the facility by permit conditions, waste that in City's, or its Designee's reasonable opinion would present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose City, or its Designee, to potential liability; but not including de minimis volumes or concentrations of waste of a type and amount normally found in Single-Family or Multi-Family Solid Waste after implementation of programs for the safe collection, processing, recycling, treatment, and disposal of batteries and paint in compliance with Sections 41500 and 41802 of the California Public Resources Code. Excluded Waste does not**

- include used motor oil and filters, household batteries, universal wastes, and/or latex paint when such materials are defined as allowable materials for collection through the City's collection programs and the generator or customer has properly placed the materials for collection pursuant to instructions provided by City or its Designee for collection services.
- (t) "Food Distributor" means a company that distributes food to entities including, but not limited to, supermarkets and grocery stores, or as otherwise defined in 14 CCR Section 18982(a)(22).
 - (u) "Food 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).
 - (1) A food bank as defined in Section 113783 of the Health and Safety Code;
 - (2) A nonprofit charitable organization as defined in Section 113841 of the Health and Safety code; and,
 - (3) A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.
 - (v) "Food Waste" means food scraps and trimmings and other putrescible waste that result from food production, preparation, cooking, storage, consumption or handling. Food waste includes but is not limited to cooked meat, fish, dairy waste, fruit and vegetable waste and grain waste.
 - (w) "Franchise Hauler" means a hauler holding a franchise, contract, license or permit issued by the city which authorizes the exclusive or non-exclusive right to provide solid waste, organics and recycling collection services within all or part of the city limits.
 - (x) "Garbage" means all non-recyclables and non-organic waste generated by normal day to day activities. Garbage must be generated by and at the service location or unit wherein the garbage is collected. Garbage does not include recyclables, organics waste, construction and demolition debris, bulky items, e-waste, universal waste, and hazardous waste.
 - (y) "Generator" means any commercial generator or residential generator of solid waste.
 - (z) "Gray Container" has the same meaning as in 14 CCR Section 18982.2(a)(28) and shall be used for the purpose of storage and collection.
 - (aa) "Green Waste 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.
 - (bb) "Hazardous waste" means any material which is defined as hazardous waste under California or United States law or any regulations promulgated pursuant to such law, such as local, state, or federal.

- (cc) **“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 fifty (50) percent between January 1, 2022 and December 31, 2024, and seventy-five (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).
- (dd) **“Household hazardous waste”** means dry cell household batteries; used motor oil, used oil filters, cooking oil, compact fluorescent light bulbs; cleaning products, pesticides, herbicides, insecticides, painting supplies, automotive products, solvents, adhesives, auto batteries, and universal waste.
- (ee) **“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 two-thousand (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 chapter.
- (ff) **“Large Venue”** means a permanent venue facility that annually seats or serves an average of more than two-thousand (2,000) individuals within the grounds of the facility per day of operation of the venue facility. For purposes of this chapter 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 chapter 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 chapter.
- (gg) **“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.
- (hh) **“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).
- (ii) **“Notice of Violation”** or **“(NOV)”** means a notice that a violation has occurred that includes a compliance date to avoid any further enforcement action by the City authorized in this chapter.
- (jj) **“Organic Waste”** means Solid Wastes containing material originated from living organisms and their metabolic waste products, including but not limited to food scraps, trimmings from food preparation, soiled paper products such as paper towels, plant debris, grass

clippings, leaves, pruning, weeds, brush, and holiday natural trees or otherwise defined in 14 CCR Section 18982(a)(48).

- (kk) "Paper Products" include, but are not limited to, paper janitorial supplies, cartons, wrapping, packaging, file folders, hanging files, corrugated boxes, tissue, and toweling, or as otherwise defined in 14 CCR section 18982(a)(51).
- (ll) "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).
- (mm) "Prohibited Container Contaminants" means the following: (i) discarded materials placed in the Blue Container that are not identified as acceptable Source Separated Recyclable Materials for the City's Blue Container; (ii) discarded materials placed in the Green Container that are not identified as acceptable Source Separated Green Container Organic Waste for the City's Green Container; (iii) discarded materials placed in the Gray Container that are acceptable Source Separated Recyclable Materials and/or Source Separated Green Container Organic Wastes to be placed in City's Green Container and/or Blue Container; and, (iv) Excluded Waste placed in any container.
- (nn) "Recovered Organic Waste" 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).
- (oo) "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).
- (pp) "Recycling" means the process of collecting, sorting, cleansing, treating, and reconstituting materials that would otherwise become solid waste, and returning 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.
- (qq) "Residential Generator" means of, from, or pertaining to any residential premises with fewer than five (5) units.
- (rr) "SB 1383 Regulations" or "SB 1383 Regulatory" means or refers to, for the purposes of this chapter, Senate Bill 1383 (SB 1383), 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.
- (ss) "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(a)(66)(A).

- (tt) "Solid waste" means garbage, recyclable materials, organic waste, construction and demolition debris, bulky items, e-waste, and universal waste.
- (uu) "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 chapter, 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 the Gray Container, Waste/Mixed Waste or other Solid Waste for the purposes of collection and processing.

6.3.2.03 Requirements for Residential Generators.

Residential Generators shall comply with the following requirements:

- (a) Subscribe to City's collection services and comply with collection requirements of those services as described below in Section 6.3.2.03(b). City shall have the right to review the number and size of a generator's containers to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and Residential generators may be required to adjust service level or containers for collection services as requested by the City. Generators may additionally manage their Organic Waste by preventing or reducing their Organic Waste, managing Organic Waste on site, and/or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).
- (b) Shall participate in the City's Organic Waste collection service(s) by placing designated materials in designated containers as described below, and shall not place Prohibited Container Contaminants in collection containers.
 - (1) Generator shall place Source Separated Green Container Organic Waste, including food waste, in the Green Container; Source Separated Recyclable Materials in the Blue Container; and Gray Container Waste in the Gray Container. Generators shall not place materials designated for the Gray Container into the Green Container or Blue Container.

6.3.2.04 Requirements for Commercial Generators.

Commercial Generators shall:

- (a) Subscribe to City's collection services and comply with collection requirements of those services as described below in Section 6.3.2.04(b). City shall have the right to review the number and size of a generator's containers and frequency of collection to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and Commercial Businesses shall adjust their service level for their collection services as requested by the City.

- (b) Participate in the City's Organic Waste collection service(s) by placing designated materials in designated containers as follows:

Generator shall place Source Separated Organics Waste, including Food Waste, in the Green Container; Source Separated Recyclable Materials in the Blue Container; and Trash in the Gray Container.

- (c) Supply and allow access to adequate number, size and location of collection containers with sufficient labels or colors for employees, contractors, tenants, and customers, consistent with City's Blue Container, Green Container and Gray Container collection service or, if self-hauling, per the Commercial Businesses' instructions to support its compliance with its self-haul program, in accordance with Section 6.3.2.09 below.
- (d) Provide or arrange access for City and its agent to their properties during all inspections conducted in accordance with 6.3.2.11 of this chapter to confirm compliance with requirements of this chapter.
- (e) Accommodate and cooperate with City's remote monitoring program for inspection of the contents of containers for Prohibited Container Contaminants, which may be implemented at a later date, to evaluate generator's compliance with Section 6.3.2.04(b).
- (f) Commercial Businesses that are Tier One or Tier Two Commercial Edible Food Generators shall comply with Food Recovery requirements, pursuant to Section 6.3.2.06.

6.3.2.05 Waivers for Generators.

- (a) **De Minimis Waivers.** The City may grant a waiver to a Commercial Business from compliance with this chapter if the Commercial Business generates less than the amount of Organic Waste material as described in Section 6.3.2.05(a)(2) below. A Commercial Business requesting a de minimis waiver must:
 - (1) Submit an application to the City specifying the services or requirements requesting a waiver from and provide documentation as noted in Section 6.3.2.05(a)(2) below.
 - (2) Provide documentation that either:
 - (A) The Commercial Business' total Solid Waste collection service is two cubic yards or more per week and Organic Waste subject to collection in a Blue Container or Green Container comprises less than twenty (20) gallons per week per applicable container of the business' total waste; or
 - (B) The Commercial Business' total Solid Waste collection service is less than two cubic yards per week and Organic Waste subject to collection in a Blue Container or Green Container comprises less than ten (10) gallons per week per applicable container of the business' total waste.
 - (3) Notify City if circumstances change such that the Commercial Business's Organic Waste exceeds the threshold required for a waiver, in which case the waiver will be rescinded.

- (4) Provide written verification of continuing eligibility for a de minimis waiver every five (5) years if City has approved a de minimis waiver.
- (b) **Physical Space Waivers:** City may waive a Commercial generator's or Residential generator's obligations to comply with all or some recyclable materials and/or Organic Waste collection service requirements if the City has evidence from its own staff, a hauler, licensed architect, or licensed engineer demonstrating that the premises lacks adequate space for the collection containers required for compliance with the Organic Waste collection requirements of Section 6.3.2.04 above.
- (c) A Commercial generator or Residential generator 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 and or Green Containers, including documentation from franchise hauler, licensed architect, or licensed engineer.
 - (3) Provide written verification to City of continuing eligibility for a physical space waiver every five (5) years if City has approved a physical space waiver.

6.3.2.06 Requirements for Commercial Edible Food Generators.

- (a) Tier One Commercial Edible Food Generators must comply with the requirements of this Section commencing on January 1, 2022, and Tier Two Commercial Edible Food Generators must comply commencing January 1, 2024, in accordance with 14 CCR Section 18991.3.
- (b) Large Venue or Large Event operators not providing food services, but allowing for food to be provided by others, shall require Food Facilities, as defined in section 113789 of the Health and Safety Code, operating at the Large Venue or Large Event to comply with the requirements of this Section, commencing January 1, 2024.
- (c) Commercial Edible Food Generators shall comply with the following requirements:
 - (1) Arrange to recover the maximum amount of Edible Food that would otherwise be disposed.
 - (2) Contract with or enter into a written agreement with Food Recovery organizations or Food Recovery services for: (i) the collection of Edible Food for Food Recovery; or, (ii) acceptance of the Edible Food that the Commercial Edible Food Generator self-hauls to the Food Recovery organization for Food Recovery.
 - (3) Shall not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery organization or a Food Recovery service.
 - (4) Allow City's designated enforcement entity or Designee to access the premises and review records pursuant to 14 CCR Section 18991.4.

- (5) Keep records that include the following information, or as otherwise specified in 14 CCR Section 18991.4:
 - (A) A list of each Food Recovery service or organization that collects or receives its Edible Food pursuant to a contract or written agreement established under 14 CCR Section 18991.3(b).
 - (B) A copy of all contracts or written agreements established under 14 CCR Section 18991.3(b).
 - (C) A record of the following information for each of those Food Recovery services or Food Recovery organizations:
 - (i) The name, address and contact information of the Food Recovery service or Food Recovery organization.
 - (ii) The types of food that will be collected by or self-hauled to the Food Recovery service or Food Recovery organization.
 - (iii) The established frequency that food will be collected or self-hauled.
 - (iv) The quantity of food, measured in pounds recovered per month, collected or self-hauled to a Food Recovery service or Food Recovery organization for Food Recovery.
- (c) Nothing in this chapter shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share table and school food donation guidance pursuant to Senate Bill 557 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).

6.3.2.07 Requirements for Edible Food Recovery organizations.

- (a) Food Recovery services collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(1):
 - (1) The name, address, and contact information for each Commercial Edible Food Generator from which the service collects Edible Food.
 - (2) The quantity in pounds of Edible Food collected from each Commercial Edible Food Generator per month.
 - (3) The quantity in pounds of Edible Food transported to each Food Recovery organization per month.

- (4) The name, address, and contact information for each Food Recovery organization that the Food Recovery service transports Edible Food to for Food Recovery.
- (b) Food Recovery organizations collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(2):
 - (1) The name, address, and contact information for each Commercial Edible Food Generator from which the organization receives Edible Food.
 - (2) The quantity in pounds of Edible Food received from each Commercial Edible Food Generator per month.
 - (3) The name, address, and contact information for each Food Recovery service that the organization receives Edible Food from for Food Recovery.
- (c) Food Recovery Capacity Planning. To support Edible Food Recovery capacity planning assessments or other studies conducted by the City or its Designee, Food Recovery services and Food Recovery organizations operating in the City shall provide information and consultation to the City, upon request, regarding existing, or proposed new or expanded, Food Recovery capacity that could be accessed by the City and its Commercial Edible Food Generators. A Food Recovery service or Food Recovery organization contacted by the City shall respond to such request for information within sixty (60) days.

6.3.2.08 Requirements for haulers and facility operators.

- (a) Requirements for haulers:
 - (1) Any Franchise Hauler or otherwise permitted and licensed haulers providing residential, commercial, or industrial Organic Waste collection services to generators within the City limits shall meet the following requirements and standards as a condition of approval of a contract, agreement, or other authorization with the City to collect Organic Waste:
 - (A) Through written notice to the City identifying the facilities to which they will transport Organic Waste including facilities for Source Separated Recyclable Materials and Source separated Green Container Organic Waste.
 - (B) Transport Source Separated Recyclable Materials and Source Separated Green Container Organic Waste to a facility, operation, activity, or property that recovers Organic Waste to a Community Composting site or lawfully transporting C&D in a manner that complies with 14 CCR Section 18989.1, this Section, and City's C&D ordinance.
 - (C) Obtain approval from the City to haul Organic Waste, unless it is transporting Source Separated Organic Waste to a Community Composting site lawfully transporting C&D in a manner that complies with 12 CCR Section 18989.1, this Section, and City's C&D ordinance.

- (2) Exclusive Franchise Haulers and permitted haulers authorized to collect Organic Waste shall comply education, equipment, signage, container labeling, container color, contamination monitoring, reporting, and other requirements contained within its franchise agreement, permit, license, or agreement entered into with City.
- (b) Requirements for facility operators and Community Composting operations:
- (1) Owners of facilities, operations, and activities that recover Organic Waste, including, but not limited to, Compost facilities, in vessel digestion facilities, and publicly-owned treatment works shall, upon City request, provide information regarding available and potential new or expanded capacity at their facilities, operations, and activities, including information about throughput and permitted capacity necessary for planning purposes. Entities contacted by the City shall respond within 60 days.
 - (2) Community Composting operators, upon City request, shall provide information to the City to support Organic Waste capacity planning including, but not limited to, an estimated of the amount of Organic Waste anticipated to be handled at the Community Composting operation. Entities contacted by the City shall respond within 60 days.

6.3.2.09 Self-Hauler requirements.

- (a) Self-Haulers shall source separate all recyclable materials and Organic Waste (materials that City otherwise requires generators to separate for collection in the City's organics and recycling collection program) generated on-site from Solid Waste in a manner consistent with 14 CCR Sections 18984.1 and 18984.2, or shall haul Organic Waste to a High Diversion Organic Waste Processing Facility as specified in 14 CCR Section 18984.3.
- (b) Self-Haulers shall haul their Source Separated Recyclable Materials to a facility that recovers those materials; and haul their Source Separated Green Container Organic Waste to a Solid Waste facility, operation, activity, or property that processes or recovers Source Separated Organic Waste. Alternatively, Self-Haulers may haul Organic Waste to a High Diversion Organic Waste Processing Facility.
- (c) Self-Haulers that are Commercial Businesses shall keep a record of the amount of Organic Waste delivered to each Solid Waste facility, operation, activity, or property that processes or recovers Organic Waste; this record shall be subject to inspection by the City. The records shall include the following information:
 - (1) Delivery receipts and weight tickets from the entity accepting the waste.
 - (2) The amount of material in cubic yards or tons transported by the generator to each entity.
 - (3) If the material is transported to an entity that does not have scales on-site, or employs scales incapable of weighing the Self-Hauler's vehicle in a manner that allows it to determine the weight of materials received, the Self-Hauler is not required to record the weight of material but shall keep a record of the entities that received the Organic Waste.

- (d) **Self-Haulers that are Commercial Businesses (including Multi-Family Self-Haulers) shall provide information collected in Section 6.3.2.09(c) above to City, if requested.**
- (e) **A residential Organic Waste Generator that self-hauls Organic Waste is not required to record or report information in Sections 6.3.2.09(c) and (d) above.**

6.3.2.10 Procurement requirements for City departments, direct service providers, and vendors.

- (a) **City departments, and direct service providers of landscaping maintenance, renovation, and construction shall:**
 - (1) **Use Compost and SB 1383 eligible mulch, as reasonably practicable, produced from recovered Organic Waste, for all landscaping renovations, construction, or maintenance performed for the City, whenever available, and capable of meeting quality standards and criteria specified. SB 1383 eligible mulch used for land application shall comply with 14 CCR, Division 7, Chapter 12, Article 12 and must meet or exceed the physical contamination, maximum metal concentration and pathogen density standards specified in 14 CCR Section 17852(a)(24.5)(A)(1) through (3).**
 - (2) **Keep and provide records of procurement of Recovered Organic Waste Products (either through purchase or acquisition) to City, upon completion of projects or procurement. Information to be provided shall include:**
 - (A) **General description of how and where the product was used and if applicable, applied;**
 - (B) **Source of product, including name, physical location, and contact information for each entity, operation, or facility from whom the Recovered Organic Waste Product were procured.**
 - (C) **Type of product;**
 - (D) **Quantity of each product; and**
 - (E) **Invoice or other record demonstrating purchase or procurement.**
- (b) **All vendors providing Paper Products, Printing and Writing Paper shall:**
 - (1) **If fitness and quality are equal, provide Recycled-Content Paper Products and Recycled-Content Printing and Writing Paper that consists of at least thirty (30) percent, by fiber weight, postconsumer fiber instead of non-recycled products whenever recycled Paper Products and Printing and Writing Paper are available at the same or lesser total cost than non-recycled items.**
 - (2) **Provide Paper Products and Printing and Writing Paper that meet Federal Trade Commission recyclability standard as defined in 16 Code of Federal Regulations (CFR) Section 260.12.**

- (3) Certify in writing, the minimum percentage of postconsumer material in the Paper Products and Printing and Writing Paper offered or sold to the Jurisdiction. This certification requirement may be waived if the percentage of postconsumer material in the Paper Products, Printing and Writing Paper, or both can be verified by a product label, catalog, invoice, or a manufacturer or vendor internet website.
- (4) Certify in writing, on invoices or receipts provided, that the Paper Products and Printing and Writing Paper offered or sold to the Jurisdiction is eligible to be labeled with an unqualified recyclable label as defined in 16 Code of Federal Regulations (CFR) Section 260.12 (2013).
- (5) Provide records to the City'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 City. Records shall include a copy (electronic or paper) of the invoice or other documentation of purchase, written certifications as required in Sections 6.3.2.10(b)(3) and (b)(4) above 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.

6.3.2.11 Inspection and investigation by City.

- (a) City representatives and/or Designees are authorized, in accordance with applicable laws, to conduct reasonable inspections and investigations, at random or otherwise, of any collection container, collection vehicle loads, or transfer, processing, or disposal facility for materials collected from generators, or Source Separated materials to confirm compliance with this chapter by Organic Waste Generators, Commercial Businesses (including Multi-Family Residential Dwellings), property owners, Commercial Edible Food Generators, haulers, Self-Haulers, Food Recovery Services, and Food Recovery Organizations, subject to applicable laws. This Section does not authorize City or any Designee to enter the interior of a private residential property for inspection without authorized consent or a lawful warrant.
- (b) Any business owner or property owner subject to inspection or investigation as provided in subdivision (a) above shall provide or arrange for access during all inspections (with the exception of residential property interiors) and shall cooperate with the City's employee or 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 chapter. Failure to provide or arrange for access to premises and/or access to records for any inspection or investigation is a violation of this chapter and may result in enforcement as authorized in this chapter.
- (c) Any records obtained by City during its inspection and other reviews shall be subject to the requirements and applicable disclosure exemptions of the California Public Records Act as set forth in Government Code Section 6250 et seq.

- (d) City representatives and/or Designee are authorized, in accordance with applicable laws, to conduct any inspections or other investigations, randomly or as a result of a complaint of non-compliance, as reasonably necessary to ensure compliance with this chapter.

6.3.2.12 Enforcement.

- (a) **Education Period for Non-Compliance.** Upon the effectiveness of this chapter and through December 31, 2023, City or its Designee will conduct inspections, route reviews or waste evaluations, and Compliance Reviews, depending upon the type of regulated entity, to determine compliance, and the City determines that any 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, City or Designee shall provide educational materials to the entity describing its obligations under this chapter and a notice that compliance is required and that violations may be subject to civil penalties starting on January 1, 2024.

- (b) Violation of any provision of this chapter is grounds for issuance of a Notice of Violation. Nothing in this chapter precludes the City from using any other available method, including without limitation issuance of administrative citations in accordance with Chapter 1.7 of the City's Municipal Code, for violations of this chapter.

- (c) **Compliance Deadline Extension Considerations.**

City may extend any compliance deadline set forth in a Notice of Violation issued in accordance with this Section if satisfied there are extenuating circumstances beyond the control of the respondent that make compliance within the deadlines impracticable, including, without limitation, the following:

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

- (d) **Civil Penalties for Non-compliance.**

Beginning January 1, 2024, if the City determines that an Organic Waste Generator, Self-Hauler, hauler, Tier One or Tier Two Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance with this chapter, the noncompliance will be documented, and appropriate enforcement action may be taken.

- (e) **Use of available enforcement methods.** The City may use any available method authorized in the Municipal Code, state law, or federal law to enforce the provisions of this chapter.

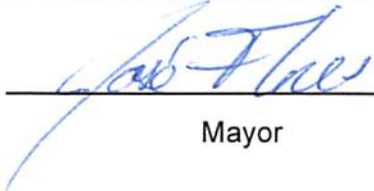
- (f) The remedies available to the City for the handling of violations or enforcement of the provisions of this chapter shall be cumulative and not exclusive of any other applicable provisions of City, state, or federal law.

6.3.2.13 Severability.

If any article, section, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this chapter. The City Council hereby declares that it would have adopted this chapter and adopted each article, section, sentence, clause or phrase thereof, irrespective of the fact that any one or more articles, sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 2. This Ordinance shall go into effect and be in full force from and after thirty (30) days after its final passage and adoption.

APPROVED: March 7, 2022



Mayor



City Clerk

* * * * *

The foregoing Ordinance was introduced and read at a regular meeting of the City Council held on March 7, 2022, and was adopted at a regular meeting of said Council held on March 14, 2022, by the following vote, to wit:

AYES: Councilmembers Bessinger, Mouanoutoua, Whalen, Mayor Flores

NOES: None

ABSENT: Councilmember Ashbeck

ABSTAIN: None

DATED: March 14, 2022





City Clerk

