

ORDINANCE NO. 21-0006

AN ORDINANCE OF THE CITY OF MANHATTAN BEACH  
AMENDING THE MANHATTAN BEACH MUNICIPAL CODE  
BY ADDING CHAPTER 5.25 (MANDATORY ORGANIC  
WASTE DISPOSAL REDUCTION) TO TITLE 5  
(SANITATION AND HEALTH) AND MAKING A  
DETERMINATION OF EXEMPTION UNDER CEQA

RECITALS

A. The City of Manhattan Beach ("City") is a municipal corporation, duly organized under the constitution and laws of the State of California.

B. Assembly Bill ("AB") 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Waste Management Act of 1989 (California Public Resources Code Section 40000, et seq., as amended, supplemented, superseded and replaced from time to time and as implemented by regulations of the California Department of Resources, Recycling and Recovery ("CalRecycle")), requires the City to reduce, reuse, and recycle (including composting), solid waste generated in the City 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.

C. AB 341 of 2011 places requirements on businesses and multi-family (five or more dwelling units) property owners that generate a specified threshold amount of solid waste to arrange for recycling services and requires the City to implement a mandatory commercial recycling program.

D. AB 1826 of 2014 requires businesses and multi-family (five or more dwelling units) 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 and requires the City to implement a mandatory commercial organics recycling program for designated businesses and multi-family property owners.

E. SB 1383 of 2016, the Short-lived Climate Pollutant Reduction Act of 2016, requires the California Department of Resources Recycling and Recovery ("CalRecycle") to develop regulations to reduce organics in landfills as a source of methane. These regulations, adopted in 2020 ("SB 1383 Regulations"), place requirements on multiple entities including the City, residential households, commercial businesses, commercial edible food generators, haulers, self-haulers, food recovery organizations, and food recovery services to support achievement of statewide organic waste disposal reduction targets.

F. The SB 1383 Regulations require the City to adopt and enforce an ordinance or other enforceable mechanism to implement relevant provisions of the SB 1383 Regulations.

G. This Ordinance implements the requirements of AB 341, AB 1826, SB 1383 and the SB 1383 Regulations.

THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH does ORDAIN AS FOLLOWS:

**SECTION 1.** Title 5 (Sanitation and Health) of the Manhattan Beach Municipal Code is hereby amended to add Chapter 5.25 (Mandatory Organic Waste Disposal Reduction) to read as follows:

**“Chapter 5.25 - Mandatory Organic Waste Disposal Reduction**

**5.25.010 Definitions and SB 1383 Regulatory Requirements**

(a) For the purposes of this Chapter, the following words, terms, phrases, and their derivations have the meanings given herein. Terms not defined in this Chapter and defined elsewhere in this Municipal Code (“Code”) shall have the same meanings herein unless the context otherwise requires. When consistent with the context, words used in the present tense include the future tense, and words in the singular number include the plural number. In the event of a conflict between a definition in this Chapter and a definition in 14 CCR Section 18982, the definitions in Section 18982 shall control for the purposes of this Chapter. Additionally, for the purposes of this Chapter, the definitions in 14 CCR Section 18982 shall control for terms used in this Chapter and not defined in this Code. Unless otherwise specified herein, references to a statute or regulation means the statute or regulation, as amended, supplemented, superseded and replaced from time to time.

“Blue Container” has the same meaning as in 14 CCR Section 18982(a)(5) and shall be used only for the purpose of storage and collection of Source Separated Recyclable Materials and also includes the segregated section of a container used only for the purposes for collection of Blue Container waste in accordance with 14 CCR Section 18984.1(a)(4). Notwithstanding the foregoing, functional containers purchased prior to January 1, 2022 that are used for the storage and collection of Source Separated Recyclable Materials or Source Separated Blue Container Organic Waste and that do not comply with the color requirements of 14 CCR Section 18982(a)(5) shall be deemed to be Blue Containers and are not required to be replaced until the end of the useful life of those containers or January 1, 2036, whichever is earlier.

“Brown Container” has the same meaning as in 14 CCR Section 18982(a)(5.5) and shall be used only for the purpose of storage and collection of Source Separated Food Waste. Notwithstanding the foregoing, functional containers purchased prior to January 1, 2022 that are used for the storage and collection of Source Separated Food Waste that do not comply with the color requirements of 14 CCR Section 18982(a)(5.5) shall be deemed to be Brown Containers and are not required to be replaced until the end of the useful life of those containers or January 1, 2036, whichever is earlier.

“CalRecycle” means the California Department of Resources Recycling and Recovery, which is the Department designated with responsibility for developing, implementing, and enforcing SB 1383 Regulations on the City (and others).

“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).

“City” means the City of Manhattan Beach, California.

“City Manager” means the City Manager of the City or his/her Designee.

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

“Commercial Edible Food Generator” includes a Tier One or a Tier Two Commercial Edible Food Generator as 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).

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

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

“Compost” has the same meaning as in 14 CCR Section 17896.2(a)(4).

“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).

“County” means the County of Los Angeles.

“C&D” means used or discarded construction materials removed from a premise during the construction or demolition of a structure.

“Designee” means an entity that the 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; or, as otherwise defined in 14 CCR Section 18982(a)(15). A Designee may be a government entity, a hauler, a private entity, or a combination of those entities.

“Edible Food” means food intended for human consumption; or, as otherwise defined in 14 CCR 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 State Retail Food Code.

“Enforcement Action” means an action of the City to address non-compliance with this Chapter including, but not limited to, issuing administrative citations, fines, penalties, or using other remedies; or, as otherwise defined in 14 CCR Section 18982(a)(19).

“Enforcement Official” means the City Manager or the City’s authorized Designee(s) who is/are partially or wholly responsible for enforcing this Chapter.

“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 the City’s Enforcement Official’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 the 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 State Public Resources Code.

“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).

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

“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).

“Food Recovery Organization,” unless otherwise defined in 14 CCR Section 18982(a)(25), 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 including, but not limited to:

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

- (2) A nonprofit charitable organization as defined in Section 113841 of the State Health and Safety Code; and
- (3) A nonprofit charitable temporary food facility as defined in Section 113842 of the State Health and Safety Code.

“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).

“Food Scraps” means all food such as, but not limited to, fruits, vegetables, meat, poultry, seafood, shellfish, bones, rice, beans, pasta, bread, cheese, fats, oils, grease, and eggshells.

“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” means 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.

“Food Waste” means Food Scraps and Food-Soiled Paper.

“Generator” means a person or entity that is responsible for the initial creation of Solid Waste, and with respect to Organic Waste, 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).

“Gray Container” has the same meaning as in 14 CCR Section 18982(a)(28) and shall be used only for the purpose of storage and collection of Gray Container Waste and also includes the segregated section of a container used only for the purposes for collection of Gray Container waste in accordance with 14 CCR Section 18984.1(a)(4). Notwithstanding the foregoing, functional containers purchased prior to January 1, 2022 that are used for the storage and collection of Gray Container Waste and that do not comply with the color requirements of 14 CCR Section 18982(a)(28) shall be deemed to be Gray Containers and are not required to be replaced until the end of the useful life of those containers or January 1, 2036, whichever is earlier.

“Gray Container Waste” means Solid Waste that is collected in a Gray Container that is part of the City’s three-container or four-container Organic Waste collection service that prohibits the placement of Organic Waste in the Gray Container as specified in 14 CCR Sections 18984.1(a) and (b); or, as otherwise defined in 14 CCR Section 17402(a)(6.5). Notwithstanding the preceding sentence, Gray Container Waste includes textiles.

“Green Container” has the same meaning as in 14 CCR Section 18982(a)(29) and shall be used only for the purpose of storage and collection of Source Separated Green Container Organic Waste. Notwithstanding the foregoing, functional containers purchased prior to January 1, 2022 that are used for the storage and collection of Green Container Organic Waste and that do not comply with the color requirements of 14 CCR Section 18982(a)(29) shall be deemed to be Green Containers and are not required to be replaced until the end of the useful life of those containers or January 1, 2036, whichever is earlier.

“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).

“Hauler Route” means the designated itinerary or sequence of stops for each segment of the City’s collection service area; or, as otherwise defined in 14 CCR Section 18982(a)(31.5).

“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 the City 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 Chapter; or, as otherwise defined in 14 CCR Section 18982(a)(35).

“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; or, as otherwise defined in 14 CCR Section 18982(a)(38).

“Large Venue,” unless otherwise defined in 14 CCR Section 18982(a)(39), 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 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.

“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).

“Mixed Waste Organic Collection Stream” or “Mixed Waste” means Organic Waste collected in a container that is required by 14 CCR Section 18984.1 to be taken to a High Diversion Organic Waste Processing Facility or as otherwise defined in 14 CCR Section 17402(a)(11.5).

“Multi-Family Residential Dwelling(s)” 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.

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

“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 City’s enforcement authority; or, as otherwise defined in 14 CCR Section 18982(a)(42):

- (1) Special district(s) located within the jurisdictional boundaries of the City;
- (2) Federal facilities, including military installations, located within the jurisdictional boundaries of the City;
- (3) Prison(s) located within the jurisdictional boundaries of the City;
- (4) Facilities operated by the State Park system located within the jurisdictional boundaries of the City;
- (5) Public universities (including community colleges) located within the jurisdictional boundaries of the City;
- (6) County fairgrounds located within the jurisdictional boundaries of the City; and
- (7) State agencies located within the jurisdictional boundaries of the City.

“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).

“Notice of Violation” or “NOV” means a notice that a violation has occurred that includes a compliance date to avoid an action to seek penalties; or, as otherwise defined in 14 CCR Section 18982(a)(45) or further explained in 14 CCR Section 18995.4.

“Organic Waste” means Solid Waste 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).

“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).

“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).

“Prohibited Container Contaminants,” unless otherwise defined in 14 CCR Section 18982(a)(55), means the following: (i) discarded materials placed in the Blue Container that are not identified by the City as acceptable Source Separated Recyclable Materials for the Blue Container; (ii) discarded materials placed in the Green Container that are not identified by the City as acceptable Source Separated Green Container Organic Waste for the Green Container, including carpet, hazardous wood waste and Non-Compostable Paper; (iii) discarded materials placed in the Gray Container that are acceptable Source Separated Recyclable Materials to be placed in the Blue Container, Source Separated Green Container Organic Waste to be placed in the Green Container, and, if applicable, Source Separated Food Waste to be placed in the Brown Container; (iv) discarded materials placed in the Brown Container that are not Source Separated Food Waste; and, (v) Excluded Waste placed in any container.

“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 consist of at least 30 percent, by fiber weight, postconsumer fiber; or, as otherwise defined in 14 CCR Section 18982(a)(61).

“Remote Monitoring” means the use, at the discretion of the City, of the internet of things (IoT) and/or wireless electronic devices to visualize the contents of Blue Containers,



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

“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).

“Route Review” means a visual Inspection of containers along a Hauler Route for the purpose of determining Container Contamination, and may include mechanical Inspection methods such as the use of cameras; or, as otherwise defined in 14 CCR Section 18982(a)(65).

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

“SB 1383 Regulations” means the Short-Lived Climate Pollutants: Organic Waste Reduction regulations developed by CalRecycle and adopted in 2020 that created 14 CCR, Division 7, Chapter 12 and amended portions of regulations of 14 CCR and 27 CCR.

“Self-Hauler” means a person or entity, who, in compliance with all applicable requirements of this Code, hauls Solid Waste, Organic Waste or recyclable materials he or she has generated to another person or entity. Self-Hauler also includes a person or entity 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).

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

“Solid Waste,” unless otherwise defined in State Public Resources Code 40191, means 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 State Public Resources Code Section 40141;

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

“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 this Chapter, Source Separated shall include separation of materials, at the point of generation, by the Generator, property owner, property owner’s employee, property manager, or property manager’s employee into different containers for the purpose of collection such that Source Separated materials are separated from Gray Container Waste or other Solid Waste for the purposes of collection and processing of those materials.

“Source Separated Blue Container Organic Waste” means Source Separated Organic Waste that can be placed in a Blue Container that is limited to the collection of those Organic Wastes and Non-Organic Recyclables. Source Separated Blue Container Organic Waste excludes Source Separated Green Organic Waste, but includes Paper Products, Printing and Writing Paper, and wood and dry lumber, unless otherwise specified by the City.

“Source Separated Green Container Organic Waste” means Source Separated Organic Waste that can be placed in a Green Container that is specifically intended for the separate collection of Organic Waste by the Generator, excluding Source Separated Blue Container Organic Waste, carpets, Non-Compostable Paper, and textiles. If the Generator has a Brown Container pursuant to City’s four-container Organic Waste collection service, “Source Separated Green Container Waste” also excludes Source Separated Food Waste.

“Source Separated Recyclable Materials” means Source Separated Non-Organic Recyclables and Source Separated Blue Container Organic Waste.

“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; or, as otherwise defined in 14 CCR Section 18982(a)(73):

- (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; or,
- (5) Wholesale Food Vendor.

“Tier Two Commercial Edible Food Generator” means a Commercial Edible Food Generator that is one of the following; or, as otherwise defined in 14 CCR Section 18982(a)(73):

- (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; or
- (7) A Local Education Agency facility with an on-site Food Facility.

“Wholesale Food Vendor” means a business or establishment engaged in the merchant wholesale distribution of food, where food (including fruits and vegetables) is received, shipped, stored, prepared for distribution to a retailer, warehouse, distributor, or other destination; or, as otherwise defined in 14 CCR Section 18982(a)(76).

(b) Organic Waste Generators, haulers and other entities subject to the requirements of SB 1383 and the SB 1383 Regulations that are subject to the City’s authority shall fully comply with the applicable requirements of SB 1383, the SB 1383 Regulations, this chapter and any collection agreement between the City and a franchised hauler in effect.

### **5.25.020 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 of this Code:

- (a) Subscribe to the City's three-container or four-container Organic Waste collection service(s), as applicable, for all Organic Waste generated as described below in subsection (b) of this section. The City shall have the right to review the number and size of a Generator's containers to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and, Single-Family Generators shall adjust their service level for their 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) Participate in the City's Organic Waste collection service(s) by placing designated materials in designated containers as described in this paragraph, and not placing Prohibited Container Contaminants in containers. Generators shall place Source Separated Green Container Organic Waste in the Green Container; Source Separated Recyclable Materials in the Blue Container; if applicable, Source Separated Food Waste in the Brown Container; and Gray Container Waste in the Gray Container. Generators shall not place materials designated for the Gray Container in the Green Container, Blue Container, or, if applicable, the Brown Container.

### **5.25.030 Requirements for Commercial Organic Waste Generators and Commercial Businesses**

Commercial Organic Waste Generators and Commercial Businesses shall comply with the following:

- (a) Except for Commercial Organic Waste Generators that meet the Self-Haul requirements of this Code, Commercial Organic Waste Generators, including Multi-Family Residential Dwellings, shall subscribe to the City's three-container or four-container collection services, as applicable, and comply with requirements of those services as described in subsection (b) of this section. The 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. 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) Except for Commercial Organic Waste Generators that meet the Self-Haul requirements of this Code, Commercial Organic Waste Generators, including Multi-Family Residential Dwellings, shall participate in the City's Organic Waste collection service(s) by placing designated materials in designated containers as described in this paragraph, and not placing Prohibited Container Contaminants in containers. Generators shall place Source Separated Green Container Organic Waste in the Green Container; Source Separated Recyclable Materials (which includes Source Separated Non-Organic Recyclables and Source Separated Blue Container Waste) in the Blue Container; if applicable, Source Separated Food Waste in the Brown Container; and Gray Container Waste in the Gray Container. Generators shall not place materials designated for the Gray Container in the Green Container, Blue Container, or if applicable, the Brown Container.
- (c) Commercial Organic Waste Generators, except for Multi-Family Residential Dwellings, shall 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. Such containers shall be visible and easily accessible. 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 Commercial Business shall have either:
- (1) A body or lid that conforms with the container colors provided through the Organic Waste collection service provided by the City. 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 this 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; or, as otherwise provided in 14 CCR 18984.8.
- (d) Commercial Organic Waste Generators, including Multi-Family Residential Dwellings, shall supply and allow access to adequate number, size and location of collection containers with sufficient labels or colors (conforming to subsections (c)(1) and (c)(2) above) for employees, contractors, tenants, and customers, consistent with the City's collection service and Article 3 of Chapter 12 of Division 7 of Title 14 of the CCR.
- (e) Commercial Organic Waste Generators, except for Multi-Family Residential Dwellings, shall prohibit employees from placing materials in a container not

designated for those materials per the City's Blue Container, Green Container, and Gray Container collection service pursuant to 14 CCR Section 18984.1(a)(5).

- (f) Commercial Organic Waste Generators, except for Multi-Family Residential Dwellings, shall periodically inspect Blue Containers, Green Containers, and Gray Containers for contamination and inform employees if containers are contaminated and of the requirements to keep contaminants out of those containers pursuant to 14 CCR Section 18984.9(b)(3).
- (g) Commercial Businesses, including Multi-Family Residential Dwellings, shall annually provide information to employees, contractors, tenants, and customers about Organic Waste Recovery requirements and about proper sorting of Source Separated Green Container Organic Waste and Source Separated Recyclable Materials.
- (h) Commercial Businesses, including Multi-Family Residential Dwellings, shall provide information as described in (g) in this Section before or within fourteen (14) days of occupation of the premises to new tenants.
- (i) Commercial Businesses, including Multi-Family Residential Dwellings, shall provide or arrange access for the City or its agent to their properties during all Inspections conducted in accordance with Section 5.25.120 to confirm compliance with the requirements of this section.
- (j) If a Commercial Business wants to self-haul, meet the Self-Hauler requirements of this Code.
- (k) Commercial Organic Waste Generators, including Multi-Family Residential Dwellings, if generating two (2) cubic yards or more of total Solid Waste per week (or other threshold defined by the State), shall require that any contract or work agreement between the owner, occupant, or operator of the Commercial Business and a gardening or landscaping service specify that the Organic Waste generated by those services be managed in compliance with Chapter 12, Part 3, Division 30 of the Public Resources Code.
- (l) Commercial Businesses that are Tier One or Tier Two Commercial Edible Food Generators shall comply with Food Recovery requirements, pursuant to Section 5.25.060.

#### **5.25.040 Waivers for Generators**

The City, at its discretion and in accordance with 14 CCR Section 18984.11 or as otherwise authorized by CalRecycle, may grant one or more of the following types of waivers to a Generator of Organic Waste:

- (a) De Minimis Waivers: The City may waive a Commercial Business' obligation (including Multi-Family Residential Dwellings) to comply with some or all of the Organic Waste requirements of this Chapter if the Commercial Business provides

documentation, or the City has evidence demonstrating, that the business generates below a certain amount of Organic Waste material as described in Section 5.25.040(a)(2) below. Commercial Businesses requesting a de minimis waiver shall:

- (1) Submit an application specifying the services that they are requesting a waiver from and provide documentation as noted in Section 5.25.040(a)(2) below.
  - (2) Provide documentation that either:
    - (A) The Commercial Business' total Solid Waste collection service is two cubic yards or more per week and Organic Waste subject to collection in a Blue Container or Green Container comprises less than 20 gallons per week per applicable container of the business' total waste; or,
    - (B) The Commercial Business' total Solid Waste collection service is less than two cubic yards per week and Organic Waste subject to collection in a Blue Container or Green Container comprises less than 10 gallons per week per applicable container of the business' total waste.
  - (3) Notify the City if circumstances change such that the Commercial Business's Organic Waste exceeds the threshold required for waiver, in which case the waiver will be rescinded. In addition, if the City obtains information at any time that a Commercial Business that has received a waiver is exceeding the Organic Waste thresholds set forth in 5.25.040(a)(2) above, the City shall rescind the waiver.
  - (4) Provide written verification of eligibility for de minimis waiver every 5 years, if the City has approved a de minimis waiver.
- (b) Physical Space Waivers: The City may waive a Commercial Business' or property owner's obligations (including Multi-Family Residential Dwellings) to comply with some or all of the recyclable materials and/or Organic Waste collection service requirements if the City has evidence from its own staff, a hauler, licensed architect, or licensed engineer demonstrating that the premises lacks adequate space for the collection containers required for compliance with the Organic Waste collection requirements of Section 5.25.030 of this Chapter.

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

- (1) Submit an application form specifying the type(s) of collection services for which they are requesting a compliance waiver and provide documentation as noted below;

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

The City or its Designee may make a site visit to verify the documentation provided pursuant to subsection 2, above, as a condition of the City granting a waiver.

#### **5.25.050 Requirements for Commercial Edible Food Generators**

- (a) Tier One Commercial Edible Food Generators must comply with the requirements of this Section commencing January 1, 2022, and Tier Two Commercial Edible Food Generators must comply with the requirements of this Section commencing January 1, 2024, pursuant to 14 CCR Section 18991.3.
- (b) Large Venue or Large Event operators not providing food services, but allowing for food to be provided by others, shall require Food Facilities operating at the Large Venue or Large Event to comply with the requirements of this Section, commencing January 1, 2024.
- (c) Commercial Edible Food Generators shall comply with the following requirements:
  - (1) Arrange to recover the maximum amount of Edible Food that would otherwise be disposed.
  - (2) Contract with, or enter into a written agreement with, Food Recovery Organizations or Food Recovery Services for: (i) the collection of Edible Food for Food Recovery; or (ii) acceptance of the Edible Food that the Commercial Edible Food Generator self-hauls to the Food Recovery Organization for Food Recovery.
  - (3) Shall not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery Organization or a Food Recovery Service.
  - (4) Allow the City's designated enforcement entity or designated third party enforcement entity to access the premises and review records pursuant to 14 CCR Section 18991.4.
  - (5) Keep records that include the following information, or as otherwise specified in 14 CCR Section 18991.4:
    - (A) A list of each Food Recovery Service or Food Recovery Organization that collects or receives its Edible Food pursuant to a contract or written agreement established under 14 CCR Section 18991.3(b).



- (B) A copy of all contracts or written agreements established under 14 CCR Section 18991.3(b).
- (C) A record of the following information for each of those Food Recovery Services or Food Recovery Organizations:
  - (i) The name, address and contact information of the Food Recovery Service or Food Recovery Organization.
  - (ii) The types of food that will be collected by or self-hauled to the Food Recovery Service or Food Recovery Organization.
  - (iii) The established frequency that food will be collected or self-hauled.
  - (iv) The quantity of food, measured in pounds recovered per month, collected or self-hauled to a Food Recovery Service or Food Recovery Organization for Food Recovery.
- (d) Nothing in this 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 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 amended Section 114079 of the Health and Safety Code, relating to food safety, as amended, supplemented, superseded and replaced from time to time.

#### **5.25.060 Requirements for Food Recovery Organizations and Services**

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

- (b) Food Recovery Organizations collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(2):
  - (1) The name, address, and contact information for each Commercial Edible Food Generator from which the organization receives Edible Food.
  - (2) The quantity in pounds of Edible Food received from each Commercial Edible Food Generator per month.
  - (3) The name, address, and contact information for each Food Recovery Service that the organization receives Edible Food from for Food Recovery.
- (c) Food Recovery Organizations and Food Recovery Services shall inform Generators about State 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).
- (d) Food Recovery Organizations and Food Recovery Services that have their primary address physically located in the City and contract with or have written agreements with one or more Commercial Edible Food Generators pursuant to 14 CCR Section 18991.3(b) shall report to the City 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 January 31 of each subsequent calendar year.
- (e) Food Recovery Capacity Planning

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

#### **5.25.070 Requirements for Haulers, Facility Operators and Community Composting Operations**

- (a) Requirements for Haulers
  - (1) Haulers providing residential, Commercial, or industrial Organic Waste collection services to Generators within the City's boundaries shall meet the requirements and standards of 14 CCR, Division 7, Chapter 12 as a condition of approval of a contract, agreement, or other authorization with the City to collect Organic Waste.

- (2) Through written notice to the City, haulers shall identify the facilities to which they will transport Organic Waste, including facilities for Source Separated Recyclable Materials and Source Separated Green Container Organic Waste.
  - (3) Haulers providing Organic Waste collection services shall comply with the applicable requirements of 14 CCR, Division 7, Chapter 12, Article 3.
  - (4) Haulers providing residential, Commercial industrial Organic Waste collection services shall transport Organic Waste to a facility, operation, activity, or property that recovers Organic Waste as defined in 14 CCR, Division 7, Chapter 12, Article 2.
  - (5) Haulers providing residential, Commercial industrial Organic Waste Collection services shall obtain applicable approval of the City pursuant to 14 CCR Section 18988.1 and keep a record of the documentation of its approval by the City.
- (b) Requirements for Facility Operators and Community Composting Operations
- (1) Owners of facilities, operations, and activities that recover Organic Waste, including, but not limited to, Compost facilities, in-vessel digestion facilities, and publicly-owned treatment works shall, upon the City's request, provide information regarding available and potential new or expanded capacity at their facilities, operations, and activities, including information about throughput and permitted capacity necessary for planning purposes. Entities contacted by the City shall respond within 60 days.
  - (2) Community Composting operators, upon the City's request, shall provide information to the City to support Organic Waste capacity planning, including, but not limited to, an estimate of the amount of Organic Waste anticipated to be handled at the Community Composting operation. Entities contacted by the City shall respond within 60 days, unless a shorter timeframe is otherwise specified by the City.

#### **5.25.080 Self-Hauler Requirements**

In addition to any other requirements for Self-Haulers as contained in this Code:

- (a) Self-Haulers of Organic Waste shall comply with the requirements in 14 CCR Section 18988.3.
- (b) Self-Haulers shall source separate all recyclable materials and Organic Waste (materials that the 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 Section 18984.1, or shall haul Organic Waste to a High Diversion Organic Waste Processing Facility as specified in 14 CCR Section 18984.3.

- (c) 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.
- (d) Self-Haulers that are Commercial Businesses (including Multi-Family Residential Dwellings) shall keep a record of the amount of Organic Waste delivered to each Solid Waste facility, operation, activity, or property that processes or recovers Organic Waste; this record shall be subject to Inspection by the City. The records shall include the following information:
  - (1) Delivery receipts and weight tickets from the entity accepting the waste.
  - (2) The amount of material in cubic yards or tons transported by the Generator to each entity.
  - (3) If the material is transported to an entity that does not have scales on-site, or employs scales incapable of weighing the Self-Hauler's vehicle in a manner that allows it to determine the weight of materials received, the Self-Hauler is not required to record the weight of material but shall keep a record of the entities that received the Organic Waste.
- (e) Self-Haulers that are Commercial Businesses (including Multi-Family Self-Haulers) shall provide information collected in Section 5.25.080(d) to the City, upon request.
- (f) A Single-Family Organic Waste Generator that self-hauls Organic Waste is not required to record or report information in Section 5.25.080(d) and (e).

#### **5.25.090 Compliance with CALGreen Recycling Requirements**

- (a) In addition to any other requirements of this Code, the following requirements also apply.
  - (1) For projects covered by the California Green Building Standards Code, 24 CCR, Part 11, the applicants must, as a condition of the City's permit approval, comply with the following:
    - (A) 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 and Green Container materials, consistent with the three container collection program offered by the City, 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 July 1, 2019 and effective January 1, 2020.

- (B) Where new commercial construction or additions will result in more than 30% of the floor area, 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 City, or shall comply with provision of adequate space for recycling for multi-family and Commercial premises pursuant to Sections 4.408.1, 4.410.2, 5.408.1, and 5.410.1 of the California Green Building Standards Code, 24 CCR, Part 11 as amended July 1, 2019 and effective January 1, 2020.
- (b) For Organic Waste commingled with C&D, the requirements of 24 CCR Section 4.408.1 and 5.408.1, as amended July 1, 2019 and effective January 1, 2020 shall be complied with.

#### **5.25.100 Model Water Efficient Landscaping Ordinance Requirements**

- (a) Property owners or their building or landscape designers, including anyone requiring a building or planning permit, plan check, or landscape design review from the City, who are constructing a new (Single-Family, Multi-Family, public, institutional, or Commercial) project with a landscape area greater than 500 square feet, or rehabilitating an existing landscape with a total landscape area greater than 2,500 square feet, shall comply with Sections 492.6(a)(3)(B) (C), (D), and (G) of the MWEL, including sections related to use of Compost and mulch as amended September 15, 2015.

#### **5.25.110 Procurement Requirements for Direct Service Providers and Vendors**

Direct service providers to the City and all vendors providing Paper Products and Printing and Writing Papers shall comply with the City's policy regarding recovered Organic Waste product procurement, including Recycled-Content Paper procurement.

#### **5.25.120 Inspections and Investigations by the City**

- (a) The City's representatives and its designated entity, including Designees, are authorized to conduct Inspections and investigations, at random or otherwise, of any collection container, collection vehicle loads, or transfer, processing, or disposal facility for materials collected from Generators, or Source Separated materials to confirm compliance with this Chapter by Organic Waste Generators, Commercial Businesses (including Multi-Family Residential Dwellings), property owners, Commercial Edible Food Generators, haulers, Self-Haulers, Food Recovery Services, and Food Recovery Organizations, subject to applicable laws. This Section does not allow the City representatives, its designated entity, or Designees, to enter the interior of a private residential property for inspection. For

the purposes of inspecting Commercial Business containers for compliance with this chapter, the City may conduct container Inspections for Prohibited Container Contaminants.

- (b) A regulated entity shall provide or arrange for access during all Inspections (with the exception of residential property interiors) and shall cooperate with the City's representatives, its designated entity, and Designees, 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 described herein. Failure to provide or arrange for:
  - (1) access to an entity's premises;
  - (2) installation and operation of Remote Monitoring equipment, if required by the City; or
  - (3) access to records for any Inspection or investigation is a violation of this Chapter and may result in penalties described herein.
- (c) Any records obtained by the City during its Inspections, Remote Monitoring, as applicable, and other reviews shall be subject to the requirements and applicable disclosure exemptions of the Public Records Act as set forth in Government Code Section 6250, et seq.
- (d) The City's representatives, its designated entity, Designees and agents are authorized to conduct any Inspections, Remote Monitoring, as applicable, or other investigations as reasonably necessary to further the goals of this Chapter, subject to applicable laws.
- (e) The City shall receive written complaints from persons regarding an entity that may be potentially non-compliant with SB 1383 Regulations, including receipt of anonymous complaints in accordance with 14 CCR Section 18995.3.

#### **5.25.130 Enforcement**

- (a) Violation of any provision of this Chapter that occurs on or after January 1, 2024 shall constitute grounds for issuance of a Notice of Violation and assessment of a fine by a Enforcement Official in accordance with 14 CCR Section 18995.4. Enforcement Actions under this Chapter are issuance of an administrative citation and assessment of a fine. The City's procedures on imposition of administrative fines set forth in Chapter 1.06 Administrative Citations of Title 1 (General Provisions) 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 Chapter and any rule or regulation adopted pursuant to this Chapter, except as otherwise indicated in this Chapter. Other remedies allowed by law may be used, including civil action or prosecution

as a misdemeanor or infraction. The City may pursue civil actions in the State courts to seek recovery of unpaid administrative citations. The City may choose to delay court action until such time as a sufficiently large number of violations, or cumulative size of violations exists such that court action is a reasonable use of the City's staff and resources.

- (b) The provisions of subsection (a) do not apply to violations related to a Generator placing Prohibited Container Contaminants in containers, which the Enforcement Official and/or the City's Designee shall enforce through the notice provisions of 14 CCR Section 18984.5(b) and the contamination processing fees pursuant to the provisions of the applicable collection agreement between the City and a franchised hauler.

- (c) Process for Enforcement

- (1) The Enforcement Official and/or the City's Designee will monitor compliance with this Chapter randomly and through Compliance Reviews, Route Reviews, investigation of complaints, and an Inspection program. Section 5.25.120 establishes the City's right to conduct Inspections and investigations.
  - (2) The City shall issue a Notice of Violation requiring compliance within 60 days of issuance of the notice. Such Notice of Violation shall constitute a warning that the respondent will be subject to the penalties set forth in subsection (d) below unless the respondent corrects the violation in compliance with the Notice of Violation within the deadline set forth in the Notice of Violation or as such deadline may be extended pursuant to subsection (e) of this section.
  - (3) Absent compliance by the respondent within the deadline set forth in the Notice of Violation, as such deadline may be extended pursuant to subsection (e) of this section, the City shall commence an action to impose penalties, via an administrative citation and fine, pursuant to the City's Administrative Citation ordinance in Chapter 1.06 (Administrative Citations) of Title 1 (General Provisions) of the Municipal Code.

- (d) Penalty Amounts for Types of Violations

For the purposes of this Chapter, the penalty levels for violations of the provisions of this Chapter are as follows:

- (1) For a first violation (excluding any violation that has been timely corrected in accordance with the warning set forth in a Notice of Violation), the amount of the base penalty shall be \$50 per violation.

- (2) For a second violation (excluding any violation that has been timely corrected in accordance with the warning set forth in a Notice of Violation), the amount of the base penalty shall be \$100 per violation.
- (3) For a third or subsequent violation (excluding any violation that has been timely corrected in accordance with the warning set forth in a Notice of Violation), the amount of the base penalty shall be \$250 per violation.

(e) Compliance Deadline Extension Considerations

The City may extend the compliance deadlines set forth in a Notice of Violation issued in accordance with Section 5.25.130 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 City is under a corrective action plan with CalRecycle pursuant to 14 CCR Section 18996.2 due to those deficiencies.”

**SECTION 2. CEQA.** The City Council finds that this Ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines Sections 15061(b)(3) and 15308 on the grounds that it can be seen with certainty that the enhanced solid waste regulations, as provided for in this Ordinance will not have a significant effect on the environment and that the new requirements, which strengthen requirements for the handling of solid waste, represent actions by a regulatory agency (the City) for the protection of the environment.

**SECTION 3. Severability.** If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance for any reason is held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

**SECTION 4. Operative Date of Section 1.** Section 1 of this Ordinance shall become operative on January 1, 2022.

**SECTION 5. Effective Date.** This Ordinance shall take effect and be in force thirty (30) days after its passage.



**SECTION 6. Publication.** The City Clerk shall certify to the adoption of this Ordinance and shall post or publish this Ordinance as required by law.

ADOPTED on November 2, 2021.

AYES:

NOES:

ABSENT:

ABSTAIN:

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HILDY STERN  
Mayor

ATTEST:

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LIZA TAMURA  
City Clerk