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BEFORE THE BOARD OF SUPERVISORS

FOR THE COUNTY OF FRESNO

STATE OF CALIFORNIA

ORDINANCE NO. ____

AN ORDINANCE AMENDING THE ORDINANCE CODE OF THE COUNTY OF FRESNO BY ADDING CHAPTER 8.27 OF TITLE 8 THEREOF, RELATING TO THE MANAGEMENT, COLLECTION AND DISPOSAL OF ORGANIC WASTE WITHIN THE UNINCORPORATED AREA OF THE COUNTY OF FRESNO

The Board of Supervisors of the County of Fresno ordains as follows:

Section 1: The Ordinance Code of the County of Fresno is hereby amended by adding Chapter 8.27 of Title 8 thereof, and which shall read in its entirety as follows:

Chapter 8.27 -- Organic Waste Disposal Reduction Program

Sections:

8.27.010	Purpose and Findings
8.27.020	Authority
8.27.030	Definitions
8.27.040	Interpretation
8.27.045	Designated Collection System
8.27.050	Requirements for Single-Family Premises
8.27.060	Requirements for Multi-Family Residential Dwellings
8.27.070	Requirements for Commercial Businesses
8.27.080	Waivers
8.27.090	Requirements for Commercial Edible Food Generators
8.27.100	Requirements for Food Recovery Organization and Services
8.27.110	Requirements for Haulers and Facility Operators
8.27.120	Self-Hauler Requirements
8.27.130	Inspections and Investigations
8.27.140	Enforcement

8.27.010 Purpose and Findings

The County of Fresno Board of Supervisors finds that:

A. Assembly Bill 939, or “AB 939” (Chapter 1095, Statutes of 1989) required cities and counties to reduce, reuse, and recycle (including composting) Solid Waste generated in their Jurisdictions to the maximum extent feasible before any incineration or landfill disposal of waste, to conserve water, energy, and other natural resources, and to protect the environment.

- 1 B. Assembly Bill 341, or “AB 341” (Chapter 476, Statutes of 2011) placed
2 requirements on businesses and Multi-Family property owners that generate a
3 specified threshold amount of Solid Waste to arrange for recycling services and
4 requires Jurisdictions to implement a Mandatory Commercial Recycling program.
- 5 C. Assembly Bill 1826, or “AB 1826” (Chapter 727, Statutes of 2014) required
6 businesses and Multi-Family property owners that generate a specified threshold
7 amount of Solid Waste, Recycling, and Organic Waste per week to arrange for
8 recycling services for that waste, required Jurisdictions to implement a recycling
9 program to divert Organic Waste from businesses subject to the law, and further
10 required Jurisdictions to implement a Mandatory Commercial Organics Recycling
11 program.
- 12 D. Senate Bill 1383, or “SB 1383” (Chapter 395, Statutes of 2016) requires the
13 Department of Resources Recycling and Recovery (“CalRecycle”) to develop
14 regulations that compel Jurisdictions to significantly reduce organics disposal in
15 landfills, which is a major generator of Short-Lived Climate Pollutants (SLCPs)
16 such as methane.
- 17 E. SB 1383 regulations, codified in 14 CCR Sections 18981.1-18998.4, places
18 requirements on multiple entities including Jurisdictions, residential households,
19 Commercial Businesses and business owners, Commercial Edible Food
20 Generators, haulers, Self-Haulers, Food Recovery Organizations, and Food
21 Recovery Services to support achievement of Statewide Organic Waste disposal
22 reduction targets.
- 23 F. SB 1383 requires Jurisdictions to adopt and enforce an ordinance or other
24 enforceable mechanism to implement relevant provisions of SB 1383
25 Regulations.
- 26 G. This ordinance aims to reduce food insecurity by requiring Commercial Edible
27 Food Generators to arrange to have the maximum amount of their Edible Food
28 which would otherwise be disposed of, recovered for human consumption.

H. The County of Fresno Board of Supervisors has determined that establishment of the Organics Disposal Reduction Program which, together with the County's other solid waste management programs such as the Exclusive Service Area Program described in Chapter 8.21 of this Ordinance Code, is required as the means that will best advance the reduction of SLCPs in the County and will position the County to successfully achieve and maintain compliance with State regulations.

8.27.020 Authority

This chapter is adopted in accordance with 14 CCR Section 18981.2(a), and pursuant to the police powers vested in the County of Fresno as set forth in Article XI, Section 7, of the California Constitution.

8.27.030 Definitions

- A. "Alternative Daily Cover (ADC)" has the same meaning as in Section 20690 of Title 27 of the California Code of Regulations.
- B. "Alternative Intermediate Cover (AIC)" has the same meaning as in Section 20700 of Title 27 of the California Code of Regulations.
- C. "Cal-Recycle" means California's Department of Resources Recycling and Recovery.
- 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. "Commercial Business" or "Commercial" means of, from, or pertaining to non-Residential Premises where business activity is conducted, including, but not limited to, retail sales, services, wholesale operations, manufacturing, and industrial operations, but excluding businesses conducted upon Residential property which are permitted under applicable zoning regulations and are not the primary use of the property.
- F. "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).

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

H. "Compliance Review" means a review of records by the County to determine compliance with this Chapter.

I. "Compost" has the same meaning as in 14 CCR Section 17896.2(a)(4) (or any variation thereof) and includes a controlled biological decomposition of Organic Materials yielding a safe and nuisance free Compost product.

J. "Collector" means any person who operates a service route or provides service and is directly or indirectly reimbursed for the collection, transportation and disposal or recycling of solid waste or recyclables from residential, commercial, or industrial premises in the unincorporated area of Fresno County.

K. "Construction & Demolition" or "C&D" means the debris from used construction materials, dredging, grubbing, and rubble resulting from constructing, remodeling, repair, razing, renovation, demolition, excavation or construction clean-up activities at residents, commercial or governmental buildings, and any other structure or pavement.

L. "Container" means bins and carts used to provide Solid Waste, Recyclables, green waste or Organic Materials services.

M. "Contaminants", "Container Contaminants", or "Contamination" means any of the following:

- 1 1. Non-organic waste placed in a green container that is part of an organic
2 waste collection service.
- 3 2. Organic wastes that are carpet, hazardous wood waste, or non-compostable
4 paper placed in the green container that is part of an organic waste collection
5 service.
- 6 3. Organic wastes, placed in a gray container, that were intended to be collected
7 separately in the green container or blue container.
- 8 N. "County Enforcement Official" means the Director of the Department of Public
9 Works and Planning, or his/her designee(s) who are specifically designated with
10 responsibility for enforcing this Chapter.
- 11 O. "County Representative" means the Director of the Department of Public Works
12 and Planning, or his/her designee(s) who may be a County official(s) or agent(s)
13 of the County specifically designated to serve as the County Representative and
14 authorized to act on the County's behalf.
- 15 P. "Customer" means the Person whom Collector submits its billing invoice to and
16 collects payment from for Collection services provided to a Premises. The
17 Customer may be either the Occupant or Owner of the Premises.
- 18 Q. "County" means the County of Fresno, a political subdivision of the State of
19 California.
- 20 R. "Designee" or "Designees" means an entity or entities that the County contracts
21 with or otherwise arranges to carry out any of the County responsibilities of this
22 Chapter as authorized in 14 CCR Section 18981.2. A Designee may be a
23 government entity, a hauler, a private entity, or a combination of those entities.
- 24 S. "Discarded Materials" means Recyclable Materials, Organic Materials, and Solid
25 Waste placed by a Generator in a collection container and/or at a location for the
26 purposes of collection excluding Excluded Waste.
- 27 T. "Edible Food" means food intended for human consumption, or as otherwise
28 defined in 14 CCR Section 18982(a)(18). For the purposes of this Chapter or as

1 otherwise defined in 14 CCR Section 18982(a)(18), "Edible Food" is not Solid
2 Waste if it is recovered and not discarded. Nothing in this Chapter or in 14 CCR,
3 Division 7, Chapter12 requires or authorizes the Recovery of Edible Food that
4 does not meet the food safety requirements of the California Health and Safety
5 Code.

6 U. "Enforcement Action" means an action of the County to address non-compliance
7 with this Chapter including, but not limited to, issuing administrative citations,
8 fines, penalties, or using other remedies.

9 V. "Excluded Waste" means Hazardous Substance, Hazardous Waste, Infectious
10 Waste, Special Waste, volatile, corrosive, medical waste, infectious, regulated
11 radioactive waste, and toxic substances or material that facility operator(s), which
12 receive materials from the County and its Generators, reasonably believe(s)
13 would, as a result of or upon acceptance, transfer, processing, or disposal, be a
14 violation of local, State, or Federal law, regulation, or ordinance, including: land
15 use restrictions or conditions, waste that cannot be disposed of in Class III
16 landfills or accepted at the facility by permit conditions, waste that in County, or
17 its Designee's reasonable opinion would present a significant risk to human
18 health or the environment, cause a nuisance or otherwise create or expose
19 County, or its Designee, to potential liability; but not including de minimis
20 volumes or concentrations of waste of a type and amount normally found in
21 Single-Family or Multi-Family Solid Waste after implementation of programs for
22 the safe collection, processing, recycling, treatment, and disposal of batteries
23 and paint in compliance with Sections 41500 and 41802 of the California Public
24 Resources Code.

25 W. "Exclusive Service Area Program" or "ESAP" means the County of Fresno's
26 officially adopted solid waste, recycling, and organics collection program
27 established by adoption of Chapter 8.21 of the County's Ordinance Code.

28 X. "Food Distributor" means a company that distributes food to entities including, but

1 not limited to, Supermarkets and Grocery Stores, or as otherwise defined in 14
2 CCR Section 18982(a)(22).

3 Y. "Food Facility" has the same meaning as in Section 113789 of the Health and
4 Safety Code.

5 Z. "Food Recovery" means actions to collect and distribute food for human
6 consumption that otherwise would be disposed, or as otherwise defined in 14
7 CCR Section 18982(a)(24).

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

- 13 1. A food bank as defined in Section 113783 of the Health and Safety Code;
- 14 2. A nonprofit charitable organization as defined in Section 113841 of the Health
15 and Safety Code; and,
- 16 3. (3) nonprofit charitable temporary Food Facility as defined in Section 113842
17 of the Health and Safety Code.

18 A Food Recovery Organization is not a Commercial Edible Food Generator for
19 the purposes of this Chapter and implementation of 14 CCR, Division 7, Chapter 12
20 pursuant to 14 CCR Section 18982(a)(7). If the definition in 14 CCR Section
21 18982(a)(25) for Food Recovery Organization differs from this definition, the definition in
22 14 CCR Section 18982(a)(25) shall apply to this Chapter.

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

- 1 CC. "Food Scraps" means those Discarded Materials that will decompose and/or
2 putrefy including: (i) all kitchen and table Food Waste; (ii) animal or vegetable
3 waste that is generated during or results from the storage, preparation, cooking
4 or handling of food stuffs; (iii) fruit waste, grain waste, dairy waste, meat, and fish
5 waste; and, (iv) vegetable trimmings, houseplant trimmings and other
6 Compostable Organic Waste common to the occupancy of Residential dwellings.
7 Food Scraps are a subset of Food Waste. Food Scraps excludes fats, oils, and
8 grease when such materials are Source Separated from other Food Scraps.
- 9 DD. "Food Service Provider" means an entity primarily engaged in providing food
10 services to institutional, governmental, Commercial, or industrial locations of
11 others based on contractual arrangements with these types of organizations, or
12 as otherwise defined in 14 CCR Section 18982(a)(27).
- 13 EE. "Food-Soiled Paper" is compostable paper material that has come in contact with
14 Food Scraps or liquid, such as, but not limited to, compostable paper plates,
15 napkins, and pizza boxes.
- 16 FF. "Food Waste" means Source Separated Food Scraps and Food-Soiled Paper.
- 17 GG. "Generator" means a person or entity that is responsible for the initial creation of
18 one or more types of Discarded Materials.
- 19 HH. "Grocery Store" means a store primarily engaged in the retail sale of canned
20 food; dry goods; fresh fruits and vegetables; fresh meats, fish, and poultry; and
21 any area that is not separately owned within the store where the food is prepared
22 and served, including a bakery, deli, and meat and seafood departments, or as
23 otherwise defined in 14 CCR Section 18982(a)(30).
- 24 II. "Hauler Route" means the designated itinerary or sequence of stops for each
25 segment of the County's collection service area, or as otherwise defined in 14
26 CCR Section 18982(a)(31.5).
- 27 JJ. "Hazardous Substance" means any of the following: (a) any substances defined,
28 regulated or listed (directly or by reference) as "Hazardous Substances",

"hazardous materials", "Hazardous Wastes", "toxic waste", "pollutant", or "toxic substances", or similarly identified as hazardous to human health or the environment, in or pursuant to: (i) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC §9601 et seq. (CERCLA); (ii) the Hazardous Materials Transportation Act, 49 USC §1802, et seq.; (iii) the Resource Conservation and Recovery Act, 42 USC §6901 et seq.; (iv) the Clean Water Act, 33 USC §1251 et seq.; (v) California Health and Safety Code §§25115-25117, 25249.8, 25281, and 25316; (vi) the Clean Air Act, 42 USC §7901 et seq.; and, (vii) California Water Code §13050; (b) any amendments, rules or regulations promulgated thereunder to such enumerated statutes or acts currently existing or hereafter enacted; and, (c) any other hazardous or toxic substance, material, chemical, waste or pollutant identified as hazardous or toxic or regulated under any other Applicable Law currently existing or hereinafter enacted, including, without limitation, friable asbestos, polychlorinated biphenyl's (PCBs), petroleum, natural gas, and synthetic fuel products, and by-products.

KK. "Hazardous Waste" means all substances defined as Hazardous Waste, acutely Hazardous Waste, or extremely Hazardous Waste by the State in Health and Safety Code §25110.02, §25115, and §25117 or in the future amendments to or recodifications of such statutes or identified and listed as solar panels from residential premises, and Hazardous Waste by the U.S. Environmental Protection Agency (EPA), pursuant to the Federal Resource Conservation and Recovery Act (42 USC §6901 et seq.), all future amendments thereto, and all rules and regulations promulgated thereunder.

LL. "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

1 18815.5(e) for Organic Waste received from the “Mixed waste organic collection
2 stream” as defined in 14 CCR Section 17402(a)(11.5); or, as otherwise defined
3 in 14 CCR Section 18982(a)(33).

4 MM. “Infectious Waste” means (a) equipment, instruments, utensils and other fomites
5 of a disposable nature from the rooms of patients who are suspected to have or
6 have been diagnosed as having a communicable disease and must, therefore,
7 be isolated as required by public health agencies; (b) laboratory wastes,
8 including pathological specimens (i.e., all tissues, specimens of blood elements,
9 excreta and secretions obtained from patients or laboratory animals) and
10 disposable fomites (any substance that may harbor or transmit pathogenic
11 organisms) attendant thereto; and/or (c) surgical operating room pathologic
12 specimens - including recognizable anatomical parts, human tissue, anatomical
13 human remains and disposable materials from hospitals, clinics, outpatient
14 areas and emergency rooms, as defined in 14 CCR Section 17225.36.

15 NN. “Inspection” means a site visit where the County reviews records, containers, and
16 an entity’s collection, handling, recycling, or landfill disposal of Recyclable
17 Materials, Organic Waste, Solid Waste or Edible Food handling to determine if
18 the entity is complying with requirements set forth in this Chapter, or as otherwise
19 defined in 14 CCR Section 18982(a)(35).

20 OO. “Large Event” means an event, including, but not limited to, a sporting event or a
21 flea market, that charges an admission price, or is operated by a local agency,
22 and serves an average of more than 2,000 individuals per day of operation of
23 the event, at a location that includes, but is not limited to, a public, nonprofit, or
24 privately owned park, parking lot, golf course, street system, or other open
25 space when being used for an event. If the definition in 14 CCR Section
26 18982(a)(38) differs from this definition, the definition in 14 CCR Section
27 18982(a)(38) shall apply to this Chapter.

28 PP. “Large Venue” means a permanent venue facility that annually seats or serves

an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility. For purposes of this 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.

QQ. "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).

RR. "Low Population Area(s)" means the certain regions of the unincorporated County that have a valid low population waiver, granted by Cal-Recycle, in accordance with the criteria and process specified in 14 CCR Section 18984.12(a).

SS. "Multi-Family Residential Dwelling" or "Multi-Family" or "MFD" means of, from, or pertaining to residential Premises with five (5) or more dwelling units including such Premises when combined in the same building with Commercial establishments, that receive centralized, shared, Collection service for all units on the Premises which are billed to one (1) Customer at one (1) address. Customers residing in Townhouses, mobile homes, condominiums, or other structures with five (5) or more dwelling units who receive individual service and are billed separately shall not be considered Multi-Family. Multi-Family Premises do not include hotels, motels, or other transient occupancy facilities, which are

- 1 considered Commercial Businesses.
- 2 TT. "Notice of Violation (NOV)" means a notice that a violation has occurred that
3 includes a compliance date to avoid an action to seek penalties, or as otherwise
4 defined in 14 CCR Section 18982(a)(45) or further explained in 14 CCR Section
5 18995.4.
- 6 UU. "Occupant" means the Person who occupies a Premises.
- 7 VV. "Organic Materials" means Yard Trimmings and Food Waste, individually or
8 collectively that are set aside, handled, packaged, or offered for collection in a
9 manner different from Solid Waste for the purpose of processing. No Discarded
10 Material shall be considered to be Organic Materials, however, unless it is
11 separated from Recyclable Material and Solid Waste. Organic Materials are a
12 subset of Organic Waste.
- 13 WW. "Organic Materials Container" shall be used for the purpose of storage and
14 collection of Source Separated Organic Materials.
- 15 XX. "Organic Waste" means wastes containing material originated from living
16 organisms and their metabolic waste products, including but not limited to food,
17 green material, landscape and pruning waste, organic textiles and carpets,
18 lumber, wood, Paper Products, Printing and Writing Paper, manure, biosolids,
19 digestate, and sludges or as otherwise defined in 14 CCR Section 18982(a)(46).
- 20 YY. "Owner" means the Person(s) holding legal title to real property and/or any
21 improvements thereon and shall include the Person(s) listed on the latest
22 equalized assessment roll of the County Assessor.
- 23 ZZ. "Paper Products" include, but are not limited to, paper janitorial supplies, cartons,
24 wrapping, packaging, file folders, hanging files, corrugated boxes, tissue, and
25 toweling, or as otherwise defined in 14 CCR Section 18982(a)(51).
- 26 AAA. "Printing and Writing Papers" include, but are not limited to, copy, xerographic,
27 watermark, cotton fiber, offset, forms, computer printout paper, white woven
28 envelopes, manila envelopes, book paper, note pads, writing tablets, newsprint,

1 and other uncoated writing papers, posters, index cards, calendars, brochures,
2 reports, magazines, and publications, or as otherwise defined in 14 CCR Section
3 18982(a)(54).

4 BBB. "Premises" means and includes any land, building and/or structure, or portion
5 thereof, in the County where Discarded Materials are produced, generated,
6 accumulated. All structures on the same legal parcel, which are owned by the
7 same person shall be considered as one Premises.

8 CCC. "Recovery" means any activity or process described in 14 CCR Section
9 18983.1(b), or as otherwise defined in 14 CCR Section 18982(a)(49).

10 DDD. "Recyclable Materials" means by-products or discards set aside, handled,
11 packaged or offered for Collection from residential, commercial, governmental or
12 industrial customers in a manner different from Solid Waste, including, but not
13 limited to, aluminum, newspaper, clear and colored glass, tin and bi-metal, all
14 plastic containers, cardboard, chipboard, magazines, mixed paper (including
15 magazines, phone books and junk mail) and motor oil and filters (separately
16 collected), yard or green waste and other materials which can be processed and
17 returned to the economic mainstream in the form of raw material for new, reused,
18 or reconstituted products which meet the quality standards necessary to be used
19 in the marketplace.

20 EEE. "Recyclable Materials Container" shall be used for the purpose of storage and
21 collection of Source Separated Recyclable Materials.

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

25 GGG. "Residential" shall mean of, from, or pertaining to a Single-Family Premises or
26 Multi-Family Premises including Single-Family homes, apartments,
27 condominiums, Townhouse complexes, mobile home parks, and cooperative
28 apartments.

HHH. "Responsible Party" means the Owner, property manager, tenant, lessee, Occupant, or other designee that subscribes to and pays for Recyclable Materials, Organic Materials, and/or Solid Waste collection services for a Premises in the County, or, if there is no such subscriber, the Owner or property manager of a Single-Family Premises, Multi-Family Premises, or Commercial Premises. In instances of dispute or uncertainty regarding who is the Responsible Party for a Premises, Responsible Party shall mean the Owner of a Single-Family Premises, Multi-Family Premises, or Commercial Premises.

III. "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).

JJJ. "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).

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

LLL. "SB 1383 Regulations" or "SB 1383 Regulatory" means or refers to, for the purposes of this Chapter, the Short-Lived Climate Pollutants: Organic Waste Reduction regulations developed by Cal-Recycle and adopted in 2020 that created 14 CCR, Division 7, Chapter 12 and amended portions of regulations of 14 CCR and 27 CCR.

MMM. "Self-Haul" means to act as a Self-Hauler.

1 NNN. "Self-Hauler" means a person, who hauls Solid Waste, Organic Waste or
2 Recyclable Material they have generated to another person. Self-hauler also
3 includes a landscaper, or a person who back-hauls waste. Back-haul means
4 generating and transporting Recyclable Materials or Organic Waste to a
5 destination owned and operated by the Generator or Responsible Party using the
6 Generator's or Responsible Party's own employees and equipment.

7 OOO. "Service Level" refers to the size of a Customer's Container and the frequency of
8 Collection service.

9 PPP. "Single-Family Dwelling" or "SFD" refers to any detached or attached house or
10 residence of four (4) units or less designed or used for occupancy by one (1)
11 family, provided that Collection service feasibly can be provided to such
12 Premises as an independent unit, and the Owner or Occupant of such
13 independent unit is billed directly for the Collection service. Single-Family
14 includes Townhouses, and each independent unit of duplex, tri-plex, or four-plex
15 Residential structures, regardless of whether each unit is separately billed for
16 their specific Service Level.

17 QQQ. "Solid Waste" has the same meaning as defined in State Public Resources Code
18 Section 40191, which defines Solid Waste as all putrescible and non-putrescible
19 solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper,
20 rubbish, ashes, industrial wastes, demolition and construction wastes,
21 abandoned vehicles and parts thereof, discarded home and industrial appliances,
22 dewatered, treated, or chemically fixed sewage sludge which is not hazardous
23 waste, manure, vegetable or animal solid and semi-solid wastes, and other
24 discarded solid and semisolid wastes, with the exception that Solid Waste does
25 not include any of the following wastes:

- 26 1. Hazardous waste, as defined in the State Public Resources Code Section
27 40141.
- 28 2. Radioactive waste regulated pursuant to the State Radiation Control Law

(Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the State Health and Safety Code).

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

4. Recyclable Materials, Organic Materials, and Construction and Demolition Debris when such materials are Source Separated.

Notwithstanding any provision to the contrary, Solid Waste may include de minimis volumes or concentrations of waste of a type and amount normally found in Residential Solid Waste after implementation of programs for the safe Collection, Recycling, treatment, and Disposal of household hazardous waste in compliance with Section 41500 and 41802 of the California Public Resources Code as may be amended from time to time. Solid Waste includes salvageable materials only when such materials are included for Collection in a Solid Waste Container not Source Separated from Solid Waste at the site of generation.

RRR. "Solid Waste Container" shall be used for the purpose of storage and collection of Solid Waste.

SSS. "Source Separated" or "Source-Separated (materials)" means materials, including commingled Recyclable Materials and Organic 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

- 1 CCR Section 17402.5(b)(4). For the purposes of the Chapter, Source Separated
2 shall include separation of materials by the Generator, Responsible Party, or
3 Responsible Party's employee, into different containers for the purpose of
4 collection such that Source-Separated materials are separated from Solid Waste
5 for the purposes of collection and processing.
- 6 TTT. "Source Separated Organic Materials" means Organic Materials that are Source
7 Separated and placed in an Organic Materials Container.
- 8 UUU. "Source Separated Recyclable Materials" means Recyclable Materials that are
9 Source Separated and placed in a Recyclable Materials Container.
- 10 VVV. "Special Waste" includes any materials that under current or future statute,
11 ordinance or regulation require the application of special treatment, handling, or
12 disposal practices beyond those normally required for Solid Waste. "Special
13 Waste" shall be deemed to include, without limitation, all of the following:
14 flammable waste; liquid waste transported in a bulk tanker; sewage sludge;
15 pollution control process waste; residue and debris from cleanup of a spill or
16 release of chemical substances, contaminated soil, waste, residue, debris, and
17 articles from the cleanup of a site or facility formerly used for the generation,
18 storage, treatment, recycling, reclamation, or disposal of any other Special
19 Wastes; dead animals; manure; waste water; explosive substances; radioactive
20 substances; fluorescent tubes; Construction and Demolition Debris; and
21 abandoned or discarded automobiles, trucks, motorcycles or parts thereof,
22 including tires.
- 23 WWW. "State" means the State of California.
- 24 XXX. "Supermarket" means a full-line, self-service retail store with gross annual sales
25 of two million dollars (\$2,000,000), or more, and which sells a line of dry grocery,
26 canned goods, or nonfood items and some perishable items, or as otherwise
27 defined in 14 CCR Section 18982(a)(71).
- 28 YYY. "Tier One Commercial Edible Food Generator" means a Commercial Edible Food

Generator that is one of the following:

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

If the definition in 14 CCR Section 18982(a)(73) of Tier One Commercial Edible Food Generator differs from this definition, the definition in 14 CCR Section 18982(a)(73) shall apply to this Chapter.

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

1. (1) Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.
2. than 5,000 square feet.
3. Hotel with an on-site Food Facility and 200 or more rooms.
4. Health facility with an on-site Food Facility and 100 or more beds.
5. Large Venue.
6. Large Event.
7. 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.
8. A Local Education Agency facility with an on-site Food Facility.

If the definition in 14 CCR Section 18982(a)(74) of Tier Two Commercial Edible Food Generator differs from this definition, the definition in 14 CCR Section 18982(a)(74) shall apply to this Chapter.

AAAA. “Ton” or “Tonnage” means a unit of measure for weight equivalent to two thousand (2,000) standard pounds where each pound contains sixteen (16) ounces.

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

CCCC. "Yard Trimmings" means those Discarded Materials that will decompose and/or putrefy, including, but not limited to, green trimmings, grass, weeds, leaves, prunings, branches, dead plants, brush, tree trimmings, dead trees, small pieces of unpainted and untreated wood. Yard Trimmings does not include items herein defined as Excluded Waste. Yard Trimmings are a subset of Organic Materials. Acceptable Yard Trimmings may be added to or removed from this list from time to time by mutual consent or at the sole discretion of the County.

8.27.040 Interpretation

This Chapter shall be construed with reference to the entirety of Title 8 of the County Ordinance Code. In the event of a conflict that cannot be reconciled, the provisions of this Chapter shall take precedence.

8.27.45 Designated Collection System

- A. The County's Designated Collection System shall be a three-container system and shall be the official system utilized to implement the Organic Waste Collection Services Program throughout County. Such system shall consist of the following elements:
1. A Green Container shall be utilized to deposit Source-Separated Organic Waste, including Food Waste.
 2. A Blue Container shall be utilized to deposit Source-Separated commingled Recyclable Materials.
 3. A Gray Container shall be utilized to deposit all other materials not specifically designated for placement in the Green Container or Blue Container.
 4. Containers provided through the County's Organic Waste Collection Services

Program may consist of carts, bins, or a combination thereof as provided for through the ESAP Agreements.

8.27.050 Requirements for Single-Family Premises

A. Except for Responsible Parties of Single-Family Premises that meet the Self-Hauler requirements in Section 8.27.120 of this Chapter, Responsible Parties of Single-Family Premises shall comply with the following requirements:

1. Single-Family Generators may subscribe to the County's Organic Waste collection services program, as provided for through contractual agreement between County and its designated Exclusive Service Area Program (ESAP) providers and this Ordinance Code's Chapter 8.21, for all Organic Waste generated as described within this Chapter.
 - a. County or Designee 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.
 - b. The Responsible Parties for Single-Family Premises shall adjust their Service Level for their collection services as requested by the County.
2. Participate in the County's Organic Waste Collection Services Program by Source-Separating materials consistent with the requirements of Section 8.27.045 of this Chapter.
3. Shall not place or direct its Generators to place Contaminants in collection containers designated for Organic Waste or Recyclable Materials.
4. Nothing in this Section prohibits a Responsible Party or Generator of a Single-Family Premises from preventing or reducing Discarded Materials generation, managing Organic Waste on-site, and/or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).

8.27.060 Requirements for Multi-Family Residential Dwellings

A. Responsible Parties of Multi-Family Premises shall provide or arrange for

1 Recyclable Materials, Organic Materials, and Solid Waste collection services
2 consistent with this Chapter and for employees, contractors, and tenants.

3 1. Responsible Parties of Multi- Family Premises may receive waivers pursuant
4 to Section 8.27.080 for some requirements of this Section.

5 B. Except for Responsible Parties of Multi-Family Premises that meet the Self-
6 Hauler requirements in Section 8.27.120 of this Chapter, including hauling
7 services arranged through a landscaper, Responsible Parties of Multi-Family
8 Premises shall comply with the following requirements:

9 1. Responsible Parties of Multi-Family Premises shall subscribe to the County's
10 Organic Waste collection services program, as provided for through
11 contractual agreement between County and its designated Exclusive Service
12 Area Program (ESAP) providers and this Ordinance Code's Chapter 8.21, for
13 all Organic Waste generated as described within this Chapter.

14 a. The County or its Designee shall have the right to review the
15 number and size of the Multi-Family Premises' collection containers
16 and frequency of collection to evaluate adequacy of capacity
17 provided for each type of collection service for proper separation of
18 materials and containment of materials.

19 b. The Responsible Party of a Multi-Family Premises shall adjust their
20 Service Level for their collection services as requested by the
21 County or its Designee.

22 2. Shall participate in the County's Organic Waste Collection Services Program
23 by Source-Separating materials consistent with Section 8.27.045 of this
24 Chapter.

25 3. Shall not place and/or direct its Generators to place Contaminants in
26 collection containers designated for Organic Materials or Recyclable
27 Materials.

28 4. Shall supply and allow access to an adequate number, size and location of

collection containers with sufficient labels or colors for employees, contractors, tenants, and customers, consistent with the Recyclable Materials Container, Organic Materials Container, and Solid Waste Container collection service or, if Self-Hauling, consistent with the Multi-Family Premises' approach to complying with Self-Hauler requirements in Section 8.27.120 of this Chapter.

5. Shall provide annual information to employees, contractors, tenants, and customers about Recyclable Materials and Organic Waste Recovery requirements and about proper sorting of Recyclable Materials, Organic Materials, and Solid Waste.
6. Provide education information before or within fourteen (14) days of occupation of the Premises to new tenants that describes the requirements to Source-Separate consistent with Section 8.27.045 of this Chapter.
7. Provide or arrange access for County and/or its Designee to their properties during all Inspections conducted in accordance with this Chapter to confirm compliance with the requirements of this Chapter.
8. Multi-family Premises that generate two (2) cubic yards or more of total Solid Waste, Recyclable Materials, and Organic Materials per week (or other threshold defined by the State) that arrange for gardening or landscaping services shall require that the contract or work agreement between the Owner, Occupant, or operator of a Multi-Family Premises and a gardening or landscaping service specifies that the designated organic materials generated by those services be managed in compliance with this Chapter.

C. The requirements contained herein shall not be construed as to prohibit other activities that mitigate and reduce Organic Waste. Generators may opt for additional activities as follows:

1. Managing Organic Waste on-site.
2. Utilizing a Community Composting site pursuant to 14 CCR Section

18984.9(c).

8.27.070 Requirements for Commercial Businesses

- A. Responsible Parties of Commercial Businesses shall provide or arrange for Recyclable Materials, Organic Materials, and Solid Waste collection services consistent with this Chapter and for employees, contractors, tenants, and customers. Responsible Parties of Commercial Premises may receive waivers pursuant to Section 8.27.080 for some requirements of this Section.
- B. Except Responsible Parties of Commercial Businesses that meet the Self-Hauler requirements in Section 8.27.120 of this Chapter, including hauling services arranged through a landscaper, Responsible Parties of Commercial Premises shall:
1. Subscribe to the County's Organic Waste collection services program, as provided for through contractual agreement between County and its designated Exclusive Service Area Program (ESAP) providers and this Ordinance Code's Chapter 8.21, for all Organic Waste generated as described within this Chapter.
 - a. County and/or its Designee(s) shall have the right to review the number and size of a Commercial Premises' 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.
 - b. The Responsible Party of the Commercial Business shall adjust their Service Level for their collection services as requested by the County or its Designee.
 2. Participate in the County's Organic Waste Collection Services Program by Source-Separating materials consistent with Section 8.27.045 of this Chapter.
 3. Not place and/or direct its Generators to place Contaminants in collection containers and to not place materials designated for the Organic Materials

Containers or Recyclable Materials Containers in the Solid Waste Containers.

4. Supply and allow access to an adequate number, size and location of collection containers with sufficient labels or colors for employees, contractors, tenants, and customers, consistent with County's Recyclable Materials Container, Organic Materials Container, and Solid Waste Container collection service or, if Self-Hauling, consistent with the Commercial Premises' approach to complying with Self-Hauler requirements in Section 8.27.120 of this Chapter.

5. Provide containers for the collection of Source Separated Recyclable Materials and Source Separated Organic Materials in all indoor and outdoor areas where Solid Waste containers are provided for customers, for materials generated by that Commercial Business. 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 Responsible Party of the Commercial Business does not have to provide that particular container in all areas where Solid Waste containers are provided for customers. Pursuant to 14 CCR Section 18984.9(b), the containers provided by the Responsible Party of the Commercial Business shall have either:

a. A body or lid that conforms with the container colors provided through the collection service provided by County, with either lids conforming to the color requirements or bodies conforming to the color requirements or both lids and bodies conforming to color requirements. The Responsible Party of the Commercial Business is not required to replace functional containers that do not comply with the requirements of this subsection prior to whichever of the following comes first: (i) the end of the useful life of those containers, or (ii) January 1, 2036.

b. Container labels that include language or graphic images, or both,

1 indicating the primary material accepted and the primary materials
2 prohibited in that container, or containers with imprinted text or graphic
3 images that indicate the primary materials accepted and primary materials
4 prohibited in the container. Pursuant to 14 CCR Section 18984.8, the
5 container labeling requirements are required on new containers
6 commencing January 1, 2022.

- 7 6. To the extent practical through education, training, Inspection, and/or other
8 measures, prohibit employees from placing materials in a container not
9 designated for those materials per the County's Recyclable Materials
10 Container, Organic Materials Container, and Solid Waste collection service
11 or, if Self-Hauling, per the instructions of the Commercial Business's
12 Responsible Party to support its compliance with Self-Hauler requirements in
13 Section 8.27.100 of this Chapter.
- 14 7. Periodically inspect Recyclable Materials Containers, Organic Materials
15 Containers, and Solid Waste Containers for contamination and inform
16 employees if containers are contaminated and of the requirements to keep
17 Contaminants out of those containers pursuant to 14 CCR Section
18 18984.9(b)(3).
- 19 8. Annually provide information to employees, contractors, tenants, and
20 customers about Recyclable Materials and Organic Waste Recovery
21 requirements and about proper sorting of Recyclable Materials, Organic
22 Materials, and Solid Waste.
- 23 9. Provide education information before or within fourteen (14) days of
24 occupation of the Premises to new tenants that describes requirements to
25 Source-Separate materials consistent with Section 8.27.045 of this Chapter.
26 Recyclable Materials and Organic Materials and to keep Source Separated
27 Organic Materials and Source Separated Recyclable Materials separate from
28 each other and from other Solid Waste (when applicable) and the location of

- 1 containers and the rules governing their use at each property.
- 2 10. Provide or arrange access for County or its Designee to their properties
- 3 during all Inspections conducted in accordance with this Chapter to confirm
- 4 compliance with the requirements of this Chapter.
- 5 C. If the Responsible Party of a Commercial Business wants to Self-Haul, they must
- 6 meet the Self-Hauler requirements in Section 8.27.120 of this Chapter.
- 7 D. The requirements contained herein shall not be construed as to prohibit other
- 8 activities that mitigate and reduce Organic Waste. Responsible Parties or
- 9 Generators may opt for additional activities as follows:
- 10 1. Managing Organic Waste on-site.
- 11 2. Utilizing a Community Composting site pursuant to 14 CCR Section
- 12 18984.9(c).
- 13 E. Responsible Parties of Commercial Businesses that are Tier One or Tier Two
- 14 Commercial Edible Food Generators shall comply with Food Recovery
- 15 requirements, pursuant to Section 8.27.090 of this Chapter.
- 16 **8.27.080 Waivers**
- 17 A. Low Population Waivers.
- 18 1. The County intends to apply for low population waivers from Cal-Recycle on
- 19 behalf of Generators located in eligible census tracts. Upon waiver approval
- 20 by Cal-Recycle, Generators, haulers serving generators, and Self-Haulers, in
- 21 Low Population Areas will not be required to comply with Sections 8.27.030
- 22 through 8.27.050 and 8.27.090 through 8.27.100 of this Chapter for the
- 23 duration of the approved waiver. Generators must still comply with all other
- 24 requirements of this Chapter and Applicable Law.
- 25 B. De Minimis Waivers for Multi-Family Premises and Commercial Premises.
- 26 1. The County or its Designee may waive a Responsible Party's obligation to
- 27 comply with some or all Recyclable Materials and Organic Waste
- 28 requirements of this Chapter if the Responsible Party of the Commercial

1 Business or Multi-Family Premises provides documentation that the
2 Commercial Business or Multi-Family Premises meets one of the criteria in
3 subsections (a) and (b) below. For the purposes of subsections (a) and (b),
4 the total Solid Waste shall be the sum of weekly container capacity measured
5 in cubic yards for Solid Waste, Recyclable Materials, and Organic Materials
6 collection service. Hauling through paper shredding service providers or other
7 incidental services may be considered in granting a de minimis waiver.

8 a. The Commercial Business's or Multi-Family Premises' total Solid Waste
9 collection service is two (2) cubic yards or more per week and Recyclable
10 Materials and Organic Materials subject to collection in Recyclable
11 Materials Container(s) or Organic Materials Container(s) comprises less
12 than twenty (20) gallons per week per applicable material stream of the
13 Multi-family Premises' or Commercial Business's total waste (i.e.,
14 Recyclable Materials in the Recyclable Materials stream are less than
15 twenty (20) gallons per week or Organic Materials in the Organic Materials
16 stream are less than twenty (20) gallons per week); or

17 b. The Commercial Business's or Multi-Family Premises' total Solid Waste
18 collection service is less than two (2) cubic yards per week and
19 Recyclable Materials and Organic Materials subject to collection in a
20 Recyclable Materials Container(s) or Organic Materials Container(s)
21 comprises less than ten (10) gallons per week per applicable material
22 stream of the Multi-family Premises' or Commercial Business's total waste
23 (i.e., Recyclable Materials in the Recyclable Materials stream are less
24 than ten (10) gallons per week or Organic Materials in the Organic
25 Materials stream are less than ten (10) gallons per week).

26 C. Physical Space Waivers.

27 1. The County or its Designee may waive a Commercial Business' or Multi-
28 Family Premises' obligation to comply with some or all of the Recyclable

Materials and/or Organic Waste collection service requirements if the County or its Designee has evidence from its own staff, a hauler, licensed architect, or licensed engineer demonstrating that the Premises lacks adequate space for Recyclable Materials Containers and/or Organic Materials Containers required for compliance with the Recyclable Materials and Organic Materials collection requirements of Section 8.27.040 or 8.27.050 as applicable.

D. De Minimis and Physical Space Waivers shall be granted to Responsible Parties by the County according to the following process:

1. Responsible Parties of Premises seeking waivers shall submit a completed application form to the County for a waiver, specifying the waiver type requested, type(s) of collection services for which they are requesting a waiver, the reason(s) for such waiver, and documentation supporting such request.
2. Upon waiver approval, the County shall specify that the waiver is valid for five (5) years.
3. Waiver holder shall notify the County or its Designee if circumstances change such that Commercial Business or Multi-Family Premises may no longer qualify for the waiver granted, in which case, the waiver will be rescinded.
4. Any waiver holder must cooperate with the County for any on-site assessment or inspection of the appropriateness of the waiver.
5. Waiver holder may reapply to the County for a waiver upon the expiration of the waiver period and shall submit any required documentation, and/or fees/payments as required by the County or its Designee. Failure to submit a completed application shall equate to an automatic denial of said application.

E. The County may revoke a waiver upon a determination that any of the circumstances justifying a waiver are no longer applicable.

8.27.090 Requirements for Commercial Edible Food Generators

A. Tier One Commercial Edible Food Generators must comply with the requirements of

- 1 this Section commencing January 1, 2022.
- 2 B. Tier Two Commercial Edible Food Generators must comply commencing January 1,
- 3 2024, pursuant to 14 CCR Section 18991.3.
- 4 C. Tier One and Tier Two Commercial Edible Food Generators that are located in
- 5 areas that meet Low Population requirements must comply with the requirements of
- 6 this Section.
- 7 D. Large Venue or Large Event operators not providing food services, but allowing for
- 8 food to be provided by others, shall require Food Facilities operating at the Large
- 9 Venue or Large Event to comply with the requirements of this Section, commencing
- 10 January 1, 2024.
- 11 E. Commercial Edible Food Generators shall comply with the following requirements:
- 12 1. Arrange to recover the maximum amount of Edible Food, compliant with the
- 13 food safety standards within the California Health and Safety Code, that
- 14 would otherwise be disposed.
- 15 2. Contract with or enter into a written agreement with Food Recovery
- 16 Organizations or Food Recovery Services for:
- 17 a. The collection of Edible Food for Food Recovery; or
- 18 b. Acceptance of the Edible Food that the Commercial Edible Food
- 19 Generator Self-Hauls to the Food Recovery Organization for Food
- 20 Recovery.
- 21 3. Not intentionally spoil Edible Food that is compliant with food safety standards
- 22 within the California Health and Safety Code and capable of being recovered
- 23 by a Food Recovery Organization or a Food Recovery Service.
- 24 4. Allow County's designated enforcement entity or designated third party
- 25 enforcement entity to access the Premises and review records pursuant to 14
- 26 CCR Section 18991.4.
- 27 5. Keep records that include the following information, or as otherwise specified
- 28 in 14 CCR Section 18991.4:

- 1 a. A list of each Food Recovery Service or organization that collects or
- 2 receives its Edible Food pursuant to a contract or written agreement
- 3 established under 14 CCR Section 18991.3(b).
- 4 b. A copy of all contracts or written agreements established under 14 CCR
- 5 Section 18991.3(b).
- 6 c. A record of the following information for each of those Food Recovery
- 7 Services or Food Recovery Organizations:
- 8 (1) The name, address and contact information of the Food Recovery
- 9 Service or Food Recovery Organization.
- 10 (2) The types of food that will be collected by or Self-Hauled to the Food
- 11 Recovery Service or Food Recovery Organization.
- 12 (3) The established frequency that food will be collected or Self-Hauled.
- 13 (4) The quantity of food, measured in pounds recovered per month,
- 14 collected or Self-Hauled to a Food Recovery Service or Food Recovery
- 15 Organization for Food Recovery.
- 16 d. Maintain records required by this section for five (5) years.
- 17 F. Nothing in this Chapter shall be construed to limit or conflict with Section 114079
- 18 of the California Health and Safety Code regarding returned food and the
- 19 reservice of food.
- 20 G. Food that is donated shall meet the following requirements:
- 21 1. Food shall be free from adulteration, spoilage, and meet the food safety
- 22 standards of the California Health and Safety Code.
- 23 2. Food shall not be donated if it is not in compliance with the food safety
- 24 standards of the California Health and Safety Code, including food that is
- 25 returned by a customer, has been served or sold and was in the possession
- 26 of a customer, or is the subject of a recall.

27 **8.27.100 Requirements for Food Recovery Organizations and Services**

- 28 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 maintain records required by this section for five years.

D. Food Recovery Organizations and Food Recovery Services that have their primary address physically located in the County 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 County it is located in

the total pounds of Edible Food recovered each month 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). The report shall be submitted to the County as requested.

E. In order to support Edible Food Recovery capacity planning assessments or other studies conducted by the County that provide Solid Waste collection services, or its designated entity, Food Recovery Services and Food Recovery Organizations operating in the County shall:

1. provide information to the County or its Designee, upon request, regarding existing, or proposed new or expanded, Food Recovery capacity that could be accessed by the County and its Commercial Edible Food Generators.
2. A Food Recovery Service or Food Recovery Organization contacted by the County or its Designee shall respond to such request for information within a reasonably requested timeframe considering the scope of the request, but in no case later than 60 days.

F. Nothing in this chapter prohibits Food Recovery Organizations and Food Recovery Services from refusing to accept Edible Food from a Commercial Edible Food Generator.

8.27.110 Requirements for Haulers and Facility Operators

A. Requirements for Haulers

1. Franchise hauler(s) and permitted hauler(s) providing Recyclable Materials, Organic Waste, or Solid Waste collection services to Generators within the County's boundaries shall meet the following requirements and standards as a condition of approval of its contract, agreement, or other authorization with the County to collect Recyclable Materials, Organic Materials, and/or Solid Waste:
 - a. Through written notice to the County annually, identify the facilities to which they will transport Discarded Materials, including facilities for Source

1 Separated Recyclable Materials, Source Separated Organic Materials,
2 and Solid Waste unless otherwise stated in the franchise agreement,
3 contract, or license, or other authorization with the County.

4 b. Transport Source Separated Recyclable Materials to a facility that
5 recovers those materials; transport Source Separated Organic Materials to
6 a facility, operation, activity, or property that recovers Organic Waste as
7 defined in 14 CCR, Division 7, Chapter 12, Article 2; transport Solid Waste
8 to a disposal facility or transfer facility or operation that processes or
9 disposes of Solid Waste; and transport manure to a facility that manages
10 manure in conformance with 14 CCR Article 12 and such that the manure
11 is not landfilled, used as Alternative Daily Cover (ADC), or used as
12 Alternative Intermediate Cover (AIC).

13 c. Obtain approval from the County to haul Organic Waste, unless it is
14 transporting Source Separated Organic Waste to a Community
15 Composting site or lawfully transporting C&D in a manner that complies
16 with 14 CCR Section 18989.1 and Section 8.27.100 of this Chapter.

17 2. Franchise hauler(s) and permitted hauler(s) authorized to collect Recyclable
18 Materials, Organic Materials, and/or Solid Waste shall comply with education,
19 equipment, signage, container labeling, container color, contamination
20 monitoring, reporting, and other requirements contained within its franchise
21 agreement or other agreement entered into with County.

22 B. Requirements for Facility Operators and Community Composting Operations

23 1. Owners of facilities, operations, and activities located in the County's
24 boundaries that recover Organic Waste, including, but not limited to, Compost
25 facilities, in-vessel digestion facilities, and publicly owned treatment works
26 shall, upon County request, provide information regarding available and
27 potential new or expanded capacity at their facilities, operations, and
28 activities, including information about throughput and permitted capacity

necessary for planning purposes. Entities contacted by the County shall respond within 60 days.

2. Community Composting operators with operations located in the County's boundaries, upon County request, shall provide information to the County 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 County shall respond within 60 days.
3. Owners of facilities, operations, and activities located in the County's boundaries that receive Recyclable Materials, Organic Materials, and/or Solid Waste shall provide to the County on a quarterly basis copies of all reports they are required to report to Cal Recycle under 14 CCR.

8.27.120 Self-Hauler Requirements

- A. Every Self-Hauler shall Source Separate its Recyclable Materials and Organic Materials (materials that County otherwise requires Generators or Responsible Parties to separate for collection in the County's Recyclable Materials and Organic Materials collection program) generated on-site from Solid Waste in a manner consistent with 14 CCR Section 18984.1 and the County's collection program. Self-Haulers shall deliver their materials to facilities described in subsection (B) below.
 1. Alternatively, Self-Haulers may choose not to Source Separate Recyclable Materials and Organic Materials and shall haul its Solid Waste (that includes Recyclable Materials and Organic Materials) to a High Diversion Organic Waste Processing Facility subject to advance written approval by the County.
- B. Self-Haulers that Source Separate their Recyclable Materials and Organic Materials shall haul their Source Separated Recyclable Materials to a facility that recovers those materials; haul their Source Separated Organic Waste to a facility, operation, activity, or property that processes or recovers Source

Separated Organic Waste; and haul their Solid Waste to a disposal facility or transfer facility or operation that processes or disposes of Solid Waste.

C. Self-Haulers that are Responsible Parties of Commercial Businesses or Multi-Family Premises shall keep records of the amount of Recyclable Materials, Organic Waste, and Solid Waste delivered to each facility, operation, activity, or property that processes or recovers Recyclable Materials and Organic Waste and processes or disposes of Solid Waste or shall keep records of Solid Waste delivered to High Diversion Organic Waste Processing Facilities.

1. These records shall be subject to review by the County or its Designee. The records shall include the following information:

- a. Delivery receipts and weight tickets from the entity accepting the Recyclable Materials, Organic Materials, and Solid Waste.
- b. The amount of material in cubic yards or Tons transported by the Generator or Responsible Party to each entity.
- c. 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 Recyclable Materials, Organic Materials, and Solid Waste.

D. Self-Haulers shall retain all records and data required to be maintained by this Section for no less than five (5) years after the Recyclable Materials, Organic Materials, and/or Solid Waste was first delivered to the facility accepting the material.

E. Self-Haulers that are Commercial Businesses or Multi-Family Dwellings shall provide copies of records required by this Section to the County upon request by the County Representative and shall provide the records at the frequency requested by the County Representative.

F. A Single-Family Generator or Single-Family Responsible Party that Self-Hauls Recyclable Materials, Organic Waste, or Solid Waste is not required to record or report information in Section 8.27.100(c) and (d).

8.27.130 Inspections and Investigations

A. The County representative is 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 Generators, Responsible Parties of Single-Family Premises, Responsible Parties of Commercial Businesses, Responsible Parties of Multi-Family Premises, Commercial Edible Food Generators, haulers, Self-Haulers, Food Recovery Services, and Food Recovery Organizations, subject to applicable laws.

1. This Section does not allow County or its designee to enter the interior of a private residential property for Inspection.

B. Entities regulated by this Chapter shall provide or arrange for access during all Inspections (with the exception of residential property interiors) and shall cooperate with the County Representative during such Inspections and investigations. Such Inspections and investigations may include confirmation of proper placement of materials in containers, inspection of Edible Food Recovery activities, review of required records, or other verification or Inspection to confirm compliance with any other requirement of this Chapter.

1. Responsible Parties are subject to penalties, as provided for in Section 8.27.140, for failure to provide or arrange for any of the following:

a. access to an entity's Premises.

b. access to records for any Inspection or investigation.

C. Any records obtained by the County Representative during its Inspections and investigations shall be subject to the requirements and applicable disclosure

1 exemptions of the Public Records Act as set forth in Government Code Section
2 6250 et seq.

3 D. The County Representative is authorized to conduct any Inspections, or other
4 investigations as reasonably necessary to further the goals of this Chapter,
5 subject to applicable laws.

6 E. The County Representative shall receive written complaints from persons
7 regarding an entity that may be potentially non-compliant with the requirements
8 of 14 CCR Sections 18981.1 et seq., including receipt of anonymous complaints.

9 F. The County Representative is authorized to provide informational notices to
10 entities regulated by this Chapter regarding compliance with this Chapter.

11 **8.27.140 Enforcement**

12 A. Violation of any provision of this Chapter shall constitute grounds for issuance of
13 a Notice of Violation and assessment of a fine by a County Enforcement Official
14 or representative.

15 1. Enforcement Actions under this Chapter include the issuance of an
16 administrative citation and assessment of a fine.

17 2. The County Representative shall employ the procedures specified in Chapter
18 1.13 of the County's Ordinance Code for the issuance of administrative
19 citations and subsequent imposition and collection of fines, and other related
20 activities performed in the enforcement of the various provisions of this
21 Chapter and any subsequent rules or regulations adopted pursuant to this
22 Chapter, except as otherwise indicated within this Chapter 8.27.

23 B. Responsible Entity for Enforcement

24 1. Enforcement pursuant to this Chapter may be undertaken by the enforcement
25 officer, which may be the County Representative or a designated entity, legal
26 counsel, or combination thereof.

27 2. County Enforcement Official(s) may issue Notices of Violation(s).

28 C. Process for Enforcement

1. County Enforcement Officials and/or their designee will monitor compliance with the Chapter through Compliance Reviews, Route Reviews, investigation of complaints, and an Inspection program. Section 8.27.110 establishes County's right to conduct Inspections and investigations.
2. County may issue an official notification to notify regulated entities of its obligations under this Chapter.
3. For incidences of Contaminants found in containers, County or its Designee will issue an informational notice of contamination to any Generator or Responsible Party found to have Contaminants in a container.
 - a. Such notice will be provided via a cart tag or other communication immediately upon identification of the Contaminants or within 5 days after determining that a violation has occurred.
 - b. If the County observes Contaminants in a Responsible Party's containers on more than 2 consecutive occasion(s), the County, through its contractual agreement with ESAP Haulers, may assess special service rate charges against the Generator or Responsible Party, as provided for through the ESAP Agreement.
 - c. The assessment of special service rate charges will be reflected in the Generator or Responsible Party's monthly service invoice and may be in addition to any administrative fines issued to the Generator or Responsible Party by the County for being found in violation of the provisions of this Chapter.
4. With the exception of incidences of Contaminants addressed above, the County shall issue a Notice of Violation, requiring compliance within 60 days of issuance of the notice, for violations of this Chapter.
5. Non-compliance by the Generator or Responsible Party within the deadline set forth in the Notice of Violation shall commence the action to impose penalties, via an administrative citation and fine, pursuant to Chapter 1.13.

1 Notices shall be sent to “owner” at the official address maintained by the
2 County Tax Collector or, if no such address is available, to the owner at the
3 address of the Multi-Family Premises or Commercial Premises or to the
4 Responsible Party for the collection services, dependent upon available
5 information in the County’s records.

6 D. Penalty Amounts for Types of Violations

7 1. The penalty levels are as follows, as prescribed by 14 CCR Section 18997.2
8 and any other applicable code or regulation:

9 a. For a first violation, the amount of the base penalty shall be \$50 to \$100
10 per violation.

11 b. For a second violation, the amount of the base penalty shall be \$100 to
12 \$200 per violation.

13 c. For a third or subsequent violation, the amount of the base penalty shall
14 be \$250 to \$500 per violation.

15 E. Factors Considered in Determining Penalty Amount

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

18 a. The nature, circumstances, and severity of the violation(s).

19 b. The violator’s ability to pay.

20 c. The willfulness of the violator’s misconduct.

21 d. Whether the violator took measures to avoid or mitigate violations of this
22 chapter.

23 e. Evidence of any economic benefit resulting from the violation(s).

24 f. The deterrent effect of the penalty on the violator.

25 g. Whether the violation(s) were due to conditions outside the control of the
26 violator.

27 F. Compliance Deadline Extension Considerations

28 1. County may extend the compliance deadlines set forth in a Notice of Violation

issued in accordance with this Section if it finds that there are extenuating circumstances beyond the control of the respondent that make compliance within the deadlines impracticable, including the following:

- a. Acts of God such as earthquakes, wildfires, flooding, and other emergencies or natural disasters.
- b. Delays in obtaining discretionary permits or other government agency approvals.
- c. Deficiencies in Organic Waste recycling infrastructure or Edible Food Recovery capacity and the County is under a corrective action plan with Cal-Recycle pursuant to 14 CCR Section 18996.2 due to those deficiencies.

G. Appeals Process

1. Persons receiving an administrative citation containing a penalty for an uncorrected violation may request a hearing to appeal the citation. A hearing will be held only if it is requested within the time prescribed and consistent with County's procedures in the County's Code for appeals of administrative citations.

a. Evidence may be presented at the hearing.

b. The County will appoint a hearing officer who shall conduct the hearing and issue a final written order.

H. Education Period for Non-Compliance

Beginning January 1, 2022 and through December 31, 2023, the County 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 if County or its Designee determines that a Generator, Responsible Party, Self-Hauler, hauler, Tier One Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is non-compliant, it shall provide educational materials to the entity describing its obligations under this Chapter

1 and a notice that compliance is required by January 1, 2022, and that violations may be
2 subject to administrative civil penalties starting on January 1, 2024.

3 I. Civil Penalties for Non-Compliance

4 Beginning January 1, 2024, if the County determines that a Generator,
5 Responsible Party, Self-Hauler, hauler, Tier One or Tier Two Commercial Edible Food
6 Generator, Food Recovery Organization, Food Recovery Service, or other entity is not
7 in compliance with this Chapter, it shall document the noncompliance or violation, issue
8 a Notice of Violation, and take Enforcement Action pursuant to this Section, as needed.

9 Section 2: This Ordinance shall take effect thirty (30) days after final passage.

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1 THE FOREGOING was passed and adopted by the following vote of the Board of
2 Supervisors of the County of Fresno this 17th day of May, 2022, to wit:

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4 AYES:

5 NOES:

6 ABSENT:

7 ABSTAINED:

8

9

Brian Pacheco, Chairman of the
Board of Supervisors of the County of Fresno

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11

ATTEST:

12

BERNICE E. SEIDEL

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Clerk to the Board of Supervisors

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County of Fresno, State of California

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By: _____

Deputy

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FILE # _____

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AGENDA # _____

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ORDINANCE # _____

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