

ORDINANCE NO. 361

AN ORDINANCE OF THE CITY OF PORTOLA, COUNTY OF PLUMAS
CREATING CHAPTER 8.05 OF THE CITY OF PORTOLA MUNICIPAL CODE
PROVIDING FOR REDUCTION OF ORGANIC WASTE DISPOSAL

The Council of the City of Portola, California, ordains as follows:

Section 1. Chapter 8.05 of the Portola Municipal Code is hereby created to read as follows:

Title 8
HEALTH AND SAFETY
Chapter 8.05
REDUCTION OF ORGANIC WASTE DISPOSAL

- 8.05.010 General Provisions
- 8.05.020 Definitions
- 8.05.030 Recordkeeping and Reporting Authority
- 8.05.040 Education and Outreach
- 8.05.050 Requirements for Single Family Generators
- 8.05.060 Requirements for Commercial Businesses
- 8.05.070 Requirements for Commercial Edible Food Generators
- 8.05.080 Requirements for Food Recovery Organizations
- 8.05.090 Requirements for Community Composting Operations
- 8.05.100 Self-Hauler Requirements
- 8.05.110 Procurement Requirements for City Departments
- 8.05.120 Inspections and Investigations
- 8.05.130 Enforcement
- 8.05.140 Effective Date

The City Council of the City of Portola, California ordains as follows: A new Chapter 8.05 is enacted and added to the City of Portola Municipal Code to read as follows

8.05.010 GENERAL PROVISIONS

8.05.011 Title and Citation. This Chapter of the City of Portola Municipal Code shall be known and may be cited as the “City of Portola Reduction of Organic Waste Disposal Ordinance.”

8.05.012 Findings. The City Council of the City of Portola, California finds and declares:

- A. State recycling law, Assembly Bill 939 of 1989, the California Integrated Waste Management Act of 1989 (California Public Resources Code Section 40000, et seq., as amended,

supplemented, superseded, and replaced from time to time), requires cities and counties to reduce, reuse, and recycle (including composting) Solid Waste generated in their Jurisdictions to the maximum extent feasible before any incineration or landfill disposal of waste, to conserve water, energy, and other natural resources, and to protect the environment.

- B. State recycling law, Assembly Bill 341 of 2011 (approved by the Governor of the State of California on October 5, 2011, which amended Sections 41730, 41731, 41734, 41735, 41736, 41800, 42926, 44004, and 50001 of, and added Sections 40004, 41734.5, and 41780.01 and Chapter 12.8 (commencing with Section 42649) to Part 3 of Division 30 of, and added and repealed Section 41780.02 of, the Public Resources Code, as amended, supplemented, superseded and replaced from time to time), places requirements on businesses and Multi-Family property owners that generate a specified threshold amount of Solid Waste to arrange for recycling services and requires Jurisdictions to implement a commercial recycling program.
- C. SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016, requires CalRecycle to develop regulations to reduce organics in landfills as a source of methane. The regulations place requirements on multiple entities including Jurisdictions, residential households, Commercial Businesses and business owners, Commercial Edible Food Generators, haulers, Self-Haulers, Food Recovery Organizations, and Food Recovery Services to support achievement of Statewide Organic Waste disposal reduction targets.
- D. SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016, requires Jurisdictions to adopt and enforce an ordinance or enforceable mechanism to implement relevant provisions of SB 1383 Regulations applicable to their jurisdiction. This ordinance will also help reduce food insecurity by requiring Commercial Edible Food Generators to arrange to have the maximum amount of their Edible Food, that would otherwise be disposed, be recovered for human consumption.
- E. The City of Portola meets the definition of Rural Jurisdiction as defined in Section 42649.8 of the Public Resources Code and approved Resolution No. 2491 on November 12, 2021 for application of a Rural Exemption in compliance with Section 18984.12 (c) of Chapter 12 (Short-lived Climate Pollutants of Division 7 of Title 14 of the California Code of Regulations“SB 1383 Regulations” or “Regulations”). On January 13, 2022 CalRecycle approved the Rural Exemption and the City of Portola is not subject to Article 3 Organic Waste Collection Services, Section 18992.1 of Article 11 Organic Waste Capacity Planning, and Sections 18993.1 and .2 of Article 12 Procurement of Recovered Organic Waste Products through December 21, 2026. Collection of recyclables and organics may occur in exempt rural areas and that collection is not subject to SB 1383 regulations or this ordinance unless otherwise required.
- F. The City of Portola is subject to providing education and outreach information to organic waste generators, enforcing certain provisions of the CALGreen Building Standards and Model Water Efficient Landscape Ordinance, implementing an edible food recovery program and edible food recovery capacity planning, procurement of paper products, facility sampling for contamination of materials, inspections and enforcement, and recordkeeping and reporting to CalRecycle in compliance with the SB 1383 Regulations.

8.05.020 DEFINITIONS

Unless the contrary is stated or clearly appears different from the context, the definitions set forth in this section shall govern the construction of the words and phrases used in this chapter. Definitions used in the present tense shall include the future tense. The word “shall” is mandatory and not directory.

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

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

“**City**” means the City of Portola, California and the extent of its jurisdiction over solid waste matters within the physical boundaries of the City.

“**City Manager**” means the City Council appointed manager of the affairs of the City of Portola.

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

“**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 to determine compliance with this ordinance.

“**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), which stated, as of the effective date of this ordinance, that “Compost” means the product resulting from the controlled biological decomposition of organic Solid Wastes that are Source Separated from the municipal Solid Waste stream, or which are separated at a centralized facility.

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

“**Construction and Demolition Debris**” or “**C&D**” means waste building materials and rubble resulting from construction, remodeling, repair and demolition operations on pavements, houses, commercial buildings and other structures.

“Designee” means an entity that the City contracts with or otherwise arranges to carry out any of the City’s responsibilities of this ordinance as authorized in 14 CCR Section 18981.2.

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

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

“Food” has the same meaning as in Section 113781 of the Health and Safety Code. “Food” means a raw, cooked, or processed edible substance, ice, beverage, an ingredient used or intended for use or for sale in whole or in part for human consumption, and chewing gum.

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

- (1) A food bank as defined in Section 113783 of the Health and Safety Code;
- (2) A nonprofit charitable organization as defined in Section 113841 of the Health and Safety code;
and,
- (3) A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.

A Food Recovery Organization is not a Commercial Edible Food Generator for the purposes of this ordinance and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7).

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

“Food 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.

“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.

“Inspection” means a site visit where the City or Designee reviews records, containers, and an entity’s collection, handling, recycling, or landfill disposal of Organic Waste or Edible Food handling to determine if the entity is complying with requirements set forth in this ordinance.

“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, street system, or other open space when being used for an event.

“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.

“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.

“Multi-Family Residential Dwelling” or **“Multi-Family”** means of, from, or pertaining to residential premises with five (5) or more dwelling units. Multi-Family premises do not include hotels, motels, or other transient occupancy facilities, which are considered Commercial Businesses.

“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.

“Non-Organic Recyclables” means non-putrescible and non-hazardous recyclable wastes including but not limited to bottles, cans, metals, plastics and glass.

“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.

“Organic Waste” means Solid Wastes containing material originated from living organisms and their metabolic waste products, including but not limited to food, green material, landscape and pruning waste, organic textiles and carpets, lumber, wood, Paper Products, Printing and Writing Paper, manure, biosolids, digestate, and sludges.

“Organic Waste Generator” or **“Generator”** means a person or entity that is responsible for the initial creation of Organic Waste.

“Paper Products” include, but are not limited to, paper janitorial supplies, cartons, wrapping, packaging, file folders, hanging files, corrugated boxes, tissue, and toweling.

“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.

“Prohibited Container Contaminants” means materials designated as unacceptable for collection or drop-off.

“Recovered Organic Waste Products” means products made from California, landfill-diverted recovered Organic Waste processed in a permitted or otherwise authorized facility.

“Recovery” means any activity or process described in 14 CCR Section 18983.1(b).

“Recycled-Content Paper” means Paper Products and Printing and Writing Paper that consists of at least 30 percent, by fiber weight, postconsumer fiber.

“Restaurant” means an establishment primarily engaged in the retail sale of food and drinks for on-premises or immediate consumption.

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

“Self-Hauler” means a person, who hauls Solid Waste, Organic Waste, or recyclable material that they have generated to another person. Self-hauler also includes a person who back-hauls waste. 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.

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

“Solid Waste” means all putrescible and non-putrescible solid and semi-solid wastes generated by residences and commercial enterprises, including garbage, yard waste, recyclable material, construction and demolition debris, industrial wastes, inert wastes, abandoned vehicles and other discarded materials.

“Source Separation” means the segregation of recyclable and/or organic materials by the generator of said materials.

“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.

“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.

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

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

8.05.030 RECORDKEEPING AND REPORTING AUTHORITY

- A. In conformance with Section 18995.2 of the SB 1383 Regulations, the City will store and maintain records documenting implementation of the Regulations.
- B. The City shall prepare and submit the Initial Jurisdiction Compliance Report and Jurisdiction Annual Reports to CalRecycle in compliance with Sections 18994.1 and 18994.2 of the Regulations.
- C. The Reporting Authority shall submit the Edible Food Recovery Capacity required reports in accordance with the schedule established in Section 18992.3 of the Regulations.

- D. Upon request by a CalRecycle, the City will provide access to implementation records within 10 business days. The City will also respond to a request for public records contained in the implementation records.

8.05.040 EDUCATION AND OUTREACH

- A. The City shall provide educational materials and community outreach to organic waste generators that explain and provide information on the requirements of the SB 1383 Regulations.
- B. In providing the education and outreach materials described below, the City intends that its education and outreach efforts will be consistent with, and in coordination with, the education and outreach provided by the franchise refuse collection company.
- C. By July 1, 2022, the City will make available to Generators, through print and/or electronic media information regarding local opportunities for organic waste reduction. The information generated pursuant to this subparagraph shall be updated at least annually.
- D. Through email, letters, or other direct communication, the City shall annually notify Tier I and II Commercial Edible Food Generators within the City of their food recovery requirements as established pursuant to Section 18991.3 and 18991.4 of the Regulations.

8.05.050 REQUIREMENTS FOR SINGLE-FAMILY GENERATORS

Single-Family Solid Waste Generators shall comply with the following requirements:

- A. Shall comply with the City's franchise refuse collection company by placing designated materials in designated containers and shall not place Prohibited Container Contaminants in collection containers.
- B. Single-Family Solid Waste Generators are encouraged to manage their Organic Waste by preventing or reducing their Organic Waste, managing Organic Waste on site, and/or using a Community Composting site, as available within reasonable proximity to the City.

8.05.060 REQUIREMENTS FOR COMMERCIAL BUSINESSES

Commercial Businesses, including Multi-Family Residential Dwellings of five or more units, that generate more than four cubic yards of commercial solid waste per week shall arrange for recycling services, as available, and shall take at least one of the following actions:

- A. Source separate recyclable materials from solid waste and either subscribe to a basic level of recycling service, as available, or self-haul to a recycling center, or make other arrangements for the pickup of the recyclable materials.
- B. A property owner of a Multi-Family Residential Dwelling may require tenants to source separate their recyclable materials to aid in compliance with this section.
- C. Comply with the City's franchise refuse collection company by placing designated materials in designated containers and not place Prohibited Container Contaminants in collection containers.

- D. Annually provide information to Commercial Businesses and Multi-Family Residential Dwellings, through the franchise refuse collector, about Solid Waste Recovery requirements and about proper sorting of Recyclable Materials.
- E. Provide education information, through the franchise refuse collector, before or within fourteen (14) days of occupation of the premises to new tenants that describes requirements to keep Recyclable Materials separate from Solid Waste.
- F. Commercial Businesses that are Tier One or Tier Two Commercial Edible Food Generators shall comply with Food Recovery requirements, pursuant to 8.05.070.

8.05.070 REQUIREMENTS FOR COMMERCIAL EDIBLE FOOD GENERATORS

Tier One Commercial Edible Food Generators must comply with the requirements of this Section 8.05.070 commencing October 1, 2022, and Tier Two Commercial Edible Food Generators must comply commencing January 1, 2024.

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.

Commercial Edible Food Generators shall comply with the following requirements:

- A. Arrange to recover Edible Food that would otherwise be disposed.
- B. Shall not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery Organization or a Food Recovery Service.
- C. Allow City access to premises and review Edible Food records. Records shall include list of Food Recovery Organization or a Food Recovery Service, types and amounts of Edible Food recovered, and the dates of recovery.
- D. No later than March 1 of each year, commencing no later than 2023 for Tier One Commercial Edible Food Generators and 2025 for Tier Two Commercial Edible Food Generators, provide an annual Food Recovery report to the City that includes all information listed above in 8.05.070.

8.05.080 REQUIREMENTS FOR FOOD RECOVERY ORGANIZATIONS AND SERVICES

Food Recovery Organizations and/or Services collecting or receiving Edible Food in the City shall maintain the following records:

- A. The name, address, and contact information for each Commercial Edible Food Generator from which the service collects Edible Food.
- B. The quantity in pounds of Edible Food collected from each Commercial Edible Food Generator per month.

- C. The quantity in pounds of Edible Food transported to each Food Recovery Organization per month.
- D. The name, address, and contact information for each Food Recovery Organization that the Food Recovery Service transports Edible Food to for Food Recovery.
- E. In order to support Edible Food Recovery capacity planning assessments or other studies conducted by the City, Food Recovery Organizations and Services operating in the City shall provide information and consultation to the City, upon request, regarding existing, or proposed new or expanded, Food Recovery capacity within 60 days.

8.05.090 REQUIREMENTS FOR COMMUNITY COMPOSTING OPERATIONS

Community Composting operations, upon City 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.

8.05.100 SELF-HAULER REQUIREMENTS

Self-Haulers shall source separate and haul all recyclable materials, including Organic Wastes, generated on-site from Solid Waste, in a manner consistent with facility requirements.

Self-Haulers that are Commercial Businesses (including Multi-Family Residential Dwellings) shall keep a record of the amounts of recyclable materials and/or Organic Waste delivered to each Solid Waste facility; this record shall be subject to Inspection by the City. The records shall include the following information:

- A. Delivery receipts and weight tickets from the facility accepting the waste.
- B. The amount of material in cubic yards or tons transported by the generator to the facility. Waste.

Self-Haulers that are Commercial Businesses (including Multi-Family Self-Haulers) shall provide information collected in Section 8.05.100 to the City, if requested. A residential Solid Waste Generator that self-hauls Solid Waste is not required to record or report information in Section 8.05.100.

8.05.110 PROCUREMENT REQUIREMENTS FOR CITY DEPARTMENTS

The City shall document procurement of paper by each department and annually report to CalRecycle, in compliance with the SB 1383 regulations.

City departments must comply with the Resolution No. 1668 Recycled Product Procurement Policy adopted on March 14, 2001.

All vendors providing Paper Products and Printing and Writing Paper shall:

- A. If fitness and quality are equal, provide Recycled-Content Paper Products and Recycled-Content Printing and Writing Paper that consists of at least 30 percent, by fiber weight, postconsumer fiber

instead of non-recycled products whenever recycled Paper Products and Printing and Writing Paper are available at the same or lesser total cost than non-recycled items.

- B. Provide Paper Products and Printing and Writing Paper that meet Federal Trade Commission recyclability standard as defined in 16 Code of Federal Regulations (CFR) Section 260.12.
- C. Certify in writing, under penalty of perjury, the minimum percentage of postconsumer material in the Paper Products and Printing and Writing Paper offered or sold to the Jurisdiction. This certification requirement may be waived if the percentage of postconsumer material in the Paper Products, Printing and Writing Paper, or both can be verified by a product label, catalog, invoice, or a manufacturer or vendor internet website.
- D. Certify in writing, on invoices or receipts provided, that the Paper Products and Printing and Writing Paper offered or sold to the Jurisdiction is eligible to be labeled with an unqualified recyclable label as defined in 16 Code of Federal Regulations (CFR) Section 260.12 (2013).

8.05.120 INSPECTIONS AND INVESTIGATIONS

The City and/or its designated representatives are authorized to conduct inspections and investigations, at random or otherwise, of any collection container, collection vehicle loads, or transfer, processing, or disposal facility for materials collected from generators, or Source Separated materials to confirm compliance with this ordinance by Solid 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 to enter the interior of a private residential property for Inspection.

Regulated entities shall provide or arrange for access during all Inspections (with the exception of residential property interiors) and shall cooperate with the City during such inspections and investigations. Such inspections and investigations may include confirmation of proper placement of materials in containers, Edible Food Recovery activities, records, or any other requirement of this ordinance described herein. Failure to provide or arrange for: (1) access to an entity's premises; or (2) access to records for any Inspection or investigation may be a violation of this ordinance and may result in penalties described.

Any records obtained by the City during its inspections 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.

8.05.130 ENFORCEMENT

Violation of any provision of this ordinance may constitute grounds for issuance of a Notice of Violation and assessment of a fine by the City. Enforcement Actions under this ordinance may include issuance of an administrative citation and instructions to remedy the violation.

Repeat violators of this ordinance may be subject to a fine not exceeding \$ ____ per violation.

8.05.140 EFFECTIVE DATE

This ordinance shall be effective commencing on _____.