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## CHAPTER 32:

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# MANDATORY EDIBLE FOOD RECOVERY

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### SEC. 3201. TITLE.

This Chapter 32 shall be entitled “Mandatory Edible Food Recovery” and may be referenced as the Mandatory Edible Food Recovery Ordinance.

■ (Added by Ord. [90-22](#), File No. 220607, App. 6/15/2022, Eff. 7/16/2022)

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### SEC. 3202. DEFINITIONS.

For purposes of this Chapter 32, the following words have the following meanings:

“City” means the City and County of San Francisco.

“Commercial Business” means a firm, partnership, proprietorship, joint-stock company, corporation, or association, whether for-profit or nonprofit; strip mall; industrial facility; or multifamily residential dwelling that consists of five or more units.

“Commercial Edible Food Generator” means an entity other than a Food Recovery Organization or Food Recovery Service, and that is classified as either a Tier One or Tier Two Commercial Edible Food Generator, that:

- (a) Disposes of Edible Food in the course of the entity’s operation of a Commercial Business;
- (b) Disposes of Edible Food in the course of the entity’s operation of a Large Venue or Large Event, either directly or indirectly through a Food Facility; or
- (c) Arranges for the recovery of Edible Food that would otherwise be disposed of in the course of the entity’s operation of a Commercial Business, Large Venue, or Large Event.

“Department” means the Department of the Environment.

“Director” means the Director of the Department of the Environment or the Director’s designee.

“Edible Food” means food that is intended for human consumption and that meets the food safety requirements of the California Retail Food Code.

“Food Distributor” means a company that distributes food to entities including, but not limited to, Supermarkets and Grocery Stores.

“Food Facility” means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption at the retail level, on either a permanent or temporary basis.

“Food Recovery” means actions to collect and distribute, for human consumption, food that otherwise would be disposed.

“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. A Food Recovery Organization includes, but is not limited to:

- (a) A food bank, meaning a surplus food collection and distribution system operated and established to assist in bringing donated food to nonprofit charitable organizations and individuals for the purposes of reducing hunger and supplying nutritional needs, or as otherwise defined in Section 113783 of the Health and Safety Code, as may be amended from time to time;
- (b) A nonprofit charitable organization as defined in Section 113841 of the Health and Safety Code, as may be amended from time to time; and,
- (c) A nonprofit charitable temporary Food Facility, meaning a Food Facility that is only part of and operates for the duration of an approved community event or at a swap meet, or as otherwise defined in Section 113842 of the Health and Safety Code, as may be amended from time to time.

“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 entity for Food Recovery.

“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; frozen foods; and any area within the store that is not separately owned and where the food is prepared and served, including, for example, a bakery, deli, and meat and seafood departments.

“Large Event” means an event, including, but not limited to, a sporting event or a flea market, that charges an admission price, 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 or operated park, parking lot, golf course, street area, 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. A Large Venue 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 facility designed to attract large numbers of members of the public. A site under common ownership or control that includes more than one Large Venue that is contiguous with another Large Venue<sup>1</sup> the site, is a single Large Venue.

“Organic Waste” has the definition set forth in Section 1902 of the Environment Code, as may be amended from time to time.

“Refuse” has the definition set forth in Section 1902 of the Environment Code, as may be amended from time to time.

“Supermarket” means a full-line, self-service retail store with gross annual sales of \$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 or more of the following:

- (a) Supermarket;
- (b) Grocery Store with a total facility size equal to or greater than 10,000 square feet;
- (c) Food Service Provider;
- (d) Food Distributor; or
- (e) Wholesale Food Vendor.

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

- (a) Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet;
- (b) Hotel with an on-site Food Facility and 200 or more guest rooms;
- (c) Health care facility with an on-site Food Facility and 100 or more beds;
- (d) A Large Venue;
- (e) A Large Event; or
- (f) 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.

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

(Added by Ord. [90-22](#), File No. 220607, App. 6/15/2022, Eff. 7/16/2022)

#### CODIFICATION NOTE

<sup>1</sup> 1. So in Ord. [90-22](#).

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## SEC. 3203. REQUIREMENTS FOR COMMERCIAL EDIBLE FOOD GENERATORS.

(a) **Compliance Date.** Tier One Commercial Edible Food Generators must comply with the requirements of this Section 3203 commencing on the effective date of this<sup>1</sup> the effective date of the ordinance in Board File No. 220607, establishing this Chapter 32, and Tier Two Commercial Edible Food Generators must comply with the requirements of this Section 3203 commencing January 1, 2024. Large Venue and Large Event operators not providing food services, but allowing for food to be provided by others, shall require Food Facilities operating at such Large Venues and Large Events to comply with the requirements of this Section 3203 commencing January 1, 2024.

(b) **Prohibition on Intentional Spoilage.** Commercial Edible Food Generators shall not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery Organization or a Food Recovery Service.

(c) **Recovery Requirements.** Commercial Edible Food Generators shall do the following:

- (1) Arrange to recover the maximum amount of Edible Food that would otherwise be disposed.

(2) Enter into a written agreement with Food Recovery Organizations or Food Recovery Services, as applicable, for: (A) the collection of Edible Food for Food Recovery; or, (B) acceptance of the Edible Food that the Commercial Edible Food Generator transports to the Food Recovery Organization for Food Recovery.

(d) **Recordkeeping Requirements.** Commercial Edible Food Generators shall keep records that include the following information:

(1) A list of each Food Recovery Service and Food Recovery Organization that collects or receives Edible Food from that Commercial Edible Food Generator.

(2) A copy of all written agreements with Food Recovery Services and Food Recovery Organizations that collect or receive Edible Food from that Commercial Edible Food Generator.

(3) A record of the following information for each Food Recovery Service or Food Recovery Organization that collects or receives Edible Food from that Commercial Edible Food Generator:

(A) The name, address, and contact information of the Food Recovery Service or Food Recovery Organization.

(B) The types of food that will be collected by or transported to the Food Recovery Service or Food Recovery Organization.

(C) The frequency with which food will be collected or transported.

(D) The quantity of food, measured in pounds recovered per month, collected or transported to a Food Recovery Service or Food Recovery Organization for Food Recovery.

(e) **Inspection Requirement.** Commercial Edible Food Generators shall allow the Department to access the premises and review the records required in subsection (d).

(f) Nothing in this Chapter 32 shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share table and school food donation guidance pursuant to Senate Bill 557 of 2017.

(Added by Ord. [90-22](#), File No. 220607, App. 6/15/2022, Eff. 7/16/2022)

#### CODIFICATION NOTE

■ 1. So in Ord. [90-22](#).

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## **SEC. 3204. REQUIREMENTS FOR FOOD RECOVERY ORGANIZATIONS AND SERVICES.**

(a) **Recordkeeping Requirements for Food Recovery Organizations.** Food Recovery Organizations collecting or receiving Edible Food directly from Commercial Edible Food Generators via a written agreement consistent with Section 3203(c)(2) shall maintain the following records:

(1) The name, address, and contact information for each Commercial Edible Food Generator from which the Food Recovery Organization receives Edible Food.

(2) The quantity in pounds of Edible Food the Food Recovery Organization receives from each Commercial Edible Food Generator per month.

(3) The name, address, and contact information for each Food Recovery Service from which the Food Recovery Organization receives Edible Food for Food Recovery.

(b) **Recordkeeping Requirements for Food Recovery Services.** Food Recovery Services collecting or receiving Edible Food directly from Commercial Edible Food Generators via a written agreement consistent with Section 3203(c)(2) shall maintain the following records:

(1) The name, address, and contact information for each Commercial Edible Food Generator from which the Food Recovery Service collects Edible Food.

(2) The quantity in pounds of Edible Food the Food Recovery Service collects from each Commercial Edible Food Generator per month.

(3) The quantity in pounds of Edible Food the Food Recovery Service transports to each Food Recovery Organization per month.

(4) The name, address, and contact information for each Food Recovery Organization to which the Food Recovery Service transports Edible Food for Food Recovery.

(c) **Reporting Requirements for Food Recovery Organizations and Food Recovery Services.** Food Recovery Organizations and Food Recovery Services that have written agreements with one or more Commercial Edible Food Generators consistent with Section 3203(c)(2) shall report to the Department the total pounds of Edible Food recovered in the previous calendar year no later than March 1 of each year.

(d) **Food Recovery Capacity Planning.** Food Recovery Services and Food Recovery Organizations shall provide information and consultation to the Department regarding existing, or proposed new or expanded, Food Recovery capacity, within 60 days after receipt of a request from the Department.

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## **SEC. 3205. ADMINISTRATION AND ENFORCEMENT.**

This Chapter 32 shall be administered and enforced by the Department. The Director may adopt regulations, guidelines, and forms to carry out the provisions and purposes of this Chapter.

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## **SEC. 3206. PENALTIES AND ENFORCEMENT.**

(a) The Director shall administer all provisions of this Chapter 32 and may enforce those provisions by any lawful means available for such purpose, including through imposition of administrative penalties for violations of those provisions of this Chapter, or of rules and regulations adopted pursuant to this Chapter, except as otherwise provided in this Chapter.

(b) To the extent permitted by law, the Director may inspect any Food Recovery Organization, Food Recovery Service, and Commercial Edible Food Generator, and records related to their operations, to enforce this Chapter 32.

(c) Administrative Code Chapter 100, "Procedures Governing the Imposition of Administrative Fines," as amended, is hereby incorporated in its entirety and shall govern the imposition, enforcement, collection, and review of administrative citations and penalties issued to enforce this Chapter 32, and any rule or regulation adopted pursuant to this Chapter; provided, however, that:

(1) The fine for a violator's first violation at a dwelling or commercial property that generates less than one cubic yard of refuse per week may not exceed \$100;

(2) Each day of continued noncompliance constitutes a separate violation.

(3) The Director may hold imposed administrative penalties in partial or complete abeyance, pending completion of ordered remedial steps or based on other conditions, in accordance with the Director's lawful discretion and in furtherance of the objectives of this Chapter 32. A Food Recovery Organization, Food Recovery Service, or Commercial Edible Food Generator that is a City-owned or operated facility is not subject to administrative penalties under this Section 3206(c); and

(4) In any action where a violation is found, the Director may assess the Department's costs of enforcement and attorneys' fees against the violator.

(d) The Department shall use administrative penalties collected under this Chapter 32, including recovery of enforcement costs, to fund implementation and enforcement of this Chapter. If the Director determines that administrative penalties and enforcement costs collected under this Chapter 32 exceed the amount needed by the Department to fund implementation and enforcement of this Chapter, the Director may use any excess funds to support other work of the Department.

(e) Remedies under this Chapter 32 are in addition to and do not supersede or limit any and all other remedies, civil or criminal.

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## **SEC. 3207. NO CONFLICT WITH FEDERAL OR STATE LAW.**

Nothing in this Chapter 32 shall be interpreted or applied so as to create any requirement, power, or duty in conflict with any federal or state law.