

## ORDINANCE NO. 133

### AN ORDINANCE OF THE NIPOMO COMMUNITY SERVICES DISTRICT ADDING CHAPTER 7.07 (MANDATORY ORGANIC WASTE DISPOSAL REDUCTION) TO TITLE 7 (SOLID WASTE) OF THE NIPOMO COMMUNITY SERVICES DISTRICT CODE, AND MAKING A DETERMINATION OF EXEMPTION UNDER CEQA

The Board of Directors of the Nipomo Community Services District ordains as follows:

#### SECTION 1. PURPOSE AND FINDINGS.

A. 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Waste Management Act of 1989 (California Public Resources Code Section 40000, et seq., as amended, supplemented, superseded, and replaced from time to time and as implemented by regulations of the California Department of Resources, Recycling and Recovery ("CalRecycle")), requires jurisdictions to reduce, reuse, and recycle (including composting) solid waste generated in their jurisdiction to the maximum extent feasible before any incineration or landfill disposal of waste, to conserve water, energy, other natural resources, and to protect the environment.

B. 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41734.5, and 41780.01 and Chapter 12.8 (commencing with Section 42649) to Part 3 of Division 30 of, and added and repealed Section 41780.02 of, the California Public Resources Code, places requirements on businesses, including multi-family property owners with five or more dwelling units, that generate a specified threshold amount of solid waste to arrange for recycling services and requires jurisdictions to implement a mandatory commercial recycling program for designated businesses and multi-family property owners.

C. Assembly Bill 1826 of 2014 (approved by the Governor of the State of California on September 28, 2014), which added Chapter 12.9 (commencing with Section 42649.8) to Part 3 of Division 30 of the California Public Resources Code, requires businesses, including multi-family property owners with five or more dwelling units, that generate a specified threshold amount of solid waste, recyclable materials, and organic waste per week to arrange for recycling services for that waste, and requires jurisdictions to implement a mandatory commercial organics recycling program for designated businesses and multi-family property owners.

D. AB 827 of 2019, with respect to certain businesses that offer products for immediate consumption, imposes requirements for on-site recycling and organic waste containers, including that these containers be placed adjacent to trash containers, be visible, easily accessible, and clearly marked. AB 827 further provides that certain businesses that arrange for gardening or landscaping services shall require the contract

or work agreement between the business and the gardening or landscaping service require that the organic waste generated by those services be managed in compliance with Chapter 12.8 of Part 3 of Division 30 of the California Public Resources Code.

E. 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, adopted in 2020 (“SB 1383 Regulations”) place requirements on multiple entities including jurisdictions; single-family residential households; commercial businesses, including multi-family property owners with five or more dwelling units; commercial edible food generators; haulers, including self-haulers; food recovery organizations; and food recovery services to support achievement of statewide organic waste disposal reduction targets.

F. The SB 1383 Regulations require the Nipomo Community Services District to adopt and enforce an ordinance or other enforceable mechanism to implement relevant provisions of the SB 1383 Regulations. This Ordinance implements the requirements of the SB 1383 Regulations.

## **SECTION 2. AMENDMENT.**

Title 7 (Solid Waste) of the Nipomo Community Services District Code (“Code”) is hereby amended to add Chapter 7.07 (Mandatory Organic Waste Disposal Reduction) to read as follows:

### **“Chapter 7.07 - Mandatory Organic Waste Disposal Reduction**

#### **Section 7.07.010 Definitions and SB 1383 Regulatory Requirements**

(a) Definitions.

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

“Alternative Daily Cover (ADC)” has the same meaning as in Section 20690 of Title 27 of the CCR.

“Alternative Intermediate Cover (AIC)” has the same meaning as in Section 20700 of Title 27 of the CCR.

“Bulky Items” means discarded appliances (including refrigerators), furniture, tires, carpets, mattresses, Yard Trimmings and/or wood waste, and similar large items which can be handled by two (2) people, weigh no more than two hundred (200) pounds, and require special collection due to their size or nature, but can be collected without the assistance of special loading equipment (such as forklifts or cranes) and without violating vehicle load limits. Bulky Items must be generated by the Customer and at the service address wherein the Bulky Items are collected. Bulky Items do not include abandoned automobiles, large auto parts, trees, C&D, or items herein defined as Excluded Waste.

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

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

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

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

“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 in 14 CCR Section 18982(a)(8).

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

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

“Container Contamination” or “Contaminated Container” means a container, regardless of color, that contains Prohibited Container Contaminants; or, as otherwise defined in 14 CCR Section 18982(a)(55).

“Contractor” means franchise hauler(s) providing Recyclable Materials, Organic Materials and/or Solid Waste collection services to Generators within the District’s boundaries, organized and operating under the laws of the State and its officers,

directors, employees, agents, companies, related-parties, affiliates, subsidiaries, and subcontractors.

“County” means the County of San Luis Obispo, a political subdivision of the State of California.

“County Enforcement Official” means a county agency enforcement official.

“Customer” means the person or entity to whom the Contractor submits its billing invoice to and collects payment from for collection services provided to a Premises. The Customer may be either the Occupant or Owner of the Premises.

“C&D” means construction and demolition debris removed from a Premises during the construction or demolition of a structure.

“Designated Waste” means non-Hazardous Waste which may pose special disposal problems because of its potential to contaminate the environment, and which may be disposed of only in Class II disposal sites or Class III disposal sites pursuant to a variance issued by the California Department of Health Services. Designated Waste consists of those substances classified as Designated Waste by the State, in CCR Title 23, Section 2522.

“Designee” means an entity that the District contracts with or otherwise arranges to carry out any of the District’s responsibilities of this chapter as authorized in 14 CCR Section 18981.2; or, as otherwise defined in 14 CCR Section 18982(a)(15). A Designee may be a government entity, a hauler, a private entity, or a combination of those entities.

“Discarded Materials” means Recyclable Materials, Organic Materials, Solid Waste, Bulky Items, and C&D, if applicable, placed by a Generator in a collection container and/or at a location for the purposes of collection excluding Excluded Waste.

“District” means the Nipomo Community Services District, which is a California Special District, a form of local government created by a local community to meet a specific need or needs, and all the territory lying within its boundaries as presently existing or as such boundaries may be modified from time to time.

“District Enforcement Official” means the District Manager or other executive in charge or their authorized person(s) who is/are partially or wholly responsible for enforcing this Chapter.

“District Manager” means the General Manager of the District or his/her designee.

“Edible Food” means food intended for human consumption; or, as otherwise defined in 14 CCR Section 18982(a)(18). For the purposes of this chapter or as otherwise defined in 14 CCR Section 18982(a)(18), “Edible Food” is not Solid Waste if it is recovered and not discarded. Nothing in this Chapter or in 14 CCR,

Division 7, Chapter 12, requires or authorizes the Recovery of Edible Food that does not meet the food safety requirements of the California Health and Safety Code, including the California Retail Food Code.

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

"Enforcement Official" means the District Manager or the District's authorized Designee(s) who is/are partially or wholly responsible for enforcing this chapter. The Enforcement Official includes the Regional or County Agency Enforcement Official.

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

"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 California Health and Safety Code.

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

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

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

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

“Food Scraps” means those Discarded Materials such as (i) animal or vegetable waste that is generated during or results from the storage, preparation, cooking or handling of food stuffs; (ii) fruit waste, grain waste, dairy waste, meat, and fish waste; and, (iii) vegetable trimming. Food Scraps are a subset of Food Waste. Food Scraps excludes fats, oils, and grease when such materials are Source Separated from other Food Scraps. Acceptable Food Scraps may be added to or removed from this list from time to time by the District.

“Food Service Provider” means an entity primarily engaged in providing food services to institutional, governmental, Commercial, or industrial locations of others based on contractual arrangements with these types of organizations; or, as otherwise defined in 14 CCR Section 18982(a)(27).

“Food-Soiled Paper” means compostable paper material that has come in contact with Food Scraps or liquid, such as, but not limited to, compostable paper plates, paper coffee cups, napkins, pizza boxes, and milk cartons.

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

“Generator” means a person or entity that is responsible for the initial creation of Solid Waste, and with respect to Organic Waste, means a person or entity that is responsible for the initial creation of Organic Waste; or, as otherwise defined in 14 CCR Section 18982(a)(48).

“Green Waste” means Discarded Materials that consist of green trimmings, grass, weeds, leaves, branches, dead plants, brush, tree trimmings, dead trees, and small pieces of unpainted and untreated wood. Yard Trimmings does not include Excluded Waste. Yard Trimmings are a subset of Organic Materials. Acceptable

Green Waste may be added to or removed from this list from time to time by the District.

“Grocery Store” means a store primarily engaged in the retail sale of canned food; dry goods; fresh fruits and vegetables; fresh meats, fish, and poultry; and any area that is not separately owned within the store where the food is prepared and served, including a bakery, deli, and meat and seafood departments; or, as otherwise defined in 14 CCR Section 18982(a)(30).

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

“Hazardous Substance” means any of the following: (a) any substances defined, 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 (CERCLA) 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, synthetic fuel products, and by-products.

“Hazardous Waste” means all substances defined as Hazardous Waste, acutely Hazardous Waste, or extremely Hazardous Waste by the State in California 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.

“High Diversion Organic Waste Processing Facility” means a facility that is in compliance with the reporting requirements of 14 CCR Section 18815.5(d) and meets or exceeds an annual average Mixed Waste organic content recovery rate of 50 percent between January 1, 2022 and December 31, 2024, and 75 percent after January 1, 2025, as calculated pursuant to 14 CCR Section 18815.5(e) for Organic Waste received from the “Mixed waste organic collection stream” as

defined in 14 CCR Section 17402(a)(11.5); or, as otherwise defined in 14 CCR Section 18982(a)(33).

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

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

“Large Event” means an event, including, but not limited to, a sporting event or a flea market, that charges an admission price, or is operated by a local agency, and serves an average of more than 2,000 individuals per day of operation of the event, at a location that includes, but is not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for an event; or, as otherwise defined in 14 CCR Section 18982(a)(38).

“Large Venue” unless otherwise defined in 14 CCR Section 18982(a)(39), means a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility. For purposes of this chapter and implementation of 14 CCR, Division 7, Chapter 12, a venue facility includes, but is not limited to, a public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts center, fairground, museum, theater, or other public attraction facility. For purposes of this chapter and implementation of 14 CCR, Division 7, Chapter 12, a site under common ownership or control that includes more than one Large Venue that is contiguous with other Large Venues in the site, is a single Large Venue.

“Local Education Agency” means a school district, charter school, or county office of education that is not subject to the control of the District’s regulations related to Solid Waste; or, as otherwise defined in 14 CCR Section 18982(a)(40).

“Mixed Waste Organic Collection Stream” or “Mixed Waste” means Organic Waste collected in a container that is required by 14 CCR Section 18984.1 to be taken to



a High Diversion Organic Waste Processing Facility; or, as otherwise defined in 14 CCR Section 17402(a)(11.5 ).

“Multi-Family Residential Dwelling(s)” or “Multi-Family” means of, from, or pertaining to residential Premises with five (5) or more dwelling units [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 considered Commercial Businesses.

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

“Non-Compostable Paper” includes, but is not limited to, paper that is coated in a plastic material that will not breakdown in the composting process; or, as otherwise defined in 14 CCR Section 18982(a)(41).

“Non-Organic Recyclables” means non-putrescible and non-hazardous recyclable wastes including, but not limited to, bottles, cans, metals, plastics and glass; or, as otherwise defined in 14 CCR Section 18982(a)(43). Acceptable Non-Organic Recyclables may be added to or removed from this list from time to time by the District.

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

“Occupant” means the person who occupies a Premises.

“Organic Materials” means Discarded Materials that consist of Yard Trimmings, Food Waste, houseplant trimmings and other Compostable Organic Waste common to the occupancy of Residential dwellings, individually or collectively. Organic Materials is a subset of Organic Waste.

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

“Organic Waste” means Solid Waste containing material originated from living organisms and their metabolic waste products, including, but not limited to, food, green material, landscape and pruning waste, organic textiles and carpets, lumber, wood, Paper Products, Printing and Writing Paper, manure, biosolids, digestate, and sludges; or, as otherwise defined in 14 CCR Section 18982(a)(46). Biosolids and digestate are as defined by 14 CCR Section 18982(a).

“Owner” means the person(s) holding legal title to Premises and shall include the person(s) listed on the latest equalized assessment roll of the County Assessor.

“Paper Products” include, but are not limited to, paper janitorial supplies, cartons, wrapping, packaging, file folders, hanging files, corrugated boxes, tissue, and toweling, or as otherwise defined in 14 CCR Section 18982(a)(51).

“Printing and Writing Papers” include, but are not limited to, copy, xerographic, watermark, cotton fiber, offset, forms, computer printout paper, white wove envelopes, manila envelopes, book paper, note pads, writing tablets, newsprint, and other uncoated writing papers, posters, index cards, calendars, brochures, reports, magazines, and publications, or as otherwise defined in 14 CCR Section 18982(a)(54).

“Premises” means and includes any land, building and/or structure, or portion thereof, in the District where Discarded Materials are produced, generated, or accumulated. All structures on the same legal parcel, which are owned by the same person shall be considered as one Premises.

“Prohibited Container Contaminants,” unless otherwise defined in 14 CCR Section 18982(a)(55), means the following: (i) Discarded Materials placed in the Recyclable Materials Container that are not identified as acceptable Source Separated Recyclable Materials or Non-Organic Recyclables for the District’s Recyclable Materials Container; (ii) Discarded Materials placed in the Organic Materials Container that are not identified as acceptable Source Separated Organic Materials for the District’s Organic Materials Container; (iii) Discarded Materials placed in the Solid Waste Container that are acceptable Source Separated Recyclable Materials, Non-Organic Recyclables, or Source Separated Organic Materials to be placed in District’s Organic Materials Container or Recyclable Materials Container; and, (iv) Excluded Waste placed in any container.

“Recovery” means any activity or process described in 14 CCR Section 18983.1(b), or as otherwise defined in 14 CCR Section 18982(a)(49).

“Recyclable Materials” means those Discarded Materials that the Generators set out in Recyclables Containers for collection for the purpose of recycling by the Contractor and that exclude Excluded Waste. No Discarded Materials shall be considered Recyclable Materials unless such material is separated from Organic Materials and Solid Waste. For the purpose of collection of Recyclable Materials

through a Contractor's collection services, Recyclable Materials shall be limited to those materials identified by the District as acceptable Recyclable Materials.

"Recyclable Materials Container" shall be used only for the purpose of storage and collection of Source Separated Recyclable Materials and Non-Organic Recyclables and has the same meaning as "Blue Container" in 14 CCR Section 18982(a)(5). Notwithstanding the foregoing, functional containers purchased prior to January 1, 2022 that are used for the storage and collection of Source Separated Recyclable Materials and Non-Organic Recyclables and that do not comply with the color requirements of 14 CCR Section 18982(a)(5) shall be deemed to be Recyclable Materials Containers and are not required to be replaced until the end of the useful life of those containers or January 1, 2036, whichever is earlier.

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

"Regional or County Agency Enforcement Official" means a regional agency or county agency enforcement official, which the District may designate with responsibility for enforcing this Chapter in conjunction or consultation with the District's Enforcement Official.

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

"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 District, 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.

"Restaurant" means an establishment primarily engaged in the retail sale of food and drinks for on-Premises or immediate consumption; or, as otherwise defined in 14 CCR Section 18982(a)(64).

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

"SB 1383" means Senate Bill 1383 of 2016 approved by the Governor of the State on September 19, 2016, which added Sections 39730.5, 39730.6, 39730.7, and 39730.8 to the California Health and Safety Code, and added Chapter 13.1

(commencing with Section 42652) to Part 3 of Division 30 of the California Public Resources Code, establishing methane emissions reduction targets in a Statewide effort to reduce emissions of short-lived climate pollutants.

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

“Self-Haul” means to act as a Self-Hauler.

“Self-Hauler” means a person or entity, who, in compliance with all applicable requirements of this Code, hauls Solid Waste, Organic Waste or Recyclable Materials they have generated to another person or entity; or, as otherwise defined in 14 CCR Section 18982(a)(66). Self-Hauler also includes a landscaper, or a person or entity who back-hauls waste. Back-haul means generating and transporting Recyclable Materials or Organic Waste to a destination owned and operated by the Generator or Responsible Party using the Generator’s or Responsible Party’s own employees and equipment; or, as otherwise defined in 14 CCR Section 18982(a)(66)(A).

“Service Level” refers to the size of a Customer’s Containers and the frequency of collection service.

“Single-Family” means any detached or attached house or residence of four (4) units or less designed or used for occupancy by one (1) family, provided that collection service feasibly can be provided to such Premises as an independent unit, and the Owner or Occupant of such independent unit is billed directly for the collection service. Single-Family includes Townhouses, and each independent unit of duplex, tri-plex, or four-plex Residential structures, regardless of whether each unit is separately billed for their specific Service Level.

“Solid Waste” unless otherwise defined in California Public Resources Code Section 40191, means all putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semi-solid wastes, and other discarded solid and semisolid wastes, with the exception that Solid Waste does not include any of the following wastes:

- (1) Hazardous waste, as defined in the California Public Resources Code Section 40141.
- (2) Radioactive waste regulated pursuant to the California Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the State Health and Safety Code).

- (3) Medical waste regulated pursuant to the California Medical Waste Management Act (Part 14 (commencing with Section 117600) of Division 104 of the State Health and Safety Code). Untreated medical waste shall not be disposed of in a Solid Waste landfill, as defined in California 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 Public Resources Code.
- (4) Recyclable Materials, Organic Materials, and C&D 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.

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

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

“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 CCR Section 17402.5(b)(4). For the purposes of the chapter, Source Separated shall include separation of materials by the Generator, Responsible Party, or Responsible Party’s employee, into different containers for the purpose of collection such that Source-Separated materials are separated from Solid Waste for the purposes of collection and processing of those materials.

“Source Separated Organic Materials” means Organic Materials that are Source Separated that can be placed in an Organic Materials Container that is limited to the collection of those Organic Materials; or as otherwise specified in 14 CCR 18984.1 (a) and (b), excluding Source Separated Recyclable Materials, Non-Organic Recyclables. carpets, Non-Compostable Paper, and textiles.

“Source Separated Recyclable Materials” means Recyclable Materials that are Source Separated and that can be placed in a Recyclable Materials Container that is limited to the collection of that Organic Materials and Non-Organic Recyclables. Source Separated Recyclable Materials includes Paper Products, Printing and Writing Papers, wood and dry lumber and textiles unless otherwise specified by the District, but excludes Source Separated Organic 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; or, as otherwise defined in 14 CCR Section 18982(a)(71).

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

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

“Tier Two Commercial Edible Food Generator” means a Commercial Edible Food Generator that is one of the following; or, as otherwise defined in 14 CCR Section 18982(a)(74):

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

- (4) Large Venue.
- (5) Large Event.
- (6) A State agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet.
- (7) A Local Education Agency facility with an on-site Food Facility.

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

“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).

- (b) SB 1383 Regulatory Requirements.

Organic Waste Generators, haulers and other persons and entities subject to the requirements of SB 1383 and the SB 1383 Regulations that are subject to the District’s jurisdiction shall fully comply with the applicable requirements of SB 1383, the SB 1383 Regulations, this chapter and the provisions of any collection agreement between the District and a Contractor in effect.

**Section 7.07.020. Requirements for Single-Family Organic Waste Generators**

- (a) Except Responsible Parties of Single-Family Premises that meet the Self-Hauler requirements of this Code, Responsible Parties of Single-Family Premises shall comply with the following requirements:

- (1) Subscribe to and pay for the District’s three-container collection services for weekly collection of Recyclable Materials, Non-Organic Recyclables, Organic Materials, and Solid Waste generated by the Single-Family Premises and comply with requirements of those services as described below in paragraph (a)(2). The District and its Designee(s) 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. The Responsible Parties for Single-Family Premises shall adjust their Service Level for their collection services as requested by the District.

- (2) Participate in the District’s three-container collection service(s) in the manner described below.

- (A) Place, or, if Responsible Party is not an occupant of the Single-Family Premises, direct its Generators to place, Source Separated

Organic Materials, including Food Waste, in the Organic Materials Container; Source Separated Recyclable Materials and Non-Organic Recyclables in the Recyclable Materials Container; and Solid Waste in the Solid Waste Container.

- (B) Not place, or, if Responsible Party is not an occupant of the Single-Family Premises, direct its Generators to not place Prohibited Container Contaminants in collection containers.
- (b) 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).

**Section 7.07.030. Requirements for Multi-Family Residential Dwellings**

- (a) Responsible Parties of Multi-Family Premises shall provide or arrange for Recyclable Materials, Non-Organic Recyclables, Organic Materials, and Solid Waste collection services consistent with this chapter and for employees, contractors, and tenants. Responsible Parties of Multi-Family Premises may receive waivers pursuant to this Code.
- (b) Except for Responsible Parties of Multi-Family Premises that meet the Self-Hauler requirements of this Code, including hauling services arranged through a landscaper, Responsible Parties of Multi-Family Premises shall:
  - (1) Subscribe to and pay for District's three container collection services and comply with requirements of those services for all Recyclable Materials, Non-Organic Recyclables, Organic Materials, and Solid Waste generated at the Multi-Family Premises as further described below in this section. The District and its Designee(s) shall have the right to review the number and size of the Multi-Family Premises' collection 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. The Responsible Party of a Multi-Family Premises shall adjust their Service Level for their collection services as requested by the District or its Designee.
  - (2) Participate in the District's three container collection service(s) for at least weekly collection of Recyclable Materials, Organic Materials, and Solid Waste in the manner described below.
    - (A) Place and/or direct its Generators to place Source Separated Organic Materials, including Food Waste, in the Organic Materials Container; Source Separated Recyclable Materials and Non-Organic Recyclables in the Recyclable Materials Container; and Solid Waste in the Solid Waste Container.



- (B) Not place and/or direct its Generators to not place Prohibited Container Contaminants in collection containers.
- (3) Supply and allow access to adequate number, size and location of collection containers with sufficient labels or colors for employees, contractors, tenants, and customers, consistent with the District's Recyclable Materials Container, Organic Materials Container, and Solid Waste Container collection service and Article 3 of Chapter 12 of Division 7 of Title 14 of the CCR; or, if Self-Hauling, consistent with the Multi-Family Premises' approach to complying with Self-Hauler requirements in this chapter.
- (4) Annually provide information to employees, contractors, tenants, and customers about Recyclable Materials, Non-Organic Recyclables and Organic Waste Recovery requirements and about proper sorting of Recyclable Materials, Non-Organic Recyclables, Organic Materials, and Solid Waste.
- (5) Provide education information before or within fourteen (14) days of occupation of the Premises to new tenants that describes requirements to Source Separate Recyclable Materials, Non-Organic Recyclables, and Organic Materials and to keep Source Separated Organic Materials and Source Separated Recyclable Materials and Non-Organic Recyclables separate from each other and from Solid Waste (when applicable) and the location of containers and the rules governing their use at each property.
- (6) Provide or arrange access for the District and/or its Designee(s) to their properties during all Inspections conducted in accordance with this chapter to confirm compliance with the requirements of this chapter.
- (c) If the Responsible Party of a Multi-Family Premises wants to Self-Haul, meet the Self-Hauler requirements of this Code.
- (d) Responsible Parties of 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 Chapter 12, Part 3, Division 30 of the Public Resources Code.
- (e) Nothing in this Section prohibits a Responsible Party or Generator of a Multi-Family Premises from preventing or reducing Discarded Materials generation, managing Organic Waste on site, or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).

#### **Section 7.07.040. Requirements for Commercial Businesses**

- (a) Responsible Parties of Commercial Businesses shall provide or arrange for Recyclable Materials, Organic Materials, Non-Organic Recyclables, 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 this Code.
- (b) Except Responsible Parties of Commercial Businesses that meet the Self-Hauler requirements of this Code, including hauling services arranged through a landscaper, Responsible Parties of Commercial Premises shall:
  - (1) Subscribe to and pay for District's three container collection services and comply with requirements of those services for all Recyclable Materials, Non-Organic Recyclables, Organic Materials, and Solid Waste generated at the Commercial Premises as further described below in this Section. The District and 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. The Responsible Party of the Commercial Business shall adjust their Service Level for their collection services as requested by the District or its Designee.
  - (2) Participate in the District's three container collection service(s) for at least weekly collection of Recyclable Materials, Non-Organic Recyclables, Organic Materials, and Solid Waste in the manner described below.
    - (A) Place and/or direct its Generators to place Source Separated Organic Materials, including Food Waste, in the Organic Materials Container; Source Separated Recyclable Materials Non-Organic Recyclables in the Recyclable Materials Container; and Solid Waste in the Solid Waste Container.
    - (B) Not place and/or direct its Generators to not place Prohibited Container Contaminants in collection containers.
  - (3) Supply and allow access to adequate number, size and location of collection containers with sufficient labels or colors (conforming with paragraph (b)(4) below) for employees, contractors, tenants, and customers, consistent with the District's Recyclable Materials Container, Organic Materials Container, and Solid Waste Container collection service and Article 3 of Chapter 12 of Division 7 of Title 14 of the CCR; or, if Self-Hauling, consistent with the Commercial Premises' approach to complying with Self-Hauler requirements in this chapter.
  - (4) Provide containers for customers for the collection of Source Separated Recyclable Materials, Non-Organic Recyclables, 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, as demonstrated through an approved *de minimis* waiver per this Chapter, 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 the District, 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, indicating the primary material accepted and the primary materials prohibited in that container, or containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the container. Pursuant 14 CCR Section 18984.8, the container labeling requirements are required on new containers commencing January 1, 2022.
- (5) To the extent practical through education, training, Inspection, and/or other measures, prohibit employees from placing materials in a container not designated for those materials per the District's Recyclable Materials Container, Organic Materials Container, and Solid Waste collection service pursuant to 14 CCR Section 18984.1(a)(5) or, if Self-Hauling, per the instructions of the Commercial Business's Responsible Party to support its compliance with Self-Hauler requirements in this Chapter.
  - (6) Periodically inspect Recyclable Materials Containers, Organic Materials Containers, and Solid Waste Containers for contamination and inform employees if containers are contaminated and of the requirements to keep contaminants out of those containers pursuant to 14 CCR Section 18984.9(b)(3).
  - (7) Annually provide 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.

- (8) Provide education information before or within fourteen (14) days of occupation of the Premises to new tenants that describes requirements to Source Separate Recyclable Materials and Organic Materials and to keep Source Separated Organic Materials and Source Separated Recyclable Materials separate from each other and from other Solid Waste (when applicable) and the location of containers and the rules governing their use at each property.
- (9) Provide or arrange access for the District 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.
- (c) If the Responsible Party of a Commercial Business wants to Self-Haul, meet the Self-Hauler requirements of this Chapter.
- (d) Commercial Business 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 Commercial Business Premises and a gardening or landscaping service specifies that the designated organic materials generated by those services be managed in compliance with Chapter 12, Part 3, Division 30 of the Public Resources Code.
- (e) Nothing in this Section prohibits a Responsible Party or a Generator of a Commercial Business from preventing or reducing Discarded Materials generation, managing Organic Waste on site, or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).
- (f) Responsible Parties of Commercial Businesses that are Tier One or Tier Two Commercial Edible Food Generators shall comply with Food Recovery requirements, pursuant to this Chapter.

#### **Section 7.07.050. Waivers for Multi-Family Premises and Commercial Premises**

The District, at its discretion and in accordance with 14 CCR Section 18984.11, or as otherwise authorized by CalRecycle, may grant one or more of the following types of waivers to a Multi-Family Premises or Commercial Premises:

- (a) *De Minimis* Waivers for Multi-Family Premises and Commercial Premises. The District's or its Designee may waive a Responsible Party's obligation to comply with some or all of the Recyclable Materials and/or Organic Waste requirements of this chapter if the Responsible Party of the Commercial Premises or Multi-Family Premises provides documentation, or the District has evidence demonstrating, that the Commercial Premises or Multi-Family Premises generates below a certain

amount of Organic Waste as described below in subsection (a)(2). Commercial Premises and Multi-Family Premises requesting a *de minimis* waiver shall:

- (1) Submit an application specifying the services that they are requesting a waiver from and provide documentation as noted in paragraph (a)(2) below.
  - (2) Provide documentation that either:
    - (A) The Commercial Premises or Multi-Family Premises' total Solid Waste collection service is two cubic yards or more per week and Organic Waste subject to collection in a Recyclable Materials Container or Organics Material Container comprises less than 20 gallons per week per applicable container of the Premises' total waste; or,
    - (B) The Commercial Premises or Multi-Family Premises' total Solid Waste collection service is less than two cubic yards per week and Organic Waste subject to collection in a Recyclable Materials Container or Organics Material Container comprises less than 10 gallons per week per applicable container of the Premises' total waste.
  - (3) Notify the District if circumstances change such that the Commercial Premises or Multi-Family Premises' Organic Waste exceeds the threshold required for waiver, in which case the waiver will be rescinded. In addition, if the District obtains information at any time that a Commercial Premises or Multi-Family Premises that has received a waiver is exceeding the Organic Waste thresholds set forth in subsection (a)(2) above, the District shall rescind the waiver.
  - (4) Provide written verification of eligibility for a *de minimis* waiver every 5 years, if the District has approved a *de minimis* waiver.
- (b) Physical Space Waivers. The District or its Designee may waive a Commercial Premises' or Multi-Family Premises' obligation to comply with some or all of the Recyclable Materials and/or Organic Waste collection service requirements if the District 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 this Chapter.
- (c) Review and Approval of Waivers

Waivers shall be granted to Responsible Parties by the District or its Designee, according to the following process:

- (1) Responsible Parties of Premises seeking waivers shall submit a completed application form to the District or its Designee 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 District or its Designee shall specify that the waiver is valid for the following duration:
  - (A) For Commercial Premises, five (5) years, or if property ownership changes, or if occupancy changes, whichever occurs first.
  - (B) For Multi-Family Premises, five (5) years, or if property ownership changes, or if the property manager changes, whichever occurs first.
- (3) Waiver holder shall notify the District or its Designee if circumstances change such that Commercial Premises' or Multi-Family Premises' may no longer qualify for the waiver granted, in which case waiver will be rescinded.
- (4) Any waiver holder must cooperate with the District or its Designee for any on-site assessment of the appropriateness of the waiver.
- (5) Waiver holder shall reapply to the District or its Designee for a waiver upon the expiration of the waiver period and shall submit any required documentation, and/or fees/payments as required by the District and/or its Designee. Failure to submit a completed application shall equate to an automatic denial of said application.
- (6) The District or its Designee may revoke a waiver upon a determination that any of the circumstances justifying a waiver are no longer applicable.
- (7) If the District's Designee does not approve a waiver application or revokes a waiver, the Responsible Party may appeal the decision for additional review by the Designee. The District may also, after meeting and conferring with the Designee, direct the Designee to approve the waiver application and/or repeal the revocation of the waiver.

#### **Section 7.07.060. Requirements for Commercial Edible Food Generators**

- (a) Tier One Commercial Edible Food Generators must comply with the requirements of this Section commencing January 1, 2022, and Tier Two Commercial Edible Food Generators must comply with the requirements of this section commencing January 1, 2024, pursuant to 14 CCR Section 18991.3.
- (b) Large Venue or Large Event operators not providing food services, but allowing for food to be provided by others, shall require Food Facilities operating at the Large Venue or Large Event to comply with the requirements of this Section, commencing January 1, 2024.

- (c) Commercial Edible Food Generators shall comply with the following requirements:
- (1) Arrange to recover the maximum amount of Edible Food that would otherwise be disposed. Food that is donated shall be free from adulteration, spoilage, and meet the food safety standards of the California Health and Safety Code. Food cannot be donated if it is not in compliance with the food safety standards of the California Health and Safety Code, including food that is returned by a customer, has been served or sold and in the possession of a consumer, or is the subject of a recall.
  - (2) Contract with or enter into a written agreement with Food Recovery Organizations or Food Recovery Services for: (i) the collection of Edible Food for Food Recovery; or, (ii) acceptance of the Edible Food that the Commercial Edible Food Generator Self-Hauls to the Food Recovery Organization for Food Recovery.
  - (3) Shall not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery Organization or a Food Recovery Service.
  - (4) Allow the District's designated enforcement entity or designated third party enforcement entity to access the Premises and review records kept pursuant to 14 CCR Section 18991.4.
  - (5) Keep records that include the following information, or as otherwise specified in 14 CCR Section 18991.4:
    - (A) A list of each Food Recovery Service or Food Recovery Organization that collects or receives its Edible Food pursuant to a contract or written agreement established under 14 CCR Section 18991.3(b).
    - (B) A copy of all contracts or written agreements established under 14 CCR Section 18991.3(b).
    - (C) A record of the following information for each of those Food Recovery Services or Food Recovery Organizations:
      - (i) The name, address and contact information of the Food Recovery Service or Food Recovery Organization.
      - (ii) The types of food that will be collected by, or Self-Hauled to, the Food Recovery Service or Food Recovery Organization.
      - (iii) The established frequency that food will be collected or Self-Hauled.
      - (iv) The quantity of food, measured in pounds recovered per month, collected or Self-Hauled to a Food Recovery Service or Food Recovery Organization for Food Recovery.

- (6) Maintain records required by this section for five (5) years.
- (7) No later than January 31 of each year commencing no later than January 31, 2023 for Tier One Commercial Edible Food Generators and January 31, 2025 for Tier Two Commercial Edible Food Generators, provide an annual Food Recovery report to the District or its Designee that includes the following information:
  - (i) The amount, in pounds, of edible food donated to a Food Recovery Service or Food Recovery Organization annually; and,
  - (ii) The amount, in pounds, of edible food rejected by a Food Recovery Service or Food Recovery Organization annually.
  - (iii) Any additional information required by the District Manager or their Designee.

**Section 7.07.070. Requirements for Food Recovery Organizations and Services**

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



- (3) The name, address, and contact information for each Food Recovery Service that the organization receives Edible Food from for Food Recovery.
- (c) 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 District 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 District it is located in and the District's Designee, if applicable, the total pounds of Edible Food recovered in the previous calendar year from the Tier One and Tier Two Commercial Edible Food Generators they have established a contract or written agreement with pursuant to 14 CCR Section 18991.3(b). The annual report shall be submitted to the District and the District's Designee, if applicable, no later than January 31 of each year.
- (e) In order to support Edible Food Recovery capacity planning assessments or other studies conducted by the District that provides Solid Waste collection services, or its designated entity, Food Recovery Services and Food Recovery Organizations operating in the District shall provide information and consultation to the District and District's Designee, if applicable, upon request, regarding existing, or proposed new or expanded, Food Recovery capacity that could be accessed by the District and its Commercial Edible Food Generators. A Food Recovery Service or Food Recovery Organization contacted by the District and/or its Designee shall respond to such request for information within 60 days, unless a shorter timeframe is otherwise specified by the District.
- (f) Nothing in this chapter prohibits a Food Recovery Organization or Food Recovery Service from refusing to accept Edible Food from a Commercial Edible Food Generator.

**Section 7.07.080. Requirements for Haulers, Facility Operators and Community Composting Operations**

- (a) Requirements for Haulers
  - (1) Contractors providing Recyclable Materials, Non-Organic Recyclables, Organic Waste, and/or Solid Waste collection services to Generators within the District's boundaries shall meet the following requirements and standards of 14 CCR, Division 7, Chapter 12 and the following requirements as a condition of approval of its contract, agreement, or other authorization with the District to collect Recyclable Materials, Non-Organic Recyclables, Organic Materials, and/or Solid Waste:
    - (A) Through written notice to the District annually on or before December 31 of each year, identify the facilities to which they will transport Discarded Materials, including facilities for Source Separated Recyclable Materials, Source Separated Organic Materials, Source Separated Non-Organic Recyclables, and Solid Waste unless

otherwise stated in the franchise agreement, contract, or license, or other authorization with the District.

- (B) Comply with the applicable requirements of 14 CCR, Division 7, Chapter 12, Article 3.
  - (C) Transport Source Separated Recyclable Materials to a facility that recovers those materials; transport Source Separated Organic Materials to a facility, operation, activity, or property that recovers Organic Waste as defined in 14 CCR, Division 7, Chapter 12, Article 2; transport Solid Waste to a disposal facility or transfer facility or operation that processes or disposes of Solid Waste; and transport manure to a facility that manages manure in conformance with 14 CCR Article 12 such that the manure is not landfilled, used as Alternative Daily Cover (ADC), or used as Alternative Intermediate Cover (AIC).
  - (D) Obtain approval from the District to haul Organic Waste, unless it is transporting Source Separated Organic Waste to a Community Composting site or lawfully transporting C&D in a manner that complies with 14 CCR Section 18989.1 and this Code.
- (2) Contractors authorized to collect Recyclable Materials, Non-Organic Recyclables, Organic Materials, and/or Solid Waste shall comply with education, equipment, signage, container labeling, container color, contamination monitoring, reporting, and other requirements contained within its franchise agreement, permit, or other agreement entered into with the District.
- (b) Requirements for Facility Operators and Community Composting Operations
- (1) Owners of facilities, operations, and activities located in the District's boundaries that recover Organic Waste, including, but not limited to, Compost facilities, in-vessel digestion facilities, and publicly-owned treatment works shall, upon the District's request, provide information regarding available and potential new or expanded capacity at their facilities, operations, and activities, including information about throughput and permitted capacity necessary for planning purposes. Entities contacted by the District shall respond within 60 days, unless a shorter timeframe is otherwise specified by the District.
  - (2) Community Composting operators with operations located in the District's boundaries, upon the District's request, shall provide information to the District 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

District shall respond within 60 days, unless a shorter timeframe is otherwise specified by the District.

- (3) Owners of facilities, operations, and activities located in the District's boundaries that receive Recyclable Materials, Organic Materials, and/or Solid Waste shall provide to the District on a quarterly basis copies of all reports they are required to report to CalRecycle under 14 CCR.

### **Section 7.07.090. Self-Hauler Requirements**

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

- (a) Self-Haulers shall comply with the applicable requirements in 14 CCR Section 18988.3.
- (b) Every Self-Hauler shall Source Separate its Recyclable Materials, Non-Organic Recycles, and Organic Materials (materials that the District otherwise requires Generators or Responsible Parties to separate for collection in the District's Recyclable Materials, Non-Organic Recyclables, and Organic Materials collection program) generated on-site from Solid Waste in a manner consistent with 14 CCR Section 18984.1 and the District's collection program. Self-Haulers shall deliver their materials to facilities described in subsection (c) below. Alternatively, Self-Haulers may or choose not to Source Separate Recyclable Materials, Non-Organic Recyclables, and Organic Materials and shall haul its Solid Waste (that includes Recyclable Materials, Non-Organic Recyclables, and Organic Materials) to a High Diversion Organic Waste Processing Facility subject to advance written approval by the District.
- (c) Self-Haulers that Source Separate their Recyclable Materials, Non-Organic Recyclables, and Organic Materials shall haul their Source Separated Recyclable Materials and Non-Organic Recyclables 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.
- (d) 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. These records shall be subject to review by the District and/or its Designee(s). The records shall include the following information:
  - (1) Delivery receipts and weight tickets from the entity accepting the Recyclable Materials, Organic Materials, and Solid Waste.

- (2) The amount of material in cubic yards or Tons transported by the Generator or Responsible Party to each entity.
  - (3) If the material is transported to an entity that does not have scales on-site or employs scales incapable of weighing the Self-Hauler's vehicle in a manner that allows it to determine the weight of materials received, the Self-Hauler is not required to record the weight of material but shall keep a record of the entities that received the Recyclable Materials, Organic Materials, and Solid Waste.
- (e) 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 7.07.090(c) and (d).

**Section 7.07.100. Compliance with CALGreen Recycling Requirements**

- (a) In addition to any other requirements of this chapter, the following requirements also apply:
- (1) For projects covered by the California Green Building Standards Code, 24 CCR, Part 11, the applicants must, as a condition of the District's permit approval, comply with the following:
    - (A) Where five (5) or more Multi-Family dwelling units are constructed on a building site, provide readily accessible areas that serve occupants of all buildings on the site and are identified for the storage and collection of Recyclable Materials Container and Organics Materials Container materials, consistent with the collection program offered by the District, or comply with provision of adequate space for recycling for Multi-Family and Commercial premises pursuant to Sections 4.408.1, 4.410.2, 5.408.1, and 5.410.1 of the California Green Building Standards Code, 24 CCR, Part 11 as amended July 1, 2019 and effective January 1, 2020.
    - (B) Where new commercial construction or additions will result in more than 30% of the floor area, provide readily accessible areas identified for the storage and collection of Recyclable Materials Container and Organics Materials Container materials, consistent with the collection program offered by the District, or shall comply with provision of adequate space for recycling for Multi-Family and Commercial premises pursuant to Sections 4.408.1, 4.410.2, 5.408.1, and 5.410.1 of the California Green Building Standards Code, 24 CCR, Part 11 as amended July 1, 2019 and effective January 1, 2020.
- (b) For Organic Waste commingled with C&D, the requirements of 24 CCR Sections 4.408.1 and 5.408.1, as amended July 1, 2019 and effective January 1, 2020 shall be complied with.

### **Section 7.07.110. Model Water Efficient Landscaping Ordinance Requirements**

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

### **Section 7.07.120. Procurement Requirements for Direct Service Providers and Vendors**

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

### **Section 7.07.130. Inspections and Investigations**

- (a) District representatives and/or its Designee(s) are authorized to conduct Inspections and investigations, at random or otherwise, of any collection container, collection vehicle loads, or transfer, processing, or disposal facility for materials collected from Generators, or Source Separated materials to confirm compliance with this chapter by 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. This section does not allow the District or its Designee or agents 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 District's representative or its Designee 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. Failure of a Responsible Party to provide or arrange for: (i) access to an entity's Premises; or (ii) access to records for any Inspection or investigation is a violation of this chapter and may result in penalties described herein.
- (c) Any records obtained by the District or its Designee 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 California Government Code Section 6250, et seq.

- (d) The District's representatives, its Designee, and agents are authorized to conduct any Inspections, or other investigations as reasonably necessary to further the goals of this chapter, subject to applicable laws.
- (e) The District or its Designee shall receive written complaints from persons regarding an entity that may be potentially non-compliant with SB 1383 Regulations, including receipt of anonymous complaints.
- (f) The District and/or its Designee are authorized to provide informational notices to entities regulated by this chapter regarding compliance with this chapter.

**Section 7.07.140. Enforcement**

- (a) Violation of any provision of this chapter that occurs on or after January 1, 2024 shall constitute grounds for issuance of a Notice of Violation and assessment of a fine by the Enforcement Official in accordance with 14 CCR Section 18995.4. Enforcement Actions under this chapter are issuance of an administrative citation and assessment of a fine. The District's procedures on imposition of administrative fines as specified in Chapter 7.28 of Title 7 of the District's Code are hereby incorporated in their entirety, as modified from time to time, and shall govern the imposition, enforcement, collection, and review of administrative citations issued to enforce this chapter and any rule or regulation adopted pursuant to this chapter, except as otherwise indicated in this chapter.

Other remedies allowed by law may be used, including civil action or prosecution as misdemeanor or infraction. The District may pursue civil actions in the California courts to seek recovery of unpaid administrative citations. The District may choose to delay court action until such time as a sufficiently large number of violations, or cumulative size of violations exist such that court action is a reasonable use of District staff and resources.

- (b) The provisions of subsection (a) do not apply to violations related to a Generator placing Prohibited Container Contaminants in containers, which the Enforcement Official and/or the District's Designee shall enforce through the notice provisions of 14 CCR Section 18984.5(b) and the contamination processing fees pursuant to the provisions of the applicable collection agreement between the District and a Contractor.
- (c) Responsible Entity for Enforcement
  - (1) Enforcement pursuant to this chapter may be undertaken by the Enforcement Official, which may be the District Manager or their designated entity, legal counsel, or combination thereof.
  - (2) Enforcement may also be undertaken by a County Enforcement Official, designated by the County, if designated by the Enforcement Official/District.
  - (3) Enforcement Official(s) may issue Notices of Violation(s).

(d) Process for Enforcement

- (1) Enforcement Officials and/or their Designee will monitor compliance with the chapter through Compliance Reviews, Route Reviews, investigation of complaints, and an Inspection program. Enforcement Officials and/or their Designee may also monitor compliance with the chapter randomly. This chapter establishes District's right to conduct Inspections and investigations.
- (2) The District may issue an official notification to notify regulated entities of its obligations under the Chapter.
- (3) With the exception of violations of contamination of container contents addressed in this chapter, the District shall issue a Notice of Violation requiring compliance within 60 days of issuance of the notice.
- (4) Absent compliance by the respondent within the deadline set forth in the Notice of Violation, the District shall commence an action to impose penalties, via an administrative citation and fine, pursuant to the District's policy, Code, and guidelines.
- (5) Notices shall be sent to "owner" at the official address of the owner maintained by the tax collector for the County Assessor or if no such address is available, to the owner at the address of the Multi-Family Premises or Commercial Premises or to the Responsible Party for the collection services, depending upon available information.

(e) Penalty Amounts for Types of Violations

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

- (1) For a first violation, the amount of the base penalty shall be not more than \$50 per violation, in the discretion of the Enforcement Official.
- (2) For a second violation, the amount of the base penalty shall be not more than \$100 per violation, in the discretion of the Enforcement Official.
- (3) For a third or subsequent violation, the amount of the base penalty shall be not more than \$250 per violation, in the discretion of the Enforcement Official.

(f) Compliance Deadline Extension Considerations

The District may extend the compliance deadlines set forth in a Notice of Violation if it finds that there are extenuating circumstances beyond the control of the respondent that make compliance within the deadlines impracticable, including the following:

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

(g) Appeals Process

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 District's procedures in the Section 7.01.070 of the District's Code."

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

**SECTION 4. SEVERABILITY.** If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance for any reason is held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Directors hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

**SECTION 5. EFFECTIVE DATE AND PUBLICATION.** This Ordinance shall take effect and be in full force and effect thirty (30) days after its passage. The Secretary shall certify to the adoption of this Ordinance and shall publish or post this Ordinance, or summary, as required by law.



INTRODUCED at its regular meeting of the Board of Directors of the Nipomo Community Services District held on November 10, 2021, and PASSED and ADOPTED by the Board of Directors at its regular meeting on December 8, 2021, by the following vote, to wit:

AYES: Director Armstrong, Woodson, Malvarose, Gaddis, and Eby  
NOES: NONE  
ABSENT: NONE  
CONFLICTS: NONE



ED EBY  
President, Board of Directors

ATTEST:



MARIO IGLESIAS  
General Manager and  
Secretary to the Board

APPROVED AS TO FORM:



CRAIG A. STEELE  
District Legal Counsel