

TO: BOARD OF DIRECTORS

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GENERAL COUNSEL

REVIEWED: MARIO IGLESIAS  
GENERAL MANAGER

DATE: AUGUST 4, 2023

**AGENDA ITEM  
E-2  
AUGUST 9, 2023**

## **INTRODUCTION OF ORDINANCE RE-STATING AND UPDATING THE DISTRICT CODE**

### **ITEM**

Consider Ordinance Re-Statting and Updating the Nipomo Community Services District Code [RECOMMEND INTRODUCE, WAIVE FURTHER READING, READ BY TITLE ONLY ORDINANCE NO. 2023-136, AN ORDINANCE OF THE BOARD OF THE DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT RE-STATING AND ADOPTING THE DISTRICT CODE, ADOPTING PENALTIES FOR THE VIOLATION OF SUCH CODE, AND FINDING THAT THE ADOPTION OF THIS ORDINANCE IS EXEMPT FROM REVIEW UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT ("CEQA")]

### **BACKGROUND**

The Nipomo Community Services District Code ("Code") is the published compilation of the local laws that govern the operations of the District and the rules its customers must comply with. The Code covers a broad variety of subjects, including such items as service applications, billing details, facility specifications, wastewater and solid waste rules, and development requirements. The current Code was adopted in 1994 and has been amended at least 52 times just since 2009, according to the vendor that maintains the Code. In many cases, those amendments involved adding various resolutions to the Code book, which is not a traditional practice, because resolutions usually are a statement of policies or administrative matters, not laws.

It is considered a best practice for public agencies to review and update the public agency's code periodically, to make sure it remains relevant and well-organized for the current needs of the agency. District staff have been engaged in a long-standing effort to re-organize, update, and re-state the elements of the Code to better align with the ways that the District currently does business. This ordinance is proposed for the Board's consideration as the culmination of that process. The Code update and restatement ordinance is color-coded for the Board's reference. In some cases we have color-coded a Title or Chapter heading to signify that the coding applies to that entire text. In others we have color-coded text more specifically to emphasize the changes staff proposes. The color-coding signifies the following concepts:

**Green highlighting** signifies existing text that is being moved and/or re-organized, without substantive changes.

**Blue highlighting** signifies text that has been substantially re-written, although the concepts or requirements are the same as what exists in the Code currently. Re-writes can be to update the Code to modern terms, conform the Code to current practices, or simply clarify what the Code provision means.

**Yellow highlighting** means that the text or concept highlighted is new to the Code.

This re-statement and update to the Code has four main purposes:

A. **Remove references to Board policy resolutions.** The District Code is a compilation of laws which are enforceable in court and carry specific penalties for violations. Resolutions are statements of policy which guide the conduct of staff and others, but are not subject to criminal penalties and court enforcement. Currently, the Code book contains a confusing mix of resolutions and ordinances, making it difficult to find important concepts and to determine why a particular resolution is included in the Code. Many resolutions of the Board are not included in the current Code, making the matter even more confusing. Most public agencies separate the published code from adopted resolutions. This ordinance would separate resolutions out of the Code, but require them to be maintained separately by staff. No resolution is proposed to be repealed by this ordinance.

Some examples of policy resolutions that are currently maintained in the Code are:

1. A resolution requiring that the District maintain errors and omissions insurance.
2. A resolution governing the use of the Board room.
3. Resolutions relating to smoking in District facilities and vehicles.
4. The employee policy and procedure manual.
5. The Board's annexation policy resolution.
6. The District's record retention policy.

All of the resolutions currently listed in the Code, and others that are in effect but not included in the Code, will be maintained in the District's records of resolutions and still enforced by staff. This action will make the Code more streamlined and easier to research.

B. **Re-organize existing Code provisions.** In some cases, the existing Code is disorganized or repetitive. This ordinance, for example, takes the administrative provisions regarding water and sewer fees and charges, billing, and connections from various titles where those provisions are spread throughout the Code and combines them into one administrative title, Title 2. In so doing, we have moved many sections from other Titles into Title 2.

C. **Revise and update existing text.** These changes take concepts that already exist in the Code and revise them to reflect modern practices or the way the District does business. Examples of this can be found in new sections 1.04.030 and 040, relating to appeals and variances. These concepts exist in the Code now, but are vague, outdated and somewhat in conflict with existing law. The language is proposed to be updated to address those problems. Multiple examples also can be found in Chapter 2.04, a revised Chapter relating to the District's fees, rates, and charges. While this Chapter does not change the substance of fees, rates, and charges in the District, much of the existing language is outdated or confusing, or inconsistent with modern practices. The ordinance updates that language to be modern and consistent.

D. **Add new text where necessary.** In some cases, the ordinance adds completely new text that staff believe is necessary. While there are a number of examples of adding new text to reflect the District's current requirements and practices, there are two particularly important additions:

First, the ordinance adds a new Chapter 3.06 relating to water system backflow requirements. The District's backflow device requirements needed to be updated to reflect modern practices and requirements, and this completely new language does that. In addition, the State Water Resources Control Board, the regulatory agency that oversees the District's water enterprise,

found the District's existing backflow ordinance deficient in several areas. The updates proposed to the backflow device requirements are necessary to bring the District into compliance and address the regulators' concerns.

Second, the ordinance adds substantial sections of new sewer regulations text to Chapter 4.04, and a completely new Chapter 4.06, regulating the discharge of waste into the public sewer systems. The District's current requirements in these areas are outdated, and the new requirements give the District the necessary tools to regulate discharges to the District's sewer system so the District can comply with the sewer treatment plant and collection system permits issued by the Regional Water Quality Control Board.

This ordinance incorporates into the published code ordinances the Board adopted since 2019, which have not yet been published in the Code book. The adoption of this ordinance also will require that the Board and staff update the existing District fee resolution, to ensure that all the fees and charges mentioned in the ordinance exist and have been properly adopted.

Because there frequently are clerical changes and minor edits necessary after adoption of this type of ordinance, the Board would delegate to the General Manager the authority to make such changes after adoption, without further Board action.

**FISCAL IMPACT**

There is no fiscal impact associated with the adoption of this ordinance. Costs for updating the existing District Code records are included in the District's annual budget.

**STRATEGIC PLAN**

Goal 6 – GOVERNANCE AND ADMINISTRATION – Conduct District activities in an efficient, equitable and cost-effective manner.

**RECOMMENDATION**

Staff recommends that your Honorable Board introduce, waive further reading and read by title only Ordinance No. 2023-136

**ATTACHMENT**

- A. Ordinance No. 2023-136

AUGUST 9, 2023

ITEM E-2

ATTACHMENT A

## ORDINANCE NO. 2023-136

### AN ORDINANCE OF BOARD OF THE DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT RE-STATING AND ADOPTING THE DISTRICT CODE, ADOPTING PENALTIES FOR THE VIOLATION OF SUCH CODE, AND FINDING THAT THE ADOPTION OF THIS ORDINANCE IS EXEMPT FROM REVIEW UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (“CEQA”)

#### NEW SECTIONS OR TEXT

#### RE-ORGANIZED EXISTING TEXT

#### REVISED OR UPDATED TEXT

IF TEXT IS NOT HIGHLIGHTED IT IS BEING RE-STATED WITH ONLY MINOR EDITS

#### THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT DOES HEREBY ORDAIN AS FOLLOWS:

**Section 1.** The Nipomo Community Services District’s staff have recommended that the Board re-state and re-adopt the District Code to modernize, update, clarify and extend the provisions of such Code.

**Section 2.** The Resolutions of the Board and policies previously included in the District Code book and on the District’s website are not repealed and shall remain in full effect, separate from this Code. The General Manager is directed to maintain such resolutions and policies in a form that is accessible to the public and staff.

**Section 3.** Upon the effective date of this Ordinance, previous versions of the District’s Code shall be repealed, except as provided herein.

**Section 4.** The Nipomo Community Services District Code is re-stated and adopted to read as follows:

#### “THE NIPOMO COMMUNITY SERVICES DISTRICT CODE

##### Title 1 - GENERAL PROVISIONS

##### Chapters:

Chapter 1.02 - CODE ADOPTION

Chapter 1.04 - GENERAL PROVISIONS

##### Chapter 1.02 - CODE ADOPTION

##### Sections:

[1.02.010 Adoption.](#)

[1.02.020 Title—Citation—Reference.](#)

[1.02.030 Copies of code.](#)

[1.02.040 Reference applies to all amendments.](#)

[1.02.050 Title, chapter and section headings.](#)

[1.02.060 Ordinances and resolutions passed prior to adoption of the code.](#)

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[1.02.070 Effect of code on past actions and obligations.](#)

[1.02.080 Severance clause.](#)

[1.02.090 Effect of headings in ordinance.](#)

#### **1.02.010 - Adoption.**

There is hereby restated and re-adopted the "Nipomo Community Services District Code" as set forth herein, and as the same may be amended from time to time.

#### **1.02.020 - Title—Citation—Reference.**

This code shall be known as the "Nipomo Community Services District Code" and it shall be sufficient to refer to said code as the "Nipomo Community Services District Code" or "NCSD Code" in any prosecution for the violation of any provision thereof or in any proceeding at law or equity. It shall be sufficient to designate any ordinance adding to, amending, correcting or repealing all or any part or portion thereof as an addition to, amendment to, correction or repeal of the Nipomo Community Services District Code. Further reference may be had to the titles, chapters, sections and subsections of the Nipomo Community Services District Code and such references shall apply to that numbered title, chapter, section or subsection as it appears in the code.

#### **1.02.030 - Copies of code.**

Three copies of the Nipomo Community Services District Code shall be filed for use and examination by the public in the office of the clerk of the District. The Nipomo Community Services District Code shall also be made available to the public on the District's website.

#### **1.02.040 - Reference applies to all amendments.**

Whenever a reference is made to this code as the "Nipomo Community Services District Code," or the "NCSD Code," or to any portion thereof, or to any ordinance of the District, whether codified herein or not, the reference shall apply to all amendments, corrections and additions heretofore, now or hereafter made.

#### **1.02.050 - Title, chapter and section headings.**

Title, chapter and section headings contained herein shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any title, chapter or section hereof.

#### **1.02.060 - Ordinances passed prior to adoption of the code.**

The last ordinance included in this code was Ordinance 2022-135, passed on the 25th day of May, 2022. Ordinances passed subsequent to Ordinance 2022-135 shall be made a part of this code.

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#### 1.02.070 - Effect of code on past actions and obligations.

The restatement and re-adoption of this code **in 2023** does not affect prosecutions for ordinance and resolution violations committed prior to said re-adoption date of this code, does not waive any fee, charge, or penalty due and unpaid on the effective date of this code, and does not affect the validity of any bond or cash deposit posted, filed or deposited pursuant to the requirements of any then-valid ordinance or resolution. The re-adoption and re-organization of this code is intended to be declarative of existing law.

#### 1.02.080 - Severance clause.

If any section, subsection, sentence, clause or phrase of this code is for any reason held to be unconstitutional, ineffective or in any manner in conflict with the laws of the United States, or the state of California, such decision shall not affect the validity of the remaining portions of this code. The Board declares that it would have passed this code and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsection, sentence, clause, phrase be declared unconstitutional, ineffective, or in any manner in conflict with the laws of the United States or the State of California.

#### 1.02.090 - Effect of headings in ordinance.

Title, division, part, chapter, article, and section headings contained herein do not in any manner affect the scope, meaning, or intent of the provisions of this code.

### Chapter 1.04 - GENERAL PROVISIONS

#### Sections:

[1.04.010 General rules of interpretation and application.](#)

[1.04.020 Definitions.](#)

[1.04.030 Appeals.](#)

[1.04.040 Variances.](#)

[1.04.050 Violations.](#)

[1.04.060 Violations aiding, abetting and concealing.](#)

[1.04.070 Penalties.](#)

[1.04.080 Public Nuisance. Abatement by Civil Action](#)

#### 1.04.010 - General rules of interpretation and application.

The following rules of interpretation and application apply to the ordinances of the District;

- A. Each gender includes the masculine, feminine and neuter genders.
- B. The singular number includes the plural and the plural includes the singular.

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- C. Words used in the present tense include the past and the future tenses and vice versa, unless manifestly inapplicable.
- D. Whenever in the ordinances of the District, any act or omission is made unlawful, it shall include causing, allowing, permitting, aiding, abetting, suffering or concealing the fact of such act or omission.
- E. The time within which an act is required to be done shall be computed by excluding the first day and including the last day, unless the last day is Sunday or a holiday as defined in California law, in which case it shall also be excluded.
- F. The provisions of the ordinances of the District, and all proceedings under them are to be construed with a view to affect their objects and to promote justice.
- G. The repeal of an ordinance shall not repeal the repealing clause of an ordinance or revive any ordinance which has been repealed thereby.
- H. The repeal of an ordinance does not affect prosecutions for ordinance violations committed prior to the effective date of the repeal, does not waive any fee or penalty due and unpaid prior to the effective date of the repeal, and does not affect the validity of any bond or cash deposit posted, filed or deposited pursuant to a requirement of a repealed ordinance.

#### 1.04.020 - Definitions.

The following words and phrases, whenever used in this code or in the ordinances of the District, shall be construed as defined in this section unless from the context a different meaning is intended or unless a different meaning is specifically defined and more particularly directed to the use of such words or phrases:

“ADU” means accessory dwelling unit, as defined in Government Code Section 65852.2(j)(1), as the same may be amended from time to time.

“Applicant” means the property owner, sub-divider, developer, builder, and/or other authorized agent of the property owner.

“Basin Plan” means the water quality control plan adopted by the California Regional Water Quality Control Board Central Coast Region.

“Board” means the governing board of the District. “All its members” or “all board members” means the total number of board members holding office.

“Cal Fire” means the California Department of Forestry and Fire Protection, or such other fire service that provides fire protection services within the District

“Capacity Charges” means charges for water and sewer facilities in existence at the time the charge is imposed, or reimbursement charges for new facilities to be constructed in the future which are of benefit to the person or property being charged, and shall include capacity charges for Supplemental Water as established by this Code and Resolution of the Board.

“Change of Ownership” means a transfer of a present interest in real property. Every transfer of property shall qualify as a “Change of Ownership,” except transfer of title from one spouse to another, whether the transfer is voluntary, involuntary, by operation of law, by grant, gift, devise, inheritance, trust, contract of sale, addition or deletion of an owner, property settlement, or any other means. “Change of Ownership” effected other than by a contract of sale shall be deemed to occur at the time of actual transfer of title.



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"Connection Fees" means those fees charged by the District for the privilege of making a Water Service Connection and a Sewer Service Connection and shall include capacity charges and, without limitation, account set-up fees, meter fees, and reimbursement fees, if applicable, all as established by resolution of the Board.

"County" means the County of San Luis Obispo.

"Developer, Owner, and Applicant" means any person making application for District services.

"District" means the Nipomo Community Services District.

"District Engineer" means the person holding the position of engineer for the District who shall administer and enforce the engineering aspects of the rules and regulations of the District.

"District Facility(ies)" or "Project" means water lines, water production facilities, sewer mains, sewer lift stations and appurtenant facilities that are dedicated and accepted by the District.

"District Standards and Specifications" means the most current version of the District Standards and Specifications for Water and Sewer System Improvements as established by resolution of the Board.

"Domestic Sewage" is wastewater generated by a residential use.

"Domestic Water Service" means the service provided by the District to provide water for domestic use including, without limitation, the use of water for household residential purposes, watering livestock, washing vehicles, and ordinary uses of water at residences, businesses and commercial establishments.

"Fire Service" means the service provided by the District to provide water to the private fire sprinkler riser or other fire suppression apparatus such as remote fire department connections, fire pump and tanks.

"Irrigation Service" means the service provided by the District to provide water in controlled amounts to land for the purpose of growing landscape plants and lawns. Irrigation Service may include reclaimed water or other sources of water.

"Agriculture Service" means the service provided by the District to provide water for commercial purposes for growing crops.

"Domestic Water Service Connection" means the point which a parcel or building joins the District's water system for Domestic Water Service.

"DUE/EDU" means Dwelling Unit Equivalent/Equivalent Dwelling Unit as defined in the San Luis Obispo County Code.

"Engineer" means District Engineer.

"Fats, Oils, and Grease ("FOG") means a group of substances in wastewater, including fats, oils, wax, free fatty acids, calcium and magnesium soaps, mineral oils and certain other fatty materials. FOG may also be referred to as "Grease."

"General Manager" means the person holding the position or acting in the capacity of General Manager of the District who shall administer and enforce the provisions of this Code, the rules, policies, and regulations of the District.

"Grease Trap" means a device for separation of FOG and/or grease from wastewater by flotation for surface removal.

"Junior ADU, or JADU" means a junior accessory dwelling unit, as defined in Government Code Section 65852.22, as the same may be amended from time to time.

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"Law" denotes applicable federal law, the Constitution and statutes of the State of California, the ordinances of San Luis Obispo County and the District, and when appropriate, any and all rules, policies, and regulations which may be promulgated thereunder.

"May" and "Should" are permissive.

"Mixed Use" is a development with a combination of residential and non-residential uses.

"Month" means a calendar month.

"Must" and "Shall" are each mandatory.

"Native Water" means groundwater underlying the Nipomo hydrologic sub-area.

"NCSD" means the Nipomo Community Services District.

"Nipomo Hydrologic Sub-Area" or "Nipomo Mesa Management Area" means and refers to that portion of the Santa Maria Groundwater Basin as shown on Exhibit "C" to the Stipulation dated June 30, 2005 that is incorporated by reference in the operative Judgment entered in *Santa Maria Valley Water Conservation District v. City of Santa Maria, et al.*, bearing lead case number 1-97-CV-770214, filed in the Superior Court of the State of California, County of Santa Clara (a copy of this exhibit is on file at the District office).

"Open Space" shall be as defined by Government Code Section 65560.

"Owner" applied to a building or land, means and includes any part owner, joint owner, tenant in common, joint tenant, tenant by the entirety, of the whole or any part of such building or land.

"Parcel" means any quantity of land capable of being described with such definiteness that its locations and boundaries may be established and which is designated by its owner or developer as land to be used or developed as a unit or which has been used or developed as a unit and has a unique Assessor's Parcel Number from any other land used or developed as a unit.

"PCIA" means the District's form of Plan Check and Inspection Agreement.

"Person" includes a natural person, joint venture, joint stock company, partnership, association, club, company, public or private corporation, Limited Liability Corporation, business, firm, society, group, political subdivision, governmental agency, municipality, education institution, trust organizer, or any other entity whatsoever, or the manager, lessee, agent, servant officer or employee of any of them.

"Personal Property" includes money, goods, chattels, things in action and evidences of debt.

"Preceding" and "Following" means next before and next after, respectively.

"Prohibition Zone" means that area within the District described in Appendix A-27 of the basin plan where the discharge from individual sewage disposal systems are prohibited.

"Prosecutor" means the Legal Counsel for the District or, if designated by the District in a particular matter or matters, the San Luis Obispo County District Attorney.

"Real Property" includes lands, tenements and hereditaments.

"Santa Maria Groundwater Basin" means and refers to the "Basin" within the court's jurisdiction in the operative Judgment entered in *Santa Maria Valley Water Conservation District v. City of Santa Maria, et al.*, bearing lead case number 1-97-CV-770214, filed in the Superior Court of the State of California, County of Santa Clara, and as presented in Exhibit "B" attached to the Stipulation dated June 30, 2005 that is incorporated by reference in that operative Judgment (a copy of this exhibit is on file at the District office).

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"Self-Regenerating Water Softeners" means an ion exchange type unit that discharges into the District's wastewater system or exterior of the unit.

"Service" means the furnishing of water, sewer, and solid waste services, and other powers enumerated in Government Code Section 61060 that have been adopted by the District.

"Sewage Collection System" means the District owned sewer treatment system, including sewer pipes within the District that convey wastewater to the wastewater treatment plants, sewer pipes that convey wastewater to the treatment plants from persons outside the District who contract with the District to use the sewer system, and related facilities.

"Sewer Connection" means the connection of a parcel or permitted structure to the District's Sewage Collection System.

"Sewer Lateral" means the sewer pipe, owned and maintained by the customer that connects a structure to the Sewage Collection System.

"State" means the State of California.

"Street" includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs or other public ways in this District which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this state.

"Supplemental Water" means non-native water. "Supplemental Water" originates from outside of the Nipomo hydraulic sub-area, through projects completed after December 31, 2005.

"Tenant" and "Occupant" applies to a building or land, includes any person who occupies the whole or a part of such building or land, whether alone or with others.

"Wastewater Treatment Plant" means all current and future District-owned and operated sewage treatment plants.

"Water Agency" means and includes public agencies, public utilities and mutual water companies.

"Water Lateral Connection" means the connection of a "Parcel" to the District water system from the water main, through a service lateral and water meter, for any classification of service, as described in the most current District Standards and Specifications for Water and Sewer System Improvements, to that point of connection therein defined as the Customer's Responsibility.

"Written" includes printed, typewritten, emailed, mimeographed, multigraphed, photographed, digitally-scanned, or otherwise reproduced in permanent visible form.

"Year" means a calendar year, unless this Code specifically provides otherwise.

#### 1.04.030 - Appeals from application of this Code.

A. If an appeal of any District decision is specifically permitted by a provision of this Code, a person may appeal such decisions made by the District

1. Decisions of the District Engineer may be appealed to the General Manager, whose decision on appeal shall be final.

2. Original decisions of the General Manager, not to include appeals, may be appealed to the Board.

B. An appeal must be submitted in writing to the District not later than the close of business on the tenth (10th) business day following the date notice of the decision is given, and shall contain a complete factual and legal description of the basis for appeal. The General Manager shall provide notice of a

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public hearing for consideration of the appeal to the appellant, the applicant and to the owners of real property located within 300 feet of any boundary of the property that is the subject of the appeal.

- C. An appellant shall pay the appeal fee established by resolution of the Board when the appeal is filed. The appeal fee shall be refunded to the appellant if the appeal is granted.
- D. No appeal may be granted which is inconsistent with the requirements of this Chapter.

1.04.040 - Variances.

- A. Applicability. A property owner affected by a District requirement or regulation to construct water and/or sewer improvements as a condition to receiving District service may apply to the Board for a variance from the District requirement or regulation as provided herein.
- B. When Permitted/Prohibited.
  - 1. Variances may be granted only after a duly-noticed public hearing, and shall be granted only if the Board makes all of the written findings specified in subsection F of this section. A variance shall not be granted if the Board does not make such findings.
  - 2. A variance shall not be granted for a parcel of property which authorizes a use or activity which is not expressly authorized or permissible by the provisions of the San Luis Obispo County Code or the District code.
  - 3. A variance shall not be granted to waive a District fee, rate or charge that is directly related to District services.
- C. Application.
  - 1. An application for a variance shall be filed in writing with the District General Manager by the owner, or his authorized agent, such as the owner's engineer or architect. Applications shall set forth and state fully the name and address of the person to receive notice of the hearing referenced in subsection E of this section, acknowledge receipt of these procedures, the reasons and grounds for the variance and shall contain such information as the General Manager or their designee shall prescribe.
  - 2. Every application for a variance shall be accompanied by a drawing or a plot plan, in duplicate, drawn to scale and showing the lot, the proposed location of building or buildings, the location of District water mains and sewer mains, proposed water and sewer laterals to provide District services to the building or buildings, and such other information as may be necessary to provide for the intelligent consideration of the variance request.
- D. Deposit. Before accepting an application for variance, the District shall collect a deposit for the District's costs of processing and considering the variance application in an amount determined by resolution. If the amount of the deposit is in excess of the actual time spent by District staff, including consultants and legal counsel, then the difference shall be refunded to applicant. Conversely, if the actual time spend by District staff, including consultants and legal counsel, is in excess of the amount of the deposit, then the difference shall be paid by the applicant upon demand and before the District provides notice of a Public Hearing.
- E. Hearing.
  - 1. Upon receipt of the application in proper form, and payment of the deposit of costs the General Manager shall place the item on the Board agenda for public hearing within a reasonable period of time.

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2. Not less than ten (10) days' notice of such hearing shall be given through the U.S. Mail with postage prepaid using the address identified in the application, and to the owners of real property, the boundaries of which are located within three hundred (300) feet of any boundary of the property that is the subject of the application, as well as any person who has requested such notice.
3. The Board shall, on the date **noticed**, hold a public hearing upon the application for the variance. **The Board may continue the hearing from time to time.**

**F. Findings Required for Approval.** Following a public hearing, the Board may grant or deny a variance based on information shown in the application and verified by staff report or upon further information brought forth during the course of the hearing. The Board must find that because of unique circumstances applicable to the property including size, shape, topography, location or surroundings, the strict application of the District requirement or regulation referenced in subsection A of this section:

1. **Would create practical difficulties or unnecessary hardship in ways that are materially different from the effects of such District requirement or regulation on other similarly situated properties in the District; and**
2. **The granting of such variance would not constitute a special privilege; and**
3. **That granting of said variance would not tend to defeat the purpose of the particular rule or regulation.**

**G. Grant or Denial.**

1. **From the facts presented with the application and at the public hearing the Board may grant the requested variance in whole or in part and with or without conditions. If the findings referenced in subsection F of this section cannot be made, such application shall be denied.**
2. **Every action or decision of the Board authorizing a variance shall be by resolution adopted by a majority of the directors voting on the matter, setting forth the written findings of fact required by subsection F of this section. The action of the Board shall be final and not subject to administrative appeal.**
3. The General Manager shall within ten (10) business days of the Board's decision, mail a notice of the Board's decision to the person designated in the application and any other person who has requested notice.

**H. Conditions.**

1. In approving a variance, the Board may in its decision impose conditions which it deems necessary. The Board may also require such security and guarantees as the Board may deem necessary to insure that such terms and conditions are being or will be complied with.
2. Every variance granted by the Board shall contain as a condition thereof the following:  

"The variance allowed is hereby conditioned upon the privileges granted herein being utilized within one hundred eighty (180) days after the effective date hereof, and should the privilege authorized thereby fail to be executed or utilized or where some form of construction work is involved, such construction has not actually commenced within such one hundred eighty (180) days, and is not diligently prosecuted to completion, the variance shall become null and void and any privilege or variance granted hereby shall lapse.

The Board of Directors may in its discretion and upon the written request of the applicant, for good cause, grant one reasonable extension of time in addition to the one hundred eighty (180)

**ORDINANCE NO. 2023-136**

**AN ORDINANCE OF BOARD OF THE DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT RE-STATING AND ADOPTING THE DISTRICT CODE, ADOPTING PENALTIES FOR THE VIOLATION OF SUCH CODE, AND FINDING THAT THE ADOPTION OF THIS ORDINANCE IS EXEMPT FROM REVIEW UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (“CEQA”)**

days herein provided. Such requests for extension shall be made in writing to the General Manager and at least twenty (20) days prior to the expiration of the original one hundred eighty (180) day period.”

**1.04.050 - Violations.**

A. Violations of any provision of this code may be prosecuted as an infraction or misdemeanor, except as specified otherwise in this code, as determined at the discretion of the prosecutor or, if permitted by this Code, may be addressed by administrative fine.

B. Any violation of the provisions of this code shall also constitute a public nuisance. In addition to criminal prosecution or judicial abatement procedures otherwise authorized, the District shall have authority pursuant to Government Code section 61069 to abate any violations hereof by requesting an inspection warrant, or by providing notice to the property owner where permitted by Government Code Section 61069 or any successor statute. To abate violations, the District may, after notice to the property owner and the opportunity for a hearing, terminate water or sewer service to all properties associated with or involved in the violation, and assess all costs of abatement against all property owners allowing, permitting or otherwise authorizing the illegal connection, water use or other violation. The costs of abatement shall include, without limitation, the District's reasonable attorneys' fees and costs of enforcement arising in said action. After noticed public hearing, the Board may order that the costs of abatement be recorded as a lien against the effected property or properties.

1. Notwithstanding the foregoing definitions or other provisions of this Code, it shall be a public nuisance for any person to inhabit any building or property without the authorized and lawful connection of working water and/or sewer service, whereupon the District may cause proceedings to be brought for the abatement of the occupancy of said premises by human beings during the period of such non-connection or disconnection pursuant to the District's abatement authority in Government Code section 61069. The District may assess all costs of abatement against all owners of the property who are allowing, permitting or otherwise authorizing the illegal connection, water use or other violation. The costs of abatement shall include, without limitation, the District's reasonable attorney's fees and costs of enforcement arising in said action. After noticed public hearing, the Board may order that the costs of abatement be recorded as a lien against the effected property or properties.

C. Every day that a violation of this code exists may be considered to be a separate violation, in the discretion of the prosecutor.

**1.04.060 - Violations: aiding, abetting and concealing.**

Every person who causes, aids, abets or conceals the fact of a violation of this code shall be guilty of a violation of the same code section violated.

**1.04.070 - Penalties.**

A. Except as specifically provided elsewhere in this Code for a particular violation, violation of this Code may be enforced pursuant to Section 1.04.050, which remedies are cumulative and in addition to any other remedies provided by law.

B. Except as specifically provided elsewhere in this Code for a particular violation, any person convicted of an infraction under the provisions of this Code shall be punished upon the first conviction by a fine

## ORDINANCE NO. 2023-136

### AN ORDINANCE OF BOARD OF THE DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT RE-STATING AND ADOPTING THE DISTRICT CODE, ADOPTING PENALTIES FOR THE VIOLATION OF SUCH CODE, AND FINDING THAT THE ADOPTION OF THIS ORDINANCE IS EXEMPT FROM REVIEW UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT ("CEQA")

not exceeding two hundred fifty dollars, and five hundred dollars per infraction for the same infraction thereafter.

- C. Except as specifically provided elsewhere in this Code for a particular violation, any person convicted of a misdemeanor under the provisions of this Code shall be punished by a fine of not more than one thousand dollars, or by imprisonment in the County jail for a period of not more than six months or by both such fine and imprisonment.
- D. The District may assess administrative penalties for violations of this Code, if permitted by a specific Chapter or Section hereof.

#### 1.04.080 - Public nuisance: Enforcement by civil action.

In addition to the abatement and penalties provided in this Code, any condition caused or permitted to exist in violation of any of the provisions of this Code shall be deemed a public nuisance and may be abated as such, and every day such condition continues shall be regarded as a new and separate offense. The District's legal counsel may seek a civil injunction on behalf of the District against the owner or occupant of any real property upon which such public nuisance exists. This method of enforcement shall be cumulative and shall not affect criminal or civil liability for a violation of the provisions of this Code. In any civil action commenced by the District to abate a public nuisance, to enjoin a violation of any provision of these rules and regulations, or to collect a civil debt owing to the District, the District shall be entitled to recover from the defendant in any such action reasonable attorneys' fees and costs of suit, in addition to its costs of abatement as confirmed by the Board. At the discretion of the Board following a noticed public hearing, the confirmed costs of abatement may be recorded as a lien against the property.

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## **Title 2 - ADMINISTRATION AND PERSONNEL**

### **Chapters:**

Chapter 2.02 - BOARD OF DIRECTORS

Chapter 2.04 - FEES, RATES, AND CHARGES

Chapter 2.06 - WATER AND SEWER CONNECTIONS

Chapter 2.08 - WATER AND SEWER BILLING AND COLLECTION PROCEDURES

Chapter 2.10 - CALIFORNIA UNIFORM PUBLIC CONSTRUCTION COST ACCOUNTING ACT

### **Chapter 2.02 - BOARD OF DIRECTORS**

#### **Section:**

[2.02.010 Power and Authority.](#)

[2.02.020 Regular Meetings.](#)

#### **2.02.010 - Power and Authority.**

The Board of Directors shall have all powers and authority granted by the California Community Services District Law and this Code, as the same is amended from time to time. The Board shall conduct its business pursuant to applicable laws including, without limitation, the Board's By-Laws which shall be reviewed at least annually and updated if necessary.

#### **2.02.020 - Regular Meetings**

Regular meetings of the Board of Directors shall be held on the second and fourth Wednesdays of the month at 9:00 a.m. at the District headquarters.

### **Chapter 2.04 - FEES, RATES, AND CHARGES**

[2.04.010 Authority to adopt fees.](#)

[2.04.020 Conformance with other requirements.](#)

[2.04.030 Applicability of Code.](#)

[2.04.040 Modification of provisions.](#)

[2.04.050 Amount of application fees for development.](#)

[2.04.060 Payment of fees including connection fees and capacity charges.](#)

[2.04.070 Plan check and inspection fees and deposits.](#)

[2.04.080 Water Capacity charges and Connection fees.](#)

[2.04.090 Sewer Capacity charges and Connection fees.](#)

[2.04.100 Capacity charges, Connection fees, and monthly rates for Accessory Dwelling Units.](#)

[2.04.110 District rates and charges for Water and Sewer.](#)

[2.04.120 Public and private fire service.](#)



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#### **2.04.010 - Authority to adopt fees.**

- A. The District's Board has the authority to adopt, modify, and repeal, fees, rates and charges by resolution pursuant to Government Code Section 61115, and to provide for the administration, enforcement, and collection of the same.
- B. Unless otherwise provided in the resolution adopting the fee, the amounts of all fees charged by the District shall be adjusted annually each July 1, commencing on July 1, 2024, based on the average of the percentage changes to the then-current "20 Cities Construction Cost Index" published by Engineering News Record (or as soon as the data is available) for May of the current year over the previous year's index on the same date, rounded to the nearest dollar.
- C. For charges, reimbursements, or new fees based on the cost of the District's time and materials expended, Staff shall determine the cost of Staff time by using the rates for applicable Employee Classification at Step 5, multiplied by 2, to determine fully burdened hourly rate. Hourly rates for Employee Classifications will be determined as of each July 1 for that fiscal year. District equipment charges will be adjusted every July 1 based on the most current published Caltrans Labor Surcharge and Equipment Rental Rates. Reimbursement rates for other equipment shall be determined by then-current published rental rates in the local market

#### **2.04.020 - Conformance with other requirements.**

The charges and procedures established in this Code and resolutions of the Board shall conform to the following requirements:

- A. The California Constitution
- B. The Community Services District Law, California Government Code, Sections 61000 et seq., and particularly Sections 61621 and 61621.5 thereof;
- C. Water or Sewer Capacity charges and Connection fees: Limitations, California Government Code Section 54991;
- D. General Provisions with Respect to Sewers: California Health and Safety Code Chapter 6.

#### **2.04.030 - Applicability of Code.**

- A. This Code shall apply to those properties within the boundaries of the Nipomo Community Services District and to properties outside such boundaries that are served by the District.
- B. Sewerage service to portions of San Luis Obispo County Service Area No. 1, as now specified by District agreement with the San Luis Obispo County Board of Supervisors, is not regulated by this chapter. Such portions of the County Service Area are subject to separate regulation established by the County of San Luis Obispo.

#### **2.04.040 - Modification of provisions.**

The procedural requirements established in this Code may not be modified except by ordinance enacted by the Board.

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#### **2.04.050 - Amount of application fees for development.**

- A. All application fees are nonrefundable and are due and payable to the District at the time application for service is filed. The District shall not process or consider any application unless the current application fees have been paid. Application fees shall be in an amount established by Resolution of the Board.
- B. The application fees established by resolution of the Board are in addition to other fees and charges the District adopts and imposes on projects, including, but not limited to fees and charges billed by District consultants for processing applications for service, deposits, connection fees and plan check and inspection fees, which shall be established and adjusted separately.

#### **2.04.060 - Payment of fees including Capacity Charges and Connection Fees.**

The applicant for water and sewer service from the District shall pay Capacity Charges (including supplemental water capacity charges), sewer Capacity Charges, and all applicable Connection Fees, reimbursement charges (if applicable), meter fee and account set-up fee, and any other costs or fees due to the District (collectively "Fees for Connection") as follows:

- A. For any project requiring the applicant to obtain an Intent to Serve letter pursuant to this Code, a non-refundable deposit for and Capacity Charges and Connection Fees shall be calculated as of the date of the issuance of a Verification of Service letter. The final fee computation shall be computed and paid before the project will be placed on the Board of Directors agenda for acceptance.
- B. For any project not requiring an Intent to Serve letter, but only a Verification of Service letter, the applicable Capacity charges and Connection fees shall be computed as of the date of issuance of the Verification of Service letter.
- C. Should a project terminate for any reason, including bankruptcy or sale, the non-refundable deposit amount for Capacity charges and Connection fees shall run with the land, and be credited against future computations of fees and charges for the same property.

#### **2.04.070 - Plan check and inspection fees and deposits.**

A. Reimbursement and Inspection Agreements and a deposit may be required at the discretion of the District Engineer for projects that require an upgrade of services, water meter, and/or box reconfiguration to meet current District standards and specifications. Notwithstanding the foregoing, the applicant shall pay an inspection fee as established by resolution of the Board prior to the District's inspection of any of the following:

- Water lateral connection(s)
- Sewer lateral connection
- Back-flow prevention assemblies

- B. For projects that require plan checking and District Engineer approval the applicant first shall enter into a PCIA in form and content acceptable to the District Engineer. The PCIA shall be signed and notarized by the property owner, recorded with the County Clerk/Recorder and a deposit, amount determined by the District Engineer or their designee and specified in the PCIA, shall be made prior to commencement of review of the project.

#### **2.04.080 - Capacity Charges and Connection Fees.**

- A. New water connections, including landscape and fire connections, shall be subject to water Capacity Charges and Connection Fees, based on the estimated reasonable cost of the

District facilities to provide the service. These fees shall consist of the following component parts: Capacity Charges (including a supplemental water charge), meter fee, account set-up fee, and reimbursement charge, if applicable, all as established by resolution of the Board.

B. For new capacity charges due to a change in water meter size, the applicant shall complete a new service application and processing agreement, if required. When a change in use of a building, premises, or an area to be served, causes an increase in water use that will exceed the meter size, then a new water service shall be required or water service may be terminated by the District. When a change in size of service is required, the following provisions shall apply:

1. **Replace Smaller Meter with Larger Meter.** The customer shall pay the meter removal/re-install fee and the then-current Connection Fee/Capacity Charge required for the larger meter less a credit for the then-current Connection Fee/Capacity Charge for the existing meter. Meter removal/re-install fee shall be established by resolution of the Board.

2. **Replace Larger Meter with Smaller Meter.** The change in size shall be made without credit for any Connection Fee/Capacity Charge previously paid. The customer shall pay the meter removal/re-install fee established by Resolution of the Board.

C. **Reimbursement Charges.**

1. **Developer-installed water main:** When a new service is connected to a developer-installed water line that was installed subject to a current reimbursement agreement as provided in this Code, the applicant shall pay a reimbursement charge pursuant to that reimbursement agreement, in addition to any other fees and charges required by this Code.

2. **District-installed water main:** When a new water service is connected to an existing District-installed water main, the applicant shall pay a front footage fee based on the *pro rata* cost of constructing the water main established by resolution of the Board.

#### 2.04.090 - Sewer Capacity Charges and Connection Fees.

A. New Sewer Connections shall be subject to sewer Capacity Charges and Connection Fees based on the water meter size for Sewer and the District's estimate of the District's reasonable costs of providing the services, all as established by resolution of the Board.

B. **Reimbursement Charges.**

1. **Developer-installed sewer main:** When a new service is connected to a developer-installed sewer line that was installed subject to a current reimbursement agreement as provided in the Code, the applicant shall pay a reimbursement charge pursuant to that reimbursement agreement, in addition to any other fees and charges required by this Code.

2. **District-Installed Sewer Main:** When a new sewer service is connected to an existing District-installed sewer main, the applicant shall pay a front footage fee based on the *pro rata* cost of constructing the sewer main, as established by resolution of the Board.

C. 1985 Volunteer Discount. Sewer fees for the documented Volunteers for vacant land in the Nipomo Sewage Project – 1985, or their successors in interest for the same property, shall be given a one-time 40% discount based on the number of Sewer Dwelling Unit Equivalents ("D.U.E.s") volunteered.

#### 2.04.100 - Capacity Charges, Connection Fees, and monthly rates for Accessory Dwelling Units.

A. This Section governs the capacity charges, service connection fees, and monthly rates for an ADU.

B. The District shall not consider an ADU to be a new residential use for the purpose of calculating Capacity Charges or Connection Fees for water or sewer service, unless the ADU is detached and built with the construction of a new residential dwelling.

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- C. For ADUs constructed within the space of an existing home or existing accessory structure, or for new attached ADUs built concurrently with a new single family home, the District shall not require a new or separate sewer connection and shall not impose Capacity Charges or Capacity Fees for the new ADU.
  - D. The District shall charge normally applicable sewer service rates, as specified in this Code and any applicable Resolution of the Board, for the ADU. For purposes of collecting monthly sewer service rates, an ADU shall be considered an equivalent dwelling unit to a multi-family residence and shall be charged the then-current multi-family sewer service rate. The District shall begin to charge the active sewer service rate on the first billing statement immediately following the date that is six (6) calendar months following the issuance of the District's Verification of Service Letter for the ADU, or the date of occupancy if sooner than six months. If the ADU has not been certified for occupancy by the County of San Luis Obispo as of that date, the property owner or customer shall receive a credit for the ADU sewer service charges between the first billing and the date a certificate of occupancy is issued by making application to the District and providing documentation of the date the certificate of occupancy was issued. The General Manager shall have the authority to make other adjustments in the date billing begins for an ADU based on unique circumstances.

#### **2.04.110 - District rates and charges for water and sewer.**

##### **A. Water rates shall be charged as follows:**

1. Minimum charges. A minimum monthly charge shall be paid by each customer for each monthly billing period during which a service connection exists even if the meter is locked. Such charge for any billing period in which a service connection has existed for less than the whole of a billing period shall be prorated. Minimum monthly charges vary with the size of the meter. The minimum monthly charge for service shall be established by resolution of the Board.

2. The metered rate for water sold, supplied, distributed, or transported to customers shall be established by resolution of the Board.

##### **B. Sewer rates shall be charged as follows:**

1. Monthly sewer charges shall commence on the date the District sets the water meter for new construction, or the date of connection of sewer lateral for existing structures except as indicated elsewhere in this Code.

2. District sewer charges shall be established by resolution of the Board.

#### **2.04.120 - Public and private fire service.**

A. Customers with private fire service in addition to domestic service and/or irrigation service shall pay an additional monthly charge for private fire service, to be established by resolution of the Board. Charges for fire services will be billed and included on the monthly bill for the domestic water meter. Water used for fire suppression shall be furnished without charge.

B. The Capacity Charge for private fire service shall be twelve and one-half percent (12½%) of the water Capacity Charges, including supplemental water capacity charges, applicable to the property.

### **Chapter 2.06 - WATER AND SEWER CONNECTIONS**

#### **Sections:**

##### 2.06.010 Purpose and scope.

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[2.06.020 Intent to Serve letters and Verification of Service Letters.](#)

[2.06.030 Intent to Serve letters. Process and Issuance.](#)

[2.06.040 Transfers of Intent to Serve letters.](#)

[2.06.050 Verification of Service Letters.](#)

[2.06.060 Reserve Capacity.](#)

[2.06.070 Service outside District boundaries: when allowed.](#)

[2.06.080 Final inspections and setting of water meters.](#)

[2.06.090 Annexation.](#)

**2.06.010 - Purpose and scope.**

This chapter is enacted pursuant to Sections 61060, 61100, 61011 and 61015 of the Government Code and sets forth the rates, charges, rules, regulations and procedures governing the use of the District's sewer and water facilities.

**2.06.020 – Intent to Serve letters and Verification of Service Letters**

- A. Depending on the type of project, as provided in this Code either an Intent to Serve Application or a Verification of Service Application will be required. Applicants for any subdivision map must apply for an Intent to Serve Letter from the District.
- B. Such Applications must be filed in writing, on the District's application forms, as may be updated from time to time by the District's General Manager or their designee. For non-residential projects, the District may require additional project-specific information in the discretion of the General Manager or their designee.
- C. Prior to submitting an application for processing, the applicant shall pay to the District the appropriate application fee as established by resolution of the Board, as well as any other applicable charge.

**2.06.030 - Intent to Serve letters. Process and Issuance.**

- A. Small Projects. Where a project consists of four or fewer residential units, or four or fewer multi-family units, the General Manager may issue an intent to serve letter administratively or may refer the approval to the Board consistent with subsection B of this section.
- B. Larger Projects. Where the project exceeds four residential units, or four multi-family units, or is for commercial projects and mixed use projects, the intent to serve letter shall be subject to approval by the Board.
- C. Remodels and Conversions. Where the total water demand for a project, as verified by the District Engineer based on the fixture count for all uses, does not exceed current use on the same property, or when the additional resulting water demand from the project is within the uses defined in subsection A of this section, the General Manager may issue an intent to serve letter administratively or refer the approval to the Board pursuant to subsection B of this section.
- D. Each intent to serve letter shall be supported by evidence-based findings that sufficient water and sewer capacity exists to serve each parcel. No parcel shall be created that does not include the availability of on-site water service provided by the District or a pre-existing lawful source of water.
- E. Each intent to serve letter shall include, but not be limited to, the following standard terms and conditions:

1. A requirement that the applicant enter into a PCIA when determined to be applicable by the District Engineer;
2. All easements and dedications required for District service shall be delivered to the District executed on forms provided by the District, and in recordable form prior to plan approval by the District Engineer;
3. All construction of improvements and installations shall conform to the District's standard plans and specifications;
4. That District service is conditioned on applicant paying all District fees and charges relating to the project and complying with the terms and conditions, rules and regulations of the District;
5. That continuing District service is conditioned on the applicant complying with all the terms, conditions, rules and regulations of other agencies that have jurisdiction over the project;
6. That the intent to serve letter shall be subject to the current and future applicable rules, agreements, regulations, fees, resolutions and ordinances of the District. This intent to serve letter may be revoked or further conditioned as a result of conditions imposed upon the District by a court, or availability of resources, or by a change in ordinance, resolution, rules, fees or regulations adopted by the Board;
7. That the intent to serve letter, if unused, will expire three years from the date of issuance, after which the applicant must apply for a new intent to serve or extension to be approved by the District and comply with then-current standards and pay then-current fees. An applicant shall be entitled to one one-year extension of the three year limit, issued at the discretion of the District Engineer, upon the following standard conditions, as well as any additional conditions the District Engineer reasonably deems necessary:
  - (a) The Applicant makes written application for the extension not less than 90 days prior to the expiration of the intent to serve letter and pays the extension fee established by resolution of the Board.
  - (b) The Applicant provides proof of reasonable due diligence in processing the project and estimated completion date.
  - (c) The Applicant agrees to revisions of the conditions contained in the intent to serve letter consistent with then-existing District policies and this Code.;
8. The intent to serve letter shall not be interpreted as the Board's endorsement of the project;
9. The intent to serve letter will be stamped in red with a notation that "this is not a Verification of Service letter or a commitment to provide District services";
10. For projects requiring off-site improvements, the following requirements shall be included in the intent to serve letter:
  - a. Reproducible "as-built" plans shall be submitted to the District. A Mylar copy and digital format disk (Auto Cad) which includes engineer, developer, tract number and water and sewer improvements,
  - b. Offer of dedication,
  - c. Engineer's certification,
  - d. A summary of all water and sewer improvement costs.
- F. The District Engineer or the Board shall have discretion to impose additional project-specific conditions on applications to the extent the Engineer deems necessary.
- G. If the project substantially changes after the intent to serve letter is issued, the applicant must re-apply and start process over. At the discretion of the District Engineer, changes to a project that

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involve a different configuration of water or sewer improvements, or an increase in anticipated demand for water or sewer capacity, may be determined to be "substantial."

- H. Upon completion of all conditions of the Intent to Serve to the satisfaction of the District, a Verification of Service Letter will be issued.

#### **2.06.040 - Transfers of Intent to Serve Letters.**

Prior to expiration, upon written application to the District and approval by the General Manager or their designee, the owner to whom the Intent to Serve letter was issued may transfer the Intent to Serve letter to a successor-in-interest in the property to be served, on the following terms and conditions:

1. The application for transfer shall be signed by the owner to whom the intent to serve letter was issued, or their heir, or by a previously-approved transferee. The General Manager may require proof of ownership or succession, in their sole discretion
2. The proposed transferee shall acknowledge and agree in writing to comply with the terms and conditions of the intent to serve letter;
3. The date of recording of the new deed shall be the date of the transfer, if approved.
4. The existing expiration date for the transferred Intent to Serve letter shall apply.
5. All fees, charges and deposits paid for District services shall run with the land and be transferred, and shall be non-refundable.

#### **2.06.050 - Verification of Service Letters.**

- A. Verification of Service Letters are evidence of the District's commitment to provide service to the project consistent with the District's ordinances, rules and regulations, current at the time service is established.
- B. For projects that require an Intent to Serve Letter pursuant to Section 2.06.030, a Verification of Service Letter will be issued upon compliance with all of the conditions of the Intent to Serve Letter to the reasonable satisfaction of the District. The Verification of Service Letter may be required by the County prior to recording the subdivision map. Subsequent applications for Verification of Service Letters for individual lots created as a part of a multi-parcel map will be required for the purpose of obtaining services from the District, subject to the Conditions in subsection C.
- C. Verification of Service Letters will be issued administratively by the General Manager or their designee for projects not requiring an Intent to Serve Letter pursuant to Section 2.06.030, upon completion of the following:
- (1) Submittal of a completed application, payment of the application fee, subject to approval of the District Engineer;
  - (2) Submittal of the District's Inspection and Reimbursement Agreement and payment of any applicable deposit for District costs;
  - (3) Payment of all District Capacity Charges, Connection Fees and any other applicable fees or charges;
  - (4) Compliance with all applicable District terms, conditions, and specifications.
- D. Verification of Service Letters shall expire and be of no further effect if not finalized by the applicant, with the payment of all current fees and charges due the District, within six (6) months following the date of application.

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- E. Verification of Service letters will contain the following language, along with any individualized conditions or language the District Engineer deems necessary:

"This Verification of Service letter shall be subject to the current and future rules, agreements, regulations, fees, charges, resolutions and ordinances of the District. This Verification of Serve letter may be revoked as a result of conditions imposed upon the District by a court or by a change in ordinance, resolution, rules, or regulations adopted by the Board for the protection of health, safety, and welfare of the District and its residents."

#### **2.06.060 - Reserve capacity.**

- A. The District may establish and reserve future water and sewer capacity amounts from water supply and sewer facilities available to the District for allocation to users that made a deposit for water or sewer service to the District or fully paid a Capacity Charge, but have not yet connected to the District's system.
- B. In cases where an applicant intends to subdivide a parcel for future development or sale, and future water and sewer services needs cannot be determined, minimum capacity may be reserved if the applicant enters into a recorded agreement with the District that specifies:
- (1) Developer shall pay in advance for each lot to be created the District's minimum Capacity Charges and Connection Fees for water and sewer services, including a one inch domestic water service, a one inch landscape service and two inch fire service.
  - (2) Fees paid run with the land and are not refundable.
  - (3) Any future development will be subject to the District service application requirements applicable to the specific project, with fees paid pursuant to subsection (B)1 to be a credit against the actual fees and charges due for the project at time of acceptance by the Board. No refunds will be given for development that requires less service than originally estimated.
  - (4) The District will reserve minimum water and sewer capacity levels for each lot in conformance with this subsection (B).

#### **2.06.070 - Service outside District boundaries: when allowed.**

It is the general policy of the District that District water, sewer, and solid waste service is limited to parcels within the District boundaries. The Board may authorize water, sewer, and solid waste service to parcels outside the District boundaries, if approved by the Local Agency Formation Commission, upon the Board's finding that:

- A. There is excess capacity within the District systems to serve such parcel; or
- B. There is a benefit to the District or the community derived from serving such parcel.
- C. The District will not provide sewer service to any parcel without also serving water service.
- D. This Section shall not prohibit service pursuant to agreements to serve parcels outside the District that were in effect on or before **January 1, 2023**.
- E. Parcels outside the District boundaries shall take water and solid waste service from the District, and sewer service if the District engineer determines that sewer service is legally required and reasonably available to serve the property, and under such conditions as are imposed by Resolution of the Board, if any.
- F. Rates for water and sewer service users outside the District shall be the same as the District's annexation rates.

#### **2.06.080 - Final inspections and setting of water meters.**



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- A. For parcels with active Water Service from the District that applied for a Verification of Service letter for a Sewer Connection, it is the responsibility of the applicant to contact the District to schedule an inspection at least two (2) business days in advance of connection. Failure of the applicant to call for and schedule an inspection at least two (2) business days prior to connection may result in denial, suspension, or termination of Water Service. If the sewer connection does not comply with District standards, this Code, and other applicable requirements, the District may require repair or replacement.
  - B. For parcels that applied for a Verification of Service letter for a Water Service Connection or Water and Sewer Service Connection, it is the responsibility of the applicant to contact the District to schedule an inspection at least two (2) business days in advance of connection. Failure of the applicant to call for and schedule an inspection at least two (2) business days prior to connection may result in denial of service. If the connection(s) does not comply with District standards, this Code, and other applicable requirements, the District may require repair or replacement.
  - C. Water meters will only be set after:
    - 1. All conditions of approval have been completed, inspected, and accepted by the District pursuant to the PCIA, the Intent to Serve letter, and Verification of Service letter, as applicable; and
    - 2. The District has been provided with proof of issuance of a building permit for the property from the County of San Luis Obispo, and conditions as set forth in subsection C(1), above.

#### **2.06.090 - Annexation.**

In addition to the requirements below, annexation of property to the District shall be made pursuant to the District's Annexation Policy, as it is updated from time to time by Resolution of the Board.

- A. The applicant for annexation to the District shall pay an application fee to be established by resolution of the Board, and a deposit for reimbursing the District's costs of processing the annexation application reasonably estimated by the General Manager, to be paid by the applicant to the District at the time of application for annexation.
- B. Notwithstanding any other ordinance or resolution of the District, the annexation fee shall be established by resolution of the Board.
- C. The applicant shall pay the annexation fee prior to the Board of Directors consideration of the final annexation resolution. Such payment shall be held by the District pending approval, and shall be refunded to the applicant if the annexation is denied.
- D. The Board may adopt, by resolution or ordinance, separate water rates and/or conditions for properties annexed to the District after January 1, 2023 to help the District recover its cost of imported or supplemental water necessary to serve the annexed property. The following properties are exempt from paying said annexation water rate and shall pay the District's regular water rates:
  - 1. Properties entitled to receive District service under an agreement as of July 1, 2015
  - 2. Properties on the District's reserve capacity list as of July 1, 2015
- E. All other provisions of this Chapter shall be in full force and affect from the time of approval of the annexation by the Board.

#### **Chapter 2.08 - WATER AND SEWER BILLING AND COLLECTION PROCEDURES**

##### **Sections:**

[2.08.010 Purpose and scope.](#)

[2.08.020 Application for service.](#)

- 
- 2.08.030 Customer Classifications for billing.
  - 2.08.040 District billing procedure.
  - 2.08.045 Automated Metering Infrastructure (AMI) radio transmission unit opt-out program
  - 2.08.050 Responsibility of property owner.
  - 2.08.060 Delinquency and penalty.
  - 2.08.070 Discontinuance of service - reasons.
  - 2.08.080 Process for discontinuance of residential service for non-payment.
  - 2.08.090 Process for discontinuance of non-residential service for non-payment.
  - 2.08.100 Discontinuance of service on weekends, holidays or after hours.
  - 2.08.110 Investigation and Resolution of Disputes.
  - 2.08.120 Leak adjustments.
  - 2.08.130 Partial payment spread.
  - 2.08.140 Returned checks and electronic payments.
  - 2.08.150 Meter malfunction.
  - 2.08.160 Tampering.
  - 2.08.170 Pulling meters.
  - 2.08.180 Collection of delinquent charges on the tax roll or by recorded certificate and lien.
  - 2.08.190 Judicial relief and attorney's fees.
  - 2.08.200 Means of enforcement.
- 2.08.010 - Purpose and scope.**

This Chapter is enacted pursuant to Government Code Sections 61060, 61100, 61011, and 61015, and sets forth the rules and procedures for the District's billing for Water and Sewer Services.

**2.08.020 - Application for service.**

- A. Applications for service shall be made by the property owner or a bona fide nonresident property manager (authorized agent), in writing on a form provided by the District. All applications shall include a nonrefundable account set up fee and payment of outstanding accrued fees and charges, and account balance, if applicable, pursuant to Section 2.08.040 of this Code. The account set up fee shall be established by resolution of the Board.
- B. Applications for service are non-transferable and upon change of ownership, as defined in Section 1.04.020, the new owner, as a condition to District service, shall apply for District services prior to close of escrow and/or recording a deed acknowledging a transfer of ownership.

**2.08.030 - Customer Classifications for billing**

- A. Customer Classifications for Water Service billing are, as applicable to a given property:
  - 1. "Single-family residential" means single family, detached dwellings, including Mobile Homes not located in rented spaces.
  - 2. "Multi-family residential" means, apartments, condominiums, townhouses, duplexes and trailer parks (rented spaces), or a mobile home being used as an ADU.

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3. "Commercial/Institutional" means retail establishments, offices or office buildings, laundries, schools, prisons, hospitals, dormitories, nursing homes, hotels, motels, storage facilities, and similar customer service establishments.

4. "Industrial" means all manufacturing establishments.

5. "Landscape irrigation" means parks, play fields, cemeteries, median strips and golf courses.

6. "Other" means fire suppression, street cleaning, line flushing, construction meters and temporary meters.

7. "Agriculture irrigation" means irrigation of commercially-grown crops.

B. Customer Classifications for Sewer Service billing are, as applicable to a given property:

1. "Single family residential" means any single family detached dwelling, including a mobile home (unless being used as an ADU).

2. For uses other than single family residential, the General Manager shall determine the use classification on a case-by-case basis.

#### **2.08.040 - District billing procedure.**

- A. Except as otherwise provided herein and in subsection B of this section, water meters are to be read and statements for water and sewer services are to be mailed once every month.
- B. The General Manager, at their discretion, may cause a meter reading to be made at any time; and thereafter bill the customer for water or water and sewer used since the previous reading.
- C. Meters will be read, as nearly as possible, on the same day of the month as determined by the District.
- D. Meter Read Surcharge. Customers shall have the water meter accessible at all times to District personnel. Meters shall be free of items including, but not limited to, parked vehicles, debris, guard animals, overgrown landscaping, fences, and locked gates. At no charge, the District will notify the owner, in writing, of an initial accessibility issue. A fee will be assessed for each subsequent unsuccessful attempt to access the meter. The fee will be placed on the next regularly scheduled utility billing. In addition, the District may estimate water usage for billing purposes. The meter read surcharge fee shall be established by resolution of the Board.
- E. Single bill. Where both water and sewer service are being provided at a given service address, both water and sewer service charges shall appear on one bill. The District will not bill water and sewer service charges separately for service addresses receiving both services.
- F. Billing statement. All billing statements shall be mailed to the person designated in the application.
- G. Duplicate billing. The person designated in the application may request in writing on a form provided by the District to have a duplicate bill and late notice mailed to the service address, provided a mail receptacle is available. The duplicate billing fee shall be established by resolution of the Board.
- H. In the event of a change of ownership of property receiving service, all fees and charges accrued up to the date of close of escrow and/or the date of recording of a deed acknowledging the change of ownership will become due and payable immediately and a closing bill will be provided to the customer of record. If the District is not notified of the pending change of ownership by either the buyer or seller, the District will prepare the final bill upon receiving notification of the change of ownership and all accrued charges up to that date will be included in the closing bill to the customer of record.

#### **2.08.045 - Automated Metering Infrastructure ("AMI") radio transmission unit opt-out program.**

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- A. Single-family residential customers may voluntarily opt-out of the District's program to install an Advanced Metering Infrastructure ("AMI") radio transmission unit on their water meter which collects meter reading data from that customer and transmits that data to the District.
  - B. Single-family residential customers who voluntarily opt-out, agree to the following:
    - 1. A one-time fee for removal of the AMI Meter will be charged if an AMI Meter has been installed and a manual read meter will be re-installed. The one-time fee for removal of the AMI Meter will be established by resolution of the Board.
    - 2. The customer shall pay a monthly fee established by resolution of the Board for manual reading of the meter.
    - 3. The customer shall pay a Meter Read-Surcharge established by Resolution of the Board if the meter cannot be accessed at the time of reading.
    - 4. If the customer's account is delinquent more than sixty days, the General Manager may determine that the opt-out option is no longer valid and direct an AMI meter be reinstalled. A re-install fee established by resolution of the Board will be assessed and added to the customer's account. Should this occur, the customer will not be permitted to opt-out again in the future.

**2.08.050 - Responsibility of property owner.**

The owner of the property which is furnished services is the customer and shall be responsible for the payment of all rates, charges, and fees, including penalties, thereon regarding such furnished services, except as otherwise provided in this Chapter or as required by state law. Unpaid obligations shall run with the land and shall lead to delinquency and termination of service without regard to any changes of residency or occupancy by persons different than the persons shown on District records as obligated to pay said bill, except as otherwise required by the District's Discontinuation of Residential Water Service Policy.

**2.08.060 - Delinquency and penalty.**

- A. Delinquency. Utility bills are due and payable by the customer upon presentation. Accounts not collected by the District in full by 4:30 p.m. on the due date stated in the bill, which shall be not earlier than 19 days from the date of mailing the District's bill for services, are delinquent. Postmarks are not accepted.
- B. Penalty. Delinquent accounts shall incur a penalty on the total current charges owing. A notice that includes the penalties assessed and the final due date prior to discontinuance of service will be generated and mailed to the billing address. The delinquency penalty shall be established by resolution of the Board.
- C. Small Balance Accounts. Balances totaling \$20.00 or less may be carried over and added to the next billing period without being assessed a penalty. Any such small balances not paid during the next billing period will be subject to all otherwise applicable penalties, fees, and discontinuation of service procedures.

**2.08.070 - Discontinuance of service - reasons.**

- A. Discontinuance. Services may be discontinued for any one of the following reasons:
  - 1. Delinquency in the payment of any service rate or charge;
  - 2. The unauthorized taking of water or the taking of water in excess of the amount paid for;
  - 3. Failure of the customer to maintain their facilities in a suitable condition to prevent waste of water;

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4. Failure of the customer to pay District connection fees for water and/or service;
  5. The existence of any unprotected cross connections on the customer's premises or the lack of adequate backflow protection device at the service connection;
  6. To protect the District against fraud or abuse;
  7. Any violation by the customer of any rules, regulations or fees of the District governing water and/or sewer service.
- B. Non-Payment Fee. Commencing at 4:30 p.m. on the due date stated in the notice described in Section 2.08.060(B), a non-payment fee will be charged to the account regardless of whether the meter has been physically turned off. The non-payment/reconnection fee shall be established by resolution of the Board.
- C. Restoration. Services disconnected pursuant to this section shall not be restored until all applicable fees and charges are paid in full. The District will restore service as soon as is practicable, but at a minimum, will restore service no later than the end of the next regular business day following receipt of payment in full. Restoration of service that has been discontinued for non-payment will not be made after-hours or during non-regular business hours.

#### **2.08.080 - Process for discontinuance of residential service for non-payment**

Prior to any proposed discontinuance of residential services for nonpayment of a delinquent account, the District shall comply with the District's Discontinuation of Residential Water Service Policy, including but not limited to compliance with all notice requirements contained therein and/or as required by applicable state law. The District's Discontinuation of Residential Water Service Policy shall be adopted by resolution of the Board.

#### **2.08.090 Process for discontinuance of non-residential service for non-payment.**

- A. At least ten days before discontinuing non-residential water and/or sewer service, the District shall provide a written notice to the customer. The notice shall specify the reason for the proposed discontinuance and inform the customer of the opportunity to discuss the reason for the proposed discontinuance with the District general manager, or their designee consistent with the District's code. The name and phone number of the District general manager, or their designee, shall be included in any such notice of proposed discontinuance given to a nonresidential customer. Forty-eight (48) hours before a nonresidential customer's service will be discontinued for nonpayment, the District will generate and post a shut-off notice (door hanger) in a conspicuous location at the service address. A fee will be added to every account for which a shut-off notice (door hanger) is generated. The fee will be added to the account and will be payable upon the presentation of the next regularly scheduled bill. This fee is in addition to any past due balance and penalty. The shut-off notice (door hanger) fee shall be established by resolution of the Board.
- B. A nonresidential customer may request to amortize or make alternative payment arrangements for the balance of an unpaid bill for water and/or sewer service by filing a written request with the District at least two business days prior to the discontinuance date stated in the notice required by subsection A of this section. Any amortization or alternative payment arrangement shall provide for payment of all charges, fees, and penalties owed on the account within twelve months. The District will only permit one amortization every eighteen months.

#### **2.08.100 - - Discontinuance of service on weekends, holidays or after hours.**

- A. District services will not be discontinued to any customer or user because of any delinquency in payment on any Saturday, Sunday, legal holiday, or at any time during which the business offices of the District are not open to the public.
- B. Water on/off after hours fee. Any customer who requests a meter to be turned on or off for any reason, other than for non-payment, on any Saturday, Sunday, legal holiday, or at any time during which the business office of the District is not open to the public shall be assessed a fee for each

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request. The customer shall pay the turn on/after hour fee as established by resolution of the Board on the next business day by 12:00 p.m.

**2.08.110 - Investigation and resolution of disputes.**

- A. The General Manager, or their designee, is authorized to investigate complaints and disputes pertaining to any matters for which the water or sewer service may be discontinued, and to rectify errors and settle controversies pertaining to such disputes.
- B. Any complaint or request for investigation by a nonresidential customer related to a disputed bill, charge, fee, or penalty for services must be made in writing, which must identify the disputed bill, charge, fee or penalty, and state the reason for the complaint or request, and must be filed with the District within five days of receiving the disputed bill. The General Manager or their designee shall review and investigate the complaint and issue a final decision to the customer.
- C. Complaints and requests for investigation by residential customers related to disputed bills, charges, fees, or penalties are governed by the District's Discontinuation of Residential Water Service Policy.

**2.08.120 - Leak adjustments.**

- A. A water service customer who received a high bill for water service due to a leak may make a written request for leak adjustment relief pursuant to this section. The written request must be received by the District no later than 4:30 p.m. on the due date of the bill in question. The General Manager or their designee shall investigate such complaint in the following manner:
  - 1. The General Manager or their designee shall first determine whether the increase in water consumption is related to a leak occurring on the customer's side of the water service connection and, if so, that the leak has been remedied.
  - 2. The General Manager or their designee shall review the customer's water bills for the same time period in the previous two years to determine whether or not there is a significant differential in terms of water use that was evidenced by a leak. Where there is a significant difference as determined by the General Manager or their designee, water usage for the billing period shall be billed as follows:
    - i. The five year average normal usage will be billed at the rates in place at the time of the high bill.
    - ii. All excess usage (over and above the average normal usage) will be billed at a rate equivalent to the otherwise applicable water rates minus the portion of the rate associated with supplemental water, as established by resolution.
    - iii. Leak adjustments will only be processed if the adjustment is greater than one hundred dollars.
- B. For water service customers who have not established a five-year history of water usage, the General Manager or their designee shall determine equivalent water services using similar billings with a five-year history to make the appropriate findings as set forth in subsections A(2)(i) and (ii) above. The customer shall then be charged according to Sections A(2)(i) and A(2)(ii) above.
- C. The relief provided by this section is available, upon written request, for a District water service customer once during a three year period. A water service customer may not apply for relief under this ordinance if relief had been sought and granted any time during the previous three years.

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- D. If a leak adjustment is approved, the customer must sign an acknowledgement of the leak adjustment prior to the adjustment being made to the customer's account. Within fifteen days of the original due date of the water bill, the customer is responsible for completing the leak adjustment process and paying the adjusted bill. If the customer fails to execute the leak adjustment acknowledgement and pay the adjusted bill prior to the above-referenced due date, no leak adjustment will be granted and the customer will be responsible for the paying the full, original water bill plus all additional fees and charges assessed through the date of payment.
  - E. Leak adjustments will not be considered for previous billing cycles and adjustments will not be made retroactively.
  - F. Leak adjustments are for a specific billing cycle and cannot be spread over two billing cycles.
  - G. The General Manager or their designee may consider whether the customer shall be permitted to amortize the amount equal to the excess usage over a reasonable period of time, not to exceed twelve months.

#### **2.08.130 - Partial payment spread.**

In the case of partial payment by a customer, the payment will be applied to the most delinquent month(s) of service in the following order:

- A. Payment Arrangements;
- B. Fees assessed to the account (tampering, returned check, etc.);
- C. Restoration charges;
- D. Penalties and late charges;
- E. Sewer charge;
- F. Water charge.

#### **2.08.140 Returned checks and electronic payments.**

A fee will be charged against any account whose check or electronic payment is returned by the bank for any reason. Following receipt of a returned check or returned electronic payment, all amounts owed must be paid in cash, or by money order including any fees and charges assessed on the account. Returned checks or returned electronic payments are treated as nonpayment and any otherwise applicable penalties and/or discontinuance procedures shall apply as if no payment had been made to the account. If the account is otherwise subject to discontinuance pursuant to the requirements of this Code, upon receipt of a returned check or returned electronic payment, the District will post a twenty-four (24) hour notice of imminent discontinuance at a conspicuous location at the property pursuant to this section. The twenty four (24) hour notice will state the total amount due in order to avoid discontinuance of service and the requirements for reconnection. The returned check/returned electronic payment fee shall be established by resolution of the Board.

#### **2.08.150 - Meter malfunction.**

- A. Meter Calibration Deposit. A customer who questions the accuracy of a meter serving the premises may request in writing a test of meter registration. A deposit equal to the water meter calibration check charge and any calibration charges shall be required in advance when a test is requested. The water meter calibration charge fee shall be established by resolution of the Board.
- B. If a meter is found to over-register by more than five percent of the calibrated usage, the District shall return the charge for the test and the customer shall be entitled to a refund based on adjustment made by the General Manager. Such adjustment shall be calculated by taking the difference between the

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normal use and the incorrect reading. In no case shall refunds cover more than two consecutive months prior to the discovery of meter malfunction.

- C. When a meter is found to under-register by more than five percent of the calibrated usage, the additional charge for water will be based, at the option of the District, either on previous consumption for the same period in the preceding year during which the meter is known to have registered correctly, or on the consumption as registered by a "substitute meter." The calibration check charge will not be returned.

#### **2.08.160 - Tampering.**

- A. Tampering. No person, other than an authorized District employee or contractor, shall at any time or in any manner, operate, or cause to be operated, any valve in or connected to a water main or sewer main, service connection or fire hydrant, or tamper or otherwise interfere with any water meter, meter valve, backflow protection device, detector check valve, or other part of the District's water system.
- B. Tampering fee. In addition to other District fees and charges, the General Manager may assess a tampering fee to the customer in all situations where any person has tampered with District services or equipment, or privately restores water service without District permission. The tampering fee shall be paid prior to the District re-initiating service for the property affected by the unauthorized tampering. The tampering fee shall be established by resolution of the Board.
- C. Repair costs. If a person's tampering actions, or the actions of a person's contractor, result in damage to the District's water or sewer systems, the actual cost of staff time, repair and/or replacement, as determined according to Section 2.04.010(C), will be billed to the account for the property affected by the unauthorized tampering and paid by the customer.
- D. Staff shall prepare and keep complete and accurate records by property address concerning tampering with District's service systems. For any verified instance of tampering, the General Manager shall review such records and shall decide whether or not to seek a criminal complaint for violation of this Section through the sheriff's office. If there is more than one tampering violation for the same property within any two-year period, the Board may hold a public hearing to consider suspension, or permanent disconnection of water and sewer service to the property, or such other remedies as the Board deems appropriate.
- E. The District's Legal Counsel or their designee may bring a legal action to recover the District's costs of repairing or replacing equipment that has been tampered with including, without limitation, the District's attorney's fees.

#### **2.08.170 - Pulling Meter.**

If the District must pull a water meter for non-payment or other violations of this Code, a meter pull fee shall be charged and paid by the customer. The meter will only be reinstalled, with the approval of the General Manager, once all fees and charges have been paid in full, including the past due account balance, the meter pull fee, the meter reinstall fee, payment for the repair of any damage to the meter, and resolution of Code violations. The meter pull fee and reinstall fee shall be established by resolution of the Board.

#### **2.08.180 - Collection of delinquent charges on the tax roll or by recorded certificate and lien.**

- A. The Board shall adopt the procedures for the collection of rates, charges, fees, and penalties for nonpayment of delinquent bills established in Government Code Section 61115 or any successor statute.
- B. The General Manager or their designee is authorized to record a certificate and lien for the amount of charges, fees, and penalties owed, and the name and address of the persons liable therefor, sixty



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days after the payment becomes delinquent, pursuant to Government Code Section 61115 or any successor statute.

- C. Remedies for collection and enforcement for nonpayment of delinquent rates, charges, fees, and penalties are cumulative and may be pursued alternatively or consecutively by the District.

#### **2.08.190 - Judicial relief and attorney's fees.**

In the event that any customer fails to timely pay a collection demand or payment arrangement, the customer shall be deemed to be in default and in such case, the District may declare the balance or remaining balances due and payable. In the event that the District is required to bring action to collect any sum in default, the customer shall pay any attorneys' fees, court costs, or other costs incurred by the District to bring such action.

#### **2.08.200 - Means of enforcement.**

The District declares that the foregoing procedures are established as a means of enforcement of the terms and conditions of its ordinances, rules and regulations, and not as a penalty.

### **Chapter 2.10 - CALIFORNIA UNIFORM PUBLIC CONSTRUCTION COST ACCOUNTING ACT**

#### **Sections:**

[2.10.010 Informal bid procedures.](#)

[2.10.020 Contractors list.](#)

[2.10.030 Notice inviting informal bids.](#)

[2.10.040 Award of contracts.](#)

#### **2.10.010 - Informal bid procedures.**

Public projects, as defined by the California Uniform Public Construction Cost Accounting Act, Public Contract Code Section 22000, *et seq.*, and in accordance with the dollar limits specified in Public Contract Code Section 22032, may be let to contract by informal procedures as set forth in Public Contract Code Section 22032, *et seq.*

#### **2.10.020 - Contractors list.**

The District shall develop and maintain a contractors list in compliance with the requirements of Public Contract Code Section 22034, or any successor statute.

#### **2.10.030 - Notice inviting informal bids.**

Where a public project is to be performed which is subject to the provisions of this Chapter, a notice inviting informal bids shall be circulated using one or both of the following alternatives:

- A. Notices inviting informal bids may be mailed, faxed, or emailed to all contractors for the category of work to be bid, as shown on the list developed in accordance with District Code Section 2.10.020.
- B. Notices inviting informal bids may be mailed to all construction trade journals as specified by the California Uniform Public Construction Cost Accounting Commission in accordance with Section 22036 of the Public Contract Code. Additional contractors and/or construction trade journals may

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be notified at the discretion of the General Manager, provided, however, if the product or service is proprietary in nature such that it can be obtained only from a certain contractor or contractors, the notice inviting informal bids may be sent exclusively to such contractor or contractors.

**2.10.040 - Award of contracts.**

The General Manager is authorized to award informal contracts pursuant to this Chapter.

**Title 3 - WATER SERVICE SYSTEM**

**Chapters:**

Chapter 3.02 - WATER SERVICE SYSTEM GENERALLY

Chapter 3.04 - FIRE HYDRANTS, USE OF DISTRICT FIRE HYDRANTS FOR TEMPORARY WATER SERVICE FOR CONSTRUCTION AND OTHER PURPOSES

Chapter 3.06 - WATER SYSTEM BACKFLOW PREVENTION

Chapter 3.08 - WATER CONSERVATION REQUIREMENTS

**Chapter 3.02 WATER SERVICE SYSTEM GENERALLY**

**Sections:**

[3.02.010 Applicability.](#)

[3.02.020 Domestic Service connections.](#)

[3.02.030 Landscape irrigation connections.](#)

[3.02.040 Public and Private Fire Service.](#)

[3.02.050 Meter size/Lateral size.](#)

[3.02.060 Service facilities—Ownership.](#)

[3.02.070 Distribution facilities.](#)

[3.02.080 Water supply and interruption of service.](#)

[3.02.090 Looping Requirement.](#)

[3.02.100 District equipment on customer's premises.](#)

[3.02.110 Water receiving equipment—Responsibility.](#)

[3.02.120 District Right of Entry and Access.](#)

[3.02.130 Resale of water.](#)

[3.02.140 Restrictions on the transfer of unused supplemental water.](#)

[3.02.150 District water users required to abandon water wells.](#)

[3.02.160 - Sub-metering of the District's Water Supply.](#)

**3.02.010 - Applicability.**

The rates and regulations set forth herein pertain to service to lands and/or improvements lying within the boundaries of the District. Service to lands outside the District shall be only on terms and conditions established by the Board respecting the particular service involved.

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### **3.02.020 - Domestic Service connections.**

- A. Each developed parcel, by Assessor Parcel Number, shall be served by one domestic Water Service Connection and such other connections as may be required by this Code. All new uses or new construction in the District including, without limitation, an ADU or JADU, with one or more interior plumbing fixtures shall apply for water and sewer service and, upon approval, connect to the District's water system. Once a water meter is set on one parcel, that meter shall not be transferred to another parcel.
- B. When any parcel or building receiving water service through one connection is sold, or is subdivided into smaller lots, parcels, or units capable of separate ownership, then the existing service connection shall be deemed appurtenant only to the parcel upon which the service connection is situated or most immediately adjacent. No new service will be provided to the other lots or newly created lots, as required by subdivision A, above, until the property owner and/or applicant has applied for new water and sewer service and fulfilled all of the requirements set forth in this Code, including payment of applicable fees and Capacity Charges and Connection Fees.
- C. Upon conversion of any residential use on a parcel to multi-family residential, commercial, mixed, or institutional uses, the applicant or customer for new use or uses shall apply for and obtain new water and sewer service connections from the District and bring the property up to applicable District standards based on new use of property, including the payment of any applicable fees and charges, prior to requesting a certificate of occupancy for the converted use from the County.
- D. No person shall use a service connection to supply water or sewer service to any adjoining property or to supply properties on opposite sides of a public street or alley.

### **3.02.030 Landscape irrigation connections.**

All multi-family residential, commercial, and institutional parcels, as designated under Section 2.08.030 of this Code from the District shall also install and maintain at the owner's expense a separate service connection with backflow prevention assembly for landscape irrigation. Customers shall pay the separate landscape capacity charges and connection fees established by resolution of the Board.

### **3.02.040 - Public and private fire service.**

- A. **Public Fire Service.** The District may provide fire hydrants and supply water for fire protection use to any other District, public agency, or municipality under such terms and conditions as may be mutually acceptable to the District and the other agency.
- B. **Private Fire Service.** The District may grant applications for private fire service connections for sprinkler service and/or private fire hydrants, provided the applicant enters into a PCIA that includes at least the following conditions, which shall be the responsibility of the applicant:
  - 1. The applicant shall submit plans and specifications, prepared by a registered civil engineer (wet stamped) for District approval demonstrating that the proposed private fire service connection meets or exceeds District standards and specifications and the fire flow requirements established by Cal Fire and;
  - 2. As a condition to providing water service (regular water service and private fire protection water service), the applicant shall submit to the District for District approval an engineer's certification (wet stamped) that the private fire protection water service was constructed in accordance with District-approved plans and specifications and the fire flow requirements established by Cal Fire.
- C. The District's charges for private fire service shall be established by resolution of the Board. Water used for fire suppression shall be furnished without charge.

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**3.02.050 - Meter size/Lateral Size.**

- A. Except as otherwise provided in subsection B of this section, the water meter size for each service connection shall be determined by the District Engineer, pursuant to the fixture count established pursuant to the then-current Uniform Plumbing Code.
- B. The minimum water meter size for each new domestic service and landscape irrigation connection shall be one (1) inch.
- C. Minimum lateral size shall be one (1) inch.
- D. The minimum water lateral size for each fire service connection shall be two (2) inches, or as otherwise required by Cal Fire.

**3.02.060 - Service facilities - ownership.**

- A. The District shall retain ownership of all District-installed meters, appurtenances and connection piping ahead of the meter. Pressure regulators, backflow prevention assemblies and other special facilities beyond the meter are owned by the customer, and their proper operation and maintenance are the responsibility of the customer. District regulations relating to assurances regarding proper operation of such special facilities are set forth in section 3.02.110 of this Code.

**3.02.070 - Distribution facilities.**

The minimum water main size in the District shall be eight inches in diameter and, if applicable, shall be installed by the applicant and may be subject to reimbursement in accordance with Chapter 5.02 of this Code.

**3.02.080 Water supply and interruption of service.**

- A. The District will exercise reasonable diligence and care to deliver to customers a continuous and sufficient supply of water at the meter. The District, however, shall not be liable for interruption of service or shortage or insufficiency of supply or for any loss or damage occasioned thereby. For the purpose of making repairs or installing improvements to the system, the District shall have the right to temporarily suspend the delivery of water. The customer shall be notified in advance of such action, except in cases of emergency. Repairs or improvements will be performed as rapidly as may be practicable and so far as possible at times which will cause the least inconvenience to the customers concerned. The District shall not be liable for any loss or damage occasioned by such suspension of service, or from any customer's failure to receive notice.
- B. During times of threatened or actual water shortage, the District will apportion its available supply among its customers in the manner that appears most equitable under the circumstances then prevailing with regard to public health and safety.

**3.02.090 - Looping Requirement.**

All new water mains to be maintained by the District shall be looped to improve circulation and avoid dead end mains.

**3.02.100 - District equipment on customer's premises.**

- A. All water service pipes and equipment required to serve a customer up to and including the meter shall be owned by the District whether installed:
  - 1. On a public or private property; or

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2. At applicant's or District's expense.
- B. District equipment required for service which is installed on a customer's property may be repaired, replaced or removed by the District. Authorized representatives of the District shall have the right of access to such equipment for any purpose reasonably connected with furnishing service. The District shall make no payment for placing or maintaining equipment which is required solely for providing service to a customer's premises.
  - C. The customer shall exercise care to prevent damage to or interference with the operation or servicing of District equipment. The customer shall be liable for any damage to District-owned meters, locks or other equipment which is caused by the customer, or their tenants, agents, employees, contractors, licensees or permittees, and must promptly reimburse the District on presentation of a bill for any such damage.
  - D. The customer shall maintain private property in a way that allows the District reasonable access and clearance to any District equipment at all times. If any condition of the property or improvement blocks the District's access to District equipment, or one (1) foot clearance around the outside edge of the meter box, the General Manager may authorize such actions as are reasonably necessary to create necessary access or clearance at the customer's expense. The District shall document all such expenses and may collect the same on the customer's bill or, with the approval of the Board following a noticed public hearing, as a lien against the customer's property.

### **3.02.110 - Water receiving equipment—Responsibility.**

- A. The customer shall be responsible for connecting the customer's service line to the District's meter. The customer shall furnish, install and maintain at their own risk and expense that portion of the water system which begins at the outlet side of the meter. Such water receiving equipment shall remain the property of the customer and they shall be responsible for its maintenance and repair. The District shall have the right to require the customer to adjust, replace or discontinue using any water receiving or regulating equipment on his side of the meter which disturbs or inconveniences other customers.
- B. Where reduced or increased pressure is desired by the customer, the customer shall be responsible for installing and maintaining the necessary regulators and relief valves. In such cases, the equipment shall be installed on the customer's side of the meter at his expense.
- C. The District shall not be responsible for any loss or damage caused by the negligence, want of proper care, or wrongful act of the customer or any of their tenants, agents, employees, contractors, licensees or permittees in installing, maintaining, using, operating or interfering with any water receiving equipment. Furthermore, the District shall not be responsible for damage caused by faucets, valves and other equipment which may be open at any time that water is turned on at the meter.
- D. No customer shall attach any electrical ground wiring to water service equipment including, but not limited to, plumbing which is or may be connected to District service equipment. The customer will be held liable for the cost of repairing any damage to District property resulting from a ground wire attachment.

### **3.02.120 - District right of entry and access.**

Authorized inspectors, agents and employees of the District who are furnished with, carry and, upon request, display appropriate evidence of identification, shall have the right of entry and access at all reasonable times in, to and upon any and all buildings or premises, or any part of parts thereof for the purpose of reading meters and inspecting any and all such building or premises (including any and all plumbing, water piping, meter reading equipment, water and sewer fixtures and connections therein or thereon) to determine:

- A. The manner and quantity of water and sewer use;

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- B. The existence of any condition causing, or likely to cause, the waste of water or affecting, or likely to affect, the furnishing or receipt of water service;
  - C. The existence, operation, maintenance or use of any plumbing or water piping or any plumbing or water fixtures or connection which may now or hereafter cause, create or permit backflow or any other conditions affecting, or likely to affect, the purity or potability of the water supply furnished by the District;
  - D. The existence of any source of water supply which may now or hereafter be connected with the water supply system of District; or
  - E. The existence of any source of pressure, vacuum, contamination or pollution (including any and all equipment, fixtures or appliance connected or used therewith or therefor) affecting, or likely to affect the purity or potability of the water supply of the District;
  - F. The existence of any private well or private wastewater system;
  - G. Verification of compliance with this Code and the rules and regulations of the District governing water and sewer.

**3.02.130 - Resale of water.**

Except as permitted by the District Board, no person shall resell any water received from the District to any other person, or for use on any other premises, or for any other purposes than specified in the application for service.

**3.02.140 - Restrictions on the transfer of unused supplemental water.**

- A. The District Board may consider applications, made pursuant to Section 1810 *et seq.* of the California Water Code, from persons or other agencies requesting the use of District water conveyance facilities to transfer supplemental or other water from outside the District.
- B. The District Board may approve the use of District facilities for such transfers only during the period of time that the District conveyance facilities have unused capacity.

**3.02.150 - District water users required to abandon water wells.**

- A. Upon being directed to do so by the General Manager or their designee, any person who owns a parcel or parcels of real property which receives District water service, or may receive District water service in accordance with an application filed or authorized to be filed by that owner, shall abandon and is precluded from re-activating or drilling any and all water wells located on that parcel or parcels of real property.
- B. The abandonment of any well pursuant to this section shall be commenced and completed no more than six months after the District has set a meter to serve the parcel or parcels and shall be accomplished in conformance with all applicable state, county, and District statutes, ordinances, resolutions, rules, and regulations.
- C. The District shall not be required to serve any parcel or parcels of property with District water until the required water well abandonments are properly completed pursuant to this section.
- D. Any parcel or parcels of property found to be in violation of this Chapter shall be disconnected from the District's water supply system and subject to all applicable fees and charges as defined in the District code for disconnecting and reconnecting the service.
- E. Exceptions. This section shall not apply to the following:

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1. A parcel with both a connection to the District's water supply system and a continuously operating well as of February 9, 2018, for so long as the well remains operational.
  2. The re-drilling of a well in existence and in use as of January 25, 2008, so long as the re-drilled well will not enable more water to be drawn from the well than was historically drawn prior to January 25, 2008, as determined by the General Manager.
  3. Any wells owned or operated by the District.

### **3.02.160 - Sub-metering of the District's water supply.**

- A. The owner of a commercial development, or multi-family residential development, or a mixed-use development that includes habitable dwellings, may install separate submeters to each tenant or residential unit at the owner's expense, under the following conditions:
  1. Any submeters shall accurately and completely measure all water consumed from the District's water system.
  2. If the owner charges the tenant or occupant of any such unit a water utility charge, that charge shall be strictly based only on the metered consumption by the occupants of the unit and that charge may not exceed the District's service rates for the water.
  3. Installation, maintenance and monitoring of the submeter system shall be the responsibility of the owner, and in no circumstances shall the District be responsible therefore.
  4. If any water conservation plan is implemented or imposed by the District, the owner shall be responsible for complying with any reductions required by such plan as measured by consumption on the meter directly connected to the District's water system.
  5. The District shall bill the property owner for water use based on the District-provided meter, and shall have no role in any dispute between the property owner and any sub-meter tenant or occupant.

## **Chapter 3.04 FIRE HYDRANTS, USE OF DISTRICT FIRE HYDRANTS FOR TEMPORARY WATER SERVICE FOR CONSTRUCTION AND OTHER PURPOSES**

### **Sections:**

#### 3.04.010 Fire hydrants.

#### 3.04.020 Unmetered water—Use prohibited.

#### 3.04.030 Permits for temporary water service for construction and other purposes.

#### 3.04.040 Immediate termination of temporary water service.

### **3.04.010 Fire hydrants.**

- A. It is unlawful for any person other than an authorized public fire agency employee, or District employee to open any fire hydrant, or attempt to draw water from it, or in any manner without a written permit from the District.
- B. When a fire hydrant has been installed in a location specified by of the California Fire Code, the District has fulfilled its obligation. If a property owner or other party desires change in size, type or location of the hydrant, that party shall bear all costs of such change or changes, if acceptable to the District, without refund. Any change in the location of a fire hydrant must be approved in writing by the area Chief for Cal Fire. Written evidence of said approval shall be presented to the District prior to the change in location.

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- C. It is unlawful to operate the valve of any fire hydrant other than by the use of a spanner wrench designed for this purpose.
  - D. The District will process fire hydrant flow letters required by Cal Fire at the request of applicant and upon payment of applicable fee. The fire flow letter fee shall be established by resolution of the Board.
  - E. The District will conduct a fire hydrant flow test at the request of applicant and upon payment of applicable fee. The fire hydrant flow test fee shall be established by resolution of the Board.

**3.04.020 Unmetered water—Use prohibited.**

- A. No person other than District personnel or public safety personnel in the performance of their duties shall draw or use water from the District's water supply system which is not delivered through a water meter approved and maintained by the District except for temporary service pursuant to permit as provided in Section 3.04.030.

**3.04.030 Permits for temporary water service for construction and other purposes.**

- A. All persons seeking temporary water service for construction shall obtain a permit from the District, shall pay all applicable deposits, fees and charges, and shall be supplied through a fire hydrant meter installed by District personnel at a fire hydrant designated by the District. All such deposits, hydrant fees and charges shall be established by resolution of the Board.
- B. Upon request by applicant and approval by the District Engineer or their designee, a fire hydrant meter may only be relocated by District personnel. The applicant shall pay a relocation fee adopted by resolution of the Board.
- C. If the applicant or the applicant's contractor using temporary water service for construction damages any facility or equipment of the District, the District's actual costs of repair or replacement shall be deducted from the deposit, and any costs that exceed the amount of the deposit shall be paid by the applicant. The fire hydrant meter will not be reinstalled until the damages are paid in full.
- D. It is the applicant's responsibility to notify the District when the fire hydrant meter is no longer needed. If the final bill is less than the deposit, the final bill will be deducted from the deposit and the balance will be refunded to the applicant. If the final bill is greater than the deposit, the closing invoice will be mailed to the applicant and is due and payable upon presentation.

**3.04.040 Immediate termination of temporary water service.**

Any temporary water service connection used for construction or other purposes may be immediately terminated by the District, without prior notice, if such action is necessary to maintain the adequate minimum pressure of the District's distribution system to protect the quality or quantity of the District's water supply.

**Chapter 3.06 - WATER SYSTEM BACKFLOW PREVENTION**

3.06.010 Protection of public water supply.

3.06.020 Purpose.

3.06.030 Adoption of State regulations.

3.06.040 Definitions.



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3.06.050 General Requirements.

3.06.060 Landscape Irrigation Connections.

3.06.070 New Service Connections - Installation conditions.

3.06.080 Existing service connections - Installation conditions.

3.06.090 Upgrading existing assemblies.

3.06.100 Ownership of installed or upgraded assemblies.

3.06.110 Inspection and testing.

3.06.120 Maintenance and repair - time limitations.

3.06.130 Right to enter property.

3.06.140 Termination of water service - conditions.

**3.06.010 - Protection of public water supply.**

In making plumbing connections, the customer is required to comply with the regulations of the District, the California State Department of Public Health, and the United States Public Health Service. Such regulations prohibit: (1) unprotected cross-connections between a public water supply and any unapproved source of water, and (2) unprotected water service connections to premises where there is a possibility of contaminated water flowing back ("back flowing") into the public water system.

Accordingly, the District requires the installation of backflow prevention assemblies that are approved by the Foundation for Cross-Connection Control and Hydraulic Research, and/or other District-approved alternative protective assemblies, by and at the expense of the customer before granting or continuing service under the following conditions:

- A. Where another source of water is in use, or is available for use, unless the alternate supply has been certified for domestic use by the County health department or the State Department of Public Health;
- B. Industrial or commercial premises where contaminated liquid or soluble substances of any kind are used, produced or processed, or handled under pressure in such a fashion as to permit possible entry into the District's water distribution system, including water originating in the District's system that is then boosted in pressure after the point of connection to serve the pressure needs of a premises;
- C. Premises where the customer's system has more than one service connection coming from different streets, or has internal cross-connections that cannot be permanently corrected to meet State and local standards;
- D. Premises and/or customers' systems where, in the opinion of the District, there is the potential for pollution or contamination of the District's water system in the event of backflow or back-siphon;
- E. As a protection to the customer's plumbing system, a suitable pressure relief valve must be installed and maintained by the customer at the customer's expense when check valves or other protective assemblies are used. The relief valve shall be installed between the check valves and the water heater.
- F. The regulations of the California State Department of Public Health also requires that the owner of any premises on or for which check valves or other protective assemblies are installed at the direction of the public water supplier, shall inspect these assemblies for water tightness and reliability at least once per year. All defective assemblies shall be serviced, overhauled or replaced at the customer's expense. A written report on this annual inspection shall be provided to the General Manager or their designee.

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### **3.06.020 Purpose.**

- A. In order to provide for an orderly and adequate means of protection of the District's water distribution system and/or the public water supply from backflow of water from any unapproved source, the requirements set forth in this chapter are reasonable and necessary. The District adopts these requirements for the protection of the District's water distribution system from the hydraulic forces of backflow and back-siphon. New water service connections shall be installed and existing water connections shall be modified to conform to these requirements as set forth in this chapter.

### **3.06.030 Adoption of state regulations.**

The regulations of the California Department of Health, Title 17, California Administrative Code, Sections 7583 through 7622, inclusive, or successor regulations, referred to in this chapter as Title 17, are adopted, incorporated by reference and made a part of this chapter, insofar as the same are applicable to the protection to District's water distribution system.

### **3.06.040 Definitions.**

Words used in this Chapter, unless the context requires otherwise, are defined as follows:

- A. "Air-gap separation" means a physical break between a supply pipe and a receiving vessel. The air-gap shall be at least double the diameter of the supply pipe, measured vertically above the top rim of the vessel, in no case less than one inch.
- B. "Approved double check valve assembly" means an assembly of at least two independently acting approved check valves including tightly closing shut-off valves on each side of the check valve assembly and suitable leak detector drains plus connections available for testing the water tightness of each valve. The entire assembly shall be made in the factory of the manufacturer and shall meet the specifications and approval of a recognized, approved testing agency for backflow prevention assemblies. To be approved, these assemblies must be readily accessible for maintenance testing.
- C. "Approved reduced pressure principle backflow prevention assembly" means an assembly approved by a recognized and approved testing agency for backflow prevention assemblies. The entire assembly shall be made in the factory of the manufacturer and shall incorporate two or more check valves and an automatically operating differential relief valve located between the two checks, two shut-off valves, and equipped with necessary appurtenances for testing. The assembly shall operate to maintain the pressure in the zone between the two check valves less than the pressure on the public supply side of the assembly. At cessation of normal flow, the pressure between check valves shall be less than the supplied pressure. In case of leakage of either check valve, the differential relief valve shall operate to maintain this reduced pressure by discharging to the atmosphere. When the inlet pressure is two pounds per square inch or less, the relief valve shall open to the atmosphere, thereby providing an air-gap in the assembly. To be approved, these assemblies must be readily accessible for maintenance and testing and installed in a location where no part of the valve will be submerged.
- D. "Auxiliary water supply" means any water supply on or available to the premises other than the approved public potable water supply. These auxiliary waters may include, but are not limited to, water from another purveyor's public potable water supply or any natural source such as a well, spring, river, stream, harbor, etc., or "used water" or "industrial fluids".
- E. "Approved backflow prevention assembly" means an assembly identified in the District's current Standard Specifications for use at the service connection which will prevent backflow into the District's distribution system.
- F. "Backflow" means the reverse flow of water or any other fluid or substance or any combination or any mixture thereof from the customer's system into the District's water distribution system.
- G. "Certified tester" means a person who is certified as a backflow prevention assembly tester by American Water Works Association, American Backflow Prevention Association, or equally

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recognized association that certifies persons to test approved backflow prevention assemblies in the has demonstrated their competency to the Environmental Health Services Division of the County of San Luis Obispo.

- H. "County health department" means the Environmental Health Department of the County of San Luis Obispo, or any successor agency.
- I. "Cross-connection" or "cross-connected" as used in these regulations means any real or potential connection between any part of a public water system or other water system supplying potable water to members of the public and any auxiliary water supply or any source or system containing water or any substance that is not or cannot be approved as safe, wholesome, and potable for human consumption.
- J. "Cross-Connection Control Specialist" shall be a Cross-Connection Control Program Specialist with current AWWA certification or District-approved organization with the equivalent certification requirements.
- K. "Customer" means any person or organization who receives water from the District.
- L. "Customer's system" means the water piping system located immediately downstream from a meter, or in the case of a fire sprinkler system, the point in the system as defined and identified in the District's Standard Specifications.
- M. "District" means the Nipomo Community Services District, Nipomo, California.
- N. "District engineer" means the District Engineer for the District or their designee.
- O. "District's water distribution system" means the water distribution system owned and operated by the District including the service connection to a water main.
- P. "Health hazard" means an actual or potential threat of contamination of a physical or toxic nature to the public potable water system to such a degree of intensity that there would be a danger to health.
- Q. "Industrial fluids" means any fluid or solution which may be chemically, biologically, or otherwise contaminated or polluted in a form or concentration such as would constitute a health, system, pollution or plumbing hazard if introduced into the water supply. This may include, but is not limited to polluted or contaminated used waters; all types of processed waters and "used waters" originating from the public potable water system which may deteriorate in sanitary quality; chemicals in fluid form; acids and alkalis; circulating cooling waters connected to an open cooling tower and/or cooling waters that are chemically or biologically treated or stabilized with toxic substances; contaminated natural waters such as from wells, springs, streams, rivers, bays, harbors, seas, irrigation canals or systems, etc.; oils; gases; glycerin; paraffines; caustic and acid solutions; and other liquid and gaseous fluids used in industrial or other processes or for fire-fighting purposes.
- R. "Plumbing hazard" means a plumbing type cross-connection in a consumer's potable water system that has not been properly protected by a vacuum breaker, air-gap separation or other assembly. The term "plumbing hazard" includes but is not limited to cross-connections to toilets, sinks, lavatories, wash trays, domestic washing machines and lawn sprinkling systems.
- S. "Pollution" means an impairment of the quality of the water to a degree which does not create an actual hazard to the public health but which does adversely affect such waters for domestic use.
- T. "Pollution hazard" means an actual or potential threat to the physical properties of the public water system or the potability of the public water supply, but which would not constitute a health or system hazard, as defined.
- U. "Purveyor" means any person, corporation, public utility, municipality, District or other agency or institution furnishing or supplying water for domestic purposes.
- V. "Premises" means a piece of land together with such buildings and appurtenances located thereon.

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- W. "Service connection" means the terminal end of a service connection from the public potable water system, i.e., where the water purveyor loses jurisdiction and sanitary control over the water at its point of delivery to the consumer's water system. If a meter is installed, then the service connection shall mean the downstream end of the meter, unless a fire sprinkler system is designed to be supplied after the meter in which case the District's Standard Specifications define the point of delineation where the District loses control over the water at that point of delivery therein defined. There should be no unprotected take-offs from the service line ahead of any meter or backflow prevention assembly located at the point of delivery to the consumer's water system. Commercial fire sprinkler systems are separate and distinct service connections and their point of connection is at the District's valve at the District's water main. The appropriate backflow prevention assembly for these service connections is defined in the District's Standard Specifications.
- X. "System hazard" means an actual or potential threat of severe damage to the physical properties of the public potable water system.
- Y. "Water supervisor" means the consumer or a person on the premises appointed by the consumer who is charged by the consumer with the responsibility to the consumer of maintaining the consumer's water system free from cross-connections and other sanitary defects, as required by regulations and laws. A certified backflow prevention assembly tester may not act as a water supervisor unless he is a full-time employee of the consumer, and has the day-to-day responsibility for the installation and use of pipelines and equipment on the premises and for the avoidance of cross-connections.

**3.06.050 General requirements.**

- A. Where the conditions set forth in subsection (C), below, require a backflow prevention assembly such as double-check valve or a pressure-reducing valve, the customer shall install a backflow prevention assembly that meets the requirements of this Code. The customer shall notify the District of the installation once completed, which will be inspected by the District before being placed in service.
- B. Each District customer with a backflow prevention assembly shall be assessed a backflow administration fee to cover the cost of the program. The fee will be included on the water bill for the property. The backflow administration fee shall be established by resolution of the Board.
- C. Backflow prevention assemblies shall be required at the service connection per District Standard Specifications (current edition), or at a location approved by the District Engineer, for premises in the following described categories:
1. Premises having an auxiliary water supply;
  2. Industrial/commercial premises on which any substance is handled under pressure in a fashion that could lead to possible entry into the District's distribution system, including water originating from the District's system which is boosted in pressure by the customer's booster system;
  3. Industrial/commercial premises where customer's system has more than one service connection;
  4. Parcels or structures which, in the opinion of the District Engineer, contain cross-connections or the potential for cross-connections which could result in the pollution or contamination of the District's water system in the event of backflow;
  5. Industrial/commercial or residential fire sprinkler systems.

**3.06.060 - Landscape irrigation connections.**

All irrigation services shall have a Reduced Pressure Principle Assembly installed at the water meter in compliance with this Code and District specifications.

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**3.06.070 - New service connections—Installation conditions.**

- A. At the time an application for a new water service is made by a potential customer, the District engineer will review such application to determine the need for a backflow prevention assembly on the customer's service. If a backflow prevention assembly is determined to be required it shall be the customer's responsibility at the customer's expense to provide for installation of the designated assembly in accordance with District standards and at a location approved by the District.
- B. Installation of a backflow prevention assembly, where required by the District, shall be a condition of water service and meter installation.

**3.06.080 - Existing service connections—Installation conditions.**

- A. The District will inspect the premises of existing service connections which in the opinion of the District Engineer or their designee may require the installation of a backflow prevention assembly. If it is determined that a backflow prevention assembly is required, the installation of a backflow prevention assembly by the deadline determined by the District Engineer shall be a condition of continued water service.
- B. If a customer fails to provide for the installation of the backflow prevention assembly within a reasonable time limit set forth in a written notification from the District, but no more than 60 days from receipt of the notification, the District may suspend water service to the property being served.

**3.06.090 - Upgrading existing assemblies.**

- A. An existing backflow prevention assembly which, in the opinion of the District Engineer, is a type that does not provide adequate protection for the degree of potential hazard from backflow shall be upgraded at customer expense.
- B. Upgrading may include complete replacement of the backflow prevention assembly, installation of additional assemblies, or correction of on-site cross-connection hazards.
- C. Customers will be notified in writing and given no more than 60 days to take the necessary actions as specified in the backflow prevention assembly upgrade letter issued by the District Engineer.

**3.06.100 - Ownership of installed or upgraded assemblies.**

Backflow prevention assemblies installed or upgraded shall be and remain the property of the customer.

**3.06.110 - Inspection and testing.**

The customer is responsible to provide for an annual testing and inspection of the backflow prevention assembly.

- A. Testing must be performed by a Certified Tester. The District will provide a list of Certified Testers to the customer. The test shall be performed and results reported to the District within thirty days of written notice by the District. Failure to test the backflow prevention assembly in the prescribed time may result in the termination of water service to the premises.
- B. Assemblies which fail to pass inspection and testing by a Certified Testers shall be maintained and repaired in accordance with Sections 3.06.120, 3.06.130 and 3.06.140 of this chapter. The District reserves the right to require more frequent testing or to enter the property to perform additional testing with District personnel when the District determines it to be in the public interest. The customer shall bear the cost of additional tests if their assembly fails a test.
- C. At the discretion of the District, the District may test or have the backflow prevention assembly tested by a Certified Tester if the customer fails to have the backflow prevention assembly tested in the time specified by the District, but not less than 30 days, or by a Certified Tester.

Fees and charges for the testing, established by resolution of the Board will be placed on the customer's water bill and will be treated as a service fee subject to all the District's normal collection procedures and deadlines.

**3.06.120 - Maintenance and repair—Time limitations.**

The customer shall be responsible for maintenance and repair of the backflow prevention assembly, at the customer's expense. The customer shall at all times maintain the assembly in proper working order as a condition of continued water service. If a backflow prevention assembly should fail to pass inspection and testing pursuant to this chapter, the customer shall, within thirty days after notification of test results, provide for timely repair of the assembly by the customer or a licensed plumbing contractor. Once repairs are completed within the time specified in the District's notice, the backflow prevention assembly must be retested by a Certified Tester, who shall document and submit to the District the results of the test on a form provided by the District. The customer's failure to timely comply with the written notice to repair and retest the backflow prevention assembly may result in the suspension or termination of water service to the premises.

**3.06.130 Right to enter property.**

As a condition of water service for new customers and as a condition of continued water service for existing customers, the District may enter the property to survey for cross-connections or the customer may be required to have a backflow prevention assembly installed on the private property of the customer. Under these conditions, the customer shall permit the District to enter upon the customer's property within the normal working hours of the District to conduct the survey, or where a backflow prevention assembly needs to be tested or checked for maintenance. In case of emergency, the District may enter the property at any time to inspect the backflow prevention assembly. District representatives shall carry evidence establishing their position as authorized representatives of the District, and, upon presentation and exhibiting these proper credentials and identification, be permitted to enter in and upon all buildings and premises within the District for the purpose of inspection, observation, measurement, sampling, testing, or otherwise performing such duties as may be necessary in carrying out this Chapter.

**3.06.140 - Termination of water service—Conditions.**

In addition to the authority granted the District in this Chapter, the District may terminate water services to any premises served if a required backflow prevention assembly is removed by the customer or if the District finds evidence that an installed backflow prevention assembly has been bypassed, modified or altered in a manner that renders it ineffective, or is allowed to remain ineffective.

**Chapter 3.8 WATER CONSERVATION REQUIREMENTS**

**Section: 3.08.010 - Water conservation measures.**

By resolution of the Board, the District may order any or all of the following actions by stage to conserve water during times of drought, to address threatened or existing water shortages, or to respond to potentially severe or severe water shortage conditions as identified by the Nipomo Mesa Management Area Technical Group:

Stage	Conservation Measures
I	a. District customers shall comply with all state mandates. b. District customers may be required to implement any or all of the following additional measures: i. Fix all plumbing and irrigation leaks immediately.

	<ul style="list-style-type: none"> <li>ii. Irrigate after 8:00 p.m. and before 9:00 a.m.</li> <li>iii. Use minimal irrigation at all times.</li> <li>iv. Check all irrigation systems periodically.</li> <li>v. Do not allow excessive irrigation run off.</li> <li>vi. Recirculate water in ornamental water features and fountains.</li> </ul>
II	<ul style="list-style-type: none"> <li>a. District customers shall comply with all state mandates.</li> <li>b. District customers may be required to implement any or all of the following additional measures: <ul style="list-style-type: none"> <li>i. Implement all Stage I conservation measures.</li> <li>ii. Cover swimming pools and spas when not in use.</li> <li>iii. Do not use water to wash down exterior surfaces (e.g. driveways, sidewalks, decks, walls, etc.)</li> </ul> </li> </ul>
III	<ul style="list-style-type: none"> <li>a. District customers shall comply with all state mandates.</li> <li>b. District customers may be required to implement any or all of the following additional measures: <ul style="list-style-type: none"> <li>i. Implement all Stage I and II conservation measures.</li> <li>ii. Turn off all automated irrigation systems.</li> <li>iii. Provide minimum necessary irrigation to preserve trees and shrubs.</li> <li>iv. Do not use water for dust control or construction.</li> <li>v. Do not use hoses without automatic shut-off assemblies to wash cars or equipment.</li> <li>vi. Turn off ornamental water features and fountains.</li> </ul> </li> </ul>
IV	<ul style="list-style-type: none"> <li>a. District customers shall comply with all state mandates.</li> <li>b. District customers may be required to implement any or all of the following additional measures: <ul style="list-style-type: none"> <li>i. Implement all Stage I, II, and III conservation measures.</li> <li>ii. Do not use District water for irrigation or outdoor uses of any sort.</li> </ul> </li> </ul>
V	<ul style="list-style-type: none"> <li>a. District customers shall comply with all state mandates.</li> <li>b. District customers may be required to implement any or all of the following additional measures: <ul style="list-style-type: none"> <li>i. Implement all Stage I, II, III, and IV conservation measures.</li> <li>ii. Additional measures to reduce water use as identified by the District.</li> </ul> </li> </ul>

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**Title 4 SEWER SERVICE SYSTEM**

**Chapters:**

Chapter 4.02 - MANDATORY CONNECTION TO DISTRICT SEWER SYSTEM

Chapter 4.04 - SEWER USE REGULATIONS

Chapter 4.06 - DISCHARGE OF WASTE TO PUBLIC SEWERS

Chapter 4.08 - CONNECTION OF NEW SEWER EXTENSIONS TO EXISTING PUMP STATIONS

**Chapter 4.02 MANDATORY CONNECTIONS TO DISTRICT SEWER SYSTEM**

**Sections:**

[4.02.010 Mandatory connection to sewer system .](#)

[4.02.020 Prohibition Zone - Connection on change of ownership.](#)

[4.02.030 Certification.](#)

**4.02.010 Mandatory connection to sewer system.**

- A. All new uses or new construction in the District with one or more interior plumbing fixtures including, without limitation, an ADU or JADU, shall apply for water and sewer service and, upon approval, connect to the sewage collection system. At the time of such connection, all existing plumbing fixtures on the same lot or parcel must also be connected and all required fees paid. No parcel shall be connected to the District's sewer system if the parcel is not also connected to the District's water system.
- B. When any parcel receiving water and/or sewer service through one connection is sold, or is subdivided into smaller lots, parcels or units capable of separate ownership, then the existing service connection shall be deemed appurtenant only to the parcel upon which the service connection is situated or the most immediately adjacent.. No new service will be provided to the other lots or newly created lots, as required by subdivision A, above, until the property owner and/or applicant has applied for new water and sewer service and fulfilled all of the requirements set forth in this Code, including payment of applicable fees and Capacity Charges and Connection Fees.
- C. Upon conversion of any residential use on a parcel to multi-family residential, commercial, mixed or institutional uses, the applicant or customer for new use or uses shall apply for and obtain new water and sewer Service Connections from the District and bring the property up to applicable District Standards based on the new use of the property, including the payment of any applicable fees and charges, prior to requesting a certificate of occupancy for the converted use from the County.
- D. No person shall use a Service Connection to supply water or sewer service to any adjoining property or to supply properties on opposite sides of a public street or alley.



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**4.02.020 Prohibition Zone - Connection on change of ownership.**

A. All parcels within the Prohibition Zone where any part of the parcel is within fifty feet of the District sewer main shall connect to the District sewer main prior to "change of ownership" as defined in this Code.

B. The General Manager or their designee is authorized to record a notice on all parcels of property within the prohibition zone of the requirements of this Section.

**4.02.030 Certification.**

If required by Section 4.02.010, the seller of any affected property, prior to the "change of ownership," shall obtain from the District a connection certification, in accordance with the requirements and administrative procedures established by the District including, without limitation, the provisions of Chapters 2.04 and 2.06 of this Code, verifying that the property has been connected to the District sewer system and all fees and charges have been paid. The seller shall allow an inspection of the property by District staff. If connection is required, the seller must follow the procedures specified in Chapter 2.06 and obtain a final inspection prior to the District providing a connection certification.

**Chapter 4.04 SEWER USE REGULATIONS**

**Sections:**

[4.04.010 Maintenance of Sewer laterals.](#)

[4.04.020 Connection to system—New sewer laterals—District approval required.](#)

[4.04.030 Extension of facilities - District policy.](#)

[4.04.040 Extension of facilities - District criteria.](#)

[4.04.050 Connection requirements.](#)

[4.04.060 Use of sewers—Unpolluted water prohibited.](#)

[4.04.070 Use of sewers for other than domestic sewage.](#)

[4.04.080 Grease traps or grease interceptors required.](#)

[4.04.090 Maintenance of grease traps and grease interceptors.](#)

[4.04.100 Prohibition on the use of self-regenerating water softeners.](#)

[4.04.110 Accidental discharge.](#)

[4.04.120 District access onto private property.](#)

[4.04.130 Interference with access.](#)

[4.04.140 Violation—Penalty.](#)

**4.04.010 Maintenance of sewer laterals.**

The maintenance of sewer laterals as defined in this Code shall be the responsibility of the property owners served by the sewer lateral.

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**4.04.020 Connection to system - New sewer laterals - District approval required.**

It is unlawful and a misdemeanor for any person to connect or use, or to cause, permit or allow any other person to connect or use, any new sewer lateral installed to serve new construction or development, unless such person shall first obtain a Verification of Service Letter pursuant to Chapter 2.06 of this Code from the District for such connection or use, and comply with any conditions thereof.

**4.04.030 Extension of facilities - District policy**

It is the general policy of the District that District sewer service is limited to parcels within the District boundaries.

**4.04.040 Extension of facilities - District criteria**

- A. System Capacity. Requests to consider plans for extension of the collection system for the sewage collection system will be accepted only during periods when the Board certifies that sufficient uncommitted collection, treatment and disposal capacity is available to provide additional new service without compromising the service of existing users. The District shall adopt procedures to provide for plant expansion within a reasonable time if the Board finds that there is inadequate plant capacity for a proposed expansion.
- B. Permit Required. No person shall construct a street connection, or make a connection with any public sewer without first obtaining a written permit from the District, complying with all conditions and paying all required fees as established by resolution of the Board.
- C. Design and Construction Requirements. Design and construction of street connections shall be in accordance with the requirements of the District and in accordance with District design standards, periodically adopted by District resolution.
- D. Excess Capacity. The District may require the construction of excess capacity, consistent with its adopted plans and policies, in either new collection lines or lift stations required to provide service to new projects and land division.
- E. The connection of new sewer extensions to existing sewage pump stations will not be permitted except upon the order of the Board. Such order will not be issued except in those instances where the Board finds that such connection can be made without detriment to the District's sewerage operations.
- F. Inspection. All new sewer system extensions and modifications, including street connection construction, must be inspected by the District prior to use.
- G. Acceptance by District. After inspection and approval by the District, the new facilities must be offered to, and accepted by, the District before sewage disposal service can begin.

**4.04.050 Connection Requirements.**

A. Separate Sewer Connection. No plumbing system, drainage system, building sewer, sewer connection or parts thereof, shall be located in or on any parcel other than the parcel which is the site of the use, building, structure or premises served by such facilities, unless permitted in writing by the District Engineer.

1. Residential. The sewer system of each new building and of new work installed in any existing building shall be separate and independent from that of any other building, except an ADU or JADU on the same lot, and each single-family residential parcel shall have one independent connection with the

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public sewer If one building on a parcel is connected to the District's sewer system, all buildings on the same parcel must also be connected. The sewer connections for all other uses shall be at the discretion of the District Engineer, based upon the design of the improvements.

2. Non-residential. If one building on a parcel is connected to the District's sewer system, all buildings on the same parcel must also be connected.

- B. Direct Force Main Connections. Direct connection of service laterals to force mains is prohibited.
- C. On-Site Systems. All existing on-site sewage disposal systems which are replaced by new service laterals shall be properly abandoned in conformance with then-applicable Plumbing Code and San Luis Obispo County Health Department regulations.
- D. All real property to be provided sewer service through the District's sewage collection system which is situated in an area too low in elevation to feasibly be provided with gravity sewer service shall, if required by the District Engineer, be served through a District owned and maintained collection and pump station designed and built to District specifications to serve all properties within such low area. Property owners or users of such pumps shall reimburse the District's cost of installing such a pump, in addition to other fees and charges as required by this Code

**4.04.060 Use of sewers—Unpolluted water prohibited.**

No person shall connect down spouts from roofs, surface drains for rain water, or similar sources of water to any sewers or cause surface or storm waters, excessive infiltration, cooling water or unpolluted industrial wastewater to enter the sewer system.

**4.04.070 Use of sewers for other than domestic sewage.**

All persons must obtain written permission from the District to discharge anything but domestic sewage into the District's sewage collection system. The District will consider the conditions of each case, and may impose reasonable requirements to prevent excessive discharge of organic or inorganic substances in solution or in suspension, whether liquid, semi-solid or solid when making its decision to grant or deny permission to discharge non-domestic sewage.

**4.04.080 Grease traps or grease interceptors required.**

A. Grease, fats, oil and sand traps or grease interceptors shall be installed by the property owner or tenant on all drain lines leading from kitchens in all eating establishments or as determined by the District. They shall be sized, located and constructed pursuant to the applicable standard in the then-current Uniform Plumbing Code. All such traps and interceptors shall be located so as to be readily and easily accessible for cleaning and inspection.

B. All grease, fats, oil and sand traps or grease interceptors shall require a permit from the District and payment of the applicable permit fee, as established by resolution of the Board.

C. All Food Service Establishments shall comply with the District's standard conditions for the fats, oils, and grease control program, as established by this Code or resolution.

**4.04.090 Maintenance of grease traps and grease interceptors.**

All grease, fats, oil and sand traps and grease interceptors shall be maintained at the owner's expense, and shall remain in continuous effective operation at all times. Fats, oil, and grease levels in a grease interceptor or grease trap shall be maintained so they are continuously below 25% of the total liquid operating depth. The District Engineer, in their discretion, may issue an administrative citation as

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specified in Section 4.04.140, or revoke a permit and/or terminate District sewer services to properties with non-maintained or inoperable traps and interceptors.

#### **4.04.100 Prohibition on the use of self-regenerating water softeners**

No person shall install or replace a self-regenerating water softener within the District on a parcel to which the District provides sewer service.

#### **4.04.110 Accidental discharge.**

Sewage collection system users shall notify the District immediately when accidental discharges of wastes in violation of this Chapter occur so that counter-measures may be taken by the District to minimize damage to the sewer system, treatment plant, treatment processes and the receiving waters. Such notification may reduce, but will not relieve, the sewer user of any criminal penalties or of liability for any expense, loss or damage to the sewer system, treatment plant or treatment process or for any fines imposed on the District on account thereof by any state or federal regulatory agencies. In addition to immediate notice, in the event of accidental discharge in violation of the sewer ordinance, applicable state regulations, or this Code, the discharger shall also furnish the District engineer, within fifteen days of the date of occurrence, a detailed written statement describing the causes of the accidental discharge and the measures being taken to prevent future occurrence.

#### **4.04.120 District access onto private property.**

A. District agents, employees and representatives shall have the right of access, ingress and egress to the premises of customers of the District sewer system at all reasonable hours for any purposes reasonably connected with the furnishing of sewer service, including, but not limited to, inspecting and closing such laterals as necessary to protect the public health and District operations and facilities, and inspecting, maintaining, improving, replacing and operating District sewer system facilities, equipment and apparatus located on such premises. District agents, employees and representatives also shall have the right of access, ingress and egress to install and construct on the customer's dwelling or building an automatic meter reading system, including necessary connections to the telephone utility line, and the installation of necessary cable lines, equipment and apparatus.

B. District employees, agents and representatives shall identify themselves upon request when entering upon the premises of any customer for the purposes allowed by this section.

#### **4.04.130. Interference with access.**

No person shall install, construct, place or locate any structure, building, or facility of any kind, whether permanent or temporary, or any other object which is difficult to remove, on any District sewer line easement, or in such manner as to interfere with the District's ready and easy access to any District sewer system equipment, facility or apparatus, unless and until the District executes an encroachment agreement. Any such unauthorized obstruction, upon request of the General Manager, shall be removed immediately by the violator at no expense to District, and shall not be replaced.

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**4.04.140 Violation—Penalty.**

- A. Violations of the following provisions shall constitute misdemeanors or infractions in the discretion of the Prosecutor and are subject to the penalties specified in Chapters 1 and 4 of this Code, as applicable:
1. Requiring permits for connections;
  2. Prohibiting or regulating the discharge into the sewer system of certain waters, wastes, sewage or other substance of any sort; or
  3. Prohibiting direct connections to force-mains.
- B. The District Engineer may issue one or more administrative citations for violations of the grease trap and grease interceptor provisions of this chapter, with a fine of \$100 for the first violation, \$250 for the second violation in a calendar year, \$500 for the third violation in a calendar year. After the third violation, any further violation in the same calendar year shall be penalized as provided in subsection C.
- C. Violation of any other provision of this chapter shall be reviewed by the District's General Manager who may impose a remedy up to and including scheduling a hearing before the Board for the possible immediate termination of all District services subject to the conditions which the Board deems appropriate, and/or refer the violation for criminal prosecution and penalty specified in Chapter 1.04 of this Code.

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## **Chapter 4.06. DISCHARGE OF WASTE TO PUBLIC SEWERS**

**4.06.010. Application, purpose, and scope.**

**4.06.020. General discharge prohibitions.**

**4.06.030 Violation of discharge limitation.**

**4.06.040 Federal categorical pretreatment standards.**

**4.06.050. State requirements.**

**4.06.060 Specific discharge limitations.**

**4.06.070 District's right of revision.**

**4.06.080 Excessive discharge.**

**4.06.090. Wastewater discharge permit.**

**4.06.100. Wastewater discharge permit application.**

**4.06.110 Wastewater discharge permit conditions.**

**4.06.120. Wastewater discharge permit duration.**

**4.06.130. Wastewater discharge permit modification.**

**4.06.140. Wastewater discharge permit transfer.**

**4.06.150. Pretreatment required for industrial users.**

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**4.06.180. Inspection, sampling and reporting requirements for the permittee—Baseline monitoring reports.**

**4.06.190 Inspection, sampling and reporting requirements for the permittee—Information to be included in the baseline monitoring report.**

**4.06.200. Inspection, sampling and reporting requirements for the permittee—Periodic compliance report.**

**4.06.210. Inspection, sampling and reporting requirements for the permittee—Information to be included in the periodic compliance report.**

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**4.06.230. Inspection, sampling and reporting requirements for the permittee—Information to be included in the final compliance report.**

**4.06.240 Inspection, sampling and reporting requirements for the permittee—Notification of significant production changes.**

**4.06.250 Inspection, sampling and reporting requirements for the permittee—Notice of potential problems, including accidental spills and slug loads.**

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**4.06.260 Inspection, sampling and reporting requirements for the permittee—Noncompliance reporting.**

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**4.06.360. Confidential information.**

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**4.06.390 Revocation of permits.**

**4.06.400 Liability for violation.**

**4.06.410 Enforcement remedies cumulative.**

**4.06.420 Accidental discharges.**

**4.06.430 Written notice.**

**4.06.440 Notice to employees.**

**4.06.010. Application, purpose, and scope.**

- A. This article sets forth uniform requirements for users of the District sewer system and enables the District to comply with all applicable state and federal laws, including the Clean Water Act (33 USC 1251 et seq.), the general pretreatment regulations (40 CFR part 403) and waste discharge requirements established by the Regional Water Quality Control Board, and other applicable state and federal statutes and regulations.
- B. The objectives of these provisions are:
- (1) To prevent the introduction of pollutants into the District sewer system which will interfere with the operation of the system, including contamination of the resulting sludge or interference with the use or disposal of sludge;
  - (2) To prevent the introduction of pollutants into the District sewer system which will pass through the system, inadequately treated, into the receiving waters or the atmosphere or otherwise be incompatible with the system;
  - (3) To improve the opportunity to recycle and reclaim wastewater and sludge from the system;

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- (4) To ensure that the quality of the wastewater treatment plant sludge is maintained at a level that allows its use and disposal in compliance with applicable statutes and regulations;
  - (5) To protect the District personnel who may be affected by wastewater and sludge in the course of their employment and to protect the general public; and
  - (6) To provide for equitable distribution of the cost of the District sewer system.
- C. If any provision of this article or the application thereof to any person or circumstance is held invalid, the remainder of this article or application of such provision to other persons or circumstances shall not be affected and shall remain in full force and effect.
- D. The pretreatment requirements set forth in this article shall apply to all users of the District sewer system. This article authorizes the issuance of wastewater discharge permits; authorizes monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires industrial user and significant user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.
- E. As used in this Chapter, the term "POTW" means the District's sewer system

**4.06.020. General discharge prohibitions.**

- A. No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater to the POTW without a permit. No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the POTW. These general prohibitions apply to all such users of a POTW whether or not the user is subject to national categorical pretreatment standards or any other federal, state and/or local pretreatment requirements.
- B. Prohibited discharges. No user, domestic or industrial, shall contribute or cause to be contributed the following substances to any POTW:
- (1) Any liquids, solids or gases which by reason of their nature or quantity are, or may be sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system), be more than five percent nor any single reading over ten percent of the lower explosive limit (LEL) of the meter. Prohibited materials include, but are not limited to: gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides and any other substances which the District, the state or EPA has notified the user is a fire hazard or a hazard to the system.
  - (2) Solid or viscous wastes in amounts which will, or may, obstruct the flow in the District sewer or POTW resulting in interference with the proper operation of the District's wastewater treatment system. Prohibited materials include, but are not limited to, fats, oils or grease of animal or vegetable origin, debris, garbage with particles greater than one-half inch in any dimension, animal guts or tissues, paunch, manure, bones, hair, hides or fleshings, entrails, whole blood and/or components, feathers, ashes, cinders, sand, spent lime, concrete or concrete slurry, stone or marble, dust, metal, glass, straw, shavings, grass clippings, cut roots, rags, spent grains, spent hops, waste paper, wood, plastics, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud and glass grinding or polishing wastes.
  - (3) Any wastewater having a pH less than 6.5, or more than 8.5, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment and/or personnel of the POTW. Prohibited materials include, but are not limited to, acids, caustics, sulfides, concentrated chloride and fluoride compounds, and substances that will react with water to form acidic products.



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- (4) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other substances, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in a categorical pretreatment standard, or of this section. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to section 307(a) of the Act (33 USC 1317) or any successor statute.
  - (5) Any noxious or malodorous liquids, gases or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.
  - (6) Any wastewater which is capable of causing, either alone or by interaction with other substances, the POTW's effluent or any other product of the POTW, such as residuals, sludges, scums, or bio solids, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under section 405 of the Act (33 USC 1345); any criteria, guidelines or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act (42 USC 690 et seq.), the Clean Air Act, the Toxic Substances Control Act or state criteria applicable to the sludge management method being used.
  - (7) Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.
  - (8) Any wastewater having a temperature greater than 150 degrees Fahrenheit which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at its introduction into the POTW which exceeds 104 degrees Fahrenheit.
  - (9) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which a user knows or has reason to know will cause interference to the POTW. In no case shall a slug load have a flow rate or contain concentration or quantities of pollutants that exceed for any time period longer than 15 minutes more than five times the average 24-hour concentration, quantities or flow during normal operation.
  - (10) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentrations as which may exceed any applicable state or federal regulations.
  - (11) Any wastewater that causes a hazard to human life or creates a public nuisance.
  - (12) Any trucked or hauled pollutants, except at discharge points designated by the District and having District pre-approval.
  - (13) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.
  - (14) Oils and grease in excess of 100 mg/L, whether emulsified or not, shall not be discharged into the public sewer system. Oils and greases may be from living or nonliving sources or contain substances that may solidify or become viscous at temperatures between 32 degrees and 150 degrees Fahrenheit at the point of discharge into the system or in amounts that will cause interference or pass through.
    - a. Grease traps or interceptors required. Grease, oil and sand interceptors or gravity separating devices shall be installed when, in the opinion of the District, they are necessary for the proper handling of liquid wastes containing grease and oil or sand in

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excessive amounts, or any flammable wastes, sand and other harmful ingredients; except that such interceptors shall not be required for buildings used for residential purposes. All interceptors shall be of a type and capacity approved by the District in accordance with the California Plumbing Code and shall be of a type and capacity sufficient to provide the appropriate quality of effluent per this chapter and shall be located as to be readily and easily accessible for cleaning and inspection.

- (15) Pollutants that result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
- (16) Hazardous waste. All users are prohibited from discharging hazardous waste.
- (17) Infectious wastes from hospitals, clinics, out-patient clinics, medical and dental offices, mortuaries, etc.; pathologic specimens; disposable hypodermic needles, syringes and associated articles (whether ground or not); recognizable portions of the human anatomy; solid wastes generated in the rooms of patients who are isolated because of a suspected or diagnosed communicable disease; wastes excluded by other provisions of this article except as specifically permitted for; or any other waste defined by the Health Officer of San Luis Obispo County as being infectious.
- (18) Detergents, surface active agents, or other substances which might cause excessive foaming in the POTW.
- (19) Draining of swimming pools and spas.
  - a. The contents of a salt water swimming pool (including electrolytic cell backwash) shall not be discharged to the sanitary sewer, storm drain system or natural water way.
  - b. The contents of chlorinated swimming pools and/or spas (including filter backwash from swimming pools and/or spas) shall not be discharged into the sewer system without first applying for and receiving written permission from the District. Such approved discharge must be accomplished in the manner specified herein.
    - 1. The size of the pipe carrying the discharge shall not be larger than two inches and the rate of flow shall not exceed 100 gpm, nor exceed the capacity of the line.
    - 2. Each swimming pool discharging to a sewer system pursuant to a permit shall be equipped with an indirect waste connection to preclude any possibility of a backflow of sewage into the swimming pool or piping system.
- (20) Discharges from water softening. Portable exchange water softening systems shall be used instead of on-site regeneration water softening units.
- (21) Shredded garbage. Discharges containing improperly shredded garbage that has not been ground or comminuted to such a degree that all particles will be carried freely in suspension under normal flow conditions in the public sewers or with any particle greater than one-half inch in any dimension are not allowed. Only shredded garbage waste generated in the preparation of food in a residence is acceptable. Discharges of shredded garbage from any commercial, industrial or institutional use are prohibited.
- (22) Rain, stormwater, surface water, groundwater, seepage, roof runoff, street or yard drainage, subsurface drainage, ponds or lawn sprays or water added for the purpose of diluting wastes which exceed maximum concentration limitations.
- (23) It shall be unlawful to discharge to any storm drain or natural outlet any wastewater derived from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, including domestic sewage, and industrial wastewater petroleum products, or otherwise polluted water.

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- (24) Outdoor connections, drains and/or wash racks connected to the District sewer shall be covered and bermed to prevent the inflow of stormwater and shall be equipped with a sand and/or oil interceptor approved by the District.
  - (25) Any substance that will cause the POTW to violate its waste discharge requirements as imposed by the Central Coast Regional Water Quality Control Board or the receiving water quality standards.

**4.06.030 Violation of discharge limitation.**

In addition to any enforcement options available to the District under this Code, and/or any state and/or federal law and/or regulation, if the District determines that a user is contributing to the POTW any of the substances enumerated in this article in such amounts as to interfere with the operation of the POTW, the District shall advise the user of the impact of the contribution on the POTW and develop effluent limitation for such user to correct the interference with the POTW.

**4.06.040 Federal categorical pretreatment standards.**

Upon the promulgation of the federal categorical pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under this chapter for sources in that subcategory, shall immediately supersede the limitations imposed under this chapter.

**4.06.050. State requirements.**

State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations and/or more stringent than the requirements of this chapter.

**4.06.060 Specific discharge limitations.**

- (A) In addition to the general discharge prohibitions in this Chapter, the maximum concentrations of certain pollutants allowable in wastewater discharges to the District sewer system are found in table A of this section. Dilution of any wastewater discharge for the purpose of satisfying these requirements shall be considered a violation of this Chapter.
- (B) Any user who does not comply with federal pretreatment standards as required under section 307(b) and (c) of the Act, and any regulations promulgated thereunder, including those regulations contained in 40 CFR 403.12, violates this Chapter.

Table A

Constituent	Concentration (mg/L)	Recommended EPA Method*
Ammonia	20.0	350.2
Aluminum	8.0	200, 202
Arsenic	0.30	200, 206
Beryllium	0.25	200, 210
Boron	2.50	200
Cadmium	0.25	200, 213
Chromium	0.05	200, 218
Cobalt	0.075	200, 219
Copper	0.30	200, 220
Cyanide	0.20	335
Fluoride	1.50	300
Iron	7.50	200, 236
Lead	0.05	200, 239
Lithium	0.115	200
Mercury	0.005	245
Nickel	0.30	249
Selenium	0.01	270
Vanadium	2.00	200, 286
Zinc	2.00	200, 289
M.B.A.S.	0.20	425.1
Phenol	0.001	420, 604
Sulfate	200.0	300
*Any request for variation from this recommended EPA Method must be approved before analysis is performed.		

- (C) Any wastewater that contains constituents in excess of the amounts in the table in this subsection (C) is subject to a specific permit or enforcement action as set forth in this Chapter. These limits will be reviewed periodically and revised as needed.

Constituent	Concentration (mg/L)	Recommended EPA Method*
TDS	1000	160
Sodium	200	200, 303
Chloride	150	300
BOD	250	405.1
Suspended Solids	25	160.2
*Any request for variation from this recommended EPA Method must be approved before analysis is performed.		

**4.06.070 District's right of revision.**

The District reserves the right to establish by ordinance more stringent limitations or requirements on discharges to the District sewer system if deemed necessary to comply with the discharge limits set forth in section 4.06.060.

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#### **4.06.080 Excessive discharge.**

No user shall increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the federal categorical pretreatment standards, or in any other pollutant-specific limitation developed by the District.

#### **4.06.090. Wastewater discharge permit.**

It shall be unlawful to discharge to the POTW without a permit any wastewater except as authorized by the District in accordance with these provisions. All new industrial or significant users proposing to connect to or to contribute to the POTW shall obtain a wastewater discharge permit before connecting to or contributing to the POTW. All existing industrial users connected to or contributing to the POTW shall obtain a wastewater discharge permit within 30 days of receiving a notice to apply. Any commercial or industrial user may be required to obtain a wastewater discharge permit if, in the opinion of the General Manager, the composition and/or the manner of its discharge may adversely impact District facilities. The wastewater discharge permit requirement imposed by this section shall be in addition to any other requirements of this chapter, including, but not limited to, requirements for connecting to the District's sewer system and requirements to obtaining sewer service and an allocation of sewer capacity.

#### **4.06.100. Wastewater discharge permit application.**

Users required to obtain a wastewater discharge permit shall complete and file with the District an application in the form prescribed by the District, and accompanied by a fee, which shall be determined by the District on an individual basis according to the amount of discharge, the strength and character of the discharge and any other factors pertinent to the treatment and disposal of the discharge. After evaluation and acceptance of the data furnished, the District may issue a wastewater discharge permit subject to terms and conditions provided herein. The applicant's signature on an application for any permit shall constitute an agreement to comply with all of the provisions, terms and requirements of this chapter, as such may be amended from time to time, and with the plans and specifications which the applicant has filed with the application, if any, together with such corrections and/or modification as may be made or permitted by the District, if any.

#### **4.06.110 Wastewater discharge permit conditions.**

Wastewater discharge permits shall be expressly subject to all provisions of this Chapter and all other applicable regulations, user charges and fees established by the District. Wastewater discharge permits may include, but are not limited to, the following:

- (1) The per-unit charge or schedule of user charges and fees for the wastewater to be discharged to the District sewer system;
- (2) Limits on the average and maximum concentrations of wastewater constituents and/or limits on other wastewater characteristics;
- (3) Limits on rate and time of discharge or requirements for flow regulations and equalization;
- (4) Requirements for installation and maintenance of inspection and sampling facilities;
- (5) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule;
- (6) Compliance schedules;
- (7) Requirements for submission of technical reports or discharge reports;

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- (8) Requirements for maintaining and retaining plant records relating to wastewater discharge, as specified by the District, and affording District access thereto;
  - (9) Requirements for notification of the District of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the District sewer system; and/or
  - (10) Other conditions as deemed appropriate by the District to ensure compliance with this chapter and any applicable state and/or federal statutes and/or regulations.

**4.06.120. Wastewater discharge permit duration.**

Permits shall be issued for a specified period not to exceed five years. Any industrial user holding a time limited permit shall apply for a permit reissuance a minimum of 180 days prior to the expiration of the industrial user's existing permit. The terms and conditions of the permit may be subject to modification by the District during the term of the permit as limitations or requirements are modified or other just cause exists. The industrial user shall be informed of any proposed changes in the permit at least 30 days prior to the effective date of the changes. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

**4.06.130. Wastewater discharge permit modification.**

The terms and conditions of wastewater discharge permits shall be subject to modification by the District during the term of the permit. The District shall notify the permittee in writing at least 30 days prior to the effective date of any changed term. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

**4.06.140. Wastewater discharge permit transfer.**

- (A) A wastewater discharge permit is issued to a specific user for a specific operation at a specific location. A wastewater discharge permit shall not be reassigned, transferred and/or sold to a new or different operation and/or premises without first obtaining the prior written consent of the District.
- (B) Any succeeding owner or user to an operation for which a wastewater discharge permit has been issued shall continue to comply with the terms and conditions of that permit.

**4.06.150. Pretreatment required for industrial users.**

Industrial users shall provide necessary wastewater pretreatment as required to comply with this chapter and to protect the District's POTW and the proper and efficient operation thereof, the health and safety of District employees and the environment. Industrial users shall achieve compliance with all applicable categorical pretreatment standards, local limits, and the prohibitions set out in this chapter within the time limits specified by the EPA, the state, or the District, whichever is more stringent. Any facilities required to pretreat wastewater to a level acceptable to the District shall be provided, operated, and maintained in good working order and at the industrial user's expense.

**4.06.160. Isolation of industrial wastewater in new facilities.**

In the construction of new facilities, all domestic wastewater from restrooms, showers, drinking fountains, or similar fixtures, shall be kept separate from all industrial wastewater until the industrial wastewater has passed through any required pretreatment system or device and the industrial wastewater monitoring facility or stations.

**4.06.170. Submission of plans required.**

Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the District for review, and shall be deemed acceptable to the District prior to initiation of construction and/or installation of those facilities. The review of such plans and operating procedures will in no way

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relieve the user from the responsibility of modifying the facilities as necessary to produce an effluent acceptable to the District under the provisions of this chapter. Any subsequent changes in the pretreatment facilities or methods of operation shall be reported to and be deemed acceptable to the District prior to the industrial user's initiation of those changes.

**4.06.180. Inspection, sampling and reporting requirements for the permittee—Baseline monitoring reports.**

Within 180 days after the effective date of an EPA pretreatment categorical standard, or within 180 days after the final administrative decision made upon a category determination pursuant to 40 CFR 403.6(a)(4), whichever is later, existing users subject to such categorical standards and currently discharging to the POTW shall be required to submit to the District a report that contains all of the information detailed in this Chapter. At least 90 days prior to the commencement of discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the District a report which contains all of the information detailed in this Chapter. New sources also shall be required to include in this report information on the method of pretreatment that the new source intends to use to meet pretreatment standards.

**4.06.190 Inspection, sampling and reporting requirements for the permittee—Information to be included in the baseline monitoring report.**

A. Each baseline monitoring report shall include the following information:

- (1) *Identifying information.* The name and address of the facility, including the name of the owner and operator.
- (2) *Environmental permits.* A list of any environmental control permits held by or for the facility.
- (3) *Description of operations.* A brief description of the nature of the operations, average rate of production of goods (if applicable), and standard industrial classifications of the operation carried out by the existing source, new source, or source that becomes a categorical user subsequent to the promulgation of an applicable categorical standard. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.
- (4) *Flow management.* Information showing the measured average daily and maximum flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary to allow use of the combined waste stream formula set forth in 40 CFR 403.6(e). New sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, may estimate this information.
- (5) *Measurement of pollutants.* The report shall contain the following information:
  - a. The categorical standard applicable to each regulated process; and
  - b. The results of sampling and analysis identifying the nature and concentration of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set forth in this chapter. Existing users shall take at least one representative sample to comply with these requirements. The sample shall be taken directly downstream from the POTW. New sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, may estimate this information if operations have not yet commenced.
- (6) *Certification.* A statement, reviewed and certified by the industrial user's responsible officer or other authorized representative that indicates whether pretreatment standards are being met

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on a consistent basis, and, if not, whether additional operations and maintenance and/or pretreatment is required to meet the pretreatment standards and requirements.

**4.06.200. Inspection, sampling and reporting requirements for the permittee—Periodic compliance report.**

Any industrial user that is required to obtain a permit under this chapter, and performs self-monitoring shall comply with all applicable requirements in 40 CFR 403.12 and submit to the District during the months of June and December, unless required more frequently by the District, a report indicating the nature of the effluent over the previous reporting period. The frequency of monitoring shall be prescribed in the permit issued by the District, but in no case shall monitoring be required less than twice each year. The General Manager may modify the months during which these reports are to be submitted.

**4.06.210. Inspection, sampling and reporting requirements for the permittee—Information to be included in the periodic compliance report.**

- (A) The report submitted pursuant to section 4.06.200 shall include a record of the concentrations of the pollutants listed in the permit, actual or estimated maximum and average daily flow measurements taken at sampling locations, and any additional information required by the permit or by the general manager. If an industrial user sampled more frequently than what was required, the industrial user must include all results of sampling during the reporting period.
- (B) If the industrial user is subject to a categorical standard that requires implementation of BMPs, the industrial user shall include with its report all documentation required by the general manager to determine compliance with the applicable BMP.
- (C) Any industrial user subject to equivalent mass or concentration limitations established by the District, or by unit production limits specified in the applicable categorical standard, shall report production data as required by section 4.08.210, which shall include the industrial user's actual average production rate for the reporting period.
- (D) If the District calculated limits to factor out dilution flows or nonregulated flows, the industrial user shall be responsible for providing flow measurements from the regulated process flows, dilution flows, and nonregulated flows.
- (E) Flows shall be reported on the basis of actual measurement, provided, however, the District may accept reports of average and maximum flows estimated by verifiable techniques if the District determines an actual measurement is not feasible.
- (F) Discharges sampled shall be representative of the industrial user's daily operations, and samples shall be taken in accordance with the requirements specified in this Chapter.

**4.06.220. Inspection, sampling and reporting requirements for the permittee—Final compliance report.**

Within 90 days following the date for final compliance by an existing user with the applicable pretreatment standards and requirements set forth in this Chapter, in federal categorical standards, or in a permit, or in the case of a new source or new user considered by the District to fit the definition of an industrial user, within 90 days following the commencement of the introduction of wastewater into the POTW, the industrial user shall submit to the District a final compliance report.



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**4.06.230. Inspection, sampling and reporting requirements for the permittee—Information to be included in the final compliance report.**

- (A) *Flow measurement.* For industrial users, this may include the average daily and maximum daily flow, in gallons per day, to the POTW from the total process flow, wastewater plant flow, total plant flow, individual manufacturing process flow, manufacturing process flow and/or any other flow as required by the general manager.
- (B) *Measurement of pollutants.* Industrial user shall identify the applicable pretreatment standard for each regulated or manufacturing process, and report the results of sampling, and provide an analysis identifying the nature and concentration of regulated pollutants set forth in this article in the discharge from each regulated or manufacturing process, including daily maximum and average concentrations. The sampling shall be representative of daily operations and shall conform to the sampling and analytical procedures outlined in sections 10.08.1560 and 10.08.1570. The industrial user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this subsection. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) for a categorical industrial user, this adjusted limit along with supporting data shall be submitted as part of the final compliance report.
- (C) *Certification.* The industrial user shall indicate whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operations and maintenance and/or additional pretreatment is required for the industrial user to meet the applicable pretreatment standards and requirements. This information shall be accompanied by the following statement and shall be signed by an industrial user's authorized representative:

"I certify under penalty of perjury under the laws of the State of California that this document and all its attachments were prepared under my direction or supervision in accordance with a system designed to ensure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, if not myself, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

- (D) *Final compliance report.* For an industrial user subject to equivalent mass or concentration limits established by the District in accordance with procedures established in 40 CFR 403.6(c), this final compliance report shall contain a reasonable measure of the industrial user's long-term production rate. For all other industrial users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), the final compliance report shall include the industrial user's actual production during the sampling period.

**4.06.240 Inspection, sampling and reporting requirements for the permittee—Notification of significant production changes.**

Any industrial user operating under a permit incorporating equivalent mass or concentration limits shall notify the District within two business days after the industrial user has a reasonable basis to know that the production level will significantly change within the next calendar month. Any industrial user not providing a notice of such anticipated change shall comply with the existing limits contained in its permit.

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**4.06.250 Inspection, sampling and reporting requirements for the permittee—Notice of potential problems, including accidental spills and slug loads.**

Any industrial user or person operating under a permit shall notify the District and regional water quality control board immediately of all discharges that would exceed the treatment limits of the POTW, including any slug loads, as defined by the Environmental Protection Agency. The notification shall include the concentration and volume and corrective action, and shall describe all steps the user or person operating under the permit is taking to reduce any adverse impact of the discharge. Any industrial user or person operating under a permit who discharges a slug load of pollutants shall fully indemnify the District for any expenses, losses, or damages to the District arising out of or relating to the discharge, in addition to the amount of any fines imposed on the District under state or federal law.

**4.06.260 Inspection, sampling and reporting requirements for the permittee—Noncompliance reporting.**

- (A) If sampling performed by the industrial user indicates a violation, the industrial user shall notify the District and the Regional water Quality Control Bboard within 24 hours of becoming aware of the violation. The industrial user also shall repeat the sampling within five days and submit the results of the repeat analysis to the District and the Regional Water Quality Control Board within 30 days after becoming aware of the violation.
- (B) If sampling performed by the District or the Regional Water Quality Control Board indicates a violation, the industrial user shall perform repeat sampling and analysis within five days.
- (C) Repeat sampling shall not be required if:
  - (1) The District or the Regional Water quality Control Bboard performs the periodic sampling at the industrial user at a frequency of at least once per month; or
  - (2) The District or the Regional Water Quality Control Board performs sampling at the industrial user after the initial sampling but before the industrial user or the District or the regional water quality control board receives the results of this initial sampling.

**4.06.270 Inspection, sampling and reporting requirements for the permittee—Notification of changed discharge.**

All industrial users shall promptly notify the District or regional water quality control board in advance of any substantial change in the volume or character of pollutants in their discharge, including significant manufacturing process changes, pretreatment modifications, or in the listed or characteristic hazardous wastes for which the industrial user has submitted initial notification under 40 CFR 403.12(p).

**4.06.280 Inspection, sampling and reporting requirements for the permittee—Reports from unpermitted users.**

The District may require any user that discharges to the POTW to provide appropriate reports, even though the user may not be required to obtain a permit under this chapter.

**4.06.290 Inspection, sampling and reporting requirements for the permittee—Recordkeeping.**

Industrial users subject to the reporting requirements of this Chapter shall retain and make available for inspection and copying all records of information obtained pursuant to any monitoring activities required by this article and any additional records of information obtained pursuant to the monitoring activities undertaken by the industrial user independent of such requirements. Records shall include: the date, exact place, method and time of sampling and the name of the person taking the samples; the dates that analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses including documentation associated with BMPs. These records shall be retained for a period of at least three years. This period shall be automatically extended for the duration of

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any litigation concerning the industrial user or the District, or where the industrial user has been specifically notified of a longer retention period by the District, the regional water quality control board, or the EPA.

**4.06.300. Inspection to ensure compliance—District right to inspect.**

The District shall be permitted to inspect the facilities of any industrial user to ascertain whether the purpose and requirements of this Chapter and any applicable permit or law are being met. Persons or occupants of the premises where wastewater is created or where a discharge occurs shall allow the District or its representatives access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, record examination, or in the performance of any of their duties. The District, regional water quality control board and EPA shall have the right to set up on the industrial user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. Where an industrial user's security measure is in force which would require proper identification and clearance before entry on the premises, the industrial user shall make necessary arrangements with its security staff so that, upon presentation of suitable identification, personnel from the District, regional water quality control board and/or EPA, will be permitted to enter, without delay, for the purposes of performing their specific duties.

**4.06.310. Inspection to ensure compliance—Sampling requirements for industrial users.**

- (A) Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds. For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the District. The samples must be representative of the discharge and the decision to allow the alternative sampling must be documented in the industrial user file for that facility or facilities. Using protocols specified in 40 CFR part 136 and appropriate EPA guidance, multiple grab samples collected during the 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides, the samples may be composited in the laboratory; composite samples for other parameters unaffected by compositing procedures, as documented in approved EPA methodologies, may be authorized by the District or the regional water quality control board, as appropriate.
- (B) For sampling required in support of baseline monitoring and 90-day compliance reports, a minimum of four grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the District may authorize a lower minimum. For reports required by 40 CFR 403.12(e) and 403.12(h), the District shall require the number of grab samples necessary to assess and ensure compliance by the industrial users with applicable pretreatment standards and requirements.
- (C) Samples shall be taken immediately downstream from pretreatment facilities, if such exist, immediately downstream of regulated or manufacturing processes if no pretreatment exists, or at a location determined by the District and specified in the industrial user's permit. If other wastewater is mixed with the regulated wastewater prior to pretreatment, the industrial user shall measure the flows and concentrations necessary to allow the use of the combined waste stream formula in 40 CFR 403.6(e) in order to evaluate compliance with the applicable categorical pretreatment standards. For other industrial users for which the District has adjusted its local limits to factor out dilution flows, the industrial user shall measure the flows and concentrations necessary to evaluate compliance with the adjusted pretreatment standard.
- (D) All sample results shall indicate the time, date and place of sampling, and methods of analyses and shall certify that the waste stream sampled is representative of normal work cycles and expected pollutant discharges from the industrial user. If an industrial user sampled and analyzed more frequently than what was required in its permit, using methodologies in 40 CFR part 136, it must submit all results of sampling and analysis of the discharge as part of its self-monitoring report.

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**4.06.320 Inspection to ensure compliance—Analytical requirements.**

All pollutant analyses, including sampling techniques, shall be performed in accordance with the techniques prescribed in 40 CFR part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by the EPA

**4.06.330. Inspection to ensure compliance—Monitoring facilities.**

- (A) The District shall require to be provided and operated, at the industrial user's own expense, monitoring facilities to allow inspection, sampling and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the industrial user's premises, but the District may, when such a location would be impractical or cause undue hardship on the industrial user, allow the facility to be constructed in the public street or sidewalk, provided it is located so that it will not be obstructed by landscaping or parked vehicles and provided the industrial user applies for and obtains all required permits.
- (B) There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, and sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the industrial user's expense.
- (C) Where constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the District's requirements and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the District.

**4.06.340 Inspection to ensure compliance—Inspection warrants.**

If the District has been refused access to a building, structure or property, or any part thereof and is able to demonstrate probable cause to believe there may be a violation of this article, or that there is a need to inspect as part of a routine inspection program of the agency designed to verify compliance with this article, or any permit or order issued hereunder, or to protect the overall public health, safety and welfare, then the District may seek issuance of an inspection warrant from the San Luis Obispo County Superior Court. Such warrant shall be served at reasonable hours by the District, pursuant to applicable state law.

**4.06.350. Inspection to ensure compliance—Vandalism.**

No person shall willfully or negligently break, damage, destroy, uncover, deface, tamper with, or prevent access to any structure, appurtenance or equipment, or other part of the POTW. Any person found in violation of this requirement shall be subject to the penalties set forth in this Code or, if applicable, criminal laws.

**4.06.360. Confidential information.**

- (A) Information and data on an industrial user obtained from reports, surveys, permit applications, permits, and monitoring programs, and from the District's inspection and sampling activities shall be available to the public without restriction, unless the industrial user specifically requests and is able to demonstrate to the satisfaction of the District that the release of such information would divulge proprietary information, processes or methods of production entitled to protection as a trade secret under applicable state law.
- (B) When requested and demonstrated by the industrial user furnishing the report to the satisfaction of the District's General Counsel that such information should be held confidential, the portions of the report which might disclose trade secrets or secret processes shall not be made available to the public, but shall be made available immediately, upon request to governmental agencies for uses related to the District's waste discharge requirements or this article, or in enforcement proceedings involving the industrial user furnishing the report.

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- (C) Notwithstanding subsections (a) and (b) of this section, wastewater constituents and characteristics and other effluent data do not constitute confidential information and will be available to the public without restriction.

**4.06.370 Enforcement.**

- (A) The General Manager shall administer, implement and enforce the provisions of this article. Any ministerial authorities granted to or duties imposed upon the General Manager may be delegated by the General Manager to person acting in the employment of or under contract to the District.
- (B) The District may enter upon the private property of any person within the jurisdiction of the District in order to investigate possible violations of this Chapter. District representatives shall carry evidence establishing their position as authorized representatives of the District, and, upon presentation and exhibiting these proper credentials and identification, be permitted to enter in and upon all buildings and premises within the District for the purpose of inspection, observation, measurement, sampling, testing, or otherwise performing such duties as may be necessary in carrying out this Chapter.
- (C) A violation or continuing violation of any provision of this article is a misdemeanor pursuant to Water Code § 31106, in addition to any penalty set forth in this Code.
- (D) The remedies that the District may seek for violation or continuing violation of this Chapter include, but are not limited to, any of the following remedies:
- (1) The District may issue a notice of noncompliance to any user. The District shall exercise its discretion in providing the industrial user an appropriate amount of time, generally five to 15 days, to correct the violation.
  - (2) The District may issue an enforcement warning letter to any user for a violation. The District shall exercise its discretion in providing the user an appropriate amount of time to correct the violation.
  - (3) The District may issue a notice of violation to any user for a violation. The notice shall state the nature of the violation and provide a reasonable time for the satisfactory correction thereof, but in no event more than 30 days. In addition, the notice may require inspections or sampling and may impose other requirements the District deems necessary. The District shall issue an administrative fine with each notice which shall not exceed an amount set by the District's governing body. If the user corrects the violation to the District's satisfaction within the time period provided in the notice, then the District shall waive the administrative fine.
  - (4) The District may issue an administrative order to any user for a violation. The administrative order shall state the nature of the violation and provide a reasonable time for the satisfactory correction thereof, but in no event more than 60 days. In addition, the order may require inspections or sampling and may impose other requirements the District deems necessary. The District shall issue an administrative fine with each notice which shall not exceed an amount set by the Board. If the user corrects the violation to the District's satisfaction within the time period provided in the notice, then the District shall waive the administrative fine.
  - (5) The District may seek an injunction and/or civil penalties to an industrial user of up to \$25,000.00 per violation, per day of violation by filing a petition in the San Luis Obispo County Superior Court pursuant to Government Code § 54740.
  - (6) The District may assess charges to an industrial user for repair and clean-up necessitated by the violation, as set forth in this Chapter.
  - (7) The District may discontinue sewer service to any user violating this article, as set forth in this Chapter.
  - (8) The District may file a criminal complaint on any user with the San Luis Obispo County District Attorney or other appropriate law enforcement official, as provided in this Code.

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#### **4.06.380 Suspension of service.**

- (A) The District may suspend the sewer service and/or a wastewater discharge permit when such suspension is necessary, in the opinion of the General Manager, in order to stop an actual threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, cause interference to the POTW, or cause a violation of any waste discharge requirements prescribed by the Regional Water Quality Control Board, upon the presentation of written notice, and the grounds therefor, to the user or permittee. The industrial user may appeal the General Manager's suspension decision to the Board by filing a written appeal pursuant to 1.04.030.
- (B) Any person notified of a suspension of its wastewater treatment service and/or the wastewater discharge permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the District shall take such steps as deemed necessary including, but not limited to, immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The District shall reinstate the wastewater discharge permit and/or the wastewater treatment service upon proof of the elimination of the noncomplying discharge. A detailed written statement submitted by the industrial user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the District within 15 days after the date of occurrence.

#### **4.06.390 Revocation of permits.**

- (A) The District has sole and complete discretion to revoke the permit of any user who violates this chapter and/or any applicable state and/or federal laws and/or regulations. Violations that may result in revocation of a permit issued under this chapter include, but are not limited to, the following:
  - (1) Misrepresentation or failure of an industrial user to factually report the wastewater constituents and characteristics of his discharge;
  - (2) Failure of the industrial user to report significant changes in operations, systems, or wastewater constituents and characteristics prior to the changed discharge;
  - (3) Falsifying self-monitoring reports and certification statements;
  - (4) Refusal of reasonable access to the industrial user's premises and records for the purpose of inspection or monitoring;
  - (5) Violation of any pretreatment standard or requirement, or of any terms of the industrial wastewater discharge permit or of this chapter;
  - (6) Tampering with monitoring equipment;
  - (7) Failure to provide advance notice of the transfer of business ownership of a permitted facility;
  - (8) Failure to pay fines; or
  - (9) Violation of any pretreatment standard or requirement, any term of the wastewater discharge permit issued by the District, or any provision of this chapter.
- (B) A wastewater discharge permit is voidable upon cessation of operations. Any wastewater discharge permit issued for a particular industrial user is void upon the issuance of a new permit to that industrial user.

#### **4.06.400 Liability for violation.**

- (A) In the event that an industrial user discharges wastewater in violation of this Chapter, the District may assess a charge against the responsible person for the work required to clean and/or repair facilities owned or used by the District, additional operating and maintenance costs and all direct

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and indirect costs the District associated with the industrial user's violation. Such a charge may be collected in any manner authorized by this Code or by law.

- (B) In order to enforce the provisions of this Chapter, the District may correct any violation hereof. The cost of such correction (including, but not limited to, any fines or other costs imposed on the District by any federal or state agency or court and the District's reasonable attorneys' fees) shall be payable by the person violating this Chapter or by the owner or tenant of the property upon which the violation occurred, and such cost may be added to any sewer service charge payable in connection with the property. The District shall have such remedies for the collection of such costs as it has for the collection of user charges, in addition to any other remedies provided by this Chapter or by law.

**4.06.410 Enforcement remedies cumulative.**

Each of the enforcement remedies available to the District as specified herein shall be nonexclusive and may be asserted cumulatively and in addition to, or in lieu of, any other remedy available to the District under law.

**4.06.420 Accidental discharges.**

Each industrial user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this chapter. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the industrial user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the District for review, and shall be approved by the District before construction of the facility. No industrial user who commences contribution to the POTW after the effective date of this chapter shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the District. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the industrial user's facility as necessary to meet the requirements of this chapter. In the case of an accidental discharge, it is the responsibility of the user to immediately telephone and notify the POTW of the incident. The notification shall include location of discharge, type of waste, concentration and volume and corrective actions.

**4.06.430 Written notice.**

Within five days following an accidental discharge, the industrial user shall submit to the District a written report describing the cause of the discharge and the measures to be taken by the industrial user to prevent similar future occurrences. Such notification shall not relieve the industrial user of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, fish kills or any other damage to person or property; nor shall such notification relieve the industrial user of any fines, civil penalties or other liability which may be imposed by this chapter or other applicable law.

#### **4.06.440 Notice to employees.**

The industrial user shall prominently and permanently post on the industrial user's bulletin board or other prominent place a notice advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure. Title 5 SEWER AND WATER MAIN EXTENSIONS AND APPURTENANT FACILITIES

#### **Chapters:**

Chapter 5.02 - REIMBURSEMENT AGREEMENTS

#### **Chapter 5.02 REIMBURSEMENT AGREEMENTS**

#### **Sections:**

5.02.010 Purpose and applicability.

5.02.020 Plans and Specifications

5.02.030 Reimbursement of excess costs.

5.02.040 Applications for reimbursement.

5.02.050 Reimbursement agreement.

5.02.060 Ten-year repayment obligation.

5.02.070 District to serve as collector.

5.02.080 District administrative costs.

5.02.090 District Facility Construction Cost Reimbursement

5.02.100 District connections.

5.02.110 All other District water and sewer charges in effect.

5.02.120 District liability.

#### **5.02.010 Purpose and applicability.**

- A. The District may impose a requirement that improvements installed by a developer for the benefit of the developer's project shall contain supplemental size, capacity, number, or length for the benefit of property not within the subdivision and that those improvements be dedicated to the District.
- B. The District may impose a requirement, or may agree with a developer, for the developer to construct and install District facilities which are called out in the then-current District Water and Sewer Master Plan or the District's most current hydraulic model, or which are otherwise necessary to support the District's Supplemental Water Project or other District projects, and that those improvements be dedicated to the District.
- C. This Chapter is intended to provide an equitable procedure for at least partial reimbursement to private parties who construct and dedicate accepted District facilities at the direction of the District, if such facilities are also used thereafter to directly serve and benefit private property owned by others, or to provide a means of cost recovery through reimbursements if the facilities benefit the District as a whole.
- D. The "Reimbursement of Excess Costs" provisions Section 5.02.030 shall apply whenever an applicant is required as a condition of development, to construct and install District facilities, which are dedicated to the District, and which have the future potential and capacity to provide service to other specified



real property parcels not under the control or ownership of the applicant, unless the District Board specifically provides otherwise by ordinance or resolution.

- E. The "District Facility Construction Cost Reimbursement" provisions of Section 5.02.090 shall apply whenever a developer or applicant is required as a condition of development, or agrees with the District, to construct and install District facilities which are called out in the then-current District Water and Sewer Master Plan or the District's most current hydraulic model, or which are otherwise necessary to support the District's Supplemental Water Project or other District projects, and such facilities are not otherwise eligible for Reimbursement of Excess Costs pursuant to this Chapter, and are dedicated to and accepted by the District, unless the District Board specifically provides otherwise by ordinance or resolution. The costs of such construction and installation shall be eligible for reimbursement only to the extent the costs thereof are for 'Oversizing' or 'Off-site development' as defined in this Chapter. No person shall be eligible for a reimbursement for the cost of constructing and installing facilities necessary to provide water and sewer service to that person's property or properties.

#### **5.02.020 Plans and Specifications.**

- A. Water and sewer system improvement plans and specifications shall be prepared by a California registered civil engineer.
- B. Water and sewer system improvements shall be designed and constructed in conformance with the District's standards and specifications as adopted by resolution of the Board.
- C. The District General Manager may require an applicant to enter into a PCIA and comply with the conditions thereof.
- D. The District's administrative costs shall be paid by the applicant pursuant to the PCIA. Such costs shall be established by the PCIA or resolution of the Board, or by this Code, as applicable.
- E. All water and sewer improvements shall be bonded for or otherwise secured in the District's name, to the satisfaction of the District.

#### **5.02.030 Reimbursement of excess costs.**

- A. For the purpose of this Chapter, "Excess Costs" means:
1. Oversizing: The cost of installing the size of line required to serve applicant's needs pursuant to District's plans and specifications or as identified in the engineer's report and the actual cost of installing a larger line at the direction of the District.
  2. Off-site development: A *pro rata* share of the costs of installing District facilities and appurtenances pursuant to District plans and specifications beyond the property of the applicant that are subject to probable future use by connectors other than applicant.
- B. Allowable Costs: Costs which are allowable for inclusion in the calculation of Excess Costs are those costs which are directly related to the planning, design and construction of the relevant District facility, including payments to contractors and engineers, security bonds, acquiring right-of-way for the project, and amounts attributable to interest for the excess cost of oversizing the District facilities.
- C. Ineligible Costs: Ineligible costs include, but are not limited to, attorneys' fees, financing costs, and the applicant's overhead and office expenses related to the coordination and supervision of contractors engaged to perform project work.
- D. Maximum Recovery: The "Maximum Recovery" of Excess Costs for installation of a District facility shall be calculated as the sum of all allowable Excess Costs of the District facility, less the share of costs for the applicant's use of the District facility based upon the number of applicant's connections or residential units equivalent as determined by the engineer. The applicant's Maximum Recovery shall also be reduced by the sum of all reimbursement fees waived by the applicant pursuant to agreements regarding the share of costs between the applicant and other party or parties.

- E. Approval of Excess Costs: The District's General Manager shall have the authority to audit the statement of Excess Costs submitted by applicant, and to approve for reimbursement only so much thereof as the General Manager determines to be just and reasonable. Such Excess Costs, if any, shall be computed when such facilities are completed by applicant and accepted by District, and any approved amount shall be paid as provided in a reimbursement agreement pursuant to this Chapter.
- F. Proration of Costs:
1. The District Engineer shall prorate the approved excess costs against all lots or parcels which in the future may be served by direct connection thereto ("area of proration"). The District shall send written notice of the prorated amount to the person shown on the latest county assessor's roll as the owner or agent of record for assessment purposes for each parcel. Such person may protest the prorations in writing within fourteen days after the notice is mailed. If not protested within the fourteen days, the proration shall become final for the purposes of this section.
  2. A protest shall be concerned only with the division or spread of the costs between or among the applicant's property(ies) and all other properties to be included in the area of proration or the boundary of the area of proration. A protest shall not be concerned with the actual construction costs unless the protester can demonstrate fraud or willful concealment of actual cost information as presented by the applicant or his agent to the engineer.
  3. The Board shall hold a public hearing to consider all such written protests. All evidence in support of the protest shall be submitted in writing to the District at least ten days before the meeting. The engineer shall prepare a written report and recommendation to the Board on each protest. A copy of the engineer's report shall be mailed, or otherwise delivered, to the concerned protester at least five days before the board meeting to consider the protest.
  4. The Board's decision on the protest shall be in writing, and shall be final. If the Board's decision results in an increased proration amount for properties owned by anyone other than the protester or the applicant, a new notice and a new fourteen-day period shall be given for each such property.
  5. If no protest is filed for a property within the fourteen-day period after the first or any subsequent notice of prorated amount is mailed for that property, the proration shall become final as to the property.
- G. The area of proration and the final proration of costs shall be approved by resolution of the Board.
- H. The District General Manager is authorized to record a notice on all properties that are subject to reimbursement upon adoption of the resolution referenced in subparagraph G, above.

#### **5.02.040 Applications for reimbursement.**

- A. In order to qualify for reimbursement of excess costs, pursuant to this chapter, the Applicant shall, within ninety days of District's acceptance of District facilities, deliver to District the following:
1. Written application requesting reimbursement of excess costs;
  2. A certified statement showing the applicant's allowable costs in constructing District facilities.
  3. A scale map that identifies the District facilities and parcels which could reasonably be physically connected directly to the District facility(ies).
  4. A list of each owner's name, address, county assessor's parcel number and current zoning for each parcel identified on the scale map referenced in subparagraph 3 above.
  5. A statement disclosing any agreements regarding the sharing of the District facility costs which exist between the applicant and any other party or parties.
  6. A deposit, in an amount determined by the District Engineer, to reimburse the District's costs in processing and preparing the reimbursement agreement. If the District's costs exceed the

amount of the deposit, the applicant shall pay the additional amounts prior to recording of the reimbursement agreement. If the District's costs are less than the deposit, the District shall refund any excess to the applicant prior to recording.

- B. The applicant shall provide other information requested by the District engineer and shall cooperate with the engineer in reviewing costs.
- C. If the applicant does not submit the application and information required in subparagraph A, above, within ninety days of District's acceptance of the District facility(ies), applicant shall have waived all right to reimbursement.

**5.02.050 Reimbursement agreement.**

- A. Upon the applicant's compliance with Sections 5.02.030 and 5.02.040, the General Manager may enter into a reimbursement agreement that is consistent with this Chapter.

**5.02.060 Ten-year repayment obligation.**

Provided that the applicant has complied with all provisions of this Chapter and the District has accepted the District facilities, for a period of ten years from the date of acceptance of the District facilities, the applicant shall be eligible for reimbursement of Excess Costs, as provided in this Chapter and a current reimbursement agreement, from each benefitted parcel as such parcels, or portion thereof connects to the District facility(ies).

**5.04.070 District to serve as collector.**

If the District enters into a reimbursement agreement as provided in this Chapter, the District shall use reasonable commercial efforts to collect the prorated reimbursement amount for each parcel before permitting the parcel to connect to the District facility. It is the duty of the applicant to keep a current address on file with the District. Reimbursement amounts returned to the District and unclaimed within one year following such return shall become the property of the District.

**5.02.080 District administrative costs.**

As partial reimbursement to the District for its administrative costs in record keeping, collection and disbursement activities, the District shall charge, deduct and retain five percent of all reimbursement amounts collected from subsequent connections to District facilities prior to paying such amounts to the applicant.

**5.02.090 District Facility Construction Cost Reimbursement.**

- A. The applicable procedural provisions and requirements of Sections 5.02.040 through 5.02.080, inclusive, of this Chapter shall be used at the discretion of the District Engineer to determine the amount of a developer's or applicant's District Facility Construction Cost Reimbursement, if any, pursuant to Section 5.02.010(E).

- B. The District Facility Construction Cost Reimbursements may, in applicable cases, be combined with reimbursements of excess costs as provided in Section 5.02.020, but in no event shall the total

reimbursement by the District to any developer or applicant exceed the "Maximum Recovery" of as defined in this Chapter and determined by the District Engineer.

C. Once the Maximum Recovery and final proration and costs of improvements subject to reimbursements have been established by the District Engineer pursuant to this Chapter, and upon application of the developer or applicant for District Facility Construction Cost reimbursement, the District Board shall consider such requests and the recommendation of the District Engineer and, if granted, shall adopt a resolution stating the total amounts to be reimbursed and the schedule for reimbursement.

D. If the recipient of such reimbursement sells or otherwise transfers its interest in the property to any other person prior to reimbursement, the transferor shall forfeit to the transferee of record on title any further right to reimbursements from the District.

**5.02.100 District connections.**

A. The District may make connections to the water and sewer facilities to serve public facilities that are outside the area of proration, without any obligation to pay any such reimbursement, upon a determination that there is sufficient capacity in the District facility to serve the area of proration and the public facilities.

B. The District may also make or permit connections to the water and sewer facilities to serve private property outside of the area of proration as determined by the District Engineer; provided, however, that the District Board reserves the right to determine at that time whether or not the owners of such private property shall be obligated to reimburse applicant as provided in this chapter.

**5.02.110 All other District water and sewer charges remain in effect.**

Nothing herein shall be construed or applied to affect or reduce any otherwise applicable District charges, fees, connection or capacity charges, or other amounts payable to the District for water and sewer service.

**5.02.120 District liability.**

If for any reason the reimbursable cost is or becomes uncollectible, as determined by the District, or is not collected, the District shall not be liable to the applicant for the excess costs in constructing the District facilities.

## **Title 6 SOLID WASTE**

### **Chapters:**

Chapter 6.02 - GENERAL PROVISIONS

Chapter 6.04 - HEALTH AND SAFETY AND PROPERTY MAINTENANCE

Chapter 6.06 - SOLID WASTE SERVICE

Chapter 6.08 - COLLECTION OF RATES AND CHARGES AS LIENS

Chapter 6.10 - MANDATORY ORGANIC WASTE DISPOSAL REDUCTION

Chapter 6.12 - COLLECTOR REGULATIONS

Chapter 6.14 - FRANCHISE AGREEMENTS

Chapter 6.16 - EXCEPTIONS

### **Chapter 6.02 GENERAL PROVISIONS**

#### **Sections:**

[6.02.010 Definitions.](#)

[6.02.020 Administration, policies and procedures.](#)

[6.02.030 Notices.](#)

[6.02.040 Indemnification.](#)

[6.02.050 Use of District name.](#)

[6.02.060 Appeal process.](#)

#### **6.02.010 Definitions.**

Except as otherwise provided herein, as used in this Title 6 the following words and phrases shall be interpreted consistent with the definitions set forth in Public Resources Code commencing with Section 40100.

"Act" means the California Integrated Waste Management Act of 1989 California Public Resources Code Section 40000 et seq. and all regulations adopted under that legislation, as may be amended from time to time.

"Approved Collector" means a collector who has been awarded a franchise agreement for the collection of solid waste and/or industrial waste within the District boundaries.

"Board" means the governing board of the Nipomo Community Services District.

"Bulky Waste" means and includes, but not by way of limitation, discarded white goods i.e., major household appliances, furniture, tires, carpets, mattresses and similar large items.

"Collection" means the act of collecting solid waste materials or recyclables at residential, commercial, industrial or governmental sites and hauling it to a facility for processing, transfer, disposal or burning.

"Collection Vehicle or Equipment" means any vehicle or equipment used in the collection of residential, commercial, industrial or governmental solid waste or recyclables.

"Collector" means any person who operates a service route or provides service and is directly or indirectly reimbursed for the collection, transportation and disposal or recycling of solid waste, green waste, recyclables or industrial waste from residential, commercial or industrial premises within the District boundaries.

"Construction and Demolition Waste" means the residual building materials, packaging and rubble resulting from construction, remodeling, repair and demolition operations on pavements, houses, commercial buildings and other structures.

"Container" means any bin, vessel, can or receptacle used for collecting solid waste from commercial and residential properties.

"County" means the County of San Luis Obispo.

"Curbside Collection" means the collection of solid waste from a location adjacent to the street or alleyway.

"Developed Properties" mean real property within the District that is developed with a building or structure, that when used, is capable of generating solid waste. Developed properties include but are not limited to, occupied residential property, multi-family property and commercial property.

"District" means the Nipomo Community Services District and/or the Nipomo Community Services District Board of Directors.

"Franchise" means the right and privilege in accordance with a franchise agreement with the District: (A) to collect; (B) to transport to a landfill or other permitted disposal facility; and/or (C) to recycle, from collected solid waste and recyclables, all solid waste kept, generated and/or accumulated within the District-authorized franchise area.

"Franchise Fee" means the fee or assessment imposed by the District on a franchisee because of his or her status as a franchisee.

"Garbage" means the putrescible animal, fish, fowl, food, fruit, bakery goods or vegetable matter resulting from the preparation, storage, processing, handling, decay, distribution, manufacturing or consumption of such substance except suet, tallow, bones or meat trimmings that are not rejected by the owner or producer as worthless or useless.

"General Manager" means the person holding the position or acting in the capacity of general manager of the District who shall administer and enforce the rules and regulations of the District.

"Green Waste" means all grass clippings, leaves, branches and tree trunks and other yard waste generated by residents.

"Hazardous Waste" means any waste material or mixture of waste which is toxic, corrosive, flammable or reactive if such a waste or mixture of waste may cause injury, illness or harm to humans, animals or the environment during or as an approximate result of any disposal of such waste or mixture of waste as defined in Sections 25117 and 25141 of the Health and Safety Code and Public Resource Code Section 40141 or any successor statutes.

"Health Officer" means the duly appointed director of the county health agency or his or her duly authorized representative.

"Industrial Waste" means waste originating from mechanized manufacturing facilities, factories, refineries or publicly operated treatment works.

"Litter" means all improperly discarded waste material, including but not limited to, convenience food, beverage and other product packages or containers constructed of steel, aluminum, glass, paper, plastic, and other natural and synthetic materials thrown or deposited on the lands and waters of the state, but not including the properly discarded waste of the primary processing of agriculture, mining, logging, saw-milling or manufacturing pursuant to California Code of Regulations Title 14 Section 17225.42.

"Local Enforcement Agency" means the agency which has been certified by the California Integrated Waste Management Board as a comprehensive solid waste management agency which performs inspection, enforcement and permitting duties in all jurisdictions within San Luis Obispo County. The current local enforcement agency is the county health agency.

"Medical Waste" means biohazardous waste, sharps waste, waste which is generated or produced as a result of the diagnosis, treatment or immunization of human beings or animals, in research pertaining thereto or in the production or testing of biologicals pursuant to California Health and Safety Code Section 117690.

"Multi-family Dwelling" means a structure or structures containing a total of two (2) or more dwelling units in any vertical or horizontal arrangement on a single lot or building site that shares common solid waste storage.

"Nuisance" means anything which is injurious to human health or is indecent or offensive to the senses and interferes with the comfortable enjoyment of life or property.

"Occupant" means every owner, tenant or person having the care or control of any property or premises.

"Office Building" means any office and/or combination of offices enclosed in a single or connected buildings used for commercial, governmental or educational purposes.

"Person" includes a natural person, joint venture, joint stock company, partnership, association, club, company, public or private corporation, business, firm, society, group, political subdivision, governmental agency, municipality, education institution, trust organizer, or any other entity whatsoever, or the manager, lessee, agent, servant, officer, or employee of any of them.

"Pollution" means the condition caused by the presence in or on a body of water, soil or air of any solid waste or substance derived therefrom in such quantity of such nature and duration or under such condition that the quality, appearance or usefulness of the water, soil, land or air is significantly degraded or adversely altered.

"Premises" means a tract or parcel of land with or without habitable buildings or appurtenant structures.

"Processing" means the reduction, separation, recovery, conversion or recycling of solid waste.

"Property Owner" means the person owning the fee, or the person in whose name the legal title to the property appears, by deed duly recorded in the County Recorder's office, or the person in possession of the property or buildings under claim of, or exercising acts of ownership over same for himself, or as executor, administrator, guardian or trustee of the owner.

"Putrescible Waste" means organic material with a decomposition capacity to emit noticeable quantities of odor and gaseous byproducts. Material in this category includes but is not limited to, kitchen waste, dead animals and food waste.

"Radioactive Waste" means any waste which exceeds regulatory levels of activity as defined in California Health and Safety Code Section 114710.

"Recyclables" means aluminum, glass bottles and jars, paper, newspaper, cardboard, plastic containers, tin and bimetal, white goods, yard or green waste and other materials which can be processed and returned 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.

"Removal" means the act of taking solid waste, recyclables or recoverable material from the place of generation either by an approved collector or by a person in control of the premises.

"Removal Frequency" means the frequency of removal of solid waste or recyclables from the place of generation.

"Residential Service" means collection of all types of domestic solid waste and rubbish which originate in residential dwellings.

"Residential Solid Waste" means solid waste originating from single-family or multi-family dwellings.

"Roll-off Box," also called a drop box, means an open top, movable container in which primarily non-putrescible solid waste such as construction and demolition debris or non-putrescible recyclables are stored until removed from the premises.

"Rubbish" means non-putrescible plastic waste, solid waste, bulky waste, construction and demolition waste, litter and industrial waste.

"Segregation of Waste Material or Segregate Solid Waste Material" means the placement of garbage, recyclables and green waste in separate containers.

"Single-family Dwelling" means a structure containing a single dwelling unit.

"Solid waste" means all waste substances including garbage, green waste, recyclables and industrial waste but does not include demolition or construction waste.

"Solid Waste container" means a covered or fully enclosed movable container, or waste wheeler in which garbage, green waste and/or recyclables are segregated and stored until removed from the premises.

"Solid Waste Customer" means a person whose solid waste is collected from an approved collector.

"Solid Waste Facility" means a disposal site, composting facility, transfer or processing station, incinerator or any facility specified in the Public Resources Code Section 40194.

"Solid Waste Management" means a planned program for effectively controlling the storage, collection, transportation, processing, recycling, reuse, conversion or disposal of solid waste in a safe, sanitary, aesthetically acceptable, environmentally sound and in an economical manner. It includes all administrative, financial, environmental, legal and planning functions as well as the operational aspects of solid waste handling, disposal, litter control and resource recovery systems necessary to achieve established objectives.

"Solid Waste Officer" means the District Manager or his or her appointee.

"Source Separation" means the separation, at the place of generation or production, of wastes and resources for separate collection, processing, recycling, reuse, recovery or disposal.

"Storage" means the interim containment of solid waste materials and recyclables in an approved manner after generation and prior to disposal.

"Transporter" means any person providing solid waste hauling service who transports said solid waste within the District boundaries.

"Waste Wheeler" means a covered plastic bin provided by franchisee, varying in size and capacity equipped with wheels or casters. Such bins may be used for collection, storage and removal of solid waste.

#### **6.02.020 Administration, policies, and procedures.**

The General Manager or their designee is charged with enforcement and administration of these rules and regulations, and the General Manager is authorized to make necessary and reasonable policies and procedures with respect to the accumulation and collection of various types of solid waste, bulky waste, construction and demolition waste and putrescible waste, consistent with this Title.



**6.02.030 Notices.**

All notices required or given pursuant to these rules and regulations shall be deemed properly served when served by personal delivery or when deposited by certified mail, postage prepaid, in the United States post office or a mail box, sub-post office, substation or mail chute or other like facility.

**6.02.040 Indemnification.**

Any agreement, franchise or other instrument authorized by these rules and regulations shall include an indemnification provision, in a form and content to be approved by District legal counsel, which provides for indemnification to the District for actions, misconduct or violations of law or regulations on the part of the indemnitor or indemnitor's agents and employees.

**6.02.050 Use of District name.**

No franchisee or other collector or transporter shall use a firm name containing the words Nipomo Community Services District or other words implying District ownership.

**6.02.060 Appeal process.**

- A. When any party, by reason of special circumstances, believes that the rules and regulations prescribed here are unjust or inequitable as applied to a particular person, place or business within the District boundaries, the Applicant may make written application to the General Manager stating the special circumstances, citing the provisions complained of and requesting suspension or modification of such provision or charges as applied to his or her place of business and/or premises. The General Manager shall then forthwith consult with the collection service provider and cause an investigation of the conditions upon which the application is based. If after consultation with the collection service provider, the General Manager finds that such provisions or charges are unjust or inequitable as applied to the Applicant's place or premises within the specified area, the General Manager may suspend or modify the provision or charge complained of as applied to such place or premises, so long as the modification does not materially affect the Franchise Agreement, to be effective as of a date specified and to continue during the period of the special circumstances so found.
- B. The decision of the General Manager shall be final. Modifications or suspensions granted pursuant to subsection A of this Section are effective for one (1) year.

**Chapter 6.04 HEALTH AND SAFETY AND PROPERTY MAINTENANCE**

**Sections:**

[6.04.010 Private property to be free of excess solid wastes, litter, and construction and demolition waste.](#)

[6.04.020 Careless disposal of solid waste.](#)

[6.04.030 Solid waste disposal frequency.](#)

[6.04.040 Collection schedule.](#)

[6.04.050 Mandatory collection.](#)

[6.04.060 Solid waste storage containers.](#)

[6.04.070 Requirements for solid waste storage area.](#)

[6.04.080 Collection of solid waste.](#)

[6.04.090 Roll-off box service.](#)

**6.04.010 Private property to be free of excess solid wastes, litter, and construction and demolition waste.**

The owner, occupant or operator of any premises, business establishment or other property, vacant or occupied, shall be responsible for the lawful, safe, and sanitary storage and disposal of all solid waste, recyclables, industrial waste, construction and demolition waste, or bulky waste accumulated on the property. The property shall be maintained free of excessive amounts of solid wastes, recyclables, industrial waste, construction and demolition waste and bulky waste.

**6.04.020 Careless disposal of solid waste.**

No person shall place or dump, or hire any person to place or dump, any solid waste or recyclables upon the right-of-way of any public highway, street or thoroughfare; or upon the banks of any stream or dry watercourse; or without permission upon the private property of any person, inhabited or uninhabited; or in a container that is either owned or under the control of another person.

**6.04.030 Solid waste disposal frequency.**

- A. Except as provided in subsection B of this Section, all solid waste created, produced or accumulated on developed properties shall be removed from the property on a weekly basis.
- B. All solid waste created, produced or accumulated at or about any restaurant, retail or wholesale market, food processing facility, hotel, motel or other business establishment where food is sold, prepared or served, shall be removed from the premises at least twice each week or more frequently if determined necessary by the General Manager.

**6.04.040 Collection schedule.**

- A. Each franchisee shall provide a minimum regular collection schedule, consistent with Section 6.04.030 of this Chapter, within the territory specified in the Franchise Agreement. The schedule shall be set forth in the Franchise Agreement.
- B. No collections shall be made in residential Districts or at schools, churches, hospitals, offices, motels, hotels or commercial establishments adjacent to such residential Districts prior to 6:00 a.m. or after 9:00 p.m.

**6.04.050 Mandatory collection.**

- A. The collection and disposal of solid waste by a District franchisee from all developed properties within the District is mandatory.
- B. The District shall provide solid waste collection and disposal service through its franchisee; and all developed properties within the District shall use the District's solid waste collection franchise service except as provided in subsection C of this Section.
- C. Existing Exemptions. Developed properties that are two and one-half acres or greater and that contain no more than two residential units, that were exempt from the mandatory solid waste collection requirement as of January 1, 2023, shall remain exempt until a change of ownership as defined in this Code. New owners shall use the District's solid waste and collection service. Exempt properties shall be subject to all property maintenance provisions of this Title.

**6.04.060 Solid waste storage containers.**

- A. For noncommercial developed properties, franchisee shall:

1. Provide each customer with a minimum of one thirty-two-gallon, sixty-four-gallon or ninety-six-gallon waste wheeler service for garbage collection;
  2. Provide each customer with a minimum of one sixty-four-gallon waste wheeler service for the collection of recycling;
  3. Provide each customer with a minimum of one ninety-six-gallon waste wheeler service for the collection of green waste.
- B. For commercial developed properties, franchisee shall, upon request of the customer, provide mechanically lifted solid waste bin service in lieu of the garbage waste wheelers referenced in subsection (A)(2) of this Section, provided said bins meet the requirements of the State Minimum Standards for Solid Waste Handling and Disposal, Title 14 California Code of Regulations, commencing with Section 17301 or any successor statute.

**6.04.070 Requirements for solid waste storage area.**

- A. Customers shall store solid waste in a solid waste storage area as defined by subsections (B) and (C) of this Section.
- B. The solid waste storage area shall be located within one hundred (100) feet of the dwelling or building it serves. Containers or bins with a capacity of over one hundred (100) gallons shall not be permanently located closer than twenty-five (25) feet to any windows, doors or ventilation intake in any dwelling or other building, either on the subject property or adjacent properties. No can or bin shall be permanently located in any front setback area or on public property.
- C. In addition to the requirements of subsection B of this Section, commercial and industrial storage areas shall be constructed with sufficient retaining walls, fences, guard rails or bumpers to protect adjacent parking spaces. The floor or bottom surface of the solid waste storage area shall be made of concrete or other approved impervious material and shall provide an anti-roll curb. The geometry of the waste collection area shall be such that bins may be conveniently loaded onto or emptied into collection vehicles without having to move the bins prior to their initial contact with the collection vehicle at the start of the vehicle loading cycle, except that bins equipped with wheels or casters may be located such that they do not have to be moved more than ten feet to properly position them to make the initial contact with the vehicle.

**6.04.080 Collection of solid waste.**

Each solid waste container provided by franchisee, shall be kept or placed entirely above ground level at a location which is convenient for access by collection personnel during the time for collection as set forth below.

- A. All residential containers shall be placed for collection along the street in front of the premises or the rear alley, when applicable, only on the date established for the collection of solid waste on the particular route or after 5:30 p.m. on the day immediately prior to such collection, and shall not remain thereon for more than twelve (12) hours after it has been emptied unless in-yard service has been contracted for. Upon collection, the franchisee shall place all standard containers approximately three (3) feet from the edge of the street or roadway, to avoid creating a safety hazard.
- B. Provisions shall be made for easy access, with no obstacles. Where in-yard service is provided, proportionately higher rates may be charged by the hauler subject to the rate setting process in the Franchise Agreement.

**6.04.090 Roll-off box service.**

- A. Roll-off box service shall not be utilized to replace residential and/or commercial collection and transportation services provided by a franchisee.
- B. Roll-off box service in the District is limited to the collection and transportation of bulky waste, construction and demolition waste, industrial waste, and green waste.
- C. Roll-off boxes shall not be utilized for the storage, collection or transportation of putrescible solid waste or putrescible recyclables.
- D. Roll-off box service providers shall be subject to the requirements of Section 6.06.010 of this Code.
- E. Roll-off boxes shall be covered during transportation.
- F. Roll-off boxes shall be identified with the name and telephone number of the service provider and shall be equipped with reflectors or reflective markings on each exterior corner.

**Chapter 6.06 SOLID WASTE SERVICE**

**Sections:**

[6.06.010 Franchisee Service requirements.](#)

[6.06.020 Interference.](#)

[6.06.030 Rates and charges.](#)

**6.06.010 Franchisee Service requirements.**

- A. The franchisee shall provide pickup service to all developed properties within the area specified in the Franchise Agreement.
- B. It shall be the responsibility of each solid waste customer to segregate solid waste in separate containers provided by the franchisee for collection.
- C. Solid waste collection services shall be provided under one billing structure that will include the collection of solid waste and recyclables. However, there may be joint or multiple use of commercial solid waste containers subject to reasonable conditions established by the collection service and that are approved by the General Manager.
- D. The party responsible for payment for solid waste service shall be the property owner.

**6.06.020 Interference.**

No person other than a franchisee or customer shall interfere in any manner with any solid waste container or the contents thereof, or remove any such solid waste container from the location where it was placed by the customer or franchisee, nor scavenge or remove the contents from any solid waste container including, without limitation, containers for recyclables.

**6.06.030 Rates and charges.**

- A. The owner of the property which is furnished service shall be responsible for payment of all rates, charges and fees, including penalties thereon regarding such furnished services. Unpaid obligations shall run with the land and shall create a lien on the property involved. At the owner's request, and subject to a fee established by the franchisee, duplicate bills and delinquency notices will be mailed to the service address by the franchisee.

- B. Rates and charges for residential and commercial solid waste collection shall be established pursuant to their procedures established by Article XIII D Section 6 of the California Constitution and established by resolution adopted by the Board. Direct pass-through of charges imposed by any other governmental agency shall be added to the rates and charges.
- C. The charges for both commercial and residential customers may be adjusted on July 1st of each fiscal year up to the average percentage change in the Consumer Price Index for Urban Consumers based on the All U.S. City Average for the prior twelve-month period, as reported by the Bureau of Labor Statistics of the United States Department of Labor.
- D. The franchisee shall provide each property owner with notice of property owner's responsibility for payment of solid waste rates and charges and a [summary of Chapter 6.08 of this Code](#) as part of all notices of rate increases as required by the Franchise Agreement.

**Chapter 6.08 COLLECTION OF RATES AND CHARGES AS LIENS**

**Sections:**

[6.08.010 Duties of franchisee.](#)

[6.08.020 District obligations.](#)

[6.08.030 Source of payment.](#)

[6.08.040 Reimbursement of the District's costs.](#)

**6.08.010 Duties of franchisee.**

Once each year, prior to a date established by the General Manager, the franchisee may take the following actions to collect delinquent residential and commercial solid waste collection and disposal accounts:

- A. Present the District with a list of property owners (with corresponding assessor's parcel numbers) within the District where the service accounts are more than one hundred twenty (120) days past due;
- B. Send a certified letter to each property owner identified in subsection A of this Section notifying the property owner of the amount of the delinquency and requesting payment from the property owners within forty-five (45) calendar days. Said letter shall further notify the property owner that nonpayment may result in the District placing a lien on owner's property and collecting the amount owing with general taxes. Said letter shall also reference this Code Section;
- C. Present the District with a list of property owners (with corresponding assessor's parcel numbers) that have failed to make payment as provided in subsection B of this Section.

**6.08.020 District obligations.**

- A. Upon receipt of the information identified in Section 6.08.010 of this Chapter, the District will implement the collection procedures identified in Section 61115 of the Government Code, or any successor statute, for accounts that have accrued a delinquency during the last twelve (12) months.
- B. The Board shall have full discretion to hear and rule on objections or protests to the proposed lien.

**6.08.030 Source of payment.**

Payments made to franchisee hereunder, if any, shall be made only from monies actually received by the District from the customers pursuant to this Chapter.

6.08.040 Reimbursement of the District's Costs.

Prior to payment to franchisee, the District shall deduct from delinquencies collected, its reasonable costs in collecting the delinquencies.

**Chapter 6.10 - Mandatory Organic Waste Disposal Reduction**

6.10.010 Definitions and SB 1383 Regulatory Requirements

6.10.020 Requirements for Single Family Organic Waste Generators

6.10.030 Requirements for Multi-Family Residential Dwellings

6.10.040 Requirements for Commercial Businesses

6.10.050 Waivers for Multi-Family Premises and Commercial Premises

6.10.060 Requirements for Commercial Edible Food Generators

6.10.070 Requirements for Food Recovery Organizations and Services

6.10.080 Requirements for Haulers, Facility Operators, and Community Composting

6.10.090 Self-Hauler Requirements

6.10.100 Compliance with CALGreen Recycling Requirements

6.10.110 Model Water Efficient Landscaping Requirements

6.10.120 Procurement Requirements for Direct Service Providers and Vendors

6.10.130 Inspections and Investigations

6.10.140 Enforcement

**6.10.010 Definitions and SB 1383 Regulatory Requirements**

A. Definitions. For the purposes of this Chapter 6.10 only, 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, construction and demolition waste, 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 their 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 6.10.020. 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 (green); Source Separated Recyclable Materials and Non-Organic Recyclables in the Recyclable Materials Container (blue); and Solid Waste in the Solid Waste Container (grey or black).
  - (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).

#### **6.10.030. 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 is a Self-Hauler, it must meet the Self-Hauler requirements of this Code and applicable law.

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).

#### **6.10.040. 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.

#### **6.10.050. 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.

**6.10.060. 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:
  - (a) The amount, in pounds, of edible food donated to a Food Recovery Service or Food Recovery Organization annually; and,
  - (b) The amount, in pounds, of edible food rejected by a Food Recovery Service or Food Recovery Organization annually.
  - (c) Any additional information required by the District Manager or their Designee.

**6.10.070. 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.

#### **6.10.080. 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.

#### **6.10.090. Self-Hauler Requirements**

- A. In addition to any other requirements for Self-Haulers contained in this Code:
- (1) Self-Haulers shall comply with the applicable requirements in 14 CCR Section 18988.3.
  - (2) 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.
  - (3) 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.

(4) 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:

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

(5) 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).

#### **6.10.100. 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.

**6.10.110. 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.

**6.10.120. 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.

**6.10.130. 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.

## 6.10.140. 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.

B. 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.

C. 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.

### D. 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).

### E. 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.
- F. Penalty Amounts for Types of Violations. 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.
- G. 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.
- H. 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.

## **Chapter 6.12 COLLECTOR REGULATIONS**

### **Sections:**

[6.12.010 Permit and franchise agreement required.](#)

[6.12.020 Collector - Litter control.](#)

[6.12.030 Identification.](#)

[6.12.040 Vehicle - Type and condition.](#)

[6.12.050 Records required.](#)

[6.12.060 Vehicle and equipment inspection.](#)

[6.12.070 Collector's employees.](#)

[6.12.080 Interruption of service by labor dispute.](#)

[6.12.090 Customer information.](#)

[6.12.100 Non-liability of District.](#)

6.12.110 Franchisee - Non-assignable.

6.12.120 Limitations of regulations.

**6.12.010 Permit and Franchise Agreement required.**

- A. It is unlawful for any person to collect, haul, or transport for hire solid waste within the District boundary unless said person has been issued:
  - 1. A valid County permit to engage in such occupation that is filed with the General Manager; and
  - 2. A Franchise Agreement with the District.
- B. It is unlawful for any person to collect, haul, or transport for hire bulky waste, construction and demolition waste unless said person has a County permit to engage in such occupation.

**6.12.020 Collector - Litter control.**

Any person collecting or transporting solid wastes, recyclables, bulky waste, construction and demolition or putrescible waste shall be responsible for the prevention of littering or the creation of a nuisance at the collection and unloading point, during transport and during unloading operations.

**6.12.030 Identification.**

The identification of solid waste and recyclables storage containers and vehicles used in the collection and transport of solid wastes shall be governed by Title 14 California Code of Regulations Sections 17316 and 17344 and any successor regulation.

**6.12.040 Vehicle - Type and condition.**

- A. All vehicles used in the collection or transportation of solid waste or recyclables shall be kept in good mechanical condition, clean and neatly painted. The vehicle shall carry a shovel, broom and fire extinguisher.
- B. Packer type completely enclosed trucks shall be used to the greatest possible extent for solid waste collection. Other suitable equipment as required by terrain, type of solid waste and recyclables to be hauled or other special conditions may be approved by the General Manager.
- C. Vehicles used for the collection and transport of solid waste shall have an enclosed waste compartment, be self-unloading and be originally constructed for the purpose of solid waste collection. Solid waste vehicles with a rated capacity of more than one and one-half tons (three thousand pounds) shall be equipped with audible, automatic backup warning devices.
- D. Vehicles used for the collection and transport of recyclable materials shall have a covered materials holding compartment and shall, to the greatest extent possible, be originally constructed for the purpose of recyclables collection and transportation. Recyclables vehicles with a rated capacity of more than one and one-half tons (three thousand pounds) shall be equipped with audible, automatic backup warning devices.
- E. No person, including but not limited to franchisees, shall transport wet solid waste within the District boundary unless such solid waste is enclosed in containers or equipment which meets the requirements of Title 14 California Code of Regulations, commencing with Section 17341, and which in all instances shall be equipped with close-fitting covers. The covers shall be affixed to the tanks, containers or other receptacles, in such a manner as to prevent the dropping or spilling of any solid waste within the District boundaries.

**6.12.050 Records required.**

- A. Each franchisee shall keep and maintain such operating records as the General Manager or their designee may reasonably require to ascertain the extent of compliance with this Chapter, and shall, if so requested by the General Manager or their designee, submit periodic reports of his or her operations.
- B. Each franchisee shall maintain a record of customer complaints, to include a record of the action taken to resolve each complaint. Such record shall be available for inspection by the General Manager or their designee for a period of at least three (3) years.

**6.12.060 Vehicle and equipment inspection.**

Subject to the provisions of existing law, the vehicles and equipment of a collector may be inspected by the General Manager or their designee at any reasonable time, at the point of operation or at the collector's service yard.

**6.12.070 Collector's employees.**

It shall be the collector's responsibility to assure that all employees driving vehicles used by or belonging to the collector have in their possession, at all times, a valid commercial vehicle operator's license. The General Manager or their designee may periodically review these licenses.

**6.12.080 Interruption of service by labor dispute.**

- A. In the event that an approved franchisee's operations are interrupted by a labor dispute and scheduled collections or solid waste facilities' operations are discontinued for more than a seventy-two (72) hour period, the District shall have the right to take temporary possession of all facilities and equipment of the franchisee for the purpose of continuing the service which the franchisee has agreed to provide, and in order to protect the public health and safety. The District shall have the right to retain possession of the facilities and equipment and to render the required service until the franchisee demonstrates to the satisfaction of the District that the required services can be resumed by the franchisee. However, such temporary assumption of the franchisee's obligation under her or his Franchise Agreement shall not be continued by the District for more than one hundred twenty (120) days from the date such operations were undertaken. Should the franchisee fail to demonstrate to the satisfaction of the District that the required services can be resumed by the franchisee prior to the expiration of the one-hundred-twenty (120) day period, the Franchise Agreement granted under these rules and regulations shall be forfeited and the rights and privileges granted in the Franchise Agreement shall be canceled and annulled.
- B. During any period in which the District temporarily assumes the obligations of a franchisee, as specified in subsection A above, the District shall be entitled to the gross revenue attributed to the operations during each period and shall pay therefrom only those costs and expenses applicable or allocable to the period. The excess, if any, of revenue over applicable costs and expenses during such period shall be deposited in the treasury of the District. Final adjustment and allocation of gross revenue, costs and expenses for the period during which the District temporarily assumes the obligations of a franchisee shall be determined by an audit by a certified public accountant or licensed public accountant and prepared in report form with his or her opinion annexed thereto.

**6.12.090 Customer information.**

Each collection franchisee shall establish and maintain an office where service may be applied for and complaints made. The office shall be equipped with a listed telephone, to which calls from residents

within the franchisee collection area may be placed without payment of a toll charge and shall have a responsible person in charge, for at least seven hours between the hours of 9:00 a.m. and 5:00 p.m. of each day except Saturdays, Sundays and legal holidays. The office shall maintain an answering service or shall be equipped with a recording answering machine during non-office hours. Each collection franchisee shall supply all serviced premises with printed information cards containing information regarding amounts of solid waste or recyclables which will be collected, complaint procedures, days of collection, rates and regulations affecting service. Information cards shall be provided to each customer at the time of subscription and at least once every year thereafter, or more often upon request, and shall be provided in advance of changes in the affected franchisee's route, rate or regulation affecting service.

**6.12.100 Non-liability of District.**

Neither the District nor any of its officers or employees shall be liable, or in any way responsible, for the payment of any service rates or charges due the franchisee/collector for performing services for any person or entity other than the District.

**6.12.110 Franchisee - Nonassignable.**

No permit or franchise granted under these rules and regulations shall be assignable or transferable, either voluntarily or by operation of law, without the express written permission of the Board pursuant to the terms and conditions of the Franchise Agreement.

**6.12.120 Limitations of regulations.**

- A. Except for Section 6.16.020 these collector regulations do not apply to the collection and removal of green waste by individual residents and by individuals doing business as professional landscapers and/or tree service providers, when the collection is directly related to their work.
- B. Except for the provisions of Sections 6.16.020 these collector regulations do not apply, or prohibit any producer of solid waste, bulky waste, construction and demolition waste from hauling the same to a permitted disposal site.

**Chapter 6.14 FRANCHISE AGREEMENTS**

**Sections:**

[6.14.010 Award by the Board of Directors.](#)

[6.14.020 Services.](#)

[6.14.030 Territory.](#)

[6.14.040 Customers.](#)

[6.14.050 Lawful disposal of solid waste.](#)

[6.14.060 Term.](#)

[6.14.070 Indemnification.](#)

[6.14.080 Reporting.](#)

[6.14.090 Related parties.](#)

[6.14.100 Assignment.](#)

[6.14.110 Permit requirement.](#)

[6.14.120 Penalties for noncompliance.](#)



**6.14.010 Award by the Board of Directors.**

The Board may award exclusive or nonexclusive franchises, with or without competitive bidding, for the collection of solid waste within the District boundaries.

**6.14.020 Services.**

Any right of the franchisee to perform services pursuant to this Section and a Franchise Agreement shall be set forth in the Franchise Agreement.

**6.14.030 Territory.**

The territory where the franchisee has been provided a geographical right to perform services shall be set forth in the Franchise Agreement.

**6.14.040 Customers.**

The Franchise Agreement shall require the franchisee to maintain a record of customer complaints and of the franchisee's response to those complaints, and the Franchise Agreement shall further require that any said records pertaining to customer complaints shall be made available, or reported to the General Manager.

**6.14.050 Lawful disposal of solid waste.**

The Franchise Agreement shall require the franchisee to assume the sole responsibility for securing a location to dispose of solid waste, and shall further require that the franchisee dispose of waste materials in compliance with all applicable federal, state and local laws and regulations.

**6.14.060 Term.**

The Franchise Agreement shall provide for a term which does not exceed fifteen (15) years.

**6.14.070 Indemnification.**

The Franchise Agreement shall include an indemnification provision, subject to approval of District legal counsel, which shall provide that the franchisee will defend and indemnify the District for any actions, including negligence, misconduct or violations of law or regulations on the part of the franchisee or the franchisee's agents and employees. The Franchise Agreement shall also include a provision requiring the franchisee to defend and indemnify the District for all actions of the franchisee associated with the franchisee's role as the arranger of municipal solid waste service or as a principal related party in performing solid waste service under any federal or state laws or regulations. The franchisee shall also defend and indemnify the District from any and all legal action against the District on the basis of the assertion that the District is an arranger of municipal solid waste services as a result of the Franchise Agreement.

**6.14.080 Reporting.**

Notwithstanding the reporting requirements pursuant to any other provision of these rules and regulations, the Franchise Agreement shall require the franchisee to report the following information to the District or their designee:

- A. Information relating to the quantities, types, volumes, weights, nature and location of waste collected, transported and disposed; and
- B. Annual financial statements prepared in accordance with generally accepted accounting principles and audited by a certified public accountant. The financial statement shall include an opinion of the certified public accountant, and any opinion which reflects any breach of the terms and conditions of the Franchise Agreement by the franchisee may result in a limitation or loss of the franchisee's right to perform services.

**6.14.090 Related parties.**

The Franchise Agreement shall require the franchisee to annually disclose the entire nature and extent of transactions with related parties, as such parties are recognized by generally accepted accounting principles. The disclosure shall be on forms provided by the District.

**6.14.100 Assignment.**

All Franchise Agreements awarded by the Board shall be subject to the limitations on transfer or assignment.

**6.14.110 Permit requirement.**

The franchisee shall be required to possess, and at all times maintain compliance with, county permits to collect solid waste in those geographical areas defined in the Franchise Agreement. The Franchise Agreement shall also include a provision that a loss or limitation of the franchisee's permit shall result in the loss or limitation of the franchisee's right to perform services established in the Franchise Agreement.

**6.14.120 Penalties for noncompliance.**

The Franchise Agreement shall require that the franchisee's right to perform services may be limited or lost for noncompliance with the terms and conditions of the Franchise Agreement. In addition, the Franchise Agreement shall establish reasonable fines, penalties and liquidated damages for nonperformance or breaches of the agreement.

**Chapter 6.16 EXCEPTIONS**

**Sections:**

[6.16.010 General Manager's order.](#)

[6.16.020 Compost piles.](#)

[6.16.030 Recycled items.](#)

**6.16.010 General Manager's order.**

Nothing in these rules and regulations shall be deemed to prohibit the removal and hauling by a licensed person of materials considered by the General Manager to constitute a health menace of such nature as necessary to be ordered to be promptly removed.

**6.16.020 Compost piles.**

The provisions of these rules and regulations shall not be interpreted to prevent the maintenance of a household compost pile on private property so long as it does not become a public or private nuisance.

**6.16.030 Recycled items.**

Nothing in this title shall limit the right of an individual person, organization or other entity to donate, sell or otherwise dispose of recyclable material, provided that any such disposal is in accordance with the provisions of these rules and regulations.

**Title 7 ASSESSMENT DISTRICTS**

7.04.010 Formation

7.04.020 Assessments

7.04.030 Existing Assessments and Districts

**7.04.010 Formation**

After following the procedures and requirements of the Landscape and Lighting Act of 1972 (“LLA”), as the same may be amended, or any other applicable authority, the District Board may form one or more Landscape and/or Street Lighting Maintenance Assessment Districts within the boundaries of the District for the purpose of maintaining landscaping and/or lighting on property in said District.

**7.04.020 Assessments**

After following the procedures and requirements of applicable laws and the California Constitution, as applicable to the District, the District Board may impose assessments for the expenses of the Landscape Maintenance District, Lighting Districts and other Districts against properties in the District.

**7.04.030 Existing Assessments and Districts**

Assessments and Districts in effect as of January 1, 2023 shall remain in effect and are not impacted by the re-adoption of this Code.

**SECTION 5.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional, ineffective or in any manner in conflict with the laws of the United States, or the State of California, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Directors hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsection, sentence, clause, or phrase be declared unconstitutional, ineffective, or in any manner in conflict with the laws of the United States or the State of California.

**SECTION 6.** The Board of Directors of the District finds, to the best of their knowledge, that this Ordinance is exempt from the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines Sections 15378(b)(2) and 15378(b)(4) because it constitutes general policy and procedure making and government fiscal activities which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment. The Board of Directors further finds, to the best of their knowledge, that the adoption of this Ordinance is not a project as defined in CEQA Guidelines Section 15378 because it can be seen with certainty that it will not result in either a

direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. The District General Manager is directed to prepare and file an appropriate notice of exemption.

**SECTION 7.** This Ordinance shall take effect and be in full force and effect thirty (30) days after its passage. Pursuant to Government Code Section 25124(b) the District shall publish a summary of this Ordinance, with the names of the members of the Board of Directors voting for or against the Ordinance, in a newspaper of general circulation within the District, and shall publish the Ordinance on the District's website.

**SECTION 8.** The General Manager is authorized to make technical and clerical changes to the text adopted by this Ordinance, following adoption, without additional Board approval.

**INTRODUCED** at its regular meeting of the Board of Directors held on \_\_\_\_\_, 2023, and

**PASSED and ADOPTED** by the Board of Directors of the Nipomo Community Services District at its regular meeting on \_\_\_\_\_, 2023, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

CONFLICTS:

\_\_\_\_\_  
RICHARD MALVAROSE  
President, Board of Directors

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
MARIO IGLESIAS  
General Manager and  
Secretary to the Board

\_\_\_\_\_  
CRAIG A. STEELE  
District Legal Counsel