

STRAWBERRY RECREATION DISTRICT

ORDINANCE 2021-01

ORGANICS REDUCTION AND RECYCLING ORDINANCE

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**STRAWBERRY RECREATION DISTRICT ORDINANCE
2021-01: ORGANICS REDUCTION AND RECYCLING
ORDINANCE**

The Board of the Strawberry Recreation District hereby ordains as follows:

SECTION 1. PURPOSE AND FINDINGS

- (a) The purpose of this Ordinance is to reduce the amount of organic and recyclable materials deposited in landfills from commercial and residential generators and meet the requirements of AB 341, AB 1826 and SB 1383.
- (b) State recycling law, Assembly Bill 939 of 1989, the California Integrated Waste Management Act of 1989 (approved by the Governor of the State of California on September 29, 1989, which among other things, added Division 30 (Section 40000, et seq.) to the Public Resources Code, as amended, supplemented, superseded, and replaced from time to time), requires cities and counties to reduce, reuse, and recycle (including composting) Solid Waste generated in their jurisdictions to the maximum extent feasible before any incineration or landfill disposal of waste, to conserve water, energy, and other natural resources, and to protect the environment.
- (c) State recycling law, Assembly Bill 341 of 2011 (approved by the Governor of the State of California on October 5, 2011, which amended Sections 41730, 41731, 41734, 41735, 41736, 41800, 42926, 44004, and 50001 of, and added Sections 40004, 41734.5, and 41780.01 and Chapter 12.8 (commencing with Section 42649) to Part 3 of Division 30 of, and added and repealed Section 41780.02 of, the Public Resources Code, as amended, supplemented, superseded and replaced from time to time), places requirements on businesses and multi-family property owners that generate a specified threshold amount of Solid Waste to arrange for recycling service and requires jurisdictions to implement a Mandatory Commercial Recycling program.
- (d) State organics recycling law, Assembly Bill 1826 of 2014 (approved by the Governor of the State of California on September 28, 2014, which added Chapter 12.9 (commencing with Section 42649.8) to Part 3 of Division 30 of the Public Resources Code, relating to Solid Waste, as amended, supplemented, superseded, and replaced from time to time), requires businesses and multi-family property owners that generate a specified threshold amount of Solid Waste, recycling, and Organic Waste per week to arrange for recycling service for those materials, requires counties and cities to implement a recycling program to divert Organic Waste from businesses subject to the law, and to implement a Mandatory Commercial Organics Recycling program.
- (e) State organics recycling law, Senate Bill 1383 of 2016, the Short-lived Climate Pollutant Reduction Act of 2016 (approved by the Governor of the State of California on September 19, 2016, which added Sections 39730.5, 39730.6, and 39730.8 to the Health and Safety Code, and added Chapter 13.1 (commencing with Section 42652) to Part 3 of Division 30

of the Public Resources Code, as amended, supplemented, superseded, and replaced from time to time), took effect on January 1, 2017 and sets Statewide Organic Waste disposal reduction targets of 50 percent by 2020 and 75 percent by 2025, based on the 2014 organics waste disposal baseline, set forth in Section 39730.6 of the Health and Safety Code, and requires CalRecycle to develop regulations to reduce organics in landfills as a source of methane. The SB 1383 Regulations place requirements on multiple entities, including counties, cities, residential households, Commercial Businesses (including Multi-Family Residential Dwellings), Commercial Edible Food Generators, haulers, Self-Haulers, Food Recovery Organizations, and Food Recovery Services to support achievement of statewide Organic Waste disposal reduction targets with compliance required beginning January 1, 2022.

- (f) In furtherance of the food recovery objectives of the laws noted above and to reduce legal risks associated with food recovery, the State food donation law, Assembly Bill 1219 of 2017, the California Good Samaritan Food Donation Act of 2017 (approved by the Governor of the State of California on October 9, 2017, which amended Section 1714.25 of the Civil Code, amended Section 58502 of, and repealed Section 58506 of, the Food and Agricultural Code, and amended Sections 114432, 114433, and 114434 of, and added Section 114435 to, the Health and Safety Code, as amended, supplemented, superseded and replaced from time to time), provides additional protections for entities that donate and distribute food for human consumption.
- (g) By January 1, 2022, the SB 1383 Regulations require jurisdictions to adopt and enforce an ordinance or other enforceable mechanism to implement relevant provisions of SB 1383.
- (h) This Ordinance is adopted pursuant to CalRecycle’s SB 1383 Regulations. The SB 1383 Regulations were the subject of a program environmental impact report (EIR) prepared by CalRecycle, and the activities to be carried out under this Ordinance are entirely within the scope of the SB 1383 Regulations and that EIR. No mitigation measures identified in the EIR are applicable to the District’s enactment of this Ordinance. The EIR therefore adequately analyzes any potential environmental effects of the Ordinance and no additional environmental review is required. On a separate and independent basis, the Ordinance is exempt from CEQA pursuant to Section 15308, Class 8 of the CEQA Guidelines as an action that will not have a significant impact on the environment and as an action taken by a regulatory agency for the protection of the environment, specifically, for the protection of the climate. There are no unusual circumstances that would cause this Ordinance to have a significant effect on the environment

SECTION 2. TITLE OF ORDINANCE

This Ordinance is titled “Organics Reduction and Recycling Ordinance”.

SECTION 3. DEFINITIONS

The following definitions govern the use of terms in this Ordinance:

“Back-Haul” means generating and transporting Organic Waste to a destination owned and operated by a generator using the generator’s own employees and equipment, or as otherwise defined in 14 CCR Section 18982(a)(66)(A). “C&D” means construction and demolition debris.

“CalRecycle” means California's Department of Resources Recycling and Recovery, which is the state agency designated with responsibility for developing, implementing, and enforcing the SB 1383 Regulations.

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

“Commercial Business” or “Commercial” means a firm, partnership, proprietorship, joint-stock company, corporation, institution or association (whether incorporated or unincorporated or 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).

“Commercial Edible Food Generator” includes a Tier One or a Tier Two Commercial Edible Food Generator as defined herein or as otherwise defined in 14 CCR Section 18982(a)(73) and (a)(74). For the purposes of this definition, Food Recovery Organizations and Food Recovery Services are not Commercial Edible Food Generators pursuant to 14 CCR Section 18982(a)(7).

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

“Compliance Review” means a review of records by the Enforcement Agency to evaluate compliance with this Ordinance.

“Compost” has the same meaning as in 14 CCR Section 17896.2(a)(4), which stated, as of the effective date of this Ordinance, that “Compost” means the product resulting from the controlled biological decomposition of organic Solid Waste that is Source Separated from the municipal Solid Waste stream, or which is separated at a centralized facility.

“Organics Container” has the same meaning as “Green Container” in 14 CCR Section 18982(a)(29) and shall be used for the purpose of storage and collection of Source Separated Organic Waste.

“Compostable Plastics” or “Compostable Plastic” means plastic materials that meet the ASTM D6400 and D6868 standards for compostability and are certified by the Biodegradable Products Institute (BPI) and are approved by the District for placement in the Organics Container.

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

“Designee” means an entity that the District contracts with or otherwise arranges to carry out or assist with any of the District’s responsibilities for compliance with the SB 1383 Regulations or administration or enforcement of this Ordinance. A Designee may be a government entity, a private entity, or a combination of those entities.

“District” means the Strawberry Recreation District.

“District Manager” means the District Manager of the Strawberry Recreation District.

“Edible Food” means food intended for human consumption, or as otherwise defined in 14 CCR Section 18982(a)(18). For the purposes of this Ordinance or as otherwise defined in 14 CCR Section 18982(a)(18), “Edible Food” is not Solid Waste if it is recovered and not discarded. Nothing in this Ordinance or in 14 CCR, Division 7, Chapter 12 requires or authorizes the Recovery of Edible Food that does not meet the food safety requirements of the California Retail Food Code, as codified in the Health and Safety Code Section 113700, et seq.

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

“Enforcement officer” means a person or entity the City Manager designates to enforce part or all of this chapter. Enforcement Officers may carry out inspections and enforcement activities pursuant to this chapter. The City has enforcement responsibility for all Sections of this chapter. The City may choose to additionally delegate Enforcement Officer responsibility for certain sections, to other public entities or joint powers authority, including but not limited to other public entities, including the Marin Hazardous and Solid Waste Joint Powers Authority (Zero Waste Marin) and the County of Marin (County). Nothing in this chapter authorizing an entity to enforce its terms shall require that entity to undertake such enforcement except as agreed to by that entity and the City.

“Excluded Waste” means hazardous substances, 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 reasonable opinion of the District or a Regulated Hauler operating in the District would present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose the District or a Regulated Hauler 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 Public Resources Code. Excluded Waste does not include used motor oil and filters, household batteries, universal wastes, and/or latex paint when such materials are defined as allowable materials for collection through the District’s collection programs and the generator or customer has properly placed the materials for collection pursuant to instructions provided by the District or the Regulated Hauler providing service to the generator.

“Food Distributor” means a company that distributes food to entities including, but not limited to, Supermarkets and Grocery Stores, or as otherwise defined in 14 CCR Section 18982(a)(22).

“Food Facility” has the same meaning as in Section 113789 of the Health and Safety Code.

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

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

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

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

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

“Food Scraps” means all edible or inedible food such as, but not limited to, fruits, vegetables, meat, poultry, seafood, shellfish, bones, rice, beans, pasta, bread, cheese, coffee grounds, and eggshells. Food Scraps excludes fats, oils, and grease when such materials are Source Separated from other Food Scraps.

“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” is compostable paper material that has come in contact with food or liquid, such as, but not limited to, compostable paper plates, napkins, and pizza boxes, and is approved by the applicable the District for placement in the Organics Container. “Food Waste” means Food Scraps, Food-Soiled Paper, and Compostable Plastics in combination or separately.

“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).

“Health Facility” has the same meaning as in Section 1250 of the Health and Safety Code.

“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).

“Hotel” has the same meaning as in Section 17210 of the Business and Professions Code.

“Inspection” means the District’s or its Designee’s electronic or on-site review of records, containers, and an entity’s collection, handling, recycling, or landfill disposal of Organic Waste or Edible Food handling to determine if the entity is complying with requirements set forth in this Ordinance, or as otherwise defined in 14 CCR Section 18982(a)(35).

“Garbage Container” has the same meaning as “Gray Container” in 14 CCR Section 18982(a)(28) and shall be used for the purpose of storage and collection of Landfill Container Waste.

“Garbage Container Waste” means Solid Waste that is collected in a Garbage Container that is part of a three-container or three-plus container collection service that prohibits the placement of Organic Waste in the Garbage Container as specified in 14 CCR Sections 18984.1(a) and (b), or as otherwise defined in 14 CCR Section 17402(a)(6.5). (Three container collection service refers to service collecting materials in Garbage Containers, Organics Containers, and Recycling Containers.)

“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 the District, 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. If the definition in 14 CCR Section 18982(a)(38) differs from this definition, the definition in 14 CCR Section 18982(a)(38) shall apply to this Ordinance. For the purposes of this definition of Large Event, “local agency” means all public agencies except those that are not subject to the regulatory authority of the District.

“Large Venue” means a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation. For purposes of this Ordinance 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 Ordinance and implementation of 14 CCR, Division 7, Chapter 12, a site under

common ownership or control that includes more than one Large Venue that is contiguous with other Large Venues in the site, is a single Large Venue. If the definition in 14 CCR Section 18982(a)(39) differs from this definition, the definition in 14 CCR Section 18982(a)(39) shall apply to this Ordinance.

“Mixed Waste Organic Collection Stream” or “Mixed Waste” means Organic Waste collected in a container that is required by 14 CCR Sections 18984.1, 18984.2 or 18984.3 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” or “Multi-Family” means of, from, or pertaining to residential premises with five or more dwelling units. Multi-Family premises are considered a distinct type of Commercial Business for the purposes of implementing this Ordinance. Consistent with the SB 1383 Regulations, residential premises that consist of fewer than five units are not “Multi-Family” and instead are “Single-Family” for the purposes of implementing this Ordinance. Multi-Family premises do not include hotels, motels, or other transient occupancy facilities, which are considered other types of Commercial Businesses.

“Non-Compostable Paper” includes, but is not limited to, paper that is coated, lined or treated with a non-compostable material, or otherwise unacceptable to the compostable materials handling facility processing the material.

“Non-Organic Recyclables” means non-putrescible and non-hazardous recyclable materials including but not limited to recyclable food and beverage glass containers, metal (aluminum and steel) food and beverage cans, HDPE (high density polyethylene) bottles and PET (polyethylene terephthalate) bottles, and other materials specified in 14 CCR Section 18982(a)(43).

“Notice of Violation” 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.

“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).

“Organic Waste Generator” 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).

“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).

“Person” includes an individual, firm, limited liability company, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever, or as otherwise defined in Public Resources Code Section 40170.

“Printing and Writing Paper” 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 writing papers, posters, index cards, calendars, brochures, reports, magazines, and publications, or as otherwise defined in 14 CCR Section 18982(a)(54).

“Prohibited Container Contaminants” includes all of the following: (i) materials placed in the Recycling Container that are not identified as acceptable Source Separated Recyclable Materials for the District’s Recycling Container; (ii) materials placed in the Organic Container that are not identified as acceptable Source Separated Compost Organic Waste for the District’s Organics Container; (iii) materials placed in the Garbage Container that are acceptable Source Separated Recyclable Materials and/or acceptable Source Separated Organic Waste that can be placed in the District’s Organics Container and/or Recycling 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).

“Recycling Container” has the same meaning as “Blue Container” in 14 CCR Section 18982(a)(5) and shall be used for the purpose of storage and collection of Source Separated Recyclable Materials as accepted by the District’s Regulated Hauler.

“Regulated Hauler” means a Person that collects Solid Waste (other than Solid Waste generated by a permitted building project) originating in the District from Organics Containers, Recycling Containers, and/or Garbage Containers, and does so under a franchise agreement, or permit with the District.

“Remote Monitoring” means the use of mechanical or electronic devices to identify the types of materials in Recycling Containers, Organics Containers, and/or Garbage Containers for purposes of identifying the quantity of materials in containers (level of fill) and/or presence of Prohibited Container Contaminants.

“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 or electronic 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, the Short-lived Climate Pollutant Reduction Act of 2016.

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

“Self-Hauler” means a Person, who hauls Solid Waste, Organic Waste or recyclable material they have generated to another Person for disposition as allowed by the District and otherwise in accordance with all applicable laws. Self-Hauler also includes a Person who Back-Hauls such materials, and as otherwise defined in 14 CCR Section 18982(a)(66).

“Single-Family” means, for purposes of this Ordinance, of, from, or pertaining to any residential premises with fewer than five units.

“Solid Waste” has the same meaning as defined in Public Resources Code Section 40191, which defines Solid Waste as all putrescible and nonputrescible 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 Public Resources Code Section 40141.
- (2) Radioactive waste regulated pursuant to the State Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the Health and Safety Code).
- (3) Medical waste regulated pursuant to the State Medical Waste Management Act (Part 14 (commencing with Section 117600) of Division 104 of the Health and Safety Code). Untreated medical waste shall not be disposed of in a Solid Waste landfill, as defined in 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.

“Source Separated” means materials, including commingled recyclable 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 this Ordinance, Source Separated shall include separation of materials by the generator, property owner, property owner’s employee, property manager, or property manager’s employee into different containers for the purpose of collection such that Source Separated materials are separated from Garbage Container Waste or other Solid Waste for the purposes of collection and processing.

“Source Separated Organic Waste” means Organic Waste that can be placed in a Organics Container that is specifically intended for the separate collection of Organic Waste by the generator, excluding carpets, Non-Compostable Paper, and textiles.

“Source Separated Recyclable Materials” means Source Separated Non-Organic Recyclables and Source Separated Recycling Container Organic Waste.

“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:

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

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

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

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

If the definition in 14 CCR Section 18982(a)(74) of Tier Two Commercial Edible Food Generator differs from this definition as to entities subject to the regulatory authority of the District, the definition in 14 CCR Section 18982(a)(74) shall apply to this Ordinance.

“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).

SECTION 4. REQUIREMENTS FOR SINGLE-FAMILY GENERATORS

Except Single-Family Organic Waste Generators that meet the Self-Hauler requirements in Section 10 of this Ordinance and/or that are located in a census tract for which CalRecycle has issued a low population waiver (as described in 14 CCR Section 18984.12), Single-Family generators shall:

- (a) Be subscribed to the collection service(s) approved by the District for Organics Containers, Recycling Containers, and Garbage Containers. The District shall have the right to review the number and size of a generator's containers to evaluate the adequacy of capacity provided for each type of collection service and to review the separation of materials and containment of materials. A Single-Family generator shall adjust its service level for its collection services as requested by the District in order to meet the standards set forth in this Ordinance. Generators may manage their Organic Waste by preventing or reducing their Organic Waste, managing Organic Waste on site, and/or using a Community Composting site pursuant to 14 CCR Section 18984.9(c) to the extent permitted by other applicable laws.
- (b) Participate in the Organic Waste collection service(s) approved by the District by placing designated materials in designated containers as described below, and not placing Prohibited Container Contaminants in collection containers. Generator shall place Source Separated Organic Waste, including Food Waste, in the Organics Container; Source Separated Recyclable Materials in the Recycling Container; and Garbage in the Garbage Container. Generators shall not place materials designated for the Garbage Container into the Organics Container or the Recycling Container.

SECTION 5. REQUIREMENTS FOR COMMERCIAL BUSINESS GENERATORS INCLUDING MULTI-FAMILY RESIDENTIAL DWELLINGS

Commercial Business Organic Waste Generators, including Multi-Family Residential Dwellings, shall:

- (a) Except Commercial Businesses that meet the Self-Hauler requirements in Section 10 of this Ordinance, or that meet waiver requirements in Section 6 of this Ordinance, or that are located in a census tract for which CalRecycle has issued a low population waiver (as described in 14 CCR Section 18984.12):
 - (1) Be subscribed to the collection service(s) provided by the District's Regulated Hauler for Organics Containers, Recycling Containers, and Garbage Containers and comply with requirements of those services as described below. The District shall have the right to review the number and size of a generator's 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; and, Commercial Businesses shall adjust their service level for their collection services as requested by the District.
 - (2) Participate in collection services approved by the District for Organic Waste collection service(s) by placing designated materials in designated containers as

described below. Generator shall place Source Separated Organic Waste, including Food Waste, in the Organics Container; Source Separated Recyclable Materials in the Recycling Container; and Garbage in the Garbage Container. Generator shall not place materials designated for the Garbage Container into the Organics Container or Recycling Container.

- (b) Supply and allow access to adequate number, size and location of collection containers with sufficient labels or colors (conforming with Sections 5(c)(1) and 5(c)(2), below) for employees, contractors, tenants, and customers, consistent with the Recycling Container, Organics Container, and Garbage Container collection service or, if self-hauling, per the Commercial Businesses' instructions to support its compliance with its self-haul program, in accordance with Section 10.
- (c) Excluding Multi-Family Residential Dwellings, provide containers for the collection of Source Separated Organic Waste and Source Separated Recyclable Materials generated by that business in all areas where the Commercial Business provides disposal containers for employees, contractors, tenants, customers and other users of the premises ("User Disposal Containers"). Such User Disposal Containers do not need to be provided in restrooms. If a Commercial Business does not generate, or has a waiver pertaining to, any of the materials that would be collected in one type of User Disposal Container, then the business does not have to provide that particular type of container in all areas where User Disposal Containers are provided. Pursuant to 14 CCR Section 18984.9(b), the User Disposal Containers provided by the business shall have either:
 - (1) A body or lid that conforms with the following container colors, with either lids conforming to these color requirements or bodies conforming to these color requirements, or both lids and bodies conforming to these color requirements: gray or black containers for Garbage Container Waste, blue containers for Source Separated Recyclable Materials, and green containers for Source Separated Organic Waste. Notwithstanding the foregoing, a Commercial Business is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the color requirements of this Section 5(c)(1) prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first, or;
 - (2) Container labels that include language or graphic images, or both, indicating the primary materials 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.
- (d) 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 Recycling Container, Organics Container, and Garbage Container collection service or, if self-hauling, per the Commercial Businesses' instructions to support its compliance with its self-haul program, in accordance with Section 10.

- (e) Periodically inspect Recycling Containers, Organics Containers, and Garbage 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).
- (f) Annually provide information to employees, contractors, tenants, building residents, and customers about Organic Waste Recovery requirements and about proper sorting of Source Separated Organics Container Organic Waste and Source Separated Recyclable Materials.
- (g) Provide information before or within fourteen days of new occupation of the premises to new tenants and no less than fourteen days before tenants move out of the premises, unless a tenant does not provide fourteen or more days' notice to before moving out, that describes requirements to keep Source Separated Organic Waste and Source Separated Recyclable Materials separate from each other and from Garbage Container Waste and the location of containers and the rules governing their use at the property.
- (h) Provide for the Enforcement Officer to access their properties during all Inspections conducted in connection with this Ordinance and timely provide documents requested by the Enforcement Agency to confirm compliance with the requirements of this Ordinance.
- (i) Accommodate and cooperate with any Remote Monitoring program established by a Regulated Hauler for Inspection of the types of materials placed in containers for Prohibited Container Contaminants to evaluate generator's compliance with Section 5(a)(1).
- (j) Nothing in this Section prohibits a generator from preventing or reducing waste generation, managing Organic Waste on site, or using a Community Composting site pursuant to 14 CCR Section 18984.9(c) to the extent permitted by other applicable laws.

SECTION 6. WAIVERS FOR COMMERCIAL BUSINESS GENERATORS

- (a) De Minimis Waivers. Except for Multi-Family Residential Dwellings, the District or its Designee may waive a Commercial Business' obligation to comply with some or all of the Organic Waste collection service requirements of this Ordinance if the Commercial Business provides documentation demonstrating that the business generates below a certain amount of Organic Waste material, as described in Section 6(a)(2) below. A Commercial Business requesting a de minimis waiver shall:
 - (1) Submit an application to the District or its Designee specifying the service or requirements for which it is requesting a waiver.
 - (2) Provide documentation with the application that either:
 - (A) The Commercial Business' total Solid Waste collection service is two cubic yards or more per week and Organic Waste subject to collection in a Recycling Container or Organics Container comprises less than 20 gallons per week per applicable container of the business' total waste; or,

- (B) The Commercial Business' total Solid Waste collection service is less than two cubic yards per week and Organic Waste subject to collection in a Recycling Container or Organics Container comprises less than 10 gallons per week per applicable container of the business' total waste.
- (C) For the purposes of subsections (A) and (B) above, total Solid Waste shall be the sum of weekly Garbage Container Waste, Source Separated Recyclable Materials, and Source Separated Organic Waste measured in cubic yards.
- (3) If the waiver is granted, notify the District or its Designee granting the waiver if circumstances change such that Commercial Business's Organic Waste exceeds threshold required for waiver, in which case the waiver will be rescinded.
- (4) If the waiver is granted, provide written verification of continued eligibility for de minimis waiver to the District or its Designee every 5 years.
- (b) Physical Space Waivers. The District or its Designee may waive a Commercial Business' or property owner's (including a Multi-Family Residential Dwelling's) obligation to comply with some or all of the recyclable materials and/or Organic Waste collection service requirements of this Ordinance if the District has evidence from a Regulated Hauler, licensed architect, licensed engineer, or other Person authorized by the District or its Designee demonstrating that the premises lacks adequate space for the collection containers required for compliance with the Organic Waste collection requirements of Section 5.

A Commercial Business requesting a physical space waiver shall:

- (1) Submit an application to the District or its Designee specifying the service or requirements for which it is requesting a waiver.
- (2) Provide documentation with the application that the premises lacks adequate space for Recycling Containers and/or Organics Containers, which shall include documentation from its Regulated Hauler, licensed architect, licensed engineer, or other Person authorized by the District or its Designee.
- (3) If the waiver is granted, notify the District or its Designee granting the waiver if the Commercial Business' physical space configurations or amounts of Solid Waste generation change, in which case the waiver may be rescinded.
- (4) If the waiver is granted, provide written verification to the District or its Designee of continued eligibility for a physical space waiver every five years.

SECTION 7. REQUIREMENTS FOR COMMERCIAL EDIBLE FOOD GENERATORS

- (a) Tier One Commercial Edible Food Generators must comply with the requirements of this Section 7 commencing January 1, 2022, and Tier Two Commercial Edible Food Generators

must comply commencing January 1, 2024, pursuant to 14 CCR Section 18991.3 or such later deadline established by State law or regulations.

- (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 or such later deadline established by State law or regulations.
- (c) Commercial Edible Food Generators shall comply with the following requirements:
 - (1) Arrange to safely recover for human consumption the maximum amount of Edible Food that would otherwise be disposed.
 - (2) Enter into a contract or other written agreement with Food Recovery Organizations or Food Recovery Services for: (i) the collection for Food Recovery of Edible Food that would otherwise be disposed; or, (ii) acceptance of Edible Food that would otherwise be disposed that the Commercial Edible Food Generator self-hauls to the Food Recovery Organization for Food Recovery.
 - (3) Use best efforts to abide by all contractual or written agreement requirements specified by the Food Recovery Organization or Food Recovery Service on how Edible Food should be prepared, packaged, labeled, handled, stored, distributed or transported to the Food Recovery Organization or Service.
 - (4) Not intentionally donate food that has not been prepared, packaged, handled, stored and/or transported in accordance with the safety requirements of the California Retail Food Code.
 - (5) Not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery Organization or a Food Recovery Service.
 - (6) Allow the Enforcement Agency to review records upon request, including by providing electronic copies or allowing access to the premises, pursuant to 14 CCR Section 18991.4.
 - (7) 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 and written agreements established under 14 CCR Section 18991.3(b) and/or this Ordinance.
 - (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.
- (D) If it has not entered into a contract or written agreement with Food Recovery Organizations or Food Recovery Services, a record that describes (i) its direct donation of Edible Food to end recipients (including employees) and/or (ii) its food waste prevention practices that result in it generating no surplus Edible Food that it can donate.
- (8) Tier One Commercial Edible Food Generators and Tier Two Commercial Edible Food Generators shall provide, upon request, a Food Recovery report to the Enforcement Agency that includes the information in Section 7(C). Entities shall provide the requested information within 60 days of the request.
- (d) Nothing in this Ordinance prohibits a Commercial Edible Food Generator from donating Edible Food directly to end recipients for consumption, pursuant to Health and Safety Code Section 114432(a).

SECTION 8. REQUIREMENTS FOR FOOD RECOVERY ORGANIZATIONS AND SERVICES

- (a) Nothing in this Ordinance prohibits a Food Recovery Service or Food Recovery Organization from refusing to accept edible food from a Commercial Edible Food Generator, in accordance with 14 CCR Section 18990.2(d).
- (b) 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. This may also include the total quantity in pounds of food collected that was spoiled when received from a Commercial Edible Food Generator or otherwise not able to be used to feed people.

- (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.
- (c) 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. This may also include the total quantity in pounds of food collected that was spoiled when received from a Commercial Edible Food Generator or otherwise not able to be used to feed people.
 - (3) The name, address, and contact information for each Food Recovery Service that the organization receives Edible Food from for Food Recovery.
- (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 the total pounds of Edible Food recovered 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) according to the following schedule: (i) no later than August 15, 2022, submit an initial report covering the period of January 1, 2022 to June 30, 2022; and (ii) no later than March 31, 2023, and no later than every March 31 thereafter, submit a report covering the period of January 1 to December 31 of the previous calendar year.
- (e) In order to support Edible Food Recovery capacity planning assessments and similar studies, Food Recovery Services and Food Recovery Organizations operating in the District shall provide, upon request, information and consultation to the District or its Designee regarding existing, or proposed new or expanded, Food Recovery capacity in a form that can be provided to or that can be accessed by the County, the District and Commercial Edible Food Generators in the District. A Food Recovery Service or Food Recovery Organization contacted by the District or its Designee shall respond to such request for information within 60 days, unless a shorter timeframe is otherwise specified by the District or its Designee.

SECTION 9. REQUIREMENTS FOR REGULATED HAULERS AND FACILITY OPERATORS

- (a) Requirements for Regulated Haulers.

- (1) A Regulated Hauler providing Single-Family, Commercial, or industrial Organic Waste collection service to generators within the District shall meet the following requirements and standards in connection with collection of Organic Waste:
 - (A) Through written notice to the District annually on or before March 31, identify the facilities to which they will transport Organic Waste.
 - (B) Transport Source Separated Recyclable Materials to a facility that recycles those materials and transport Source Separated Organic Waste to a facility, operation, activity, or property that recovers Organic Waste as defined in 14 CCR, Division 7, Chapter 12, Article 2.
 - (C) 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.
- (b) Requirements for Facility Operators and Community Composting Operations.
 - (1) Owners of facilities, operations, and activities that recover Organic Waste, including, but not limited to, compost facilities, in-vessel digestion facilities, and publicly-owned treatment works shall, upon request from the District, provide within 60 days, 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.
 - (2) Community Composting operators shall, upon request from the District, provide within 60 days information 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.

SECTION 10. REQUIREMENTS FOR SELF-HAULERS

- (a) Self-Haulers shall source separate all recyclable materials and Organic Waste (materials that the District otherwise requires generators to separate for collection in the District's organics and recycling collection program) generated or handled on-site from Solid Waste in a manner consistent with 14 CCR Sections 18984.1 and 18984.2, or shall haul Organic Waste to a High Diversion Organic Waste Processing Facility as specified in 14 CCR Section 18984.3.
- (b) Self-Haulers shall haul their Source Separated Recyclable Materials to a facility that recovers those materials; and haul their Source Separated Organic Waste to a Solid Waste facility, operation, activity, or property that processes or recovers Source Separated Organic Waste. Alternatively, Self-Haulers may haul Organic Waste to a High Diversion Organic Waste Processing Facility. Self-Haulers may Back-haul to a destination owned and operated by the generator using the generator's own employees and equipment and

then haul those consolidated materials to facilities meeting the requirements of this subsection (b).

- (c) Self-Haulers that are Commercial Businesses (including Multi-Family Residential Dwellings) shall keep a record of the amount of Organic Waste delivered to each Solid Waste facility, operation, activity, or property that processes or recovers Organic Waste; this record shall be subject to Inspection by the Enforcement Agency. The records shall include the following information:
 - (1) Delivery receipts and weight tickets from the entity accepting the material.
 - (2) The amount of material in cubic yards or tons transported by the generator to each entity.
 - (3) If the material is transported to an entity that does not have scales on-site, or employs scales incapable of weighing the Self-Hauler's vehicle in a manner that allows it to determine the weight of materials received, the Self-Hauler is not required to record the weight of material but shall keep a record of the entities that received the Organic Waste.
- (d) Self-Haulers shall notify the District if they subscribe to separate collection service for Organics Containers and/or Recycling Containers by a Regulated Hauler, such that they are no longer Self-Haulers.
- (e) Self-Haulers that are Commercial Businesses (including Multi-Family Residential Dwellings) shall provide information, upon request, collected in Section 10(c) to the District. Entities shall provide the requested information within 60 days.
- (f) A Single-Family Organic Waste Generator that self-hauls Organic Waste is not required to record or report this information.

SECTION 11. INSPECTIONS

- (a) The District or its Designee is authorized to conduct Inspections and investigations, at random or otherwise, of any collection container, collection vehicle loads, or transfer, processing, or disposal facility for materials collected from generators, or Source Separated materials to confirm compliance with the provisions of this Ordinance for which it has enforcement authority by Organic Waste Generators, Commercial Businesses (including Multi-Family Residential Dwellings), Commercial Edible Food Generators, Regulated Haulers, Self-Haulers, Food Recovery Services, and Food Recovery Organizations, subject to applicable laws. This Section does not allow entry in a private residential dwelling unit for Inspection. For the purposes of inspecting Commercial Business containers for compliance with this Ordinance, the Enforcement Agency may conduct container Inspections for Prohibited Container Contaminants using Remote Monitoring, and Commercial Businesses shall accommodate and cooperate with the Remote Monitoring.

- (b) A Person subject to the requirements of this Ordinance shall provide or arrange for access during all Inspections (with the exception of a private residential dwelling unit) and shall cooperate with the District 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 Ordinance. Failure to provide or arrange for: (i) access to the premises; (ii) installation and operation of Remote Monitoring equipment, if a Remote Monitoring program is adopted; or (iii) access to records for any Inspection or investigation is a violation of this Ordinance and may result in penalties described in Section 12.
- (c) Any records obtained by the District or its Designee during Inspections, Remote Monitoring, and other reviews shall be subject to the requirements and applicable disclosure exemptions of the California Public Records Act as set forth in Government Code Section 6250 et seq.
- (d) The District or its Designee is authorized to conduct any Inspections, Remote Monitoring, or other investigations as reasonably necessary to further the goals of this Ordinance, subject to applicable laws.
- (e) The District or its Designee shall accept written complaints from persons regarding an entity that may be potentially non-compliant with this Ordinance.

SECTION 12. ENFORCEMENT

- (a) Violation of any provision of this Ordinance shall constitute grounds for issuance of a Notice of Violation and assessment of a fine by the District or its designated Enforcement Officer.
- (b) Enforcement Actions under this Ordinance are issuance of an administrative citation and assessment of a fine.
- (c) Other remedies allowed by law may be used, including civil action or prosecution as a misdemeanor or infraction. The District may pursue civil actions in the California courts to seek recovery of unpaid administrative citations, and fines. 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.
- (d) Penalty Amounts for Violations

The penalty levels are as follows:

- (1) For a first violation, the amount of the penalty shall be \$100 per violation.
- (2) For a second violation, the amount of the penalty shall be \$200 per violation.

- (3) For a third or subsequent violation, the amount of the penalty shall be \$500 per violation.

SECTION 13. SEVERABILITY

If any provision of this Ordinance or the application thereof is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such invalidity shall not affect the remaining provisions or application of the remaining provisions of this Ordinance, which can be given effect without the invalid provisions or application.

SECTION 14. EFFECTIVE DATE

This Ordinance shall be posted at the District Office after its adoption by the Board for at least thirty (30) days and shall take effect commencing on January 1, 2022.