

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF NAPA COUNTY, STATE OF CALIFORNIA, ADDING CHAPTER 8.60 TO TITLE 8 OF THE NAPA COUNTY CODE REGARDING MANDATORY ORGANIC WASTE DISPOSAL REDUCTION AND RELATED REQUIREMENTS UNDER SENATE BILL 1383**

**WHEREAS**, State recycling law, Assembly Bill 939 of 1989, the California Integrated Waste Management Act of 1989 (Public Resources Code Section 40000, et seq.), requires 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; and

**WHEREAS**, State recycling law, Assembly Bill 341 of 2011, places requirements on businesses and Multi-Family property owners that generate a specified threshold amount of Solid Waste to arrange for recycling services and requires counties to implement a Mandatory Commercial Recycling program; and

**WHEREAS**, State organics recycling law, Assembly Bill 1826 of 2014, 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 services for that waste, requires counties to implement a recycling program to divert Organic Waste from businesses subject to the law, and requires counties to implement a Mandatory Commercial Organics Recycling program; and

**WHEREAS**, SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016, requires CalRecycle to develop regulations to reduce organics in landfills as a source of methane. The

regulations place requirements on multiple entities including counties, residential households, Commercial Businesses and business owners, Commercial Edible Food Generators, haulers, Self-Haulers, Food Recovery Organizations, and Food Recovery Services to support achievement of Statewide Organic Waste disposal reduction targets; and

**WHEREAS**, SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016, requires counties to adopt and enforce an ordinance or other enforceable mechanism to implement relevant provisions of SB 1383 Regulations. This ordinance will also help reduce food insecurity by requiring Commercial Edible Food Generators to arrange to have the maximum amount of their Edible Food, that would otherwise be disposed, be recovered for human consumption;

**NOW, THEREFORE**, the Napa County Board of Supervisors, State of California, ordains as follows:

**SECTION 1.** Chapter 8.60 (Mandatory Organic Waste Disposal Reduction) is added to Title 8 (Health and Safety) of the Napa County Code to read in full as follows:

## **Chapter 8.60 – MANDATORY ORGANIC WASTE DISPOSAL REDUCTION**

### **8.60.010 – Purpose and intent.**

The purpose of this chapter is to implement the requirements of Senate Bill 1383 and its related state regulations with regard to reducing the disposal of organic waste in landfills.

### **8.60.020 – Definitions.**

The following words and phrases, whenever used in this chapter, are defined as follows. Where these definitions cross reference definitions in Title 14 of the California Code of Regulations, these definitions are intended to incorporate any amendments or changes to such regulations.

“Blue Container” has the same meaning as in 14 CCR Section 18982(a)(5) and shall be used for the purpose of storage and collection of Source Separated Recyclable Materials or Source Separated Blue Container Organic Waste.

“CalRecycle” means California's Department of Resources Recycling and Recovery.

“California Code of Regulations” or “CCR” means the State of California Code of Regulations.

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

“Commercial Edible Food Generator” means a Tier One or a Tier Two Commercial Edible Food Generator, or as otherwise defined in 14 CCR Sections 18982(a)(73) or 18982(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).

“Compost” means the product resulting from the controlled biological decomposition of organic Solid Wastes that are Source Separated from the municipal Solid Waste stream, or which are separated at a centralized facility, or as otherwise defined by 14 CCR Section 17896.2(a)(4).

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

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

“Designee” means an entity to which the County has delegated any or all of its authority and responsibilities under this chapter, as authorized in 14 CCR Section 18981.2.

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

“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 County 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 County'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 County, 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. Excluded Waste does not include used motor oil and filters, household batteries, electronic wastes, universal wastes, and/or paints and coatings when such materials are defined as allowable materials for collection through the County's collection programs and the generator or customer has properly placed the materials for collection pursuant to instructions provided by County or its Designee for collection services.

"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 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 pursuant to 14 CCR Section 18982(a)(7).

“Food Scraps” means all food such as, but not limited to, fruits, vegetables, meat, poultry, seafood, shellfish, bones, rice, beans, pasta, bread, cheese, 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 into contact with food or liquid, such as, but not limited to, compostable paper plates, paper coffee cups, paper towels, napkins, tissues, and pizza boxes, that are generated in all areas of residential and/or commercial buildings and properties. This definition excludes paper that has contacted substantial amounts of inorganic, toxic, or corrosive substances.

“Food Waste” means Food Scraps, Food-Soiled Paper, and Compostable Plastics.

“Gray Container” is a gray or black container and has the same meaning as in 14 CCR Section 18982(a)(28), and shall be used for the purpose of storage and collection of Gray Container Waste.

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

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

“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 a collection service area, or as otherwise defined in 14 CCR Section 18982(a)(31.5).

“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; or as otherwise defined in 14 CCR Section 18982(a)(33).

“Inspection” means a site visit to review 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 of 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” 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; or as otherwise defined in 14 CCR Section 18982(a)(39). 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. 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 city or county 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 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 do not include hotels, motels, or other transient occupancy facilities, which are considered Commercial Businesses.

“Non-Compostable Paper” includes, but is not limited to, paper that is coated in a plastic material that will not breakdown in the composting process, 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).

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

“Prohibited Container Contaminants” means any of the following:

1. discarded materials placed in the Blue Container that are not identified as acceptable Source Separated Recyclable Materials for the Blue Container;
2. discarded materials placed in the Green Container that are not identified as acceptable Source Separated Green Container Organic Waste for the Green Container;
3. discarded materials placed in the Gray Container that are acceptable Source Separated Recyclable Materials and/or Source Separated Green Container Organic Wastes to be placed in Green or Blue Containers; or,
4. 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).

“Remote Monitoring” means the use of the internet of things (IoT) and/or wireless electronic devices to visualize the contents of Blue Containers, Green Containers, and Gray 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).

“Self-Hauler” means a person who hauls Solid Waste, Organic Waste or recyclable material they generated to another person or facility. Self-hauler also includes a person who back-hauls waste, or as otherwise defined in 14 CCR Section 18982(a)(66). Back-haul means generating and transporting Organic Waste to a destination owned and operated by the generator using the generator’s own employees and equipment, or as otherwise defined in 14 CCR Section 18982(a)(66)(A).

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

“Solid Waste” has the same meaning as defined in Public Resources Code Section 40191, which is 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. Solid Waste does not include any of the following wastes:

1. Hazardous waste, as defined in 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 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 State 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). Source Separated includes 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 Gray Container Waste or other Solid Waste for the purposes of collection and processing.

“Source Separated Blue Container Organic Waste” means Source Separated Organic Wastes that can be placed in a Blue Container that is limited to the collection of those Organic Wastes and Non-Organic Recyclables, or as otherwise defined by 14 CCR Section 17402(a)(18.7).

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

“Source Separated Recyclable Materials” means Source Separated Non-Organic Recyclables and Source Separated Blue 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 or more of the following:

1. Supermarket.
2. Grocery Store with a total facility size equal to or greater than 10,000 square feet.



3. Food Service Provider.
4. Food Distributor.
5. Wholesale Food Vendor.

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

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

“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).

#### **8.60.030 – Requirements for Single-Family Generators.**

Single-Family Organic Waste Generators shall comply with the following requirements, except for Single-Family generators that meet the Self-Hauler requirements in Section 8.60.080 of this chapter:

- A. Subscribe to an Organic Waste collection service for all Organic Waste generated, as described in section 8.60.030(B). County 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; and, any Single-Family generator shall adjust its service level for its collection services as determined by the County. Generators may additionally 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).
- B. Participate in the Organic Waste collection service(s) by placing designated materials in designated containers as described below and shall not place Prohibited Container Contaminants in collection containers.

1. Green Container: Source Separated Green Container Organic Waste, including Food Waste.
  2. Blue Container: Source Separated Recyclable Materials.
  3. Gray (including black) Container: Gray Container Waste.
- C. Single Family generators shall not place materials designated for the Gray Container into a Green or Blue Container.
- D. Single Family generators issued containers in colors other than green, blue, and gray/black shall separate and place materials in the colored containers designated by the haulers for each of the three categories in section 8.60.030(B). Single Family generators issued less than three containers or providing their own containers shall follow the instructions of their haulers.

#### **8.60.040 – Requirements for Commercial Businesses.**

Generators that are Commercial Businesses, including Multi-Family Residential Dwellings, shall comply with the following requirements:

- A. Subscribe to the three collection services and comply with requirements of those services as described in Section 8.60.040(B), except for Commercial Businesses that meet the Self-Hauler requirements in Section 8.60.080 of this chapter. County 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, any Commercial Business shall adjust its service level for its collection services as determined by the County.
- B. Except for Commercial Businesses that meet the Self-Hauler requirements in Section 8.60.080 of this chapter, participate in the Organic Waste collection service(s) by placing designated materials in designated containers as described below.
1. Green Container: Source Separated Green Container Organic Waste, including Food Waste.
  2. Blue Container: Source Separated Recyclable Materials.
  3. Gray (including black) Container: Gray Container Waste. Generator shall not place materials designated for the Gray Container into a Green or Blue Container.
  4. Generators issued containers in colors other than green, blue, and gray/black shall separate and place materials in the colored containers designated by the haulers for each of the three categories in sections 8.60.040(B)(1) through (3). Generators issued less than three containers or providing their own containers shall follow the instructions of their haulers.

- C. Supply and allow access to an adequate number, size and location of collection containers with sufficient labels or colors (conforming with Sections 8.60.040(D)(1) and 8.60.040(D)(2)) for employees, contractors, tenants, and customers, consistent with the Blue Container, Green Container, and Gray 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 8.60.080.
- D. Excluding Multi-Family Residential Dwellings, provide containers for the collection of Source Separated Green Container Organic Waste and Source Separated Recyclable Materials in all indoor and outdoor areas where disposal containers are provided for customers, for materials generated by that business. If a Commercial Business provides substantial evidence and the County agrees that the business does not generate any of the materials that would be collected in one type of container, then the business does not have to provide that particular container in all areas where disposal containers are provided for customers. Pursuant to 14 CCR Section 18984.9(b), the containers provided by the business shall have either:
  - 1. A body or lid that conforms with the container colors provided through the subscribed collection service, with either lids conforming to the color requirements or bodies conforming to the color requirements or both lids and bodies conforming to color requirements. A Commercial Business is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the requirements of the subsection 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 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.
- E. Multi-Family Residential Dwellings are not required to comply with container placement requirements or labeling requirements in Section 8.60.040(D) pursuant to 14 CCR Section 18984.9(b).
- F. Excluding Multi-Family Residential Dwellings, and 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 Blue Container, Green Container, and Gray 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 8.60.080.
- G. Excluding Multi-Family Residential Dwellings, inspect at least one time per month all Blue Containers, Green Containers, and Gray 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).

- H. On at least a quarterly basis, provide information to employees, contractors, tenants, and customers about Organic Waste Recovery requirements and about proper sorting of Source Separated Green Container Organic Waste and Source Separated Recyclable Materials.
- I. Provide education information before or within fourteen (14) days of occupation of the premises to new tenants that describes requirements to keep Source Separated Green Container Organic Waste and Source Separated Recyclable Materials separate from Gray Container Waste (when applicable) and the location of containers and the rules governing their use at each property.
- J. Provide or arrange access for the County or its agent to their properties during all Inspections conducted in accordance with Section 8.60.120 to confirm compliance with the requirements of this chapter.
- K. Accommodate and cooperate with any Remote Monitoring program approved by the County or its Designee.
- L. If a Commercial Business wants to self-haul, meet the Self-Hauler requirements in Section 8.60.080 of this chapter.
- M. 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).
- N. Commercial Businesses that are Tier One or Tier Two Commercial Edible Food Generators shall comply with Food Recovery requirements, pursuant to Section 8.60.050.

**8.60.050 – Requirements for Commercial Edible Food Generators.**

- A. Tier One Commercial Edible Food Generators must comply with the requirements of this section 8.60.050 commencing on the effective date of this chapter, and Tier Two Commercial Edible Food Generators must comply commencing on 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 on 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.

2. Contract with or enter into a written agreement with Food Recovery Organizations or Food Recovery Services for:
  - a. the collection of Edible Food for Food Recovery; or,
  - b. 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 County or its agent to access the premises to review records kept pursuant to 14 CCR Section 18991.4 and Section 8.60.050(C)(5).
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 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. No later than April 30th of each year, commencing no later than April 30, 2023, for Tier One Commercial Edible Food Generators, and April 30, 2025, for Tier Two Commercial Edible Food Generators, provide an annual Food Recovery report to the County that includes the following information:
  - a. A copy of all contracts or written agreements established under 14 CCR Section 18991.3(b).

- b. The quantity of food, measured in annual pounds recovered, collected or self-hauled to a Food Recovery Service or Food Recovery Organization for Food Recovery.
  - c. The name, address and contact information of the Food Recovery Service or Food Recovery Organization.
- D. Nothing in this chapter shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share table and school food donation guidance pursuant to Senate Bill 557 of 2017, as may be amended.

**8.60.060 – 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. Food Recovery Organizations and Food Recovery Services shall inform generators about California and Federal Good Samaritan Food Donation Act protection in written

communications, such as in their contract or agreement established under 14 CCR Section 18991.3(b).

- D. Food Recovery Organizations and Food Recovery Services that have their primary address physically located in Napa County 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 County 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) no later than April 30th of each calendar year.

E. Food Recovery Capacity Planning

- 1. In order to support Edible Food Recovery capacity planning assessments, Food Recovery Services and Food Recovery Organizations operating in Napa County shall provide information and consultation to the County, upon request, regarding existing, or proposed new or expanded, Food Recovery capacity that could be accessed by the County and its Commercial Edible Food Generators. A Food Recovery Service or Food Recovery Organization contacted by the County shall respond to such request for information within 60 days.
- 2. Cities, towns and special districts that provide solid waste collection services, and regional agencies located within the County shall conduct Edible Food Recovery capacity planning, in coordination with the County, pursuant to 14 CCR Section 18992.2.

**8.60.070 – Requirements for Haulers and Facility Operators.**

A. Requirements for haulers:

- 1. Franchised and permitted haulers providing residential, Commercial, or industrial Organic Waste collection services to generators within the unincorporated area of Napa County shall meet the following requirements and standards as a condition of approval of a contract, agreement, or other authorization to collect Organic Waste:
  - a. Through written notice to the County annually on or before January 1, identify the facilities to which they will transport Organic Waste including facilities for Source Separated Recyclable Materials and Source Separated Green Container Organic Waste.
  - b. Transport Source Separated Recyclable Materials and Source Separated Green Container 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 County or other authorized public entity to haul Organic Waste, unless it is transporting Source Separated Organic Waste to a

Community Composting site or lawfully transporting construction and demolition debris in a manner that complies with 14 CCR Section 18989.1 and any applicable provision(s) of this code.

2. Franchised and permitted haulers authorized to collect Organic Waste shall comply with education, equipment, signage, container labeling, container color, contamination monitoring, reporting, and other requirements contained within its franchise agreement, permit, license, or other agreement entered into with the County or other authorized public entity.

**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 County 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 County shall respond within 60 days.
2. Community Composting operators, upon County request, shall provide information to the County 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 County shall respond within 60 days.

**8.60.080 – Self-Hauler Requirements.**

- A. Self-Haulers shall source separate all recyclable materials and Organic Waste (materials that this chapter otherwise requires generators to separate for collection) generated 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 Green Container 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.
- C. Self-Haulers that are Commercial Businesses or 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 County. The record shall include the following information:
  1. Delivery receipts and weight tickets from the entity accepting the waste.



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 that are Commercial Businesses or Multi-Family Residential Dwellings shall provide information collected in Section 8.60.080(C) to County if requested. Self-haulers must also register with the County prior to engaging in hauling.
- E. A residential Organic Waste Generator that self-hauls Organic Waste is not required to record or report information in Section 8.60.080(C) or (D).

#### **8.60.090 – Inspections and Investigations.**

County representatives and/or its Designees 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 Organic Waste Generators, Commercial Businesses, Multi-Family Residential Dwellings, property owners, Commercial Edible Food Generators, haulers, Self-Haulers, Food Recovery Services, and Food Recovery Organizations, subject to applicable laws. This section does not allow County to enter the interior of a private residential property for Inspection. Inspections and investigations may include confirmation of proper placement of materials in containers, Edible Food Recovery activities, records, or any other requirement of this chapter. It is unlawful to deny or delay access to an entity's premises to conduct an Inspection authorized by this section or required by 14 CCR Section 18995.1; to prevent or tamper with the installation and operation of Remote Monitoring equipment; or to deny access to records required to be kept by this chapter.

#### **8.60.100 – Delegation of Authority.**

- A. Except as provided in Section 8.60.100(B), the County may delegate any or all of its authority and responsibilities under this chapter, SB 1383, and related State regulations including, but not limited to, those related to Organic Waste collection services, education, inspections and investigations, and Edible Food recovery services, to one or more Designees through:
1. Contracts with haulers or other private entities; or
  2. Agreements with other counties, public entities, regional agencies as defined in Public Resources Code Section 40181, joint powers authorities, or other government entities, including environmental health departments.

- B. The County may not delegate its authority to impose administrative penalties, or to maintain an action to impose administrative penalties, for violations of this chapter.

#### **8.60.110 – Application.**

This chapter shall only apply in the unincorporated area of Napa County.

#### **8.60.120 – Enforcement.**

- A. It is unlawful to violate any provision of this chapter.
- B. Violations of this chapter are subject to abatement or enforcement pursuant to chapters 1.20, 1.24, and 1.28 of this code, except that any administrative penalties for violations shall be in the amounts set forth in 14 CCR Section 18997.2.
- C. Until December 31, 2023, the County may provide educational materials to the person or entity violating this chapter in lieu of an administrative penalty, describing its obligations under this chapter and a notice that further violations may be subject to administrative penalties.

**SECTION 2.** The Board of Supervisors finds that adoption of this Ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15061(b)(3) and 15308 on the grounds that it can be seen with certainty that the various activities required by this Ordinance will either not have a significant effect on the environment, or represent actions taken by the County for the protection of the environment by reducing the disposal of organic waste.

**SECTION 3.** If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The Napa County Board of Supervisors hereby declares it would have passed and adopted this Ordinance and each and all provisions hereof irrespective of the fact that any one or more of said provisions be declared invalid.

**SECTION 4.** This Ordinance shall be effective thirty (30) days from and after the date of its passage.

**SECTION 5.** A summary of this Ordinance shall be published at least once five (5) days before adoption and at least once before the expiration of fifteen (15) days after its passage in the Napa Valley Register, a newspaper of general circulation published in Napa County, together with the names of members voting for and against the same.

The foregoing Ordinance was introduced at a regular meeting of the Napa County Board of Supervisors, State of California, held on the 7th day of December, 2021, and passed at a regular meeting of the Napa County Board of Supervisors, State of California, held on the 14th day of December, 2021, by the following vote:

AYES: SUPERVISORS \_\_\_\_\_

\_\_\_\_\_

NOES: SUPERVISORS \_\_\_\_\_

ABSTAIN: SUPERVISORS \_\_\_\_\_

ABSENT: SUPERVISORS \_\_\_\_\_

NAPA COUNTY, a political subdivision of the  
State of California

\_\_\_\_\_  
ALFREDO PEDROZA, Chair of the  
Board of Supervisors

<p>APPROVED AS TO FORM Office of County Counsel</p> <p>By: <u>Thomas C. Zeleny</u> Interim County Counsel</p> <p>By: <u>Meredith Trueblood</u> Code Services</p> <p>Date: <u>November 30, 2021</u></p>	<p>APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS</p> <p>Date: _____</p> <p>Processed By: _____</p> <p>Deputy Clerk of the Board</p>	<p>ATTEST: NEHA HOSKINS Clerk of the Board of Supervisors</p> <p>By: _____</p>
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I HEREBY CERTIFY THAT THE ORDINANCE ABOVE WAS POSTED IN THE OFFICE OF THE CLERK OF THE BOARD IN THE ADMINISTRATIVE BUILDING, 1195 THIRD STREET ROOM 310, NAPA, CALIFORNIA ON \_\_\_\_\_.

\_\_\_\_\_, DEPUTY  
NEHA HOSKINS, CLERK OF THE BOARD