



# TAMALPAIS COMMUNITY SERVICES DISTRICT

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## ORDINANCE NO. 98

### ORDINANCE OF THE TAMALPAIS COMMUNITY SERVICES DISTRICT BOARD OF DIRECTORS ESTABLISHING REGULATIONS FOR GARBAGE, ORGANICS AND RECYCLABLE MATERIAL SEPARATION AND STORAGE

#### Section 1. Purpose.

The reduction of solid waste landfilling, through waste prevention, reuse, recycling, and composting is a statewide mandate (California Integrated Waste Management Act of 1989). In addition, reduction of solid waste is a key component of meeting the statewide climate protection mandate (California Global Warming Solutions Act of 2006). Furthermore, AB 341, the Jobs and Recycling Act of 2011, and AB 1826, the Mandatory Commercial Organics Recycling Act of 2014, require businesses and Multi-Family property owners to arrange for recycling and organics services. Additionally, SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016, seeks to reduce organics in landfills, as a means to reduce methane emissions and to increase edible food recovery to reduce human food insecurity. To that end, the State of California's Department of Resources Recycling and Recovery (CalRecycle) developed regulations that place requirements on multiple entities, many of which are contained herein. Therefore, in order to protect the public peace, health, safety, and general welfare, to reduce the solid waste stream, to reduce methane emissions from landfills, and to comply with state regulations, the District deems it necessary to regulate the separation, collection, disposal and recovery of recyclable materials, organic waste, and other solid waste as set forth in this Ordinance.

#### Section 2. Definitions.

For purposes of this section, the following words, phrases and terms shall have the meanings set forth by this section unless a different meaning is clearly intended by the use or context of the word, phrase or term:

"Act" means the California Integrated Waste Management Act of 1989 (commencing with Section 40000 of the Public Resources Code), as amended, including but not limited to, the Jobs and Recycling Act of 2011 (AB 341), SB 1016 (Chapter 343, Statutes of 2008 [Wiggins, SB 1016]), the Mandatory Commercial Organics Recycling Act of 2014 (AB 1826), and the Short-Lived Climate Pollutants Bill of 2016 (SB 1383) and as implemented by the regulations of CalRecycle.

"Board" is the Board of Directors of the Tamalpais Community Services District.

"CCR" means the California Code of Regulations. CCR references in this Chapter are preceded with a number that refers to the relevant Title of the CCR (e.g., "14 CCR" refers to Title 14 of CCR).

"Collection" means to take physical possession of solid waste at, and remove from, the place of generation for transport to a solid waste facility or other recovery activity.

"Commercial business" or "Commercial" means a firm, partnership, proprietorship, joint-stock company, corporation, or association, whether for-profit or nonprofit, strip mall, industrial facility, or a multi-family dwelling, or as otherwise defined in 14 (CCR) Section 18982(a)(6). A multi-family dwelling that consists of fewer than (5) or more dwelling units is not "Commercial", for the purposes of this Ordinance.

"Commercial edible food generator" means a tier one or a tier two commercial edible food generator as defined in 14 CCR Section 18982(a)(73) and (a)(74). Food recovery organizations and food recovery services are not commercial edible food generators.

"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).

"Construction and demolition debris" or "C&D" means used or discarded materials resulting from construction, renovation, remodeling, repair, demolition, excavation or construction clean-up operations on any pavement or structure.

"Container" or "collection container" means, for the purpose of this Ordinance, any bin, box or cart used for the purpose of holding solid waste for collection.

"Designee" means a person or entity that the General Manager designates, contracts with, or otherwise arranges to carry out any of the District's responsibilities of this Ordinance authorized in 14 CCR Section 18981.2. A Designee may be a government employee or entity, a private entity, or a combination of those entities.

"Dispose" or "dispose of" means the final disposition of solid waste at solid waste facility permitted for disposal.

"District" is Tamalpais Community Services District of Marin County, California.

"Diversion" means activities reducing or eliminating the amount of solid waste from solid waste disposal, and which return these materials to use in the form of raw materials for new, reused, or reconstituted products, which meet the quality standards necessary for commercial use, or for other purposes of reuse.

"Dwelling unit" means one (1) or more rooms with internal access between all rooms, which provide complete independent living facilities for at least one (1) family, including provisions for living, sleeping, eating, cooking, bathing, and sanitary facilities. Cooking facilities for purposes of this Ordinance shall be defined as any combination of the following: sink, refrigerator, cupboard and/or storage, stove, oven (including microwave and convection).

"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.

"Enforcement action" means an action of the District to address non-compliance with this ordinance including, but not limited to, issuing administrative notices, citations, fines, penalties, or using other remedies.

"Enforcement agency" means an entity with the authority to enforce part or all of this Ordinance as specified herein. Employees and agents of an enforcement agency may carry out inspections and enforcement activities pursuant to this Ordinance. Nothing in this Ordinance authorizing an entity to enforce its terms shall require that entity to undertake such enforcement except as agreed to by that entity and the District. The District is an enforcement agency for all Sections of this Ordinance. The District may choose to additionally delegate enforcement responsibility for certain sections, to other public entities, including the Marin Hazardous and Solid Waste Joint Powers Authority (Zero Waste Marin) and the County of Marin (County).

"Exempt waste" means biohazardous or biomedical waste, hazardous waste, medical waste, regulated radioactive waste, waste that is volatile, corrosive, or infectious, waste treatment or processing sludge, contaminated soil and dirt, contaminated concrete, contaminated asphalt, automobiles, automobile parts, boats, boat parts, boat trailers, internal combustion engines, lead-acid batteries, any matter or materials which are not acceptable for disposal at a solid waste landfill as defined in AB 939 and subsequent legislation, and those wastes under the control of the Nuclear Regulatory Commission.

"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: A food bank as defined in Section 113783 of the Health and Safety Code; A nonprofit charitable organization as defined in Section 113841 of the Health and Safety code; and, A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.

"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 waste" means food scraps and trimmings and other putrescible waste that result from food production, preparation, cooking, storage, consumption or handling. Food waste includes but is not limited to meat, fish and dairy waste, fruit and vegetable waste and grain waste. Food waste does not include exempt waste.

"Garbage" means all non-recyclable packaging and other waste attributed to normal activities of a service unit. Garbage must be generated by and at the service unit wherein the garbage is collected. Garbage does not include recyclable materials, organic waste, debris from construction and demolition, large items, e-waste, universal waste, hazardous waste, household hazardous waste or exempt waste.

"Generators" for the purpose of this Ordinance, means a person or entity, including Commercial generators and Single Family generators, that is responsible for the initial creation of organic waste, or as otherwise defined as "organic waste generator" in 14 CCR Section 18982(a)(48).

"Garbage Container" has the same meaning as "Gray or Black Container" in 14 CCR Section 18982(a)(28) and shall be used for the purpose of storage and collection of Garbage.

"General Manager" means the General Manager of the Tamalpais Community Services District.

"Hazardous waste" or "hazardous materials" means any waste materials or mixture of wastes defined as such pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. sections 6901 et seq., the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. sections 9601 et seq., and the California Health and Safety Code sections 25110.02, 25115 or 25117, and all future amendments to any of the same or regulations promulgated under any of the same, or as defined by the Environmental Protection Agency, the California Environmental Protection Agency, and the California Integrated Waste Management Board, or any of them. Where there is a conflict in the definitions employed by two or more agencies having jurisdiction over hazardous waste or solid waste, the term "hazardous waste or materials" shall be construed to have the broader, more encompassing definition. "Hazardous waste" or "hazardous materials" does not mean or include household hazardous waste.

"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).

"Household hazardous waste" means materials that the District may designate from time to time as eligible for curbside pick-up but inappropriate for collection with regular pick-up and that are commonly generated by residential customers. Examples include, without limitation, consumer electronic waste, including computers, monitors, printers and cell phones, latex paint, used motor oil, oil filters, common household batteries (but not car batteries), fluorescent light bulbs under four feet in length, and nonempty aerosol cans.

"Inspection" means a site visit where the District or its designee or designated entity, reviews records, containers, and an entity's collection, handling, recycling, or disposal of solid 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).

"Multi-Family residential dwelling" or "Multi-Family" means for the purpose of implementing this Ordinance, of, from, or pertaining to residential premises with five (5) or more dwelling units. Multi-Family premises are considered a distinct type of Commercial business for the purposes of implementing SB 1383 requirements. Consistent with 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 Commercial Businesses that are not Multi-Family Residential Dwellings.

"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 designated for Compost processing, including Food Waste and landscape and pruning waste accepted in the District's Organic Waste Collection program, and other organic waste as determined by the District as acceptable for the Organics Container.

"Organic material" or "organic waste" means solid wastes containing material originated from living organisms and their metabolic waste products, including but not limited to food waste, green material, landscape and pruning waste, organic textiles and carpets, lumber, wood, food soiled paper products, manure, biosolids, digestate, and sludges or as otherwise defined in 14 CCR Section 18982(a)(46).

"Person" means any person or persons, firm, association, corporation, or other entity acting as principal, agent or officer, servant or employee, for themselves or for any other person, firm, or corporation.

"Premises" includes a tract or parcel of land with or without habitable buildings or appurtenant structures. (CCR, Section 17225.50) For purposes of this Ordinance, the word premises includes residential and commercial uses of the land, unless otherwise specified, whether owned, leased, rented or subrented, including every dwelling house, dwelling unit, apartment house or multiple-dwelling building, trailer or mobile home park, store, restaurant, rooming house, hotel, motel, office building, department store, manufacturing, processing or assembling shop or plant, warehouse and every other place or premises where any person resides, or any business is carried on or conducted within the District.

"Prohibited container contaminants" means (1) discarded materials placed in the designated recyclables container that are not identified as acceptable source separated recyclables for the District's designated recyclables collection container; (2) discarded materials placed in the designated organic waste collection container that are not identified as acceptable source separated organic waste for the District's designated organic waste collection container; and (3) discarded materials placed in the garbage container that are acceptable source separated recyclables and/or source separated organic waste to be placed in District's designated organic waste collection container and/or designated recyclables collection container and, and (4) exempt waste placed in any container.

"Recyclable (source separated) materials" means any material designated to be separated from the waste stream for purposes of recycling (adapted from PRC, Section 41951). Recyclable materials are currently limited to paper, glass, cardboard, plastics, ferrous metal, and aluminum, and any other materials determined by the District to be recyclable.

"Recycling Container" has the same meaning as "Blue Container" in 14 CCR Section 18982.2(a)(5) and shall be used for the purpose of storage and collection of Source Separated Recyclable Materials.

"Self-haul" means a person who hauls solid waste, organic waste or recovered material they have generated to another person. 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 189881(a)(66)(A).

"Single-Family" means from, or pertaining to, any residential premises consisting of between one and four dwelling units, for the purposes of implementing this Ordinance.

"Solid waste" has the same meaning as defined in Public Resources Code Section 40191, which defines solid waste as all putrescible and nonputrescible solid and semisolid wastes, including garbage, recyclable materials, organic waste, demolition and construction wastes, bulky waste, discarded home and industrial appliances, manure, vegetable or animal solid or semisolid 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) and (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. Recyclable materials and organic waste are a part of solid waste. "Solid waste collection service" means collection of solid waste originating in the District, by a persons, firms or corporations, and doing so under a contract or franchise agreement with the District.

"Solid waste facility" means a solid waste transfer or processing station including Material Recovery Facilities, a composting facility, a gasification facility, a transformation facility, an Engineered Municipal Solid Waste conversion facility, and a disposal facility. Solid waste facility additionally includes a solid waste operation that may be carried out pursuant to an enforcement agency notification, as provided in regulations adopted by CalRecycle, or otherwise set forth in the Act.

"Source separate" means the process of removing recyclable materials and organic waste from solid waste at the place of generation, prior to collection, and placing such materials into separate containers designated for recyclable materials and organic waste, or as otherwise defined in 14 CCR Section 17402.5(b)(4).

"Tier one commercial edible food generator" means a commercial edible food generator that is one of the following as defined in 14 CCR Section 18982(a):

- (a) Supermarkets with gross annual sales of \$2,000,000 or more
- (b) Grocery store with a total facility size equal to or greater than 10,000 square feet.
- (c) Food service provider, which 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.
- (d) Wholesale food vendor, which 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.
- (e) Food distributor, which means a company that distributes food to entities including, but not limited to, supermarkets and grocery stores.

"Tier two commercial edible food generator" means a commercial edible food generator that is one of the following:

- (a) Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.
- (b) Hotel with an on-site food facility and 200 or more rooms.
- (c) Health facility with an on-site food facility and 100 or more beds.
- (d) Large venue, which means a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility. For purposes of this 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.

- (e) Large event, which 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..
- (f) A state agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet.
- (g) A local education agency facility with an on-site food facility. 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).

### **Section 3. Disposal of solid waste generally.**

It is unlawful for any person to keep, deposit, bury or dispose of any solid waste in or upon any private property, public street, alley, sidewalk, gutter, park, upon the banks of any stream or creek in the District, or in or upon any of the waters thereof except as provided in this Ordinance. Every person having the obligation of the disposal of garbage, recyclable materials and organic waste as provided in this Ordinance shall dispose of the same only through the District or as may be expressly permitted by this Ordinance.

### **Section 4. Duty to subscribe to solid waste collection service.**

A. Except generators that meet self-hauler requirements, and/or generators that have obtained a waiver, as set forth in this Ordinance, every generator shall:

- (a) Subscribe with the District for Garbage Container, Recycling Container and Organics Container collection services; and to pay for the collection and disposal of such containers.
- (b) Separate all recyclable material and organic waste from the garbage generated on the premise. Generators shall place source separated organic waste, including food waste, in the Organics Container; place source separated recyclable materials in the Recycling Container; and place garbage in the approved Garbage Container. Generators shall not place prohibited container contaminants into the Garbage Container, Organics Container or Recycling Container.

B. Generators shall provide or arrange for access during all inspections and investigations (with the exception of a private residential dwelling unit) and cooperate with the General Manager or designee during such inspections and investigations.

C. All generators subject to the requirements of the Act shall fully comply with all applicable requirements of the Act, and all generators shall comply with relevant sections of this Ordinance, state law, and local ordinances.

D. Nothing in this Ordinance limits the right of any person to donate, sell, or otherwise remove their recyclable materials so long as the removal otherwise complies with this Ordinance.

E. Organic waste may be fed to animals on the premises where such organic waste is produced, provided that the premises are always kept in a sanitary condition to the satisfaction of the General Manager; and provided further that the keeping and feeding of such animals shall at all times conform to the applicable regulations of those entities governing the same now in force or which thereafter may be enacted or promulgated.

F. Organic waste may be used in on-site composting or community composting, pursuant to 14 CCR Section 18984.9(c), provided that such operation conforms to the applicable regulations of those entities governing the same now in force or which thereafter may be enacted or promulgated.

G. The District shall 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.

## **Section 5. Single-Family Generator Requirements.**

A. Except Single-Family generators that meet self-hauler requirements set forth in this Ordinance, and/or that are located in a census tract for which CalRecycle has issued a low population waiver, Single-Family generators shall:

- (a) Maintain for such residence or business, separate Garbage, Organics and Recycling Containers, supplied by the District. Generators shall arrange for a sufficient number of such containers to adequately store all garbage, recyclable materials and organic waste generated in connection with the residence or business between the times designated for collection. The District shall have the right to review the number and size of such containers to evaluate the adequacy of capacity provided for each type of collection service and to require additional or larger containers (or additional service days) and to review the separation and containment of materials. Generators shall adjust service levels for their 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 collection services provided by the District, by placing designated materials in designated containers as described below, and not placing prohibited container contaminants in collection containers. Generators 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 in the Organics Container or the Recycling Container.
- (c) All waste shall be placed in District-provided collection containers that are watertight, nonabsorbent, animal resistant, durable, easily cleanable, with covers such that the collection containers hold the solid waste without spillage and leakage, escape of odors or access of flies to the contents thereof.
- (d) No person owning or occupying any building, lot or premises shall allow any solid waste to accumulate or remain in or upon the building, lot or premises in a manner in violation of this Ordinance or that otherwise creates a public nuisance.

## **Section 6. Commercial generator requirements.**

A. Except Commercial businesses that meet the Self-hauler requirements in this Ordinance, or that meet waiver requirements in 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), Commercial generators shall comply with the following requirements.

- (a) Be subscribed to collection service(s) provided by the District 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 business' 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.
- (b) 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.

- (c) Commercial business owners including Multi-Family, shall provide or arrange for Garbage Container, Organics Container and Recycling Container collection service for employees, contractors, tenants and customers, and supply and allow access to adequate number, size and location of collection containers with sufficient labels or colors as noted in below or, if self-hauling, in compliance with self-hauling requirements set forth in this chapter.
- (d) Commercial business that are not Multi-Family residential dwellings shall provide containers for the collection of source separated organic waste and source separated recyclable materials 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:
  - i. 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, blue containers for source separated recyclable materials, and green containers for organics 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 prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first; **or**
  - ii. 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. The container labeling requirements are required on new containers commencing January 1, 2022.
- (e) Commercial business that are not Multi-Family residential dwellings, shall 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 this Ordinance.
- (f) Commercial businesses that are not Multi-Family residential dwellings, shall 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).
- (g) Commercial businesses, including Multi-Family residential dwellings, shall annually provide information to employees, contractors, tenants, building residents, and customers about Organic Waste Recovery requirements and about proper sorting of source separated organic waste and source separated recyclable materials.



- (h) Commercial businesses including Multi-Family residential dwellings, shall 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.
- (i) Commercial businesses, including Multi-Family residential dwellings, shall provide or arrange access for the enforcement agency to their properties during all inspections (with the exception of the interior of a private residential dwelling unit) conducted in connection with this Ordinance and timely provide documents requested by the enforcement agency to confirm compliance with the requirements of this Ordinance.

## **Section 7 - Storage receptacles**

- (a) It is unlawful to place or permit to remain any solid waste except in a suitable covered container supplied by the District as set forth in this Ordinance.
- (b) No person owning or occupying any building, lot or premises shall allow any solid waste to accumulate or remain in or upon the building, lot or premises in a manner in violation of this Ordinance or that otherwise creates a public nuisance.
- (c) Except as expressly provided by this section, no solid waste collection containers other than those owned or rented by the District shall be placed or kept in or on any public street, sidewalk, footpath, or any public place whatsoever, but shall be maintained on the premises in a location and manner so as not to be visible from the public street. Notwithstanding the foregoing, solid waste collection containers may be placed on the day(s) and in the designated collection locations for removal and emptying of said collection containers, but shall be removed within twenty-four hours of the day of collection.
- (d) It is unlawful for any person to place or cause to be placed in any public receptacle owned by the District and located upon public streets or in public places any solid waste originating within or upon any private property.

## **Section 8 - Commercial and Property Owner Waivers.**

- (a) Pursuant to 14 CCR Section 18984.11, the District or Designee may grant waivers to commercial businesses for physical space limitations and/or de minimis volumes. Commercial businesses seeking a waiver shall submit their request in a form specified by the General Manager. After reviewing the waiver request, and after an on-site review, if applicable, the General Manager may either approve or deny the following waiver requests.
  - (1) De Minimis Waivers: The District or Designee may waive a Commercial business' obligation to comply with some or all the requirements of Section 4.2 if the Commercial business meets the following requirements:
    - (i) Submit an application specifying the type of waiver requested and provide documentation as described below.
    - (ii) Provide documentation that either:
      - a) The Commercial business receives two or more cubic yards of weekly solid waste collection service (including garbage, recyclable material and organic waste) and disposed organic waste comprises less than 20 gallons per week of the business' total weekly solid waste volume; or

- b) The Commercial business receives less than two cubic yards of weekly solid waste collection service (including garbage, recyclable material and organic waste) and disposed organic waste comprises less than 10 gallons per week of the business' total weekly solid waste volume.
  - c) For the purposes of subsections a) and b) above, weekly solid waste collection shall be the sum of weekly Garbage Container volume, Recycling Container volume and Organics Container volume, measured in cubic yards.
- (iii) Notify the District or Designee if circumstances change such that volume of Commercial business' disposed organic waste placed in collection containers exceeds threshold required for waiver, in which case waiver will be rescinded.
  - (iv) Provide written verification of eligibility for de minimis waiver every five years if the District has approved de minimis waiver.
- (2) Physical Space Waivers: The District or Designee may waive a Commercial business' or Property owners' obligations (including Multi-Family dwellings) to comply with some or all of the recyclable materials and/or Organic Waste Collection Service requirements if the District has evidence from its own staff, a licensed architect, or licensed engineer demonstrating that the premises lacks adequate space for the collection containers required for compliance with the collection service requirements. A commercial business or property owner may request a physical space waiver through the following process:
- (i) Submit an application form specifying the type(s) of collection services for which they are requesting a waiver from mandatory collection service.
  - (ii) Provide documentation that the premises lacks adequate space for the approved Recycling Containers and approved Organics Containers including documentation from the District, licensed architect, or licensed engineer.
  - (iii) Provide written verification to the District or Designee that it is still eligible for physical space waiver every five years if the District has approved application for a physical space waiver.

## **Section 9 - Self-haul.**

- (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 Organic Waste and Recycling Collection Service) 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; haul their source separated organic waste to a solid waste facility, operation, activity, or property that processes or recovers source separated organic waste; and haul their Garbage to a facility that is permitted to accept Garbage. 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.

- (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.

## **Section 10 - Commercial edible food generator requirements.**

- (a) Tier one commercial edible food generators must comply with the requirements of this section January 1, 2022, and Tier two commercial edible food generators must comply commencing January 1, 2024, pursuant to 14 CCR Section 18991.3.
- (b) Large venue or large event operators not providing food services, but allowing for food to be provided by others, shall require food facilities operating at the large venue or large event to comply with the requirements of this section, commencing January 1, 2024.
- (c) Commercial edible food generators shall comply with the following requirements:
  - (1) Arrange to recover the maximum amount of edible food that would otherwise be disposed.
  - (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 District's designated enforcement entity or designated third party enforcement entity to access the premises and review records pursuant to 14 CCR Section 18991.4.
  - (5) Keep records that include the following information, or as otherwise specified in 14 CCR Section 18991.4:
    - (i) 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).
    - (ii) A copy of all contracts or written agreements established under 14 CCR section 18991.3(b).
    - (iii) A record of the following information for each of those food recovery services or food recovery organizations:

- a) The name, address and contact information of the food recovery service or food recovery organization.
  - b) The types of food that will be collected by or self-hauled to the food recovery service or food recovery organization.
  - c) The established frequency that food will be collected or self-hauled.
  - d) 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) Nothing in this Ordinance 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 amended, from time to time.

## **Section 11 - Food recovery organization and food recovery services requirements.**

- (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 generators 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 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 annually report to the District it is located in 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 1<sup>st</sup>.

- (d) In order to support edible food recovery capacity planning assessments or other studies conducted by the county or District, or its Designee, food recovery services and food recovery organizations operating in the District shall provide information and consultation to the District, or Designee, upon request, regarding existing, or proposed new or expanded, food recovery capacity that could be accessed by the District and commercial edible food generators. A food recovery service or food recovery organization contacted by the District or Designee shall respond to such request for information within 60 days unless a shorter timeframe is otherwise specified by the District or Designee.

## **Section 12 – Inspections and Enforcement.**

- (a) The District or 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. This may include inspections and investigations, at random or otherwise, of any collection container, collection vehicle load, or transfer, processing, or disposal facility to confirm compliance with this Ordinance, subject to applicable laws. This section does not allow entry in a private residential dwelling unit for inspection. For the purposes of inspecting collection containers for compliance, the District or Designee may conduct container inspections for prohibited container contaminants using remote monitoring, and generators shall accommodate and cooperate with the remote monitoring.
- (b) Any section of this chapter may be enforced by the District, or, if agreed to, by another Enforcement Officer designated by the General Manager.
- (c) A person subject to the requirements of this Ordinance shall provide or arrange for access during all inspections (with the exception of the interior of a private residential dwelling unit) and shall cooperate with the District or 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.
- (d) Any records obtained by the District, or Designee, during inspections, investigations, 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.
- (e) The District or Designee shall accept written complaints from persons regarding an entity that may be potentially non-compliant with this Ordinance.
- (f) A violation of any provision of this Ordinance shall constitute an infraction and will be grounds for issuance of a notice of violation and assessment of an administrative citation and penalty by the District's Enforcement Officer or its designated enforcement agency.
- (g) A violation may be punishable by:
  - a. A fine of one hundred dollars for a first violation;

- b. A fine of two hundred dollars for a second violation of the same provision of this Ordinance within any twelve consecutive month period;
- c. A fine of five hundred dollars for each additional violation of the same provision of this Ordinance within any twelve consecutive-month period. Any citation issued after the issuance of a third citation or violation of the same provision of this Ordinance within any twelve consecutive-month period may be charged as a misdemeanor.
- (h) The District or designated enforcement agency may issue a notice of violation requiring compliance within 60 days or sooner of issuance of the notice.
- (i) Other remedies allowed by law may be used, including civil action or prosecution as a misdemeanor in the sole discretion of the district attorney. 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.
- (j) Each separate day or any portion thereof on which a violation occurs or is committed, continued or permitted shall be deemed to constitute a separate offense punishable as herein provided.

**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

All ordinances, resolutions, or administrative actions by the Board, or parts thereof that are inconsistent with any provision of this Ordinance are hereby superseded only to the extent of such inconsistency

**Section 14. Effective Date.**

The President of the Board shall sign this Ordinance and the Secretary of the Board shall attest thereto,

This Ordinance shall take effect and be enforced thirty (30) days after the date of its adoption. Prior to the expiration of fifteen days from the passage thereof, the ordinance or a summary thereof shall be posted or published as may be required by law, and thereafter the same shall be in full force and effect.

PASSED AND ADOPTED at a regular meeting of the Board of Directors of the Tamalpais Community Services District held on the 15 day of December 2021 by the following vote:

AYES 3 J. Brown, S. Bartschart, J. Jacobs

NOES 1 M. McMahon

ABSTAIN: 1 S. LEVINE

ABSENT: 0

[Signature] President, Board of Directors

ATTEST:  
[Signature] Secretary