

**ORDINANCE AMENDING SECTIONS 68.501 THROUGH 68.507 AND 68.521 THROUGH 68.572, REPEALING SECTION 68.582, ADDING SECTIONS 68.524, 68.530, 68.550 THROUGH 68.554, 68.565 THROUGH 68.567, 68.573 THROUGH 68.576, 68.580, 68.581, 68.591 THROUGH 68.593, 68.600, 68.610 THROUGH 68.612 OF THE SAN DIEGO COUNTY REGULATORY CODE RELATING TO MANAGEMENT OF SOLID WASTE, RECYCLABLE MATERIALS AND ORGANIC WASTE**

San Diego County Code of Regulatory Ordinances

**CHAPTER 5. MANAGEMENT OF SOLID WASTE, RECYCLABLE MATERIALS, ORGANIC WASTE, CONSTRUCTION AND DEMOLITION DEBRIS**

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**ARTICLE I. GENERAL PROVISIONS AND DEFINITIONS**

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. Purpose.

This ordinance updates recycling requirements to comply with new state regulations and to work toward achieving the County's waste diversion and climate goals. This ordinance requires separation and recycling of organic and other designated recyclables by generators, allows waivers in specified instances, updates franchise waste and recycling hauler agreements, requires edible food donation by specified commercial generators, and adds reporting by food recovery organizations of edible food accepted and distributed.

Section 2. Section 68.501 of the San Diego County Regulatory Code is hereby amended to read as follows:

**SEC. 68.501. PURPOSE.**

California Public Resources Code (PRC) section 40059 authorizes a local agency to determine all aspects of solid waste handling which are of local concern, including, but not limited to, frequency of collection, means of collection and transportation, level of services, charges and fees, and nature, location, and extent of providing solid waste handling services within its jurisdiction. PRC section 40051 provides that a local agency, in implementing its responsibilities for solid waste management, shall, among other things, promote recycling. The purpose of this chapter is to provide for the orderly regulation of collecting, transporting, processing, and disposing of solid waste, recyclable materials, organic waste, and construction and demolition debris, which is kept, accumulated, or produced within the unincorporated area of the County.

The Board of Supervisors (Board) finds that solid waste shall be regulated to the extent necessary to protect the health, safety, and welfare of the public, to conserve disposal capacity, to meet State laws, and to ensure cost effective public service. The Board determines that these goals may best be accomplished by issuance of non-exclusive franchise agreements and recyclable materials collector certificates to persons collecting materials to regulate solid waste, recyclable materials, organic materials, and construction and demolition debris collection, transportation, processing, and disposal, and to regulate a comprehensive system for storage, collection, removal, transport, and recovery of marketable recyclable materials, organic waste, and construction and demolition debris. This chapter shall be construed to achieve this purpose.

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Section 3. Section 68.502 of the San Diego County Regulatory Code is hereby amended to read as follows:

**SEC. 68.502. DEFINITIONS.**

The definitions listed below shall apply to this chapter. Where a definition is derived from a State or federal law or regulation, the definition shall be interpreted in accordance with the definition in the State or federal law or regulation as it currently exists or may subsequently be amended, unless authority is provided to the County to develop and apply its own definition, in which case the definition that best promotes the purposes of this chapter as determined by the Director shall apply:

"Aluminum" means recoverable materials made from aluminum such as used aluminum food and beverage containers, aluminum foil, siding, screening, and other items manufactured from aluminum.

"Authorized enforcement officer" means the director of the County department who is authorized to enforce a portion of this chapter and any person that director appoints or hires to enforce a portion of this chapter.

"Approved C&D collection site" means properties where construction and demolition work is performed as evidenced by County issuance of a land clearing, building, or demolition permit, or from a non-permitted municipal project.

"Back-haul" means generating and transporting solid waste, recyclable materials, organic waste, C&D, or recovered materials to a destination owned and operated by the owner, occupant, or operator of a premises using the owner's, occupant's, or operator's own employees and equipment.

"Bin" means a metal or plastic container with hinged lid(s) and, in some cases, with wheels serviced by a front-end loading collection vehicle with a container capacity of one (1) to six (6) cubic yards, including bins with compactors attached to increase the capacity of the bin. Bins are also known as dumpsters.

"Biohazardous waste" has the same meaning as the term "biohazardous waste" in California Health and Safety Code section 117690.

"C&D" means construction and demolition debris.

"C&D collector" means an approved C&D collector defined in accordance with section 68.512(e) of the County Code.

"C&D recyclable materials" means any of the following materials: asphalt, concrete, dirt, land clearing vegetation, sand, gravel, rock, metal, wood, green material, cardboard, and other recyclable materials generated at construction and demolition debris sites. For the purposes of this definition, "green materials" means any material related to land development such as yard trimmings, trees, brush, and construction and demolition wood waste and does not include food material, bio-solids, wood containing lead-based paint or wood preservatives, mixed construction debris, or mixed demolition debris. Notwithstanding the foregoing, "green materials" shall be defined in section 68.512(x) of the County Code.

"California Code of Regulations" or "CCR" means the State of California Code of Regulations. References to "14 CCR" refer to Title 14 of the CCR; references to "27 CCR" refer to Title 27 of CCR, etc.

"Cardboard" means post-consumer wastepaper grade, corrugated cardboard (#11), kraft (brown) paper bags, or solid fiber boxes that are discarded, and can later be reclaimed for collection and recovery for recycling.

"Certified recyclable materials collector" (CRMC) means a person who has a valid certification with the County as a certified recyclable materials collector to operate an enterprise within the unincorporated area of County to collect certain types and quantities of recyclable materials, green materials (excluding wood waste), food waste, and pallets that are defined in the certification and to subsequently arrange for transport, reuse, salvage, recycling, and/or processing of such materials.

"Collect" or "Collection" means the act of taking physical possession of discarded materials at residential or commercial premises within the unincorporated County, and transporting it to a facility for reuse, salvage, recycling,

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processing, composting, transfer, disposal, or transformation.

"Collector" means any person who has a valid SWMA (through June 30, 2021) or NEFA (commencing July 1, 2021) with the County, that is not suspended or revoked, to operate an enterprise to collect and subsequently arrange for transport, processing, and/or disposal of discarded materials generated within the unincorporated area of the County.

"Collector type(s)" means single-family collector, multi-family/commercial collector, and/or C&D collector. The collector is approved for the collector types in accordance with a NEFA as identified on the cover page of the collector's NEFA.

"Commercial" means of, from, or pertaining to a business, including, but not limited to, a firm, partnership, proprietorship, joint-stock company, corporation, or association that is organized as a for-profit or nonprofit entity, strip mall (e.g., property complex containing two or more commercial entities), industrial facility, institutional facility, hospitality facility, school, school district, California State University, community college, University of California, special district or a federal, State, County, local, or regional agency or facility.

"Commercial edible food generator" includes a tier one or a tier two commercial edible food generator as defined in this section 68.502. 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. Notwithstanding the foregoing, this term shall be defined as in 14 CCR section 18982.

"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). Notwithstanding the foregoing, this term shall be defined as in 14 CCR section 18982.

"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 that are separated at a centralized facility as specified in 14 CCR section 17896.2(a)(4).

"Compostable plastics" or "compostable plastic" means plastic materials that meet the ASTM D6400 standard for compostability.

"Construction and demolition debris" means nonhazardous waste, building material, inert material, soil, packaging, green materials, rubble, and other used or discarded materials resulting from excavation, grading, construction, or demolition. For the purposes of this definition, "green materials" means any material related to land development such as yard trimmings, trees, brush, and construction and demolition wood waste and does not include food material, bio-solids, wood containing lead-based paint or wood preservatives, mixed construction debris, or mixed demolition debris. Notwithstanding the foregoing, the definition of "construction and demolition debris" shall be defined in section 68.512(k) of the County Code and this term the definition of "green materials" shall be defined in section 68.512(x) of the County Code.

"Container" means a receptacle for temporary storage of discarded materials. Containers include, but are not limited to, bins, carts, roll-off boxes, compactors, cans, buckets, bags, or other storage instruments.

"CRMC" means a certified recyclable materials collector.

"Customer" means the person who voluntarily subscribes to the collector's or CRMC's collection services and whom the collector or CRMC submits its billing invoice to and collects payment from for collection services provided to a premises. The customer may be either the occupant, owner, or operator of the premises.

"Densely-populated areas" mean geographic areas of the unincorporated County that are not covered by low-population waiver(s) issued by the State pursuant to 14 CCR section 18984.12.

"Designated organic materials" means those organic materials that are required to be recycled or processed by applicable law or regulations. Prior to October 1, 2021, designated organic materials shall include: (i) green materials for single-family premises and multi-family premises in the densely-populated areas and sparsely-populated areas;

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and, (ii) green materials and food waste for commercial premises in the densely-populated areas and sparsely-populated areas that generate two (2) cubic yards or more of total solid waste, recyclable materials, and organic materials per week (or other threshold defined by the state).

As of October 1, 2021, designated organic materials shall include: (i) green materials and food waste for all premises in the densely-populated areas; (ii) green materials for single-family and multi-family in the sparsely-populated areas; and, (iii) green materials and food waste for commercial premises in sparsely-populated areas that generate two (2) cubic yards or more of total solid waste, recyclable materials, and organic materials per week (or other threshold defined by the state).

"Designated recyclable materials" means materials that are required to be reused, salvaged, recycled, or processed by applicable law or regulations or as designated by the Director. Designated recyclable materials include aluminum, glass bottles and jars, paper products, printing and writing paper, rigid plastics, tin and bi-metal cans, and white goods for residential and commercial customers.

"Director" means the Director of Public Works of the County and any person the director appoints or hires to administer or enforce this chapter.

"Discarded materials" means solid waste, recyclable materials, organic materials, bulky items, and construction and demolition debris discarded by the generator or customer.

"Disposal" or "Dispose" means the final disposition of any solid waste at a permitted landfill or other permitted solid waste facility.

"Disposal site" means any permitted solid waste handling facility or facilities where the final disposal of solid waste occurs.

"Diversion" (or any variation thereof including "divert") means activities which reduce or eliminate discarded materials from disposal including, but not limited to, reuse, salvage, recycling, and composting.

"Diversion service level ratio" means the proportion of weekly container capacity available for recyclable materials and organic materials to the total weekly container capacity for recyclable materials, organic materials, and solid waste. The diversion service level ratio, which shall be reported as a percentage, shall be calculated as the sum of the weekly cubic yards of recyclable materials and organic materials collection service capacity provided by collector and/or CRMC to generator divided by the sum of the total weekly cubic yards of recyclable materials, organic materials, and solid waste collection service capacity provided by collector and/or CRMC to generator.

"Edible food" means food intended for human consumption. Edible food is not considered discarded materials 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. Notwithstanding the foregoing, this term shall be defined as in 14 CCR section 18982.

"Excluded waste" means hazardous substance, hazardous waste, infectious waste, designated waste, volatile waste, corrosive waste, medical waste, 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, or its designee's reasonable opinion, would present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose the 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 discarded materials 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 CA Public Resources Code. Excluded waste does not include used motor oil and filters, household batteries, universal wastes, and/or latex paint when such materials are defined as allowable materials for collection through the County's or collector's collection programs and the generator or customer has properly placed the

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materials for collection pursuant to instructions provided by the County or its collector.

“Facility(ies)” means any plant or site used for the purposes of handling discarded materials including, but not limited to, disposal sites, material recovery facilities, and transfer, recycling, composting, and processing facilities.

“Food distributor” means a company that distributes food to entities including, but not limited to, supermarkets and grocery stores. Notwithstanding the foregoing, this term shall be defined as in 14 CCR section 18982.

“Food facility” has the same meaning as in Section 113789 of the California Health and Safety Code. Notwithstanding the foregoing, this term shall be defined as in 14 CCR Section 18982.

“Food recovery” means actions to collect and distribute edible food for human consumption which otherwise would be discarded. Notwithstanding the foregoing, this term shall be defined as in 14 CCR section 18982.

“Food recovery organization” means an entity that engages in the collection or receipt of edible food from commercial edible food generators that distributes the edible food to the public for food recovery either directly or through other entities, including, but not limited to:

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

Notwithstanding the foregoing, this term shall be defined as in 14 CCR section 18982.

“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. Notwithstanding the foregoing, this term shall be defined as in 14 CCR section 18982.

“Food service provider” means an entity primarily engaged in providing food services to institutional, governmental, commercial, or industrial locations or others based on contractual arrangements with these types of organizations. Notwithstanding the foregoing, this term shall be defined as in 14 CCR section 18982.

“Food waste” means all food such as, but not limited to, fruits, vegetables, meat, poultry, seafood, shellfish, bones, rice, beans, pasta, bread, cheese, and eggshells; food-soiled paper (including paper that has come in contact with food or liquid, such as, but not limited to, paper plates, paper towels, paper coffee cups, napkins, pizza boxes, and milk cartons); tea bags; coffee grounds; and paper coffee filters. Food waste excludes fats, oils, and grease when such materials are source separated from other food waste. No discarded materials shall be considered food waste unless such materials are separated from other organic waste (except that food waste does not need to be separated from and may be combined with other organic materials for collection if collector’s collection program allows for combining of the organic materials), recyclable materials, and solid waste.

“Generator” means any person whose act first causes discarded materials to become subject to regulation under this chapter 5 of the County Code or under federal, State, or local laws or regulations.

“Glass bottles and jars” means food and beverage containers made from silica or sand, soda ash, and limestone, the product being transparent or translucent and being used for packaging or bottling, including container glass designated redeemable under the California Beverage Container Recycling and Litter Reduction Law, California Public Resources Code sections 14500 et seq., as well as glass bottles and jars without redeemable value (“scrap”), but excluding household, kitchen, and other sources of non-container glass such as drinking glasses, ceramics, light bulbs, window pane glass, and similar glass products.

“Green materials” means leaves, grass, weeds, wood materials from trees and shrubs (including holiday trees and similar materials generated at the premises), and wood waste.

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"Hauling service" means a service provided by a person or entity in which discarded materials are removed from the generator's premises and transported to other locations for the purposes of reuse, salvage, recycling, composting, processing, or disposal. Hauling service excludes self-hauling activities.

"Hazardous waste" means any substance defined as acutely hazardous waste, extremely hazardous waste, or hazardous waste in California Health and Safety Code sections 25110.02, 25115, and 25117; any waste which meets the definitions set forth in 22 CCR section 66261.3, et seq., and is required to be managed; any substance listed as hazardous waste in 42 USC Sec. 6901 et seq.; and, any substance identified or listed now or in the future as hazardous waste by any State or federal agency.

"Hospitality facility" means an establishment that offers dining services or sells food or beverages to consume on or off the premises, such as a cafeteria, restaurant, café, sandwich shop, school, college, hospital, mini-mart, convenience store, tavern, or bar, and a hotel, motel, inn, or other transient occupancy facility that offers dining services or sells food or beverages on its premises.

"Inert materials" shall be defined in accordance with section 68.512(z) of the County Code.

"Manure" means accumulated animal excrement and includes feces and urine which may be mixed with any animal bedding material, spilled feed, or soil.

"Medical waste" has the same meaning as the term "medical waste" as provided in California Health and Safety Code (H & S Code) sections 117690, 117695, and 117700 and also includes "biohazardous waste" as defined by H & S Code section 117635. Medical waste also includes any waste that federal law or any other State law defines as medical waste. "Treated medical waste" means medical waste that has been treated pursuant to the California Medical Waste Management Act, H & S Code sections 118215 et seq. Medical waste that has not been treated pursuant to these requirements shall be referred to as untreated medical waste.

"Mixed paper" means paper products and printing and writing paper.

"Multi-family" or "multi-family dwelling unit" means of, from, or pertaining to residential premises with five (5) or more dwelling units. Multi-family premises do not include hotels, motels, or other transient occupancy facilities. References to "Multi-family dwelling unit" refer to an individual residential unit of the multi-family premises. "Multi-family/commercial collector" means a collector that has been authorized to provide collection services and other related services to multi-family and commercial premises in accordance with a NEFA.

"Non-exclusive franchise agreement" (NEFA) means a non-exclusive franchise agreement entered into between a collector and the County where collector agrees to collect discarded materials and subsequently transport, transfer, process, and/or dispose of the discarded materials, as appropriate for the material type, that collector has collected in the unincorporated area of the County. NEFAs shall be required for collectors commencing July 1, 2021, thereby replacing SWMAs.

"Organic materials" means green materials and/or food waste, whether individually or in combination, set aside, handled, packaged, or offered for collection in a manner different from solid waste for the purpose of processing. Organic materials are a subset of organic waste.

"Organic materials container" shall be used for the purpose of storage and collection of organic materials.

"Organic waste" means solid wastes containing material originated from living organisms and their metabolic waste products including, but not limited to food, green materials, landscape and pruning waste, organic textiles and carpets, lumber, wood, paper products, printing and writing papers, manure, biosolids, digestate, and sludges. Notwithstanding the foregoing, this term shall be defined as in 14 CCR section 18982.

"Paper products" include, but are not limited to, paper janitorial supplies, cartons, wrapping, packaging, file folders, and hanging files, corrugated boxes, tissue, and toweling. Notwithstanding the foregoing, this term shall be defined as in 14 CCR section 18982.

"Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint



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stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, religious group, county (other than the County of San Diego), city and county, city, municipal corporation, district or other political subdivision, or any other group or combination acting as a unit.

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

"Printing and writing papers" include, but are not limited to, copy, xerographic, watermark, cotton fiber, offset, forms, computer printout paper, white woven envelopes, manila envelopes, book paper, note pads, writing tablets, newsprint, and other uncoated writing papers, posters, index cards, calendars, brochures, reports, magazines, and publications. Notwithstanding the foregoing, this term shall be defined as in 14 CCR section 18982.

"Process, processed, or processing" means the controlled separation, recovery, volume reduction, conversion, or recycling of solid waste and/or other discarded materials including, but not limited to, organized, manual, automated, or mechanical sorting, the use of vehicles for spreading of waste for the purpose of recovery, and/or includes the use of conveyor belts, sorting lines, or volume reduction equipment. Notwithstanding the foregoing, this term shall be defined as in 14 CCR section 18982.

"Prohibited container contaminants" means the following: (i) discarded materials placed in the recyclable materials container that are not identified as designated recyclable materials or that are not identified as acceptable materials by the collector or CRMC; (ii) discarded materials placed in the organic materials container that are not identified as designated organic materials or that are not identified as acceptable materials by the collector or CRMC; (iii) discarded materials placed in the solid waste container that are acceptable recyclable materials and/or acceptable organic materials to be placed in collector's recyclable materials container and/or organic materials container; and, (iv) excluded waste placed in any container.

"Putrescible waste" includes wastes that are capable of being decomposed by micro-organisms with sufficient rapidity as to cause nuisances because of odors, gases, or other offensive conditions, and includes materials such as, but not limited to, food waste, offal, and dead animals. Notwithstanding the foregoing, this term shall be defined as in 14 CCR section 17402.

"Radioactive material" is defined in accordance with California Health and Safety Code section 114710, to mean any material or combination of materials that spontaneously emits ionizing radiation.

"Radioactive waste" is defined in accordance with California Health and Safety Code section 114710, to mean any radioactive material that is discarded as nonusable.

"Recyclable" means a material which can be processed into a form suitable for reuse through re-processing or re-manufacture consistent with the requirements of the California Integrated Waste Management Act of 1989 (PRC section 40000, et seq.).

"Recyclable materials" or "recyclables" means materials, by-products, or components of such materials set aside, handled, packaged, or offered for collection in a manner different from solid waste for the purpose of recycling.

"Recyclable materials container" shall be used for the purpose of storage and collection of source separated recyclable materials.

"Recycle" or "recycling" means the process of collecting, sorting, cleansing, treating, and reconfiguring materials that would otherwise become solid waste and returning 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. Recycling includes processes identified as landfill reduction pursuant to 14 CCR sections 18983.1(b) and 18983.2. Recycling does not include transformation as defined by PRC section 40201.

"Refuse" means any mixture of putrescible and non-putrescible solid and semi-solid wastes, including garbage, trash, residential solid waste, commercial solid waste, vegetable, or animal solid and semi-solid wastes, and other solid waste destined for disposal sites.

"Regulated entity" means a single-family, multi-family, or commercial owner, occupant, generator, or operator, self-

hauler, collector, CRMC, tier one commercial edible food generator, tier two commercial edible food generator, food recovery organization, food recovery service, and other persons or entity that is subject to provisions in this chapter.

"Remote monitoring" means the use of the internet of things (IoT) and/or wireless electronic devices to visualize the contents of recyclable materials containers, organic materials containers, and solid waste containers for purposes of identifying the quantity of materials in containers (level of fill) and/or presence of prohibited container contaminants.

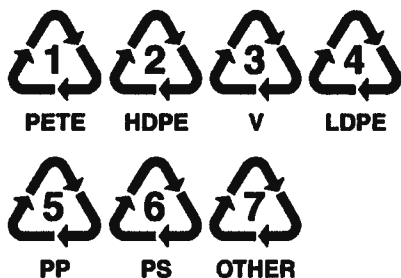
"Removal" means the act of taking discarded materials from the place of generation.

"Residential" means of, from, or pertaining to single-family and multi-family premises used for human shelter, irrespective of whether such dwelling units are rental units or are owner-occupied, excluding hotels, motels, or other transient occupancy facilities.

"Residential service" means collection of all types of discarded materials generated in single-family premises or multi-family residential facilities.

"Residual materials" means those materials which, after processing, are disposed rather than recycled, composted, processed, or reused due to either the lack of markets for materials or the inability of the processing facility to capture and recover the materials.

"Rigid plastics" means plastic materials marked 1-7 (as indicated in the figure below) including, but not limited to: (a) all plastic beverage containers labeled "CA redemption value" or "CA cash refund", (b) food and beverage containers for milk, soda, water, salad dressings, cooking oil, etc., (c) jars and canisters for peanut butter, mayonnaise, aspirin, etc., (d) cleaning product containers such as detergents, bleach, soap, shampoo, drain cleaners, etc., (e) automotive and yard product containers for motor oil, antifreeze, herbicide, plant pots, etc., and, (f) any other plastic items such as toys, tools, utensils, etc. Rigid plastics do not include PVC pipe, expanded polystyrene foam (EPS) food containers, compostable plastics, plastic film, or bags.



"Roll-off box" means an open-top metal container or closed compactor box serviced by a roll-off truck and with a container capacity of 10 to 50 cubic yards. Roll-off boxes are also known as drop boxes or debris boxes.

"Rubbish" means non-putrescible solid waste.

"Salvageable material" means an object or material that can be reused again, either for its original purpose or for a similar purpose, without significantly altering the physical form of the object or material.

"Self-haul" means the hauling performed by a Self-hauler.

"Self-hauler" means a person who hauls solid waste, recyclable materials, organic waste, C&D, or recovered material he or she has generated to another person. Self-hauler also includes a person who back-hauls and includes landscapers.

"Single-family" means of, from, or pertaining to any residential premises with less than five (5) residential units.

"Single-family collector" means a collector that has been authorized to provide collection services and other related services to single-family premises in accordance with a NEFA.

"Solid waste" means all putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash,



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refuse, paper, rubbish, ashes, industrial wastes, construction and demolition debris, 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 waste, and other discarded solid and semi-solid wastes. Solid waste does not include any of the following wastes: hazardous waste, as defined in PRC section 40414; radioactive waste; medical waste except medical waste that has been treated and deemed to be solid waste. For the purpose of this chapter, solid waste does not include recyclable materials, organic materials, construction and demolition debris, manure, and/or salvageable materials if such materials have been source separated by the generator for the purpose of recycling, composting, processing, salvage, or reuse.

"Solid waste container" shall be used for the purpose of storage and collection of solid waste.

"Solid waste facility" means a solid waste transfer station or a construction, demolition, and inert debris processing/disposal facility, a compostable materials handling facility, a transformation facility, an incinerator, or a disposal facility.

"Solid Waste Management Agreement" (SWMA) means a non-exclusive agreement entered into between the collector and the County where the collector agrees to collect and transport solid waste and recyclables, and process or dispose of the materials that collector has collected in the unincorporated area of the County. SWMAs will be effective for collectors until June 30, 2021, after which date, each collector will be required to have a valid NEFA.

"Source separated" means the generator, property owner, property owner's employee, property operator, or property operator's employee has separated materials into different containers or placed separately for the purpose of collection such that recyclable materials, organic wastes, construction and demolition debris, manure, and/or salvageable materials are separated from solid waste for the purposes of collection, recycling, salvage, reuse, and/or processing.

"Sparsely-populated areas" mean geographic areas of the unincorporated County covered by low-population waivers issued by the State pursuant to 14 CCR section 18984.12(a).

"Storage" means the interim containment of discarded materials.

"Street" means a street, highway, road, alley, road right of way, or any other public or private thoroughfare.

"SWMA" means Solid Waste Management Agreement.

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

- (1) Supermarket, where 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. Notwithstanding the foregoing, supermarket shall be defined as in 14 CCR section 18982.
- (2) Grocery store with a total facility size equal to or greater than 10,000 square feet, where 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. Notwithstanding the foregoing, grocery store shall be defined as in 14 CCR section 18982.
- (3) Food service provider, where 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. Notwithstanding the foregoing, food service provider shall be defined as in 14 CCR section 18982.
- (4) Food distributor, where food distributor means a company that distributes food to entities including, but not limited to, supermarkets and grocery stores. Notwithstanding the foregoing, food distributor shall be defined as in 14 CCR section 18982.

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- (5) Wholesale food vendor, where 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. Notwithstanding the foregoing, wholesale food vendor shall be defined as in 14 CCR section 18982.

Notwithstanding the foregoing, tier one commercial edible food generator shall be defined as in 14 CCR section 18982.

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

- (1) Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet, where restaurant means an establishment primarily engaged in the retail sale of food and drinks for on-premises or immediate consumption. Notwithstanding the foregoing, restaurant shall be defined as in 14 CCR section 18982.
- (2) Hotel with an on-site food facility and 200 or more rooms, where hotel has the same meaning as in section 17210 of the State Business and Professions Code. Notwithstanding the foregoing, hotel shall be defined as in 14 CCR section 18982.
- (3) Health facility with an on-site food facility and 100 or more beds, where health facility has the same meaning as in section 1250 of the California Health and Safety Code. Notwithstanding the foregoing, health facility shall be defined as in 14 CCR section 18982.
- (4) Large event, where 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 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. Notwithstanding the foregoing, large event shall be defined as in 14 CCR section 18982.
- (5) Large venue, where 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. For purposes of this chapter, a venue facility includes, but is not limited to, a public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts center, fairground, museum, theater, or other public attraction facility. For purposes of this chapter, 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. Notwithstanding the foregoing, large venue shall be defined as in 14 CCR section 18982.
- (6) A local education agency facility with an on-site food facility.

Notwithstanding the foregoing, tier two commercial edible food generator shall be defined as in 14 CCR section 18982.

“Tin” and “bi-metal can” means a steel food or beverage container with a tin or aluminum plating.

“Transfer station” or “transfer facility” means a facility that receives, handles, separates, converts, or otherwise processes discarded materials or transfers discarded materials directly from one container or vehicle to another for transport or for storage.

“Transformation” has the same meaning as the term “transformation” in PRC section 40201.

“Vector” has the same meaning as the term “vector” in 27 CCR section 20164

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"White goods" mean major kitchen appliances or other large appliances.

"Wood waste" means lumber and wood products, but does not include "treated wood" or "treated wood waste" as defined in 22 CCR section 67386.4.

**Cross reference(s)**--Definitions, § 12.101 et seq.

Section 4. Section 68.503 of the San Diego County Regulatory Code is hereby amended to read as follows:

**SEC. 68.503. UNLAWFUL TO DEPOSIT DISCARDED MATERIALS IN PUBLIC OR PRIVATE PLACES.**

- (a) It shall be unlawful and is a public nuisance for a person to place, deposit, or bury, or employ another person to place, deposit, or bury, any discarded materials as defined in section 68.502, on the right of way of any street or highway, any park or campgrounds, or on any public or private property, unless the property is a solid waste facility regulated under the California Public Resources Code, or the property contains a collector-provided container, CRMC-provided, or generator-provided container that is designated for temporarily depositing discarded materials prior to collection by collector or CRMC or prior to self-hauling and the discarded materials are properly deposited in such container. It shall also be unlawful and a public nuisance for the owner or occupier of private property who knows that discarded materials have been unlawfully placed, deposited, or buried on property they own or occupy to allow the discarded materials to remain on that property.
- (b) The Directors of the Departments of Public Works, Planning and Development Services, Environmental Health and Quality, Parks and Recreation, and Agriculture, Weights and Measures shall have enforcement authority to enforce this section, within their areas of responsibility.

**Cross reference(s)**--Uniform public nuisance abatement procedure, § 16.201 et seq.

Section 5. Section 68.504 of the San Diego County Regulatory Code is hereby amended to read as follows:

**SEC. 68.504. UNLAWFUL TO PLACE DANGEROUS MATERIALS IN CONTAINERS.**

- (a) No person shall place or deposit in any container used for collection of discarded materials the following: any waste classified as hazardous, universal, electronic, biohazardous, radioactive, or any narcotics or controlled substances, hypodermic needles, poisons, liquid or dry caustics, or acids, flammable or explosive materials, pesticides, or similar substances dangerous to discarded materials collection, processing and disposal personnel.
- (b) The Director of the Department of Environmental Health and Quality shall have enforcement authority for this section.

Section 6. Section 68.505 of the San Diego County Regulatory Code is hereby amended to read as follows:

**SEC. 68.505. HAZARDOUS AND MEDICAL WASTES.**

- (a) No person shall transport or collect hazardous wastes, or medical wastes without complying with all applicable laws or regulations.
- (b) No person shall deposit, dump, spill, place, or otherwise allow to be disposed of, in or on a solid waste facility not designated as a hazardous waste disposal facility, any waste classified as hazardous waste pursuant to State, federal or County law or regulation. No person shall deposit, dump, spill, place, or otherwise allow untreated medical waste to be disposed of in, or on, a solid waste facility.
- (c) The Director of the Department of Environmental Health and Quality shall have enforcement authority for this section.

Section 7. Section 68.506 of the San Diego County Regulatory Code is hereby amended to read as follows:

**SEC. 68.506. TRANSPORTATION OF SOLID WASTE AND OTHER DISCARDED MATERIALS.**

- (a) No person shall convey or transport solid waste and other discarded materials on or along any public highway in the County unless the material is contained and covered to prevent it from leaving the vehicle in which it is being conveyed or transported. A person engaged in the collection of discarded materials, however, may allow a collection vehicle transporting such material to be uncovered while picking up such material where the collection stops are separated by less than one mile. When traveling between pick-up stops and a transfer or disposal area, all loads of discarded materials shall be completely covered.
- (b) All vehicles and equipment used in the collection and transport of any form of discarded materials shall be kept clean. No person shall allow liquid to drain from any vehicle that transports any form of discarded materials on any road, highway, or on any other land in a manner as to create an unsanitary condition. Persons hauling discarded materials on the public highways shall completely empty the discarded materials from all vehicles and containers at transfer, processing, or disposal sites in order to prevent litter from residue from scattering on the return trip.
- (c) The Director shall have enforcement authority for this section.

Section 8. Section 68.507 of the San Diego County Regulatory Code is hereby amended to read as follows:

**SEC. 68.507. UNLAWFUL TO REMOVE SOLID WASTE, OTHER DISCARDED MATERIALS, OR OTHER SALVAGEABLE MATERIALS WITHOUT AUTHORITY.**

- (a) Where discarded materials or other salvageable material has been separated for collection purposes or other recovery in the unincorporated area of the County it shall be unlawful for:
  - (1) A person, other than the generator, person supplied with a container from a collector or CRMC with regard to the contents of the container, collector, or facility owner in the case of a solid waste facility, or the designated representative of one of these persons, to take or remove any separated discarded materials or other salvageable material from any curb, street, designated pick-up location, storage area, storage container, a solid waste facility, or any other public or private.
  - (2) A person to disturb, tamper with, or remove from its location, a container that is intended for storage of discarded materials or salvageable material or to disturb, tamper with, or remove the contents of the container without authorization from the person to whom the collector or CRMC provided the container or from the collector or CRMC or the owner of the container.
- (b) The Director shall have enforcement authority for this section.

Section 10. The title of Article III of the San Diego County Regulatory Code is hereby amended to read as follows:

**ARTICLE III. STORAGE OF DISCARDED MATERIALS AND NUISANCE ABATEMENT**

Section 11. Section 68.521 of the San Diego County Regulatory Code is hereby amended to read as follows:

**SEC. 68.521. COLLECTOR AND CRMC OBLIGATIONS FOR STORAGE CONTAINERS.**

- (a) In addition to complying with solid waste storage regulations in 14 CCR sections 17301 et seq., a collector or CRMC furnishing storage containers to customers for storage of discarded materials shall comply with the

following requirements:

- (1) Provide containers designed for safe handling that shall be designed and constructed to be non-absorbent, watertight, vector-resistant, durable, easily cleanable, and prevent the leakage of liquids.
- (2) Provide containers equipped with close-fitting and tight-fitting lids or covers that can be readily removed.
- (3) Provide containers that comply with the color, signage, and labeling requirements specified in a collector's SWMA or NEFA or CRMC's certificate.

A collector or CRMC shall furnish of its customers with one or more containers for each type of discarded materials for separate collection of each type of discarded material for which each customer has subscribed. The containers shall allow generators to effectively source separate the recyclable materials, organic materials, and construction and demolition debris from solid waste for pick-up the collector or CRMC, where such materials shall include, at a minimum, designated recyclable materials and designated organic materials as defined in section 68.502.

- (b) If a collector's SWMA or NEFA or a CRMC's certificate imposes more stringent container requirements than imposed by this section 68.521, collector or CRMC shall comply with the more stringent requirements imposed by the SWMA, NEFA, or CRMC certificate.

Section 12. Section 68.522 of the San Diego County Regulatory Code is hereby amended to read as follows:

**SEC. 68.522. STORAGE BY GENERATORS, OWNERS, AND TENANTS.**

Generators, including property owners and tenants, in addition to complying with 14 CCR section 17315, shall be responsible for safe and sanitary storage of all discarded materials that accumulate on the property. Generators shall store designated recyclable materials, designated organic materials, and solid waste in the containers supplied by collector or CRMC for such purposes, or in the containers or locations otherwise permitted for such storage by this chapter.

Section 13. Section 68.523 of the San Diego County Regulatory Code is hereby amended to read as follows:

**SEC. 68.523. USE OF STORAGE CONTAINERS.**

No person shall tamper with, modify, remove from, or deposit discarded materials into any container used for storage of discarded materials without the permission of the person to whom a collector or CRMC furnished the container or the owner of the container.

Section 14. Section 68.524 of the San Diego County Regulatory Code is hereby added to read as follows:

**SEC. 68.524. DIRECTOR OF DEPARTMENT OF PUBLIC WORKS TO ENFORCE ARTICLE.**

The Director shall have enforcement authority for this article.

Section 15. The title of Article IV of the San Diego County Regulatory Code is hereby amended to read as follows:

**ARTICLE IV. NON-EXCLUSIVE AGREEMENT OR CERTIFIED RECYCLABLES MATERIAL COLLECTOR CERTIFICATE REQUIRED FOR COLLECTION**



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Section 16. Section 68.530 of the San Diego County Regulatory Code is hereby amended to read as follows:

**SEC. 68.530. NON-EXCLUSIVE AGREEMENT OR CERTIFIED RECYCLABLES MATERIAL COLLECTOR CERTIFICATE REQUIRED TO COLLECT DISCARDED MATERIALS.**

- (a) Except as specifically exempted in section 68.531, it is unlawful for a person to engage in the business of collection of discarded materials kept, accumulated, or produced in the unincorporated area of the County, unless the person has entered into a SWMA, NEFA, or CRMC pursuant to this chapter that is in full force and effect. SWMAs shall be effective through June 30, 2021. SWMAs will be discontinued and replaced with NEFAs effective July 1, 2021. Any collector holding a SWMA that is valid through June 30, 2021 shall be entitled to a NEFA for the right to collect discarded materials as a single-family collector, multi-family/commercial collector, and/or C&D collector. Companies that do not hold valid SWMAs through June 30, 2021 may apply for a NEFA to collect construction and demolition debris as a C&D collector.
- (b) The total number of collectors shall be limited to 29 collectors under the SWMAs through June 30, 2021, unless the Board finds that it is in the public health, safety, or welfare of the citizens of the unincorporated area of the County to increase or decrease the maximum number of SWMA collectors.
- (c) Effective July 1, 2021, collectors will be required to operate under a NEFA and will be approved for one or more collector types. The combined number of collectors authorized to service single-family, multi-family, and commercial generators shall be limited to the number of such NEFAs in effect on June 30, 2021. After June 30, 2021, the number of NEFAs authorizing single-family collectors and multi-family/commercial collectors will decrease if, and when, any NEFAs authorizing single-family collectors and multi-family/commercial collectors are no longer valid due to revocation or termination, the collector opts not to renew the NEFA, or other cause. The Board has the right to adjust the number of NEFAs authorizing single-family collectors and multi-family/commercial collectors if it finds that it is in the public health, safety, or welfare of the citizens of the unincorporated area of the County to increase or decrease the maximum number of single-family collectors and multi-family/commercial collectors. The number of NEFAs for C&D collectors shall not be limited.
- (d) A "limited single-family service allowance" may be granted by the Director to a multi-family/commercial collector that is not approved as a single-family collector to allow for the collector to collect from 100 or fewer single-family customers subject to review and approval for such allowance by Director.

Section 17. Section 68.531 of the San Diego County Regulatory Code is hereby amended to read as follows:

**SEC. 68.531. EXEMPTIONS.**

The following persons shall be exempt from section 68.530:

- (a) A person that collects recyclable materials and organic waste from service recipients, for the purpose of recycling or processing, but only if such person: (1) does not directly or indirectly charge the service recipient a monetary sum or other consideration for provision of such service; (2) pay the service recipient a net payment for the receipt of such recyclable materials or organic waste; and, (3) provide written documentation to the County upon its request that such persons meet the foregoing requirements.
- (b) A person (e.g., gardener, landscaper, tree-trimming service, demolition contractor, construction contractor, document shredding service provider, residential or commercial on-property clean-out service provider, excluding construction and demolition clean-up service providers that are required to be C&D collectors with valid NEFAs as of July 1, 2021) that removes and transports discarded materials from a premises as an incidental and a minor part of the service being performed; provided that the removed discarded materials were generated by the services the person provided. Notwithstanding the preceding sentence, nothing in this section 68.531 shall be construed to exempt hauling services from section 68.530.

The materials that such person may remove as an incidental part of service shall be discarded materials that such person or contractor generated by the services they provided (e.g., building framers may haul wood scraps, plumbers may haul pipe discards, demolition contractors may haul demolition materials). Recyclable materials and organic materials so removed shall be recycled or processed and may not be disposed, and solid waste so removed shall be properly disposed of at a solid waste facility.

- (c) A person from an agricultural operation that removes agricultural materials from an agricultural premises and transports the material to another agricultural operation for a purpose other than disposal.

A person that removes discarded materials generated and stored at any premises and transports the materials to a facility for reuse, salvage, recycling, processing, transfer, or disposal provided such person owns, leases, rents, or has legal access to such premises, or, in the case of a commercial premises, multi-family premises, or a County facility provided such removal and transportation is performed by the owner, principal, or partner of the commercial premises, multi-family premises, County, or his/her bona fide employees using a vehicle owned or leased by the commercial premises, multi-family premises, or County facility.

A person that removes and transports residential discarded materials from a group of single-family residential owners or tenants when residences, not to exceed ten (10) units, lie within a single boundary served internally only by private streets.

- (d) A person removing or transporting materials generated by public schools and State facilities.
- (e) A person removing or transporting recyclable materials, green materials (excluding wood waste), food waste, and pallets, provided such person is a CRMC and complies with CRMC requirements.
- (h) A person removing or transporting any of the following:
- (1.) Hazardous waste or medical waste regardless of its source.
  - (3) By-products of sewage treatment, including sludge, sludge ash, ash, grit, and screenings.
  - (4) Residual material or non-putrescible waste from a solid waste management facility, including material recovery, composting, or transformation facilities.
  - (5) Animal waste and remains for use as tallow.
  - (6) Source separated manure and animal bedding materials provided such materials are transported by person separately from any other materials for a purpose other than disposal.
  - (7) Discarded materials collected in the course of a community clean-up campaign.
  - (8) Solid or semi-solid discards or byproducts of food and beverage sales or processing activities that are collected for use as livestock feed including, but not limited to, spent brewery grains and fruit pulp that is self-hauled, hauled by the generator's employees, or by a person that collected the materials for their direct use.
  - (9) Liquid by-products of food or beverage processing including, but not limited to, used cooking oil and pumpings from grease traps, which are source separated from food waste, solid waste, and other discarded materials for the purpose of disposal or recycling.
  - (10) Food waste that is separated by a generator for use as animal feed.
  - (11) Edible food that is collected and transported by a person, such as a person from a food recovery organization or food recovery service as defined in sections 14 CCR 18982, for the purpose of providing edible food for human consumption, or edible food removed that is self-hauled to a food recovery organization or food recovery service for the purpose of food recovery.
  - (12) Any items that are donated by the generator to youth, civic, or other charitable organizations transported by persons, provided that the generator is not charged any monetary sum or other consideration for such services.



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- (13) Reusable items or salvageable materials that are donated or sold by the generator for the purpose of reuse.

Section 18. Section 68.532 of the San Diego County Regulatory Code is hereby amended to read as follows:

**SEC. 68.532. NON-EXCLUSIVE AGREEMENTS.**

The right to collect discarded materials in the County pursuant to a SWMA or NEFA granted pursuant to this chapter shall be non-exclusive.

Section 19. Section 68.533 of the San Diego County Regulatory Code is hereby amended to read as follows:

**SEC. 68.533. APPLICATION FOR A NON-EXCLUSIVE AGREEMENT.**

- (a) A person applying to enter into a SWMA or NEFA with the County shall file an application on a form provided by the Director with the exception that persons holding a valid SWMA (that is not suspended or revoked) prior to July 1, 2020 do not need to submit an application for a NEFA. As part of the application process, the applicant shall submit to a background investigation conducted by the Sheriff's department. The Director shall review the completed application and may request other County departments as the Director deems necessary to review and comment on the application. The application shall not be considered complete until the applicant provides all information required by this section and as the Director requests.
- (b) The application shall specify:
  - (1) The geographic areas where the applicant is applying to provide service.
  - (2) The types of generators the applicant is seeking to provide collection services for each geographic area, such as single-family collection service, multi-family/commercial collection service, construction and demolition debris collection service, or any combination of these types of service.
- (c) All collector applications shall include:
  - (1) The applicant's name, mailing address, and phone number.
  - (2) Name, mailing address, email address, and telephone number of an individual contact for the applicant.
  - (3) If the applicant is not an individual, the name and address of each partner, owner, officer, and trustee of the entity, whichever is applicable, and each person's percentage of ownership or interest. Publicly held corporations shall supply proof of corporate entity, the names of each local officer, and each location where the corporation maintains an office in San Diego County.
  - (4) A description of each truck and piece of equipment, including the model, year, license plate number, and vehicle identification number, that the applicant owns or is under the applicant's control for the collection or transportation of discarded materials that the applicant will use to provide service. The applicant shall also provide with the description of the trucks and equipment, a statement under penalty of perjury as to the mechanical condition of each truck and piece of equipment and whether at the time of the application the truck or piece of equipment meets the standards required by 14 CCR sections 17341 to 17345 and this chapter.
  - (5) Facts demonstrating that: (A) the applicant owns or has access to suitable facilities for keeping vehicles and equipment clean and in good repair; (B) the applicant's storage yard and maintenance facilities will be located in an area zoned for the use and close enough to adequately serve the area where the applicant proposes to collect discarded materials; and, (C) the applicant owns or has access to adequate office and billing facilities.

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- (6) A statement of the applicant's qualifications and experience in collecting or transporting discarded materials.
  - (7) Proof that the applicant has adequate insurance that complies with the minimum requirement of the County SWMA or NEFA.
  - (8) Application fee payment for applicants that do not or did not hold a SWMA that is valid through June 30, 2021, if an application fee is required by the Director.
  - (9) Any additional information the Director determines is necessary to completely evaluate and process the application.
- (d) The County will accept NEFA applications for C&D collectors from May 15, 2020 through December 31, 2021. Commencing in 2022, the County will accept NEFA applications for C&D collectors annually from January 1 through January 30.
- (e) The County will not accept NEFA applications for single-family collectors or multi-family/commercial collectors from persons not already holding a SWMA unless the Board finds that it is in the public health, safety, or welfare of the citizens of the unincorporated area of the County to increase or decrease the number of NEFAs authorizing single-family collectors and multi-family/commercial collectors pursuant to section 68.530.

Section 20. Section 68.534 of the San Diego County Regulatory Code is hereby amended to read as follows:

**SEC. 68.534. DIRECTOR TO APPROVE OR REJECT APPLICATION.**

- (a) The Director may negotiate and execute a SWMA or NEFA with an applicant if the Director finds that the applicant meets the requirements of this chapter and that it is in the public interest to approve the application. The Director may approve the application in whole or in part.
- (b) The SWMA or NEFA shall be in a form approved by the Board.
- (c) If the Director rejects an application, in whole or in part, the applicant may appeal the Director's decision to the County Appellate Hearing Board as provided in section 68.540(e).
- (d) On appeal, the County Appellate Hearing Board may sustain the Director's decision or overrule the decision and direct the Director to enter into a SWMA or NEFA with the applicant. The County Appellate Hearing Board may recommend as a condition of approval that the SWMA or NEFA be subject to conditions; provided, those conditions do not materially alter the Board-approved SWMA or NEFA form and are in conformance with this Chapter. The Appellate Hearing Board shall deny the appeal if material amendments to the SWMA or NEFA or amendments to this Chapter would be required.

Section 21. Section 68.535 of the San Diego County Regulatory Code is hereby amended to read as follows:

**SEC. 68.535. DIRECTOR OF DEPARTMENT OF PUBLIC WORKS TO ENFORCE THIS ARTICLE.**

The Director shall have enforcement authority for this article.

Section 22. Article V of the San Diego County Regulatory Code is hereby amended to read as follows:

**ARTICLE V. NON-EXCLUSIVE AGREEMENT CONDITIONS\***

Section 23. Section 68.540 of the San Diego County Regulatory Code is hereby amended to read as follows:

**SEC. 68.540. GENERAL CONDITIONS.**

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A collector operating under a SWMA or a NEFA shall comply with the following conditions:

- (a) A collector shall produce all vehicles or other equipment used to collect or transport discarded materials for inspection at a time and place the Director designates.
- (b) A collector shall obtain and keep in effect the insurance coverage and limits required by its SWMA or NEFA. A collector shall file with the Director a copy of each insurance policy or certificate of insurance evidencing a policy prior to the Director approving a SWMA or NEFA. Each policy shall contain provisions naming the County of San Diego as an additional insured and require that the insurance carrier give the Director notice of cancellation in accordance with the insurance policy provisions.
- (c) The Director may suspend or revoke a SWMA or NEFA when the Director determines the collector has violated any provision of the SWMA or NEFA, this chapter, any State or federal law, or any rule or regulation promulgated by the Board, State, or federal agency with oversight responsibility, or the Director relating to the collection or transportation of discarded materials.
- (d) If the Director determines that a collector's conduct warrants suspension or revocation of a SWMA or NEFA, as provided in subsection (c) above, the Director shall serve a written notice on the collector personally, or by certified or registered mail at the last address provided by the collector. When the Director serves notice by certified or registered mail, the notice shall be deemed received on the date the United States Postal Service first attempts to deliver the notice at the last address provided by the collector as shown on the collector's most-recently executed SWMA or NEFA, whether or not the collector actually receives the notice on the attempted delivery date. The collector shall cease operations within 10 days after the collector receives the notice unless the Director has reinstated the agreement or the collector has requested a hearing before the County Appellate Hearing Board. In the case of an appeal, the collector may continue to operate until the County Appellate Hearing Board renders a decision. The County Appellate Hearing Board shall mean and refer to the appellate hearing board or body specified by Section 16.101 et seq. of the County Code.
- (e) A request for a hearing to contest the suspension or revocation of a SWMA or NEFA shall be made in writing to the Clerk of the Board within ten (10) days after the collector receives the notice described in subsection (d). The hearing shall be scheduled within thirty (30) days following the appointment of the hearing officer pursuant to Section 16.103 of the County Code. Written notice of the time, date, and place of the hearing shall be given in accordance with Section 16.103 of the County Code. The County Appellate Hearing Board shall render its decision within five (5) days after the close of the hearing in accordance with Section 16.106 of the County Code and its decision shall be final.

Section 24. Section 68.541 of the San Diego County Regulatory Code is hereby amended to read as follows:

**SEC. 68.541. NON-EXCLUSIVE AGREEMENT TERM.**

- (a) A SWMA or NEFA shall be issued for an initial term of 10 years. The agreement shall be extended for an additional year on each anniversary date of the agreement, subject to the Director determining that the collector is substantially complying with the agreement, unless otherwise terminated in accordance with the SWMA or NEFA. This section 68.541(a) shall not apply to NEFAs for C&D Collectors.
- (b) A NEFA for C&D collectors shall be issued for an initial term of 3 years, and may be extended, at the County's option, in one or more increments of 3 years.
- (c) On the anniversary date of the commencement of the SWMA or NEFA, and at the request of either Party, County and Collector shall meet and confer to revise the terms of the Agreement. If Collector does not agree with revised terms of the Agreement, then Collector may request a hearing before the County Appellate Hearing Board. In the case of an appeal, the Collector may continue to operate until the County Appellate Hearing Board renders a decision. The County Appellate Hearing Board shall mean and refer to the appellate hearing board or body specified by Section 16.101 et seq. of the County Code.
- (d) A request for a hearing pursuant to subsection (c) above shall be made in writing to the Clerk of the Board within ten (10)

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days after the parties meet and confer to discuss revised terms. The hearing shall be scheduled within thirty (30) days following the appointment of the hearing officer pursuant to Section 16.103 of the County Code. Written notice of the time, date, and place of the hearing shall be given in accordance with Section 16.103 of the County Code. The County Appellate Hearing Board shall render its decision within five (5) days after the close of the hearing in accordance with Section 16.106 of the County Code and its decision shall be final.

Section 25. Section 68.542 of the San Diego County Regulatory Code is hereby amended to read as follows:

**SEC. 68.542. SOLID WASTE MANAGEMENT AGREEMENT FEE.**

- (a) A collector granted a SWMA or NEFA pursuant to this chapter shall pay a solid waste management agreement fee to the County during the term of the agreement. The fee shall be assessed from the date on which the SWMA or NEFA becomes effective or the effective date identified in the resolution establishing the solid waste management agreement fee, whichever is later. The SWMA or NEFA fee shall be in the amounts and in the manner provided by the Board by resolution. The Board may modify the fee at any time during the term of the SWMA or NEFA. Fees the County collects pursuant to this section shall be expended by the County for solid waste, recyclable materials, organic waste, construction and demolition debris services and activities in the unincorporated area of the County only and shall not be used by the County for County-wide services or activities. Any fees due by a collector to the County pursuant to this section shall be in addition to any license fee or business tax prescribed by the County for the same period.
- (b) The County may bring an action against a collector in any court of competent jurisdiction for a collector's failure to pay the solid waste management agreement fees due the County under this section.

Section 26. Section 68.543 of the San Diego County Regulatory Code is hereby amended to read as follows:

**SEC. 68.543. RATE REGULATION.**

Pursuant to PRC section 40059, the Board shall have the power to review and regulate collector's fees, rates, and charges upon a finding that collector is charging unreasonable or excessive fees, rates, or charges, and the Board of Supervisors shall have the right to specify specific customer rate structuring arrangements and/or relationships between various types of customer rates.

Section 27. Section 68.544 of the San Diego County Regulatory Code is hereby amended to read as follows:

**SEC. 68.544. TRANSFER OF AGREEMENTS AND OWNERSHIP CHANGES.**

- (a) A SWMA or NEFA is transferable subject to the assignment conditions in the SWMA or NEFA and subject to approval by the Director, which approval shall not be unreasonably withheld.
- (b) Whenever there is a change in ownership of any collector, who has entered in a SWMA or NEFA, that exceeds 10 percent of the stock of the collector, 10 percent of the collector's assets, or an increase or decrease of 10 percent or more in any partner's interest in a collector, the collector shall report the change in writing to the Director within 10 days of the change.

Section 28. Section 68.545 of the San Diego County Regulatory Code is hereby amended to read as follows:

**SEC. 68.545. INDEMNIFICATION OF COUNTY.**

A collector shall indemnify, defend, and hold the County, and County's directors, officers, agents, and employees harmless from and against any and all loss, damages, liability, claims, suits, costs and expenses, fines,



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charges, or penalties whatsoever, including reasonable attorney's fees, regardless of the merit or outcome of any such claim or suit, arising from or in any manner related to the services provided or business conducted under this chapter or under a SWMA or NEFA granted pursuant to this chapter.

Section 29. Section 68.546 of the San Diego County Regulatory Code is hereby repealed to read as follows:

**SEC. 68.546. RESERVED.**

Section 30. Section 68.547 of the San Diego County Regulatory Code is hereby amended to read as follows:

**SEC. 68.547. SERVICE AREA AND TYPE OF SERVICE.**

- (a) A collector shall provide : (1) collection service in the geographic area(s) approved in the collector's SWMA or NEFA; (2) the type of collection service (single-family, multi-family/commercial, and/or construction and demolition debris service) approved in the SWMA or NEFA; and (3) collection services for the types of discarded materials approved in the SWMA or NEFA.
- (b) A collector may modify the geographic area(s) where the collector provides service or modify the type of collection service the collector provides, by making a written request to the Director, and such request shall be subject to approval of the Director and subject to any limitations specified in the SWMA or NEFA.

Section 31. Section 68.548 of the San Diego County Regulatory Code is hereby amended to read as follows:

**SEC. 68.548. RIGHT TO REFUSE SERVICE.**

- (a) A collector may refuse service to a customer who fails to pay a valid bill within 60 days of the invoice date or for a substantial refusal to comply with the requirements of this code related to the collection of discarded materials, after giving the customer a reasonable opportunity to comply.
- (b) If collector exercises its right to refuse service for customer failure to pay their bill within 60 days, collector shall remove any container(s) provided by collector to such customer that are located in the public right of way and clean the area adjacent to containers if any litter has accumulated. Collector shall not charge customers for removal of containers in these circumstances.
- (c) A collector may refuse to provide service to a customer where topography, geographical isolation, or inadequate access constitutes an unreasonable hardship on the collector if the Director agrees the condition constitutes an unreasonable hardship.

Section 32. Section 68.549 of the San Diego County Regulatory Code is hereby amended to read as follows:

**SEC. 68.549. EQUIPMENT AND VEHICLE STANDARDS**

- (a) All equipment and vehicles used by collectors to transport or collect discarded materials in the unincorporated area of the County shall comply with the requirements of 14 CCR sections 17341 through 17345. Each vehicle used to collect or transport discarded materials shall carry a shovel, broom, and fire extinguisher and shall be maintained in a clean condition and neatly painted. The name and telephone number of the collector shall be painted in letters at least three inches high on each side and across the back of each vehicle.
- (b) All equipment and vehicles used to collect and transport discarded materials shall also be equipped with both of the following:
  - (1) An audible automatic back-up or other acceptable warning devices prescribed by Vehicle Code section 27000.

- (2) A mechanical cover or other device that is adequate to cover and contain discarded materials within the vehicle or piece of equipment. If discarded materials fall from, drop from, or for any other reason unintentionally comes out of a vehicle or piece of equipment after discarded materials were placed in or on the vehicle or equipment, it shall be prima facie evidence that the cover was inadequate.

Section 33. Section 68.550 of the San Diego County Regulatory Code is hereby added to read as follows:

**SEC. 68.550. SERVICE REQUIREMENTS.**

- (a) A collector providing single-family collection service and/or multi-family/commercial collection service pursuant to a SWMA or NEFA shall comply with all of the following requirements, subject to exceptions to this requirement are identified in section 68.549(a)(5):
  - (1) In densely-populated areas, collector shall collect solid waste, recyclable materials, and organic materials from customers that voluntarily subscribe to collector's services. Collector shall provide collection services to single-family customers once per week. Collector shall provide collection service to multi-family and commercial customers at a frequency to be agreed on by its customer provided that solid waste and organic materials are collected by collector at least once per week and recyclables materials are collected by collector at least once per week, unless every other week collection authorized by applicable law or regulations and approved by the Director.
  - (2) In sparsely-populated areas, collector shall collect solid waste, recyclable materials, and organic materials from customers that voluntarily subscribe to collector's services. A collector may collect solid waste from its customers at a frequency as agreed upon by the customer, but not less than once per week, unless every other week collection is authorized by applicable law or regulations and approved by the Director.
  - (3) In sparsely-populated areas, a collector that offers solid waste collection service is required to offer collection service for designated recyclable materials to its solid waste customers. Collector shall collect recyclable materials from its customers at a frequency as agreed upon by the customer, but not less than every other week. Collector shall provide solid waste and recyclables collection service only to customers that subscribe to this service.
  - (4) In sparsely-populated areas, a collector that offers solid waste collection service is required to offer collection services for designated organic materials to its multi-family and commercial customers that generate two (2) cubic yards or more of total solid waste, recyclable materials, and organic materials per week (or other threshold defined by the state). Collector is not required to offer to collect organic materials from other customers in the sparsely-populated areas, but may provide these services at its option to customers that subscribe to this service. Collector shall collect organic materials in the sparsely-populated areas at a frequency as agreed upon by the customer, but at least weekly. Collector shall provide organic materials collection services only to customers that subscribe to this service.
  - (5) Collector is not required to provide a single-family, multi-family, or commercial customer with recyclable materials or organic materials collection services if the customer has secured a waiver from the County pursuant to article VII of this chapter or is exempt pursuant to section 68.570(b).
  - (6) A collector providing service within a specific geographic area shall provide that service to any customer who requests the service and who agrees to pay the collector's rates with the exception of the collector's right to refuse services pursuant to section 68.547.
- (b) At the time a collector begins providing service to a customer and at least every six months thereafter, a collector shall notify its customers about the regulations governing disposal of recyclables, organic waste, solid waste, hazardous waste, and toxic waste. The notice shall mention regulations that have changed since the last notice. Collector shall also send a copy of each six-month notice to the Director when distributing this notice to customers. When a collector begins providing service under a SWMA or NEFA, the collector shall file a copy

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of the notice it uses with the Director and whenever it changes the notice it shall provide the Director with a copy of the revised notice. Collector shall comply with all other noticing and public outreach requirements in accordance with the requirements of the SWMA or NEFA.

- (c) Collector shall collect designated C&D recyclable materials at a frequency determined by customer and collector.
- (d) Collector shall transport recyclable materials, organic materials, solid waste, C&D, and other discarded materials to facilities approved in accordance with the collector's SWMA or NEFA.
- (e) No collector shall deliver for disposal any designated recyclable materials any designated organic materials that are source separated by customer or generator.
- (f) Collector shall perform all other services required in the SWMA or NEFA.

Section 34. Section 68.551 of the San Diego County Regulatory Code is hereby added to read as follows:

**SEC. 68.551. REPORTING REQUIREMENTS.**

- (a) A collector shall submit reports to the Director in accordance with the requirements of the SWMA or NEFA.
- (b) A collector shall also provide the Director with quarterly export reports documenting discarded materials transported outside California, as required by 14 CCR sections 18808.8 and 18815.1 through 18815.13, on the reporting schedule specified in the SWMA or NEFA.
- (c) Collectors shall submit monthly, quarterly, semi-annual, and annual reports to the County in accordance with the requirements of the SWMA or NEFA, using a form or format prescribed by the Director.

Section 35. Section 68.552 of the San Diego County Regulatory Code is hereby added to read as follows:

**SEC. 68.552. LIQUIDATED DAMAGES.**

The collector is required to comply with performance standards specified in the SWMA or NEFA. In the event collector fails to comply with the standards, the County may, at its option, assess liquidated damages in accordance with the procedures and amounts, if any, described in the SWMA or NEFA.

Section 36. Section 68.553 of the San Diego County Regulatory Code is hereby added to read as follows:

**SEC. 68.553. ADDITIONAL TERMS AND CONDITIONS.**

In approving the terms of any SWMA or NEFA, the Board may prescribe any additional terms, conditions, rules, regulations, restrictions, and limitations not specifically mentioned in this chapter that the Board determines are in the public interest. Approval of an agreement form by the Board shall be deemed to include a determination that each provision in the form is in the public interest.

Section 37. Section 68.554 of the San Diego County Regulatory Code is hereby added to read as follows:

**SEC. 68.554. DIRECTOR OF DEPARTMENT OF PUBLIC WORKS TO ENFORCE THIS ARTICLE.**

The Director shall have enforcement authority for this article.



Section 38. The title of Article VI of the San Diego County Regulatory Code is hereby amended to read as follows:

**ARTICLE VI. CERTIFIED RECYCLABLE MATERIALS COLLECTORS (CRMC)**

Section 39. Section 68.560 of the San Diego County Regulatory Code is hereby amended to read as follows:

**SEC. 68.560. GENERAL CONDITIONS**

A person may apply to the Director to become a certified recyclable materials collector (CRMC) to receive certification to remove or transport recyclable materials, green materials (excluding wood waste), food waste, and pallets subject to conditions of this article VI. The certification will be valid for a period of two (2) years after the date it is issued by the Director. The expiration date of the certificate will be automatically extended for two (2) additional years after the expiration date of the certificate, unless the Director determines that the CRMC is not substantially complying with the CRMC requirements of this chapter, or unless the Director provides sixty (60) days' notice to the CRMC of its intent not to extend the expiration date of the certificate.

- (a) A certificate may not be transferred, sold, leased, or assigned, in whole or in part, to another person without the prior written approval of the Director. Approval may be obtained by filing an application with the Director on a form prescribed by the Director. The Director shall maintain a current list of CRMCs on the Department of Public Works' website.
- (b) A CRMC shall comply with the following limitations related to the collection of recyclable materials and organic materials:
  - (1) The amount of recyclable materials and organic materials collected within the unincorporated area of the County by a CRMC may not exceed 1,000 tons per year with the exception that the weight of pallets shall be excluded from the 1,000 ton-per-year limit and are not subject to any annual tonnage limit. For the purposes of this subsection, the annual tonnage of recyclable materials and organic materials collected in the County by the CRMC, its parent company, and all affiliates shall be combined.
  - (2) Organic materials collected by the CRMC shall be limited to green materials (excluding wood waste), food waste, and pallets for the purposes of this article VI.
  - (3) The recyclable materials and organic materials collected shall not contain greater than ten percent (10%) by volume of solid waste (assessed separately for each material type).
  - (4) The CRMC shall achieve an annual ninety percent (90%) diversion rate of the recyclable materials and organic materials collected. The CRMC shall certify their diversion rate in their annual reporting under section 68.565.
- (c) A CRMC shall indemnify and hold the County, and County's directors, officers, agents, and employees harmless from and against any and all loss, damages, liability, claims, suits, costs and expenses, fines, charges, or penalties whatsoever, including reasonable attorney's fees, regardless of the merit or outcome of any such claim or suit, arising from or in any manner related to the services provided or business conducted under this chapter or under a CRMC certificate granted pursuant to this chapter.
- (d) A CRMC shall obtain and keep in effect the insurance coverage and limits required by its CRMC certificate and if not specified in the certificate in such form and amount as may be required by County Risk Management. A CRMC shall file with the Director a copy of each insurance policy or certificate of insurance evidencing a policy prior to the Director approving a CRMC. Each policy shall contain provisions naming the County of San Diego as an additional insured and require that the insurance carrier give the Director notice of cancellation in accordance with the insurance policy provisions.
- (e) A CRMC shall conduct all activities in compliance with all applicable federal, State, and local laws, regulations,

ordinances, and requirements and shall be responsible for obtaining all applicable permits, licenses, certifications, and registrations.

- (f) The general conditions specified in section 68.540 for SWMA and NEFA collectors are applicable for CRMCs.

Section 40. Section 68.561 of the San Diego County Regulatory Code is hereby amended to read as follows:

**SEC. 68.561. SERVICE REQUIREMENTS**

- (a) Acceptable facilities.
- (1) A CRMC shall deliver recyclable materials collected in the unincorporated County to a recycling facility for the purpose of recycling the materials.
  - (2) A CRMC shall deliver green materials and food waste collected in the unincorporated County to a facility or operation or for location for a use identified in 14 CCR section 18983.1(b), which includes, but is not limited to the following: (i) a recycling center (such as a chip and grind facility) pursuant to 14 CCR section 17402.5(d) or 14 CCR section 17402.5(c); (ii) a compostable material handling operation or facility as defined in 14 CCR Section 17852(a)(12), small composting activities that would otherwise be excluded from the compost material handling operation or facility definition pursuant to 14 CCR section 17855(a)(4), or a community composting facility; (iii) in-vessel digestion operation or facility as listed in 14 CCR section 17896.5 or activities that would otherwise not be subject to the in-vessel digestion requirements pursuant to 14 section 17896.6; (iv) biomass conversion operation or facility as defined in section 40106 of the PRC; (v) used as a soil amendment for erosion control, revegetation, slope stabilization, or landscaping at a landfill in compliance with 14 CCR section 18983.1(b); (vi) used in land applications in compliance with 14 CCR section 18983.1(b); (vii) lawful use as animal feed in compliance with 14 CCR section 18983.1(b); or, (viii) other operations or facilities approved by the State in accordance with 14 CCR section 18983.1(c). Notwithstanding the foregoing, the allowable facilities, operations, and uses of green materials and food waste shall be defined as in 14 CCR section 18983.1(b).
  - (3) A CRMC shall deliver pallets to a facility for the purpose of reuse and salvage or to a facility processing that recovers source separated organic waste.
  - (4) Recyclable materials and organic materials collected by the CRMC in the unincorporated area of the County shall not be delivered to a landfill for disposal or other sites for disposal and shall not be used as alternative daily cover or alternative intermediate cover as defined in 27 CCR section 20690 and 20700, respectively.
- (b) Equipment and vehicles. All vehicles and equipment shall comply with the requirements of 14 CCR sections 17341 through 17345 and shall be kept in a clean and well-maintained condition.
- (c) Containers. A CRMC shall comply with container storage requirements of section 68.521. All CRMC-provided containers shall be clearly identified as recyclable materials or organic materials containers, shall display the name and phone number of the CRMC to whom the container belongs. A CRMC shall place a label or provide imprinted text or graphic images on each new container indicating the primary materials accepted and the primary materials that are prohibited container contaminants in that container, or as otherwise required by 14 CCR section 18984.8. CRMC shall achieve compliance with the container labeling requirements in accordance with the following timeline: fifty percent (50%) of all containers by December 31, 2021 and one hundred percent (100%) of all containers by June 30, 2022. Container colors shall comply with CRMC certificate requirements.
- (d) Customer education. For customers in the densely-populated areas, CRMC shall provide educational information to its customers in accordance with CRMC certificate requirements.
- (e) Contamination monitoring. In the densely-populated areas, CRMC shall conduct contamination monitoring of

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its customers' containers to identify prohibited container contaminants in accordance with CRMC certificate requirements.

- (f) Rates for service. A CRMC shall provide services at no cost to its customers or shall charge its customers for service at rates it determines.

Section 41. Section 68.562 of the San Diego County Regulatory Code is hereby amended to read as follows:

**SEC. 68.562. APPLICATION FOR CERTIFIED RECYCLABLE MATERIALS COLLECTORS**

- (a) A person applying for certification as a CRMC with the County shall file an application on the form provided by the Director. As part of the application process the applicant shall submit to a background investigation conducted by the Sheriff's department. The Director shall review the completed application and may request other County departments as the Director deems necessary to review and comment on the application. The application shall not be considered complete until the applicant provides all information required by this chapter or which the Director requests.

- (b) All CRMC applications shall include:

- (1) The applicant's name, mailing address, email address, and phone number.
- (2) Name, mailing address, email address, and telephone number of an individual contact for the applicant.
- (3) If the applicant is not an individual, the name and address of each partner, owner, officer, and trustee of the entity, whichever is applicable, and each person's percentage of ownership or interest. Publicly-held corporations shall supply proof of corporate entity, the names of each local officer, and each location where the corporation maintains an office in San Diego County.
- (4) Identification of the type(s) of materials the CRMC is seeking approval to collect and identification of the facilities, operations, or uses CRMC proposes to use to comply with section 68.561(a).
- (5) A description of each truck and piece of equipment, including the model, year, license plate number, and vehicle identification number, that the applicant owns or is under the applicant's control for the collection or transportation of recyclable materials and organic materials that the applicant will use to provide service. The applicant shall also provide with the description of the trucks and equipment, a statement under penalty of perjury as to the mechanical condition of each truck and piece of equipment and whether at the time of the application the truck or piece of equipment meets the standards required by 14 CCR sections 17341 to 17345 and this chapter.
- (6) Facts demonstrating that: (A) the applicant owns or has access to suitable facilities for keeping vehicles and equipment clean and in good repair; and, (B) the applicant's storage yard and maintenance facilities will be located in an area zoned for the use.
- (7) A statement of the applicant's qualifications and experience in collecting or transporting discarded materials.
- (8) Acknowledgement of the applicant's agreement to defend, indemnify, and hold harmless, County and its directors, officers, agents, and employees from and against any and all claims asserted or liability established for damages or injuries to any person or property, including injury to County's directors, officers, agents, or employees which arise from, or are connected with, or are caused or claimed to be caused by acts or omissions of the applicant, or its directors, officers, agents, or employees, in the performance of the recyclable materials and organic materials collection services, and all costs and expenses of investigating and defending against same; provided, however, that the

applicant's duty to indemnify and hold harmless shall not include any claims or liability arising from the established sole negligence or willful misconduct of the County, its directors, officers, agents, or employees;

- (9) Without limiting the indemnification obligation above, the applicant's agreement to obtain and maintain in full force and effect throughout the term of the CRMC certificate, and any extensions or modifications thereof, insurance coverage which meets or exceeds the requirements established by this chapter or the Director.
- (10) Proof of the applicant's insurance that complies with the County's minimum requirements.
- (11) A written statement certifying that the applicant has reviewed and will comply with the requirements of this chapter and in the CRMC certificate.
- (12) Application fee payment for CRMC applicant, if an application fee is required by the Director.
- (13) Any additional information the Director determines is necessary to evaluate and process the application.

(c) The County will accept applications for CRMCs on an on-going basis commencing on May 15, 2021.

Section 42. Section 68.563 of the San Diego County Regulatory Code is hereby amended to read as follows:

**SEC. 68.563. DIRECTOR TO APPROVE OR REJECT APPLICATION.**

- (a) The Director may issue a CRMC certificate to an applicant if the Director finds that the applicant meets the requirements of this chapter and that it is in the public interest to approve the application. The Director may approve the application in whole or in part.
- (b) If the Director rejects an application, in whole or in part, the applicant may appeal the Director's decision to the County Appellate Hearing Board as provided in section 68.540.
- (c) On appeal, the County Appellate Hearing Board may sustain the Director's decision or overrule the decision and direct the Director to issue a CRMC certificate to the applicant. The County Appellate Hearing Board may also require that the CRMC be subject to specific conditions.

Section 43. Section 68.564 of the San Diego County Regulatory Code is hereby amended to read as follows:

**SEC. 68.564. SUSPENSION OR REVOCATION OF CRMC CERTIFICATE**

- (a) The Director may suspend or revoke a CRMC certificate if a CRMC has violated the provisions in the certificate or any applicable law or regulations subject to the procedures set forth in section 68.540. In such case, CRMC has the right to request a hearing in accordance with section 68.540.
- (b) If the Director determines that a CRMC's conduct warrants suspension or revocation of a CRMC certificate, as provided in subsection (a) above, the Director shall serve a written notice on the CRMC personally, or by certified or registered mail at the last address provided by the CRMC. When the Director serves notice by certified or registered mail, the notice shall be deemed received on the date the United States Postal Service first attempts to deliver the notice at the last address provided by the CRMC as shown on the CRMC's most-recently executed CRMC certificate, whether or not the CRMC actually receives the notice on the attempted delivery date. The CRMC shall cease operations within 10 days after the CRMC receives the notice unless the Director has reinstated the CRMC certificate or the CRMC has requested a hearing before the County Appellate Hearing Board. In the case of an appeal, the CRMC may continue to operate until the County Appellate Hearing Board renders a decision. The County Appellate Hearing Board shall mean and refer to the appellate hearing board or



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body specified by Section 16.101 et seq. of the County Code.

- (c) A request for a hearing to contest the suspension or revocation of a CRMC certificate shall be made in writing to the Clerk of the Board within ten (10) days after the CRMC receives the notice described in subsection (b). The hearing shall be scheduled within thirty (30) days following the appointment of the hearing officer pursuant to Section 16.103 of the County Code. Written notice of the time, date, and place of the hearing shall be given in accordance with Section 16.103 of the County Code. The County Appellate Hearing Board shall render its decision within five (5) days after the close of the hearing in accordance with Section 16.106 of the County Code and its decision shall be final.

Section 44. Section 68.565 of the San Diego County Regulatory Code is hereby added to read as follows:

**SEC. 68.565. REPORTING REQUIREMENTS**

- (a) CRMCs shall submit an annual report by February 15 of each year, beginning February 15, 2022, to the Director, on a form or using a format prescribed by the Director. Annual reports shall include the following information for each residential and commercial premises serviced within the unincorporated areas of the county for the period of January 1 through December 31 of the immediately preceding 12-month period. At the Director's option, Director may increase the reporting frequency to require submittal of quarterly reports rather than annual reports for some or all of the information listed below.

- (1) The name of the person(s) responsible for recyclable materials and/or organic materials management at the premises serviced;
- (2) The name and address of the premises serviced;
- (3) The volume in cubic yards or gallons, measured by the size of the applicable containers in use at the premises, of recyclable materials and organic materials (listed separately by material type) collected per week from the premises;
- (4) The frequency of recyclable materials and organic materials collection service provided to the premises;
- (5) The total annual amount of recyclable materials and organic materials, measured in tons and listed separately by material type, collected by CRMC;
- (6) For recyclable materials, the names and addresses of the recycling facilities to which the recyclable materials collected were delivered for recycling;
- (7) For green materials, and food waste, the names and addresses of the facilities, operations, or uses to which the green materials, and food waste collected were delivered for processing or use;
- (8) For pallets, the names and addresses of the reuse or salvage facilities or operations to which pallets collected were delivered for the purpose of reuse or salvage, or the names and addresses of the facilities to which pallets collected were delivered for the purpose of processing;
- (9) For food waste collected and delivered for composting or final processing to a site other than a processing facility or composting operation, a letter of acknowledgement from the site property

owner providing their acceptance of the food waste for composting or final processing;

- (10) For compostable plastics or compostable plastic bags, if accepted in the organic materials containers, annually submit written notification from the processing facility or composting operation confirming said facility has and will continue to have the capabilities to process and recover compostable plastics;
- (11) For food waste, the tons of food waste delivered to each processing facility, composting operation, or site per month for each month in the reporting period, where tons shall be calculated if not readily available by converting cubic yards or gallons of food waste to tons using a density factor provided by the Director;
- (12) Statement certifying the diversion rate for all materials collected by the CRMC; and,
- (13) Additional information as required by the Director.

Section 45. Section 68.566 of the San Diego County Regulatory Code is hereby added to read as follows:

**SEC. 68.566. ADDITIONAL TERMS AND CONDITIONS.**

In approving the terms of any certificate, the Director may prescribe any additional terms, conditions, rules, regulations, restrictions, and limitations not specifically mentioned in this chapter that the Director determines are in the public interest.

Section 46. Section 68.567 of the San Diego County Regulatory Code is hereby added to read as follows:

**SEC. 68.567. DIRECTOR OF DEPARTMENT OF PUBLIC WORKS TO ENFORCE THIS ARTICLE.**

The Director shall have enforcement authority for this article.

Section 47. The title of Article VII of the San Diego County Regulatory Code is hereby amended to read as follows:

**ARTICLE VII. RECYCLING REQUIRED FOR RESIDENTIAL AND COMMERCIAL PREMISES**

Section 48. Section 68.570 of the San Diego County Regulatory Code is hereby amended to read as follows:

**SEC. 68.570. RECYCLING REQUIREMENTS.**

- (a) Owners, occupants, or operators of single-family, multi-family, and commercial premises, unless exempted in subsection (b) below or by waivers granted pursuant to chapter, are subject to the requirements specified by this section.
- (b) The following persons are exempt from the requirements of this section under the conditions specified:
  - (1) Exemptions in densely-populated areas: Until September 30, 2021, owners, occupants, or operators of multi-family and commercial premises in densely-populated areas that generate less than two (2) cubic yards of total solid waste, recyclable materials, and organic materials per week (or other threshold defined by the State) are exempt from the requirements in article VII of this chapter related to designated organic

materials, provided that such organic materials are stored and disposed of in accordance with applicable law or regulations, with the exception that multi-family premises are not exempt from designated organic materials requirements for green materials. Commencing October 1, 2021, owners, occupants, or operators of multi-family and commercial premises in densely-populated areas shall not be exempt from the requirements of article VII of this chapter.

(2) Exemptions in sparsely-populated areas:

- (i) Owners, occupants, or operators of all single-family premises and all multi-family premises in the sparsely-populated areas are exempt from the requirements in article VII of this chapter related to designated organic materials for food waste, provided food waste is stored and disposed of in accordance with applicable law or regulations. Owners, occupants, or operators of all single-family premises and multi-family premises in the sparsely-populated areas are not exempt from the requirements in Article VII of this chapter related to designated organic materials for green materials.
  - (ii) Owners, occupants, or operators of commercial premises in sparsely-populated areas that generate less than two (2) cubic yards or more of total solid waste, recyclable materials, and organic materials per week (or other threshold defined by the State) are exempt from the requirements in Article VII of this chapter related to designated organic materials, provided that such organic materials are stored and disposed of in accordance with applicable law or regulations.
- (c) The owner, occupant, or operator of a premises subject to subsection (a) above shall: (1) source separate and store designated recyclable materials and designated organic materials separately from solid waste; and, (2) source separate and store designated recyclable materials and designated organic materials separately from each other.
- (d) The owner, occupant, or operator of a premises subject to subsection (a) above shall arrange for recycling or processing of the designated recyclable materials and designated organic materials through one or more of the following methods:
- (1) Subscribing to a three-stream collection system that includes designated recyclable materials and designated organic materials collection services through a collector or CRMC and solid waste collection services through a collector; and/or,
  - (2) Self-hauling the designated recyclable materials, designated organic materials, and/or solid waste in accordance with section 68.572 of this chapter.
  - (3) If a collector offers a collection program approved by the Director that relies on use of a two-stream organic waste collection system pursuant to 14 CCR section 18984.2, the owner, occupant, or operator of a premises may comply with the requirements of this Article VII by subscribing to the two-stream organic waste collection system and source separating recyclable materials, organic materials, and solid waste, as applicable, in accordance with the Director's requirements for such systems.
- (e) If the owner, occupant, or operator of a premises subscribes to a collector's or CRMC's collection services to arrange for recycling or processing of designated recyclable materials and/or designated organic materials and/or disposal of solid waste, the owner, occupant, or operator shall comply with the requirements specified in section 68.571 of this chapter.
- (f) If the owner, occupant, or operator of a premises self-hauls discarded materials, the owner, occupant, or operator shall comply with the requirements specified in section 68.572 of this chapter.
- (g) If the owner, occupant, or operator of a premises manages designated organic materials on its premises to comply with organic waste recycling requirements, it shall use composting method(s) or other on-site management practices that are consistent with applicable laws or regulations that do not create a public nuisance because of odors



or other offensive conditions.

- (h) If an owner, occupant, or operator of a commercial or multi-family premises meets waiver criteria in sections 68.575 of this chapter, the owner, occupant, or operator may apply for a waiver as described in section 68.575 of this chapter to be excused from some or all designated recyclable materials and designated organic materials recycling requirements of this chapter.
- (i) No owner, occupant, or operator of a premises shall dispose of or arrange for disposal of designated recyclable materials or designated organic materials.

Section 49. Section 68.571 of the San Diego County Regulatory Code is hereby amended to read as follows:

**SEC 68.571. REQUIREMENTS FOR RESIDENTS AND COMMERCIAL BUSINESSES SUBSCRIBING TO COLLECTION SERVICES.**

- (a) An owner, occupant, or operator of a single-family, multi-family, or commercial premises receiving any type of discarded materials collection service from collectors or CRMCs in the unincorporated area of the County shall comply with the following requirements for discarded materials collection, except those that meet the self-hauler requirements in section 68.572 of this chapter:
  - (1) For premises in densely-populated areas, subscribe to a three-stream collection service for collection of all discarded materials as described below unless exempted pursuant to section 68.570(b) or unless waiver(s) is(are) granted pursuant to section 68.575. The Director shall have the right to review the number, size, and frequency of collection of containers to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and, may direct the owner, occupant, or operator of premises to adjust the number of containers, container sizes, or frequency of collection to ensure proper separation, storage, and disposal or recycling of materials.
  - (2) For premises in densely-populated areas, subscribe to and participate in the collector's and/or CRMC's collection service(s) by using a three-stream collection service and placing discarded materials in designated containers as follows:
    - (i) Place source separated designated organic materials in the organic materials container(s).
    - (ii) Place source separated designated recyclable materials in the recyclable materials container.
    - (iii) Place other discarded materials in the solid waste container.
    - (iv) If collector or CRMC provides additional containers or containers with split compartments for source separation and storage of food waste or other materials for the purposes of collection, collector's or CRMC's instructions regarding source separation of discarded materials and placement of materials in the proper containers shall be followed.
    - (v) Pursuant to section 68.570(d), an owner, occupant, or operator may use a two-stream collection system if such system is available.
  - (3) For multi-family and commercial premises in sparsely-populated areas that generate two (2) cubic yards or more of total solid waste, recyclable materials, and organic materials per week, owner, occupant, or operator of such premises shall comply with requirements of subsections (a)(1) and (a)(2) above, except those that meet the self-hauler requirements in section 68.572 of this chapter.
  - (4) For single-family premises in sparsely-populated areas and multi-family and commercial premises in sparsely-populated areas that generate less than two (2) cubic yards of total solid waste, recyclable materials, and organic materials per week (or other threshold defined by the State), subscribe to and participate in collector's and/or CRMC's collection service(s) for one or more materials such as

recyclable materials, organic materials, or solid waste and follow collector's or CRMC's instructions regarding source separation of discarded materials and placement of materials in the proper containers, except those that meet the self-hauler requirements in section 68.572 of this chapter.

- (b) The owner, occupant, or operator of a residential or commercial premises shall only deposit designated recyclable material and designated organic materials in a container(s) that is intended to receive the designated organic materials and designated recyclable materials for collection. If a bottle, jar, jug, or can is made of designated recyclable material and such container has previously contained oil, antifreeze, household cleaner, or other similar material, no person shall deposit the bottle, jar, jug, or can in a container intended for designated recyclable materials until the bottle, jar, jug, or can has been completely emptied.
- (c) Nothing in this chapter prohibits an owner, occupant, or operator from preventing or reducing their organic waste, managing organic waste on site, or delivering organic waste to an organic waste processing facility that processes organic waste in accordance with applicable law. Owners, occupants, or operators may manage their organic materials on site provided they apply for and obtain an on-site organics management waiver as described in section 68.575 of this chapter.
- (d) The owner, occupant, or operator of a construction and/or demolition site shall only deposit designated C&D recyclable materials in a container(s) that is intended to receive designated C&D recyclable materials for collection. For the purpose of this section, designated C&D recyclable materials are any of the following materials: asphalt, concrete, dirt, land clearing vegetation, sand, gravel, rock, metal, wood, green materials, mixed paper, cardboard, and other recyclable materials generated at construction and demolition sites. For the purposes of this section, "green materials" means any material related to land development such as yard trimmings, trees, brush, and construction and demolition wood waste and does not include food material, bio-solids, wood containing lead-based paint or wood preservatives, mixed construction debris, or mixed demolition debris.
- (e) An owner, occupant, or operator shall use collector-provided or CRMC-provided containers of adequate size and in sufficient numbers to contain without overflowing all the discarded materials that the person's household or premises generates within the designated removal period. Owners, occupants and operators shall also comply with discarded materials storage requirements in section 68.522.
- (f) An owner, occupant, or operator using plastic or paper bags as containers for collection service shall tie, seal or otherwise securely fasten all bags set out for collection.
- (g) An owner, occupant, or operator receiving collection service shall not place containers in a manner that impedes access to neighboring driveways, mailboxes, utilities, or easements.
- (h) No owner, occupant, or operator shall place, deposit, or allow any containers to remain on a street, curb, sidewalk, or any other place in a public or private right of way before 6:00 p.m. of the day prior to the regular day for collection by a collector or CRMC, or after 12:00 p.m. on the day following collection day. Owners, occupants, and operators shall place their containers in a location immediately adjacent to and bordering their premises unless otherwise arranged by collector or CRMC and approved by Director.
- (i) A violation of this section shall be charged as an infraction, except that an owner, occupant, or operator convicted of two or more violations of this section in a one-year period may, at the discretion of the prosecutor, be charged with a misdemeanor.

Section 50. Section 68.572 of the San Diego County Regulatory Code is hereby amended to read as follows:

#### **SEC. 68.572. SELF-HAULER REQUIREMENTS**

Self-haulers who self-haul designated recyclable materials, organic materials, solid waste, or any combination thereof shall comply with the following requirements:

- (a) Self-haulers shall handle discarded materials by source separation of materials into three or more streams in the following manner:
- (1) If self-hauling designated recyclable materials, the owner, occupant, or operator of the premises shall source separate and transport all designated recyclable materials to a recycling, reuse, salvage, and/or processing facility for the purpose of recycling, reuse, or salvage, or shall source separate and transport the designated recyclable materials to a transfer facility if the operator of such facility delivers the materials to a recycling, reuse, salvage, and/or processing facility for the purpose of recycling, reuse, or salvage.
  - (2) If self-hauling designated organic materials, the owner, occupant, or operator of premises shall source separate and transport all designated organic materials to a facility, operation, or property that recovers source separated organic waste in a manner consistent with 14 CCR section 18984.1, or shall source separate and transport the designated organic materials to a transfer facility if the operator of such facility delivers the materials to a facility, operation, or property that recovers source separated organic waste in a manner consistent with 14 CCR section 18984.1.
  - (3) If self-hauling solid waste, the owner, occupant, or operator of premises shall source separate solid waste from designated recyclable materials and designated organic materials and transport all solid waste to a landfill for disposal, or shall transport all solid waste to a transfer facility if the operator of such facility delivers the materials to a landfill for disposal.
- (b) As an option to three-stream system for source separation of designated recyclable materials, designated organic materials, and solid waste described in section 68.571, self-hauler may source separate discarded materials into two streams of materials consistent with 14 CCR section 18984.2 and transport the two streams of discarded materials to facilities, operations, or activities that process or recover those materials in accordance with 14 CCR section 18984.2.
- (1) Owner, occupant, or operator of any multi-family or commercial premises or of any single-family premises that generates one cubic yard or more per week of discarded materials shall register with the County as a self-hauler.
  - (2) For a self-hauler that is an owner, occupant, or operator of any multi-family premises or commercial premises or of any single-family premises that generates one cubic yard or more per week of discarded materials, maintain an annual log documenting the types and quantities of discarded materials generated and delivered to recycling facilities, organic waste facilities, solid waste facilities, salvage operations, or other locations. The annual log shall be maintained in a form or format as prescribed by the Director for the preceding fiscal year July 1 through June 30. Annual logs shall be stored for a period of three (3) years at the place of business the unincorporated areas of the county for multi-family and commercial premises and at the place of residence in unincorporated areas of county for single-family premises and shall be made available to County inspector upon request. At a minimum, the annual log shall include the following:
    - (i) Delivery receipts and weight tickets from the entity accepting designated recyclable materials, designated organic materials, and solid waste;
    - (ii) The amount of material in cubic yards or tons transported by the owner, occupant, or operator to each entity; and,
    - (iii) If the material is transported to an entity that does not have scales to weigh the materials on-site or employs scales incapable of weighing the self-hauler's vehicle in a manner that allows it to determine the weight of the materials delivered to the facility, the self-hauler is not required to record the weight of material, but shall keep an invoice from facility estimating weight or volume from the facility that received the designated recyclable materials, designated organic materials, and solid waste.
- (c) The owner, occupant, or operator of construction and demolition projects shall comply with requirements specified in Article II of this chapter.

Section 51. Section 68.573 of the San Diego County Regulatory Code is hereby added to read as follows:

**SEC. 68.573 MULTI-FAMILY REQUIREMENTS**

(a) Multi-family owners or operators shall comply with the following requirements:

- (1) Subscribe to discarded materials collection services or self-haul in accordance with sections 68.570, 68.571, and 68.572 of this chapter.
- (2) Multi-family premises that generate two (2) cubic yards or more of total solid waste, recyclable materials, and organic materials per week (or other threshold defined by the State) that arrange for gardening or landscaping services shall require that the contract or work agreement between the owner, occupant, or operator of a multi-family premises and a gardening or landscaping service specifies that the designated organic materials generated by those services be managed in compliance with this chapter.
- (3) Owner or operator of a multi-family premises, with the consent of the collector or CRMC if owner or operator of the multi-family premises requires modification or alteration of any containers and subject to any required approval from the County, may implement a remote monitoring program for inspection of the contents of its discarded materials containers for the purpose of monitoring the contents of containers to determine appropriate levels of service and to identify prohibited container contaminants.

(b) Multi-family premises in densely-populated areas shall comply with the following:

- (1) Achieve a minimum diversion service level ratio that meets or exceeds the County's multi-family and commercial diversion service level ratio requirement of 35%, unless exempt under a waiver approved by this chapter.
- (2) Supply and allow access to adequate number, size, and location of discarded materials collection containers for employees, contractors, and tenants, consistent with its recyclable materials, organic materials, and solid waste collection service or in a manner that supports compliance with self-haul requirements of sections 68.570 and 68.572 of this chapter.
- (3) Annually provide information to employees, contractors, and tenants about organic waste recovery requirements and about proper sorting of designated organic materials and designated recyclable materials.
- (4) Provide education information before or within fourteen (14) days of occupation of the premises to new tenants that describes requirements to keep designated organic materials and designated recyclable materials separate from solid waste and the location of containers for discarded materials and the rules governing their use at each property.
- (5) Provide or arrange access for County or its designee to their properties during all inspections conducted in accordance with this chapter to confirm compliance with the requirements of this chapter.
- (6) Accommodate and cooperate with implementation and operation of a remote monitoring program for inspection of the contents of containers for prohibited container contaminants. The remote monitoring program may involve installation by County, collector, or CRMC of remote monitoring equipment on or in the recyclable materials, organic materials, and solid waste containers used by the multi-family premises.

Section 52. Section 68.574 of the San Diego County Regulatory Code is hereby added to read as follows:

**SEC.68.574. COMMERCIAL BUSINESS REQUIREMENTS**

- (a) Commercial businesses shall comply with the following requirements:
- (1) Subscribe to discarded materials collection services or self-haul in accordance with sections 68.570, 68.571, and 68.572 of this chapter.
  - (2) Commercial premises that generate two (2) cubic yards or more of total solid waste, recyclable materials, and organic materials per week (or other threshold defined by the State) that arrange for gardening or landscaping services shall require that the contract or work agreement between the owner, occupant, or operator of a commercial business and a gardening or landscaping service specifies that the designated organic materials generated by those services be managed in compliance with this chapter.
  - (3) For commercial premises that generate two (2) cubic yards or more of total solid waste, recyclable materials, and organic materials per week (or other threshold defined by the State) and that provide customers access to the business, provide customers with a recyclable materials and an organic materials bin or container to collect recyclable materials and organic materials purchased on the premises for immediate consumption and that fulfills all of the following requirements:
    - (i) Is adjacent to each bin or container for solid waste, except in restrooms.
    - (ii) Is visible and easily accessible.
    - (iii) Is clearly marked with educational signage indicating the types of recyclable materials or organic materials that are appropriate to place in the recyclable materials or organic materials bins or containers in accordance with state law and the local jurisdiction's solid waste ordinances and practices.
    - (iv) Full-service restaurants defined by CA Public Resources Code section 42649.8 are exempt from the requirements of this subsection (a)(3) if the full-service restaurant provides its employees a recyclable materials and an organic materials bin or container to collect recyclable materials and organic materials purchased on the premises for immediate consumption and implements a program to collect designated recyclable materials and designated organic materials.
  - (4) Owner or operator of a commercial business, with the consent of the collector or CRMC if owner or operator of the commercial premises requires modification or alteration of any containers and subject to any required approval from the County, may implement a remote monitoring program for inspection of the contents of its discarded materials containers for the purpose of monitoring the contents of containers to determine appropriate levels of service and to identify prohibited container contaminants.
  - (5) If commercial businesses are tier one or tier two edible food generators, comply with food recovery requirements pursuant to this chapter.
- (b) Commercial premises in densely-populated areas shall comply with the following requirements:
- (1) Achieve a minimum diversion service level ratio that meets or exceeds the County's multi-family and commercial diversion service level ratio requirement of 35%, unless exempt under a waiver approved by this chapter.
  - (2) Supply and allow access to adequate number, size, and location of discarded materials collection containers with sufficient labels or colors (conforming with requirements outlined below) for employees, contractors, tenants, and customers, consistent with recyclable materials container, organic materials container, and solid waste container collection service provided by the collector or CRMC or in a manner that supports compliance with self-haul requirements of sections 68.570 and 68.572 this chapter.



- (3) Provide containers for the collection of designated organic materials and designated recyclable materials in all indoor and outdoor areas where solid waste containers are provided for customers, for materials generated by that business. Such containers do not need to be provided in restrooms. If a commercial business does not generate any of the materials that would be collected in one type of container, the business does not have to provide that particular container in all areas where solid waste disposal containers are provided for customers. Pursuant to 14 CCR section 18984.9(b), the containers provided by the commercial business shall have either:
  - (i) A body or lid that conforms with the container colors provided through the collection service provided by its collector or CRMC, 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.
  - (ii) 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 that are prohibited container contaminants.
- (4) 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 collector's or CRMC's discarded materials collection service or, if self-hauling, per the commercial businesses' instructions to support its compliance with its self-haul program.
- (5) Periodically inspect recyclable materials, organic materials, and solid waste containers for prohibited container contaminants and inform employees of contaminated containers and of the requirements to keep contaminants out of those containers pursuant to 14 CCR section 18984.9(b)(3).
- (6) Annually provide information to employees, contractors, tenants, and customers about organic waste recovery requirements and about proper sorting of designated organic materials and designated recyclable materials.
- (7) Provide education information before or within fourteen (14) days of occupation of the premises to new tenants or within fourteen (14) days of hiring to new employees that describes requirements to keep designated organic materials and designated recyclable materials separate from solid waste (when applicable) and the location of containers for discarded materials and the rules governing their use at each property.
- (8) Provide or arrange access for County or its designee to their properties during all inspections conducted in accordance with this chapter to confirm compliance with the requirements of this chapter.
- (9) Accommodate and cooperate with implementation and operation of a remote monitoring program for inspection of the contents of containers for prohibited container contaminants. The remote monitoring program may involve installation of remote monitoring equipment on or in the recyclable materials, organic materials and solid waste containers used by the commercial premises.

Section 53. Section 68.575 of the San Diego County Regulatory Code is hereby added to read as follows:

**SEC. 68.575. WAIVERS**

- (a) Single-family owners, occupants, or operators and multi-family and commercial premises owners and operators may apply for waivers in certain circumstances described in this section 68.575 to be excused from designated recyclable materials and/or designated organic materials collection services.
- (b) De minimis waivers in densely- populated areas: For a multi-family or commercial premises in a densely-populated area, the County may waive a multi-family owner's or operator's or commercial business owner's or operator's obligation to comply with some or all designated recyclable materials and designated organic materials recycling requirements of this chapter if the owner or operator of commercial business or multi-family residential dwelling provides documentation that the business or multi-family generates less solid waste, recyclable materials, and organic material than the thresholds described below.
  - (1) Commercial businesses or multi-families requesting a de minimis waiver shall:
    - i. Submit an application specifying the services that they are requesting a waiver from and provide documentation that either:
      - a. The commercial business's or multi-family's total solid waste collection service is two (2) cubic yards or more per week and designated recyclable materials and designated organic material subject to collection in a recyclable materials container(s) or organic materials container(s) comprises less than twenty (20) gallons per week per applicable material stream of the multi-family's or commercial business' total waste (i.e., designated recyclable materials in the recyclable materials stream are less than twenty (20) gallons per week or designated organic materials in the organic materials stream are less than twenty (20) gallons per week); or,
      - b. The commercial business's or multi-family's total solid waste collection service is less than two (2) cubic yards per week and designated recyclable materials and designated organic material subject to collection in a recyclable material container(s) or organic material container(s) comprises less than ten (10) gallons per week per applicable material stream of the multi-family's or commercial business's total waste (i.e., designated recyclable materials in the recyclable materials stream are less than ten (10) gallons per week or designated organic materials in the organic materials stream are less than ten (10) gallons per week).
      - c. For the purposes of subsections (a) and (b) above, total solid waste shall be the sum of weekly container capacity measured in cubic yards for solid waste, recyclable materials, and organic materials collection service.
    - ii. Notify County if circumstances change such that multi-family's or commercial business's quantity of designated recyclable materials and designated organic materials exceeds the weekly threshold required for the waiver, in which case the waiver will be rescinded.
    - iii. Provide written verification of eligibility for de minimis waiver every five (5) years, if County has approved de minimis waiver.
- (c) Physical space waivers in densely- or sparsely-populated areas: For a multi-family or commercial premises in a densely-populated area or in a sparsely-populated area, the County may waive a multi-family owner's or operator's or commercial business owner's or operator's obligations to comply with some or all designated recyclable materials and designated organic materials recycling requirements of this chapter if the County has evidence from its own staff, a collector, CRMC, licensed architect, or licensed engineer that the premises lacks adequate space for compliance with the designated recyclable materials and/or designated organic materials requirements of this chapter.
  - (1) A physical space waiver may also be requested if a commercial business or multi-family owner or operator documents that the premises lacks adequate space for sufficient number and size organic material container(s) and recyclable material containers.



- (2) A commercial business or multi-family owner or operator requesting a physical space waiver shall:
  - i. Submit an application form specifying the type(s) of collection services for which they are requesting a compliance waiver.
  - ii. Provide documentation that the premises lacks adequate space for recyclable material containers and/or organic material containers including documentation from its collector, CRMC, licensed architect, or licensed engineer or from County staff.
  - iii. Provide written verification to County that it is still eligible for physical space waiver every five (5) years, if County has approved application for a physical space waiver.
- (d) On-site organics management waiver in densely- or sparsely-populated areas: County may waive a single-family, multi-family, or commercial business's obligations to comply with some or all designated organic materials recycling requirements if the generator provides adequate documentation that its source separated organic material is being managed through on-site composting or other on-site management practices that are consistent with applicable laws or regulations. Single-family, multi-family, or commercial business owner or operator requesting an on-site organics management waiver shall:
  - (1) Submit an application form specifying the type(s) of on-site organics management they will utilize.
  - (2) Provide documentation that the premises has adequate space for on-site and does not come into conflict with provisions in section 68.570.
  - (3) For multi-family and commercial owners and operators in densely-populated areas, demonstrate that the on-site organics management will achieve the de minimis volume standards in subsection (b) above; and, for multi-family and commercial owners and operators in sparsely-populated areas, demonstrate that the on-site organics management will achieve the low volume standard in subsection (f) below.
  - (4) For single-family premises, demonstrate or confirm plans to provide appropriate management of all green materials and food waste, including food-soiled paper.
  - (5) Provide written verification for on-site organics management waiver every five (5) years.
- (e) Recyclable materials recycling waivers for sparsely-populated areas: For a multi-family or commercial premises in a sparsely-populated area, the County may waive a multi-family owner's or operator's or commercial business owner's or operator's requirements to comply with some or all designated recyclable materials recycling requirements for any of the following reasons:
  - (1) The commercial business's or multi-family's total solid waste collection service is two (2) cubic yards or more per week and designated recyclable materials subject to collection in a recyclable materials container(s) comprises less than twenty (20) gallons per week; or,
  - (2) The commercial business's or multi-family's total solid waste collection service is less than two (2) cubic yards per week and designated recyclable materials subject to collection in a recyclable material container(s) comprises less than ten (10) gallons per week.
  - (3) For the purposes of subsections (1) and (2) above, total solid waste shall be the sum of weekly container capacity measured in cubic yards for solid waste, recyclable materials, and organic materials collection service.
- (f) Organic materials recycling waivers for sparsely-populated areas: For a multi-family or commercial premises in a sparsely-populated area that generates two (2) cubic yards or more of total solid waste, recyclable materials, and organic materials per week (or other threshold defined by the State), the County may waive a multi-family owner's or operator's or commercial business owner's or operator's requirements to comply with some or all designated organic materials recycling requirements for any of the following reasons:
  - (1) Physical space waiver pursuant to Section 68.757(c).

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- (2) The current implementation by a multi-family premises or commercial premises of actions that result in the recycling of a significant portion of its organic waste.
  - (3) The multi-family premises or commercial premises or group of multi-family premises or commercial premises does not generate at least one half of a cubic yard of organic waste per week.
  - (4) Extraordinary and unforeseen events warrant limited-term exemptions.
- (g) Review and approval of waivers by County: Owners and operators of premises seeking waivers shall:
- (1) Apply to Director or his/her designee for a waiver, or consent to a collector submitting the application on the owner's behalf. Waivers are valid for five (5) years.
  - (2) Any waiver holder must cooperate with the County and/or collector or CRMC for compliance inspections and enforcement as stated in section 68.610.
  - (3) Waiver holder, or its collector on the owner's behalf with consent of the owner, must reapply to the Director or his/her designee for a waiver upon the expiration of the waiver period and shall submit any required documentation, and/or fees/payments as required by the County. Failure to submit a completed application shall equate to an automatic denial of said application.
  - (4) Director may revoke a waiver at any time upon a determination that any of the circumstances justifying a waiver are no longer applicable.

Section 54. Section 68.576 of the San Diego County Regulatory Code is hereby added to read as follows:

**SEC. 68.576. DIRECTOR OF DEPARTMENT OF PUBLIC WORKS TO ENFORCE ARTICLE.**

The Director shall have enforcement authority for this article.

Section 55. Article VIII of the San Diego County Regulatory Code is hereby amended to read as follows:

**ARTICLE VIII. SOLID WASTE PLANNING FEES.**

Section 56. Section 68.580 of the San Diego County Regulatory Code is hereby added to read as follows:

**SEC. 68.580. SOLID WASTE PLANNING FEE FOR DISPOSAL SITES AND HAULERS.**

- (a) Pursuant to PRC section 41901, this section establishes a solid waste planning fee to pay the County's costs in preparing, adopting and implementing a Countywide integrated waste management plan, to fulfill the State-mandated reporting requirements for each county, including countywide disposal reporting. Operators of solid waste disposal sites in San Diego County shall pay the County a solid waste planning fee of \$0.02 per ton for all solid waste tons disposed in its solid waste disposal sites, except for operators of the San Onofre Landfill and Las Pulgas Landfill. For any solid waste that is exported and disposed outside of San Diego County, either the handler or the solid waste facility operator that transported the solid waste out of San Diego County for disposal shall pay the County a solid waste planning fee of \$0.02 per ton fee on all solid waste transported out of County for disposal. These solid waste planning fees shall be paid on solid waste regardless of its jurisdiction of origin (e.g., paid on all solid waste disposed in, transported in, and collected from unincorporated County areas and incorporated cities within the County). The parties described above, which are obligated to remit the solid waste planning fees, shall remit the amount due to the Director.
- (b) The solid waste planning fee required by this section shall not be assessed against a solid waste handler if the handler is able to demonstrate to the satisfaction of the Director that the waste was recycled or diverted from disposal or if the fee was collected at a solid waste facility within San Diego County.

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- (c) For the purposes of this section, handler means a person that collects or transports solid waste generated in unincorporated County areas or incorporated cities within the County.

Section 57. Section 68.581 of the San Diego County Regulatory Code is hereby amended to read as follows:

**SEC. 68.581 DIRECTOR OF DEPARTMENT OF PUBLIC WORKS TO ENFORCE ARTICLE.**

The Director shall have enforcement authority for this article.

Section 58. Section 68.582 of the San Diego County Regulatory Code is hereby repealed to read as follows:

**Sec. 68.582 RESERVED**

Section 59. The title of Article IX of the San Diego County Regulatory Code is hereby added to read as follows:

**ARTICLE IX. EDIBLE FOOD RECOVERY**

Section 60. Section 68.591 of the San Diego County Regulatory Code is hereby added to read as follows:

**SEC. 68.591. REQUIREMENTS FOR COMMERCIAL EDIBLE FOOD GENERATORS**

- (a) With the exception of annual reporting requirements which are subject to the commencement dates specified below, tier one commercial edible food generators must comply with the requirements of this section 68.591 commencing January 1, 2022, and tier two commercial edible food generators must comply commencing January 1, 2024, unless a different schedule is established pursuant to 14 CCR section 18991.3, in which case that schedule shall apply.
- (b) 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:
    - (i) the collection of edible food for food recovery; or,
    - (ii) acceptance of the edible food that the commercial edible food generator self-hauls to the food recovery organization for food recovery.
  - (3) Shall not intentionally spoil food capable of being recovered by a food recovery organization or food recovery service.
  - (4) Allow County or its designated entity to access the premises and review records.
  - (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 food recovery organization that collects or receives its edible food.
    - ii. A copy of all contracts or written agreements established under 14 CCR section 18991.3.
    - 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 transported to the food recovery service or food recovery organization.
  - c. The established frequency that food is or 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.
- (c) Large venue or large event operators not providing food service, 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.
- (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 requirements contained in food share donation regulations for schools pursuant to Senate Bill 557 of 2017 (approved by the Governor of the State of California on September 25, 2017, which added Article 13 (commencing with section 49580) to Chapter 9 of Part 27 of Division 4 of Title 2 of the Education Code, and to amend section 114079 of the California Health and Safety Code, relating to food safety, as amended, supplemented, superseded and replaced from time to time).

Section 61. Section 68.592 of the San Diego County Regulatory Code is hereby added to read as follows:

**SEC. 68.592. REQUIREMENTS FOR FOOD RECOVERY ORGANIZATIONS AND SERVICES**

- (a) Commencing January 1, 2022, 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 that the service collects edible food from.
  - (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) Commencing January 1, 2022, 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 that the organization received edible food from.
  - (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 received edible food from for food recovery.
- (c) Commencing January 1, 2022, food recovery organizations and food recovery services shall inform commercial edible food generators, from which it collects or receives edible food, about California and Federal Good

Samaritan Food Donation Act protection in written communications, such as in their contract or agreement with them.

- (d) Food recovery organizations and food recovery services that have their primary address physically located in the unincorporated County and contract with or have written agreements with one or more commercial edible food generators for food recovery shall submit an annual food recovery report to the County detailing the total pounds of edible food recovered in the previous calendar year from the tier one and tier two commercial edible food generators that they have a contract or written agreement with pursuant to 14 CRR section 18991.3(b). For food recovery services, the annual food recovery report shall include the information listed in subsection (a), with the exception that annual quantities (not monthly quantities) of edible food shall be provided for the most-recently completed calendar quarter. For food recovery organizations, the annual food recovery report shall include the information listed in subsection (b), with the exception that annual quantities (not monthly) of edible food shall be provided for the most-recently completed calendar quarter. The annual food recovery report shall be submitted to the Director no later than January 31 of each year with the first report due no later than January 31, 2023 reporting the required information for the previous calendar year.
- (e) Food recovery services and food recovery organizations operating in the unincorporated areas of the County shall provide information and consultation to the County, upon request, to support edible food recovery capacity planning assessments or other studies that are conducted by the County or its designated entity. A food recovery service or food recovery organization shall respond to request for information within sixty (60) days unless another timeframe is specified by the Director.

Section 62. Section 68.593 of the San Diego County Regulatory Code is hereby added to read as follows:

**SEC. 68.593. DIRECTOR OF DEPARTMENT OF PUBLIC WORKS TO ENFORCE THIS ARTICLE.**

The Director of Department of Public Works shall have enforcement authority for this Article.

Section 63. Article X of the San Diego County Regulatory Code is hereby added to read as follows:

**ARTICLE X. REPORTING REQUIRED BY FACILITY OPERATORS**

Section 64. Section 68.600 of the San Diego County Regulatory Code is hereby added to read as follows:

**SECTION 68.600. FACILITY REPORTING REQUIREMENTS**

- (a) Upon Director's written request, a facility owner of a facility that processes paper products, printing and writing papers, organic materials, and/or biosolids including, but not limited to, owners or operators of recycling centers, recyclable materials processing facilities, composting facilities, in-vessel digestion facilities, and publicly-owned treatment works shall submit a facility capacity report to the Director within sixty (60) days of the County's request. Such reporting shall commence no sooner than January 1, 2022.
- (b) The facility capacity report shall comply with the following:
  - (1) Include reports of existing capacity available for processing for paper products, printing and writing papers, organic materials, and/or biosolids for any facility in the unincorporated and incorporated areas of the County that process such materials. Existing capacity may include identification of monthly tons of additional paper products, printing and writing papers, organic materials, and/or biosolids such facility has the ability to receive within permitted limits.
  - (2) Include description of potential new or expanded processing capacity at those facilities, operations, and activities for processing of paper products, printing and writing papers, organic materials, and/or



biosolids.

- (3) Be submitted using a form or format prescribed by the Director.

Section 65. The title of Article XI of the San Diego County Regulatory Code is hereby added to read as follows:

#### **ARTICLE XI. ENFORCEMENT**

Section 66. Section 68.610 of the San Diego County Regulatory Code is hereby added to read as follows:

##### **SEC. 68.610. INSPECTIONS AND INVESTIGATIONS**

- (a) County representatives, including but not limited to Department of Public Works, authorized enforcement officials, and/or a County designated entity, are authorized to conduct inspections and investigations, scheduled or at random, of any collection container, collection vehicle or vehicle loads, transfer, processing, or disposal facility for discarded materials or source separated materials to confirm compliance with this chapter. This section does not allow the County or authorized designees to enter the interior of a private residential property for inspection. For the purposes of inspecting commercial business or multi-family dwelling containers for compliance with this chapter, the County, its designee, collector, or CRMC may conduct container inspections for prohibited container contaminants using remote monitoring, and commercial businesses and multi-family dwellings shall accommodate and cooperate with the remote monitoring pursuant to this chapter.
- (b) A regulated person shall provide or arrange for access during all inspections (with the exception of residential property interiors) and shall cooperate with the County or its designated designee during such inspections and investigations. Such inspections and investigations may include confirmation of proper placement of materials in containers, edible food recovery activities, container labeling, required records, or any other requirement of this chapter. Failure to provide or arrange for required: (i) access to a premises; (ii) installation and operation of remote monitoring equipment; or, (iii) access to records for any inspection or investigation is a violation of this chapter.
- (c) Any records obtained by the County or designee during its inspections, remote monitoring, and other reviews shall be subject to the requirements and applicable disclosure exemptions of the Public Records Act as set forth in Government Code section 6250 et seq.
- (d) County may receive written complaints from persons regarding collectors, CRMCs, or other regulated persons that may be potentially non-compliant with this chapter. Any persons receiving agreements, certificates, permits, or approvals from the County to conduct discarded materials hauling activities in accordance with this chapter shall as a condition of such agreement, certificate, permit, or approval cooperate in the investigation and resolution of such complaints.

Section 67. Section 68.611 of the San Diego County Regulatory Code is hereby added to read as follows:

##### **SEC. 68.611. ENFORCEMENT ACTIONS**

- (a) Enforcement pursuant to this chapter may be undertaken by the authorized enforcement officer designated by the County.
- (b) The process for enforcement is as follows:
  - (1) Authorized enforcement officers will monitor regulated entities' compliance with this chapter or will rely on monitoring conducted by the County, its designee, collector, or CRMC. Monitoring activities may include scheduled or random compliance reviews, route reviews, investigation of complaints,

and an inspection program that may include remote monitoring. The term entities as used in this Section shall be read broadly to mean any regulated business or individual.

- (2) The County may issue official notifications to inform regulated entities of obligations under this chapter and of violations.
  - (3) For incidences of prohibited container contaminants found in containers, the County, its designee, collector, or CRMC may issue a contamination notice to any owner, operator, and/or occupant found to have prohibited container contaminants in a container indicating requirements to properly separate materials. Such notice will be provided via a cart tag or other communication, immediately upon identification of the prohibited container contaminants. If prohibited container contaminants are observed on a subsequent occasion within a twelve (12) month period after a notice was given, the collector or CRMC may assess contamination fees on the customer.
  - (4) County may issue a notice of violation to regulated entities identified to be non-compliant requiring compliance by the regulated entity within sixty (60) days of issuance of the notice of violation; and, County may take enforcement action pursuant to this section 68.611, with the following exceptions: (i) commencing on January 1, 2024, the County shall issue a notice of violation to regulated entities identified as noncompliant with any requirements of Chapter 12 of 14 CCR, Title 14, Division 7, which requires compliance by the regulated entity within sixty (60) days of issuance of the notice of violation; and, County shall take enforcement action pursuant to this section 68.611; and, (ii) violations of prohibited container contamination shall be addressed in accordance with subsection (3) above. The notice of violation shall conform to the requirements of a warning of an administrative citation pursuant to Title 1, Division 8, Chapter 1 of the County Code. The County may, at its option, extend the sixty (60) day compliance period provided to non-compliant entities. Notwithstanding the foregoing, extensions beyond sixty (60) days for instances of noncompliance with any requirement of Chapter 12 of 14 CCR, Title 14, Division 7 may only be provided for extenuating circumstances described in 14 CCR Section 18995.4.
  - (5) Absent compliance by the regulated entity within the deadline set forth in the notice of violation, County shall commence an action to impose penalties, via an administrative citation, pursuant to Title 1, Division 8, Chapter 1 of the County Code. Notices shall be sent to owner at the official address of the owner maintained by the tax collector for the County or, if no such address is available, to the owner at the address of the residential dwelling or commercial premises or to the party responsible for paying for collection services, depending upon available information. The fines shall be assessed as an infraction by the County in accordance with County Code Section 18.106.
  - (6) The County may extend the compliance deadlines set forth in a notice of violation issued in accordance with subsection (4) above if it finds that there are extenuating circumstances beyond the control of the non-compliant regulated-entity that make compliance within the deadlines impracticable, including the following:
    - (i) Acts of God such as earthquakes, wildfires, flooding, and other emergencies or natural disasters;
    - (ii) Delays in obtaining discretionary permits or other government agency approvals; or,
    - (iii) Deficiencies in organic waste recycling infrastructure or edible food recovery capacity and the County is under a corrective action plan with the State pursuant to 14 CCR Section 18996.2 due to those deficiencies.
- (c) Persons receiving an administrative citation containing a fine or penalty pursuant to subsection (4) above for an uncorrected violation may request a hearing to appeal the citation pursuant to Title 1, Division 8, Chapter 1 of the County Code.

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- (d) As an alternative to or in conjunction with any procedure specified in this chapter, all violations of this chapter may be addressed in accordance with any County enforcement process or compliance mechanism, including without limitation those specified in Title 1, Division 8 of the County Code.

Section 68. Section 68.612 of the San Diego County Regulatory Code is hereby added to read as follows:

**SEC. 68.612. RIGHT OF ENTRY**

An authorized enforcement Officer may enter upon privately owned land in accordance with the Constitution of the United States and the State of California when the officer has probable cause to believe that a violation of this chapter exists. If the owner or occupant of the property refuses to allow the officer to enter, the officer may obtain an inspection warrant pursuant to Code of Civil Procedure section 1822.50.

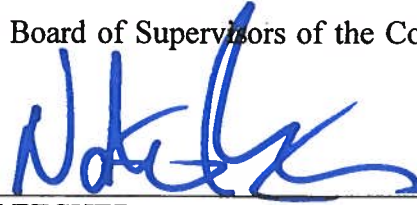
Section 70. Effective Date. This Ordinance shall take effect and be in force thirty (30) days after its passage, and before the expiration of fifteen (15) days after its passage, a summary shall be published once with the names of the members voting for and against the same in the Daily Transcript, a newspaper of general circulation published in the County of San Diego.

APPROVED AS TO FORM AND LEGALITY

BY COUNTY COUNSEL

Emily Helms. Senior Deputy County Counsel

PASSED, APPROVED, AND ADOPTED by the Board of Supervisors of the County of San Diego this 5<sup>th</sup> day of May 2021.



NATHAN FLETCHER  
Chair, Board of Supervisors  
County of San Diego, State of California

The above Ordinance was adopted by the following vote:

AYES: Vargas, Anderson, Lawson-Remer, Fletcher, Desmond

ATTEST my hand and the seal of the Board of Supervisors this 5<sup>th</sup> day of May 2021.

ANDREW POTTER  
Clerk of the Board of Supervisors

By   
Chrystal Rodriguez, Deputy



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Meeting Date: 05/05/2021 (05)