

ORDINANCE NO. 2021-38

(Organic Waste Disposal Reduction)

The Contra Costa County Board of Supervisors ordains as follows:

SECTION I. SUMMARY. This ordinance adds Chapter 418-20 to the Contra Costa County Ordinance Code to establish a program to regulate the handling of organic waste in accordance with State of California regulations.

SECTION II. AUTHORITY. This ordinance is adopted pursuant to Chapter 12 of Division 7 of title 14 of the California Code of Regulations, section 42652.5, subdivision (b), of the California Public Resources Code and article XI, section 7 of the California Constitution.

SECTION III. FINDINGS AND PURPOSE.

(a) On September 19, 2016, Governor Gavin Newsom approved Senate Bill No. 1383 (“SB 1383”). SB 1383 contains legislative findings regarding public health and other impacts caused by short-lived climate pollutants such as black carbon, fluorinated gases, and methane.

(b) Among other things, SB 1383 added chapter 13.1 (commencing with section 42652) to part 3 of division 30 of the California Public Resources Code.

(c) Public Resources Code section 42652.5, subdivision (a), directed the California Department of Resources Recycling and Recovery (“CalRecycle”) to adopt regulations to achieve specified organic waste reduction goals; specifically, a 50-percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020, and a 75-percent reduction from the same level by 2025.

(d) In October 2020, CalRecycle adopted regulations under the mandate of SB 1383 (“SB 1383 Regulations”). Along with revising certain existing provisions of title 14 of the California Code of Regulations, the SB 1383 Regulations include a new chapter within division 7 of title 14, entitled “Short-lived Climate Pollutants,” commencing with section 18981.1 (“Chapter 12”), effective January 1, 2022.

(e) Among the requirements in Chapter 12 are several regulatory mandates on local jurisdictions, including counties, cities, and specified special districts that provide solid waste collection services. These mandates include Section 18981.2, subdivision (a), which requires a local jurisdiction, by January 1, 2022, to “adopt enforceable ordinance(s), or similar enforceable mechanisms that are consistent with the requirements of this chapter, to mandate that organic waste generators, haulers, and other entities subject to the requirements of this chapter that are subject to the jurisdiction’s authority comply with the requirements of this chapter.”

(f) The purpose of this ordinance is to implement the regulatory mandates described in Chapter 12 and provide for the establishment and collection of fees to pay for associated regulatory costs.

SECTION IV. Chapter 418-20 is added to the County Ordinance Code, to read:

Chapter 418-20 Organic Waste Disposal Reduction

418-20.202 Limits of application. This ordinance to regulate the handling of organic waste does not apply within the jurisdictional boundaries of sanitary districts, community services districts, and public utility districts, to the extent that these districts provide solid waste handling services or implement source reduction and recycling programs.

(Ord. 2021-38 § 4).

418-20.204 Definitions. For purposes of this chapter, the following words and phrases have the following meanings:

(a) “Commercial business” means a firm, partnership, proprietorship, joint-stock company, corporation, or association, whether for-profit or nonprofit, that operates a business facility in the unincorporated area, including, by way of example and without limitation, strip malls, industrial facilities and multifamily residential dwellings consisting of five or more units.

(b) “Commercial edible food generator” means an entity, other than a food recovery organization or food recovery service, that:

(1) Disposes of edible food in the course of the entity’s operation of a commercial business;

(2) Disposes of edible food in the course of the entity’s operation of a large venue or large event, either directly or indirectly through a food facility; or

(3) Arranges for the recovery of edible food that would otherwise be disposed of in the course of the entity’s operation of a commercial business, large venue or large event.

(c) “Commercial hauler” means a hauler that collects organic waste from organic waste generators in the unincorporated area in the course of operation of a business.

(d) “Community composting site” means a location where green material, agricultural material, food material, or vegetative food material is composted, and the total amount of feedstock and compost on-site at any one time does not exceed 100 cubic yards and 750 square feet.

(e) “Director” means the Director of Conservation and Development or designee.

(f) “Edible food” means food that is intended for human consumption and meets the food safety requirements of the California Retail Food Code.

(g) “Food” means food as defined in section 113781 of the California Health and Safety Code.

(h) “Food distributor” means a commercial business that distributes food to entities including, but not limited to, supermarkets and grocery stores.

(i) “Food facility” means a food facility as defined in section 113789 of the California Health and Safety Code.

(j) “Food recovery” means the collection of food designated for disposal and the distribution of the collected food for human consumption.

(k) “Food recovery organization” means an entity that collects or receives edible food from commercial edible food generators or food recovery services and, either directly or indirectly, distributes that edible food to the public for consumption. Food recovery organizations include, but are not limited to, all of the following:

- (1) Food banks as defined in section 113783 of the California Health and Safety Code;
- (2) Nonprofit charitable organizations as defined in section 113841 of the California Health and Safety Code; and
- (3) Nonprofit charitable temporary food facilities as defined in section 113842 of the California Health and Safety Code.

(l) "Food recovery service" means a person who collects and transports edible food from a commercial edible food generator to a food recovery organization or other entities for distribution to the public for consumption.

(m) "Food service provider" means a person primarily engaged in providing contracted food services to institutional, governmental, commercial, or industrial customers.

(n) "Garbage container" means a container that is utilized in an organic waste collection service and intended for the collection of only non-organic waste.

(o) "Grocery store" means a store located in the unincorporated area of the county that is 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.

(p) "Hauler" means a person who collects material from an organic waste generator and delivers it to a reporting entity as defined in section 18815.2, subdivision (a)(48), of title 14 of the California Code of Regulations, an end user, or a destination outside of the State of California.

(q) "High diversion organic waste processing facility" means a high diversion organic waste processing facility as defined in section 18982, subdivision (a)(33), of title 14 of the California Code of Regulations.

(r) "Large event" means an event in the unincorporated area of the county that is attended by an average of more than 2,000 individuals each day of the event and that (1) requires payment of an admission price; or (2) is operated by a local agency.

(s) "Large venue" means a permanent venue facility in the unincorporated area of the county where an average of more than 2,000 individuals are seated or served each day of operation. By way of example and without limitation, venue facilities include stadiums, amphitheatres, arenas, halls, amusement parks, conference or civic centers, zoos, aquariums, airports, racetracks, horse tracks, performing arts centers, fairgrounds, museums, theaters, and other public attraction facilities. A site under common ownership or control that includes two or more contiguous large venues is a single large venue.

(t) "Organic waste" means solid waste containing material originated from living organisms and their metabolic waste products including, but not limited to, food, green material, landscape and pruning waste, organic textiles and carpets, lumber, wood, paper products, printing and writing paper, manure, biosolids, digestate, and sludges.

(u) "Organic waste collection service" means a service provided to customers by a hauler under a franchise agreement to collect routinely generated organic waste from properties in the unincorporated area.

(v) "Organic waste container" means a container utilized in an organic waste collection service that is intended for the collection of only organic waste.

(w) "Organic waste generator" means a person who:

- (1) Resides in, or operates a commercial business or other facility located in, the unincorporated area of the county; and
- (2) Creates organic waste.

(x) "Person" means an individual, firm, limited liability company, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever.

(y) "Prohibited container contaminants" means any of the following:

(1) Non-organic waste placed in an organic waste container.

(2) Carpets, non-compostable paper, hazardous wood waste, or organic textiles placed in an organic waste container.

(3) Organic waste placed in a garbage container, if the organic waste is intended to be collected only in an organic waste container or recycling container in accordance with the requirements of the organic waste collection service provided to the generator.

(4) Organic waste placed in a recycling container, except for paper products, printing and writing paper, wood and dry lumber.

(z) "Property owner" means the owner of real property.

(aa) "Recycling container" means a container that is utilized in an organic waste collection service and intended for the collection of only non-organic recyclables.

(bb) "Restaurant" means an establishment primarily engaged in the retail sale of food and drinks for on-premises or immediate consumption.

(cc) "Self-hauler" means an organic waste generator who does one or more of the following:

(1) Hauls organic waste generated by the self-hauler in the unincorporated area to another person, or

(2) Hauls organic waste generated by the self-hauler in the unincorporated area to another destination owned and operated by the self-hauler, using the self-hauler's own employees and equipment.

(dd) "Source separated organic waste" means organic waste that the generator has segregated from other types of waste at the location where the waste was generated.

(ee) "Supermarket" means a full-line, self-service retail store located in the unincorporated area of the county that has gross annual sales of \$2 million or more and sells a line of dry grocery, canned goods, or nonfood items and some perishable items.

(ff) "Tier one commercial edible food generator" means a commercial edible food generator that operates a grocery store with a total facility size equal to or greater than 10,000 square feet, or operates a supermarket, or is a food distributor, wholesale food vendor, or food service provider that serves customers in the unincorporated area of the county.

(gg) "Tier two commercial edible food generator" means a commercial edible food generator that:

(1) Operates a large venue or large event; or

(2) Operates one of the following in the unincorporated area of the county:

(A) A restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet;

(B) A hotel that has an on-site food facility and 200 or more rooms; or

(C) A health facility that has an on-site food facility and 100 or more beds.

(hh) "Wholesale food vendor" means a commercial business where food is received, shipped, stored, and prepared for distribution to a retailer, warehouse, distributor, or other destination. (Ord. 2021-38 § 4).

418-20.206 Mandates on organic waste generators.

(a) Subject to section 418-20.210, organic waste generators shall do at least one of the following:

(1) Subscribe to and comply with the requirements of an organic waste collection service that is provided to the organic waste generator. An organic waste generator will be deemed to be in compliance with the subscription requirement if a property owner or commercial business subscribes to an organic waste collection service that is made available to the organic waste generator.

(2) Self-haul organic waste in a manner that complies with subsection 418-20.212(b).

Notwithstanding the requirement in this subsection, nothing in this chapter is intended to prohibit an organic waste generator from preventing or reducing organic waste generation, managing organic waste onsite, using a community composting site, or contracting with commercial haulers to collect organic waste not routinely generated.

(b) Prohibited contaminants. Organic waste generators shall not place any material into a collection container that is utilized in an organic waste collection system if the material would constitute a prohibited container contaminant upon placement in the container.

(c) Commercial businesses. Organic waste generators that are commercial businesses, other than multifamily residential dwellings, shall comply with the following additional requirements:

(1) Provide containers in accordance with the following:

(A) If the business generates organic waste, the business must provide an organic waste collection container in each area where a disposal container is provided for customers, except for restrooms.

(B) If the business generates non-organic recyclables, provide a non-organic recyclables container in each area described in subsection 418-20.206(d)(1)(A).

(C) A container described in subsections 418-20.206(d)(1)(A) or (d)(1)(B) must:

(i) Have a body or lid that conforms to the color of the container that is provided for the described waste in the organic waste collection system to which the business subscribes; or

(ii) Have a label that includes language or graphic images or both that indicates the primary materials accepted in the container and primary contaminants.

Notwithstanding the foregoing, a commercial business is not required to replace functional containers that do not conform to the requirements in this subsection prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first.

(2) Provide training to employees in accordance with the following:

(A) Inform employees that only organic waste may be placed in organic waste containers.

(B) Prohibit employees from placing organic waste in a container not designated to receive that waste.

(3) Periodically inspect organic waste containers for contaminants and inform employees if any are found, and that only organic waste may be placed in such containers.

(d) Exception. The requirements in subsections 418-20.206(a) and (c) do not apply to publicly operated treatment works that generate biosolids.

(Ord. 2021-38 § 4).

418-20.208 Mandates on commercial businesses.

(a) Organic waste collection. Subject to section 418-20.210, commercial businesses shall do both of the following:

(1) Provide or arrange for the collection of organic waste generated by the employees, contractors, tenants and customers of the business. A commercial business that is a tenant of another commercial business that provides or arranges for the collection of organic waste on behalf of the tenant and the tenant's employees, contractors, tenants and customers will be deemed to be in compliance with this requirement.

(2) Provide collection containers within the premises of the business that are of sufficient number and size for the business.

(b) Information. Commercial businesses shall, at least annually, provide information to employees, contractors, tenants and customers about organic waste recovery requirements and the proper sorting of organic waste. Commercial businesses shall provide this information to a new tenant before or within 14 days after the tenant's occupation of the premises.

(c) Access. Commercial businesses shall provide or arrange for access to their business premises by authorized county representatives for the purpose of conducting lawfully authorized inspections under this chapter.

(Ord. 2021-38 § 4).

418-20.210 Waivers.

(a) De minimis waivers. The director may waive the obligation of a commercial business to comply with any or all of the requirements in section 418-20.206 or section 418-20.208 if the business applies for a waiver in accordance with subsection 418-20.210(c) and finds that the business generates a de minimis amount of waste, which may constitute either of the following:

(1) The total volume of solid waste collected at the business is two cubic yards or more per week, and:

(A) Organic waste that must be collected in an organic waste container comprises less than 20 gallons per week of the business' total solid waste; or

(B) Organic waste that must be collected in a recycling container comprises less than 20 gallons per week of the business' total solid waste.

(2) The total volume of solid waste collected at the business is less than two cubic yards per week, and:

(A) Organic waste that must be collected in an organic waste container comprises less than 10 gallons per week of the business' total solid waste; and

(B) Organic waste that must be collected in a recycling container comprises less than 10 gallons per week of the business' total solid waste.

(b) Physical space waivers. The director may waive the obligation of a commercial business or property owner to comply with any or all of the requirements in section 418-20.206 or section 418-20.208 if the commercial business or property owner applies for a waiver in accordance with subsection 418-20.210(c) and the director finds that the business or property owner lacks sufficient space on the premises to accommodate the carts utilized in the organic waste collection service available to the applicant.

(c) Application. An applicant for a waiver or renewal of a waiver under this section must submit a written application to the director along with payment of a fee set by the Board of Supervisors by resolution. As part of the application, the applicant must identify the requirements sought to be waived, provide evidence that the business is qualified for a waiver

under one of the grounds set forth in this section, and authorize the director to conduct periodic inspections of the applicant's premises for the purpose of verifying that the applicant meets the qualifications for a waiver.

(d) Issuance; validity. If the director determines that the applicant for a waiver or renewal of a waiver meets the qualification for the waiver, the director shall issue the waiver or renewal of a waiver. A waiver or renewal of a waiver issued under subsection 418-20.210(a) will be valid for three years unless rescinded. A waiver or renewal of a waiver under subsection 418-20.210(b) will be valid for five years unless rescinded.

(e) Transferability. Except as follows, waivers granted under this section are not transferable. The owner or operator of a commercial business or property owner for which a waiver has been issued under the grounds set forth in subsection 418-20.210(b) may transfer the waiver to a purchaser of the business or property if the director determines in advance that the physical space available for cart collection at the time of the sale is the same or smaller than the physical space available at the time of issuance of the waiver.

(f) Rescission. If the director receives evidence that a person granted a waiver or renewal of a waiver under this section no longer meets the qualifications for the waiver, the director may rescind the waiver, provided that prior to rescission:

- (1) The person is provided written notice of intent to rescind the waiver;
- (2) The notice sets forth evidence that the person no longer qualifies for the waiver;
- (3) The notice provides a reasonable opportunity for the person to respond;
- (4) The director considers any and all evidence provided by the person in response to the notice; and

- (5) The director provides the person with written notice of the rescission.

(Ord. 2021-38 § 4).

418-20.212 Mandates on haulers.

(a) Commercial haulers.

(1) All commercial haulers shall comply with all applicable permit and other requirements in Chapter 418-2, and the terms of any applicable solid waste collection franchise agreement approved by the county or solid waste joint powers authority.

(2) A commercial hauler shall maintain a copy of its authorization by the county to collect organic waste from organic waste generators.

(3) A commercial hauler shall take organic waste collected from an organic waste generator to a location identified in this section only with the consent of the owner or operator of the location.

(4) A commercial hauler shall take organic waste collected from an organic waste generator only to a solid waste facility, solid waste operation or other location where organic waste is lawfully recovered, as more particularly described in, and in accordance with applicable provisions of, article 2 of chapter 12 of division 7 of title 14 of the California Code of Regulations, effective January 1, 2022.

(5) Exceptions. The requirements in subsections 418-20.212(a)(2) and 418-20.212(a)(4) do not apply to:

(A) The lawful transport of source separated organic waste to a community composting site; or

(B) The lawful transport of construction and demolition debris under the California Green Building Standards Code as adopted by subsection 74-2.002(d) and as amended by subsections 74-4.006(e) and (o), to the extent any of these provisions are applicable.

(b) Self-haulers.

(1) General. An organic waste generator may self-haul its own organic waste in accordance with this subsection.

(2) Handling requirements. A self-hauler shall do one of the following:

(A) Source-separate the organic waste from other waste types, and take the organic waste to a lawfully operated solid waste facility, lawfully operated solid waste operation or other location where source-separated organic waste is processed or recovered in accordance with applicable legal requirements. Notwithstanding the foregoing, a self-hauler is not required to source-separate construction and demolition debris that is transported in accordance with the legal requirements referenced in subsection 418-20.212(a)(5)(B).

(B) Take the organic waste to a high diversion organic waste processing facility.

(3) Records. Except for residential organic waste generators, a self-hauler of organic waste shall keep for a minimum of five years any and all delivery receipts and weight tickets issued by entities that received the self-hauler's waste, or a list of entities that received the waste if delivery receipts and weight tickets are not available.

(c) Nothing in this section is intended to or shall be interpreted to authorize a commercial hauler or self-hauler to provide services that another hauler has an exclusive right to provide under a valid franchise agreement with the county.

(Ord. 2021-38 § 4).

418-20.214 Mandates on commercial edible food generators.

(a) Compliance date. This section applies only to tier one commercial edible food generators and tier two commercial edible food generators. Tier one commercial edible food generators shall comply with the requirements of this section commencing no later than January 1, 2022. Tier two commercial edible food generators shall comply with the requirements of this section commencing no later than January 1, 2024.

(b) Recovery requirement. A commercial edible food generator described in subsection 418-20.214(a) shall have a contract or written agreement with at least one food recovery organization or food recovery service for the purpose of recovering the maximum amount of edible food that would otherwise be disposed of.

(c) Prohibition. Commercial edible food generators described in subsection 418-20.214(a) shall not intentionally spoil edible food that could otherwise be recovered.

(d) Records. Commercial edible food generators described in subsection 418-20.214(a) shall keep records as follows for a minimum of five years:

(1) A list of each food recovery service and food recovery organization that collects or receives edible food from the commercial edible food generator.

(2) Copies of contracts or written agreements with food recovery organizations or food recovery services.

(3) As to each food recovery service and food recovery organization with which the commercial edible food generator has a contract or written agreement under subsection 418-20.214(b), records of all the following:

(A) The name, address, and contact information of the food recovery service or food recovery organization;

(B) The types of food to be collected by or transported to the food recover service or food recovery organization;

(C) The established frequency of collection by or transport of edible food to the food recovery service or food recovery organization; and

(D) The number of pounds of edible food collected by or transported to the food recovery service or food recovery organization each month.

(e) Large events and large venues. A commercial edible food generator that operates a large venue or large event but does not directly provide food service shall require food facilities operating at the large venue or large event to comply with the requirements of this section.

(f) Exception. A commercial edible food generator is not required to comply with this section if the commercial edible food generator demonstrates to the director the existence of extraordinary circumstances beyond the control of the commercial edible food generator that make such compliance impracticable. For purposes of this section, “extraordinary circumstances” are:

(1) A failure by the county to increase edible food recovery in accordance with requirements set forth in section 18991.1 of title 14 of the California Code of Regulations; or

(2) Earthquakes, wildfires, flooding, or other emergencies or natural disasters.
(Ord. 2021-38 § 4).

418-20.216 Mandates on food recovery services and food recovery organizations.

(a) Recordkeeping.

(1) Food recovery services. A food recovery service that is located in the unincorporated area of the county and collects or receives edible food from a tier one commercial edible food generator or tier two commercial edible food generator under a contract or written agreement entered into under subsection 418-20.214(b) shall keep and maintain records as follows for a minimum of five years:

(A) The name and address of, and contact information for, each tier one commercial edible food generator and tier two commercial edible food generator from which the food recovery service collects edible food.

(B) The number of pounds of edible food that the food recovery service collects each month from each tier one commercial edible food generator and tier two commercial edible food generator.

(C) The number of pounds of edible food transported each month to each food recovery organization.

(D) The name and address of, and contact information for, each food recovery organization to which the food recovery service transports edible food for food recovery.

(2) Food recovery organizations. A food recovery organization that is located in the unincorporated area of the county and collects or receives edible food from a tier one commercial edible food generator or tier two commercial edible food generator under a contract or written agreement entered into under subsection 418-20.214(b) shall maintain records as follows for a minimum of five years:

(A) The name and address of, and contact information for, each tier one commercial edible food generator and tier two commercial edible food generator from which the food recovery organization collects edible food.

(B) The number of pounds of edible food that the food recovery organization receives each month from each tier one commercial edible food generator and tier two commercial edible food generator.

(C) The name and address of, and contact information for, each food recovery service from which the food recovery organization receives edible food for food recovery.

(b) Reporting. Food recovery organizations and food recovery services that have contracts or written agreements with tier one commercial edible food generators or tier two commercial edible food generators under subsection 418-20.216(a)(1) or subsection 418-20.216(a)(2) must annually report to the director the number of pounds of edible food recovered in the previous calendar year.

(Ord. 2021-38 § 4).

418-20.218 Edible food recovery capacity planning; requests for information.

(a) Food recovery services and food recovery organizations shall respond to requests by the director for information regarding existing and available, or proposed new or expanded, capacity for storage of recovered edible food, within 60 days after receipt of the request.

(b) Public agencies shall respond to requests by the director for information pertaining to edible food recovery capacity within 120 days after receipt of the request.

(Ord. 2021-38 § 4).

418-20.220 Inspections and investigations. Whenever it is necessary to inspect property to enforce the provisions of this chapter under State law or regulations or otherwise, or whenever the director has cause to believe that there exists on any property any violation of this chapter, the director may enter the property to inspect and gather evidence or perform the duties imposed on the director by this chapter. Entry may be made at any reasonable time upon advance notice to the owner or occupant of the property. If entry is refused, the director is authorized to proceed by pursuing any and all remedies provided by law to secure entry. Notwithstanding the foregoing, nothing in this section authorizes the director to enter private areas of residential properties.

(Ord. 2021-38 § 4).

418-20.222 Administrative fines.

(a) The director is authorized to determine that a requirement of this chapter has been violated.

(b) Definitions. For purposes of this section, the following words and phrases have the following meanings:

(1) “Compliance period” means a 60-day period of time in which a violation must be corrected, commencing with the date of issuance of a notice of violation. For purposes of this section, the date of issuance of a notice of violation will be the service date.

(2) “Service date” means the date a notice or decision is served in accordance with subsection 418-20.222(j).

(3) “Responsible person” means a person who is determined by the director to have violated a provision of this chapter.

(c) Prohibited contaminant violations. If the director determines that a requirement under subsection 418-20.206(b), has been violated, the director will serve written notice on the

responsible person before taking any other enforcement action under this chapter against the responsible person with regard to the violation. The notice will contain all of the following:

- (1) A description of the violation; and
- (2) Information about the requirement to properly separate materials into the appropriate containers.

(d) Notice of violation.

(1) If the director determines that a requirement of this chapter has been violated on or after January 1, 2024, the director may issue a notice of violation to the responsible person. A notice of violation will require the responsible person to correct the violation and contain all of the following information:

- (A) The date of the violation;
- (B) The address or location where the violation occurred;
- (C) The code section violated and description of the violation;
- (D) A description of how the violation can be corrected;
- (E) The compliance period; and

(F) An advisement that the violator may be subject to an administrative fine under this article if the violation is not corrected within the compliance period, and the maximum amount of that fine.

(2) The director may extend the compliance period set forth in a notice of violation if the director finds that extenuating circumstances beyond the control of the responsible person make compliance by the compliance date impracticable. For the purpose of this section, “extenuating circumstances” are:

- (A) Earthquakes, wildfires, flooding, and other emergencies or natural disasters;
- (B) Delays in obtaining a discretionary permits or other government agency

approvals; or

(C) Deficiencies in organic waste recycling capacity infrastructure or edible food recovery capacity, if the county is under a corrective action plan under section 18996.2 of title 14 of the California Code of Regulations due to those deficiencies.

(e) Administrative fines.

(1) If a violation has not been corrected by the end of the compliance period in a notice of violation, the director may impose an administrative fine on the responsible person.

(2) Fine amounts. The amount of the fine will be \$100 for a first violation, \$200 for a second violation of the same requirement within one year of the first violation, and \$500 for a third or subsequent violation of the same requirement within one year of the first violation.

(3) Continuing violations. Acts, omissions, or conditions in violation of any section of this chapter that continue, exist or occur on more than one day constitute separate violations and offenses on each day. Violations continuing, existing, or occurring on the service date, the compliance date, and each day between the service date and the compliance date are separate violations.

(4) An administrative fine will be imposed by means of a notice of fine. The responsible person will be served with the notice of fine as specified in subsection 418-20.222(j). The notice of fine will include all of the following information:

- (A) The date of the violation;
- (B) The address or other description of the location where the violation occurred;
- (C) The code section(s) violated and a description of the violation;
- (D) The amount of the fine; and

(E) An advisement of the right to request a hearing to contest the imposition of the fine.

(f) Appeals.

(1) Any person upon whom an administrative fine is imposed by the director may request a hearing pursuant to the procedures set forth in this subsection. The appellant must file a written appeal with the director within fifteen calendar days after the service date of the notice of fine. The written appeal must contain:

(A) A brief statement explaining who the appealing party is and what interest the appealing party has in challenging the imposition of the fine; and

(B) A brief statement of the material facts that the appellant claims supports the contention that no administrative fine should be imposed or that an administrative fine of a different amount is warranted.

(2) Notice of the hearing will be served on the appellant as specified in subsection 420-20.220(j). The director will set the hearing no sooner than twenty days and no later than forty-five days following the service date of the notice of hearing.

(3) An appeal of an administrative fine imposed for violations of this chapter will be heard by a hearing examiner appointed by the director.

(4) At the hearing, the appellant will be given the opportunity to testify, and present written and oral evidence.

(5) An appellant's failure to appear at the hearing shall constitute an abandonment of any defense the appellant may have to the administrative fine.

(6) After considering the testimony and evidence submitted at the hearing, or after the appellant has failed to appear at the hearing, the hearing examiner will issue a written decision to uphold, modify, or cancel the administrative fine and will list in the decision the reason or reasons for that decision. The decision will be served as specified in subsection 420-20.222(j).

(g) Final administrative order. The imposition of the administrative fine becomes a final administrative order at one of the following times:

(1) On the date the notice of fine is served, if the responsible person fails to file a written appeal within the time specified; or

(2) On the date the written decision by the hearing examiner is served, if the responsible person files a written appeal within the time specified.

(h) Payment of the fine. The fine must be paid to the county within thirty days after the imposition of the administrative fine becomes a final administrative order. Payment of a fine under this article does not excuse or discharge any continuation or repeated occurrence of the violation that is the subject of the notice of fine. The payment of a fine does not bar the county from taking any other enforcement action regarding a violation that is not corrected.

(i) Collection. If the fine is not paid within thirty days after the imposition of the fine becomes a final administrative order, the county may collect the fine, the county's collection costs, and interest. An administrative fine accrues interest at the same annual rate as any civil judgment, beginning on the twentieth day after the fine becomes a final administrative order. The county may collect by using any available legal means, including but not limited to the following:

(1) The county may file a civil action. If a civil action is commenced, the county is entitled to recover all costs associated with the collection of the fine, including those costs set forth in Code of Civil Procedure section 1033.5.

(2) The county may take such other actions as are allowed for enforcement of a civil judgment as provided for pursuant to the Enforcement of Judgments Law, California Code of Civil Procedure section 680.010 et seq.

(j) Service. All notices or decisions required to be served by this section will be served by any of the methods specified below:

(1) First class mail. First class mail will be addressed to the responsible person at the address for service of process for the responsible person or to the last address provided by the responsible party to the director. Service is deemed complete upon the deposit of the notice or decision, postage pre-paid, in the United States mail.

(2) Personal service. Personal service is deemed complete on the date the notice or decision is personally served on the responsible person.

(k) Judicial Review. A final administrative order may be appealed to the superior court of the county in accordance with the provisions set forth in Government Code section 53069.4. (Ord. 2021-38 § 4).

418-20.224 Fees and costs.

(a) The director is authorized to collect fees approved by the Board of Supervisors by resolution and to use revenues from the fees to fund regulatory costs incurred in the enforcement of this chapter, in accordance with applicable laws.

(b) A person subject to a fee approved under this section shall promptly pay the fee when due. (Ord. 2021-38 § 4).

SECTION V. EFFECTIVE DATE. This ordinance becomes effective 30 days after passage, and within 15 days after passage shall be published in the East Bay Times, a newspaper published in this County. This ordinance shall be published in a manner satisfying the requirements of Government Code section 25124, with the names of the supervisors voting for and against it.

PASSED on December 14 2021, by the following vote:

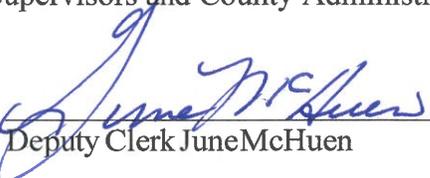
AYES: John Gioia, Candace Andersen, Karen Mitchoff, Federal Glover

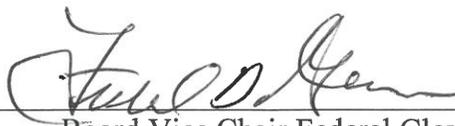
NOES: None

ABSENT: Diane Burgis

ABSTAIN: None

ATTEST: Monica Nino, Clerk of the Board
of Supervisors and County Administrator

By: 
Deputy Clerk June McHuen


Board Vice Chair Federal Glover

[seal]

LW/

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