

ORDINANCE O2021-__

**ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NAPA,
STATE OF CALIFORNIA, AMENDING NAPA MUNICIPAL CODE
SECTION 17.52.390 "RECYCLING/SOLID WASTE AREAS"
AND DETERMINING THAT THE ACTIONS AUTHORIZED BY
THIS ORDINANCE ARE EXEMPT FROM CEQA**

WHEREAS, Napa Municipal Code Section 17.52.390 sets forth general requirements for the construction of solid waste and recycling areas for development projects requiring the approval of a use permit or design review permit; and

WHEREAS, Senate Bill 1383 of 2016 approved by the Governor on September 19, 2016, which added Sections 39730.5, 39730.6, 39730.7, and 39730.8 to the Health and Safety Code, and added Chapter 13.1 (commencing with Section 42652) to Part 3 of Division 30 of the Public Resources Code, establishing methane emissions reduction targets in a Statewide effort to reduce emissions of short-lived climate pollutants as amended, supplemented, superseded, and replaced from time to time; and

WHEREAS, SB 1383 requires organic waste in California landfills to be reduced 75 percent by 2025. It also requires that by 2025 at least 20 percent of edible food currently sent to landfills be recovered for human consumption. In order to meet these goals, all residences and commercial businesses are required to participate in the City's composting program; and

WHEREAS, the City now provides collection programs for compostable materials for all residences and commercial businesses as required by state law; and

WHEREAS, the City desires to amend Napa Municipal Code Section 17.52.390 to include requirements for space or containers to store compostable materials; require solid waste and recycling areas for significant additions and significant remodels that generate increased quantities and/or types of solid waste, recyclable materials, compostable materials and (where applicable) kitchen oil and grease; and include definitions of certain terms; and

WHEREAS, on October 21, 2021, the City of Napa Planning Commission held a public hearing and heard public testimony regarding proposed amendments to Napa Municipal Code Section 17.52.390 and recommended approval thereof; and

WHEREAS, on November 16, 2021, the City Council held a public hearing and heard public testimony regarding proposed amendments to Napa Municipal Code Section 17.52.390; and

WHEREAS, the City Council has considered all information related to this matter, as presented at the public meeting of the City Council identified herein, including any supporting reports by City Staff and recommendations by the Planning Commission, and any information provided during public meetings.

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Napa as follows:

SECTION 1: CEQA. The City Council hereby determines that the actions authorized by this Ordinance are exempt from CEQA pursuant to CEQA Guidelines Section 15303, which exempts construction of new, small facilities or structures, and Section 15311, which exempts minor structures accessory to existing commercial, industrial, or institutional facilities.

SECTION 2: Findings. As required by Napa Municipal Code Section 17.66.080, the City Council hereby makes the following findings in support of the amendments to the zoning regulations set forth under this Ordinance:

A. The proposed amendments are consistent in principle with the General Plan.

The proposed amendments are consistent with the General Plan in that the amendments add requirements for space and containers for compostable materials in solid waste and recycling enclosures that are already required by the Napa Municipal Code. Because the sorting and collection of compostable materials is required by AB 939, as amended by AB 1826 and SB 1383, this is consistent with Community Services Goal CS-12 to provide for safe and environmentally sound municipal solid waste reduction and recycling programs that will allow the City to attain the requirements of AB 939. In addition, Land Use Goal LU-5 encourages attractive, well-located commercial development; and Land Use Goal LU-12 seeks to enhance and improve sustainable practices in Napa. The proposed amendments are consistent with the goal of maintaining attractive and clean enclosed areas at commercial developments for storage of all solid waste, recyclable materials and compostables and with diverting recyclable materials and compostables from disposal as required by AB 939, AB 341, AB 1826 and SB 1383.

B. The public health, safety and general welfare are served by the adoption of the proposed amendment.

The proposed amendment is beneficial to the public health, safety and general welfare as it requires space in commercial and multi-family enclosures for containers in order to divert food scraps, yard trimmings and other compostable materials from disposal at landfills. The proposed amendments require attractive enclosed area(s) for storage of all solid waste, recyclable materials and compostables, provide for convenient access for business owners, commercial tenants and employees, and for multi-family residents at multi-family properties, and also provide for ADA-required access to containers.

C. If a rezoning to a district with a larger minimum lot size is proposed, effectively reducing the planned residential density, the City shall also find that the remaining sites in the Housing Element are adequate to accommodate the jurisdiction's share of the regional housing need pursuant to California Government Code section 65584; or if not, that it has identified sufficient additional, adequate and available sites

with an equal or greater residential density in the jurisdiction so that there is no net loss of residential unit capacity.

This finding is not applicable to this project because the project does not include any proposal to increase a minimum lot size nor does it eliminate any site designated in the Housing Element from future use as a housing site.

SECTION 3: Amendment. Napa Municipal Code Section 17.52.390, “Recycling/Solid Waste areas,” is hereby amended by deleting the existing text in its entirety and replacing it with the following:

17.52.390 Recycling/Solid waste areas.

A. Purpose. The purpose of this section is to assure provision of adequate facilities in development projects for the proper storage and handling, and safe and efficient collection, of solid waste, recyclable materials and compostable materials.

B. Definitions. The following words and phrases, whenever used in this section, shall be construed as defined under this subsection.

“Compostable materials” means those materials that are processed in a controlled biological decomposition process, which are source separated from the municipal solid waste stream. Compostable materials include food scraps, soiled paper products, wood and yard trimmings that do not contain hazardous waste.

“Director” means the Community Development Director of the City of Napa, or designee of the Community Development Director or City Manager.

“Enclosure” means a walled structure for the storage of containers for solid waste, compostable materials, recyclable materials, and (where applicable) kitchen oil and grease with one or more gates for access.

“Enclosure Standards” means the standards applicable to the construction, operation and maintenance of enclosures.

“Significant Addition” means an addition (as defined in Section 17.06.030) that is (1) more than 1,000 square feet or (2) equal to or greater than 20% of the total building square footage.

“Significant Remodel” means a remodel that (1) will increase the occupancy of the total gross building area by 50% or more; or (2) constitutes a change of use that results in one or both of the following: (a) an increase in the quantity of solid waste, recyclable materials and/or compostable materials generated; or (b) will result in the addition of one or more type(s) of materials generated on the premises such as solid waste, recyclable materials and/or compostable materials (example: an office becomes a food service establishment); or (3) is determined by the Director to require compliance with the enclosure standards to ensure the proper storage

and handling, and efficient and safe removal, of solid waste, recyclable materials and compostable materials on the premises.

“Solid Waste Collection Area” means any area designated for the storage and pickup of containers for solid waste, compostable materials and recyclable materials that is not an enclosure.

C. General Provisions.

1. The Director may, by administrative regulations subject to approval as to form by the City Attorney and approval by the City Manager, develop enclosure standards.

2. Any project that requires approval of (a) a use permit, (b) a design review permit or (c) a building permit for a significant remodel or a significant addition shall include one or more enclosures consistent with the enclosure standards.

3. The requirements in Section 17.52.390(C)(2) above shall not apply to the following projects:

- a. Any single family residential development.
- b. Any multi-family residential development with solid waste collection areas for each individual dwelling unit, and without a centralized solid waste collection area.
- c. A project in a residential zoning district involving a use permitted by right (e.g. family day care home or residential care facility).
- d. A project requiring a use or design review permit that does not propose construction that would create additional floor area.
- e. A project requiring a use or design review permit that increases an existing structure's square footage by 1,000 square feet or less, or that increases an existing structure's total square footage by less than 20%.

4. Enclosures must be constructed, operated and maintained in accordance with the enclosure standards.

D. Waiver of Compliance with Enclosure Standards

As part of an application for approval of a project otherwise subject to the requirements in Section 17.52.390(C)(2), an applicant may apply for a modification or waiver of the enclosure standards based upon a showing that there are circumstances particular to the property on which the project is located that make compliance with the enclosure standards impracticable or impossible, based on either onsite constraints related to unique topography or lot configuration or size, or other considerations unique to the application that render strict compliance with the enclosure standards either impracticable or impossible. The applicant shall submit such application for waiver or modification in writing along with the

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application for the project and shall set forth in detail all factual and/or legal bases for the requested waiver or modification, including a site plan of the project and any technical supporting documentation. The applicant shall bear the burden of providing sufficient evidence to demonstrate the alleged impracticability or impossibility of compliance with the enclosure standards. The Director may approve a modification or waiver if the Director determines that based upon the documentation submitted by the applicant, compliance with the enclosure standards is impracticable or impossible. In conjunction with the written approval of a waiver or modification under this subsection, the Director shall identify all feasible alternatives that will further the purposes of this Section and ensure adequate provision of facilities for the storage and collection of solid waste, recyclable materials and compostable materials, and shall impose conditions of approval that obligate the applicant to mitigate the impacts of the project and maximize the efficient and safe collection of solid waste, recyclable materials and compostable materials.

SECTION 4: Severability. If any section, sub-section, subdivision, paragraph, clause or phrase in this Ordinance, or any part thereof, is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections or portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, sub-section, subdivision, paragraph, sentence, clause or phrase of this Ordinance, irrespective of the fact that any one or more sections, sub-sections, subdivisions, paragraphs, sentences, clauses or phrases may be declared invalid or unconstitutional.

SECTION 5: Effective Date. This Ordinance shall become effective thirty (30) days following adoption.

City of Napa, a municipal corporation

MAYOR: _____

ATTEST: _____
CITY CLERK OF THE CITY OF NAPA

STATE OF CALIFORNIA }
COUNTY OF NAPA } SS:
CITY OF NAPA }

I, Tiffany Carranza, City Clerk of the City of Napa, do hereby certify that the foregoing Ordinance had its first reading and was introduced during the public meeting of the City Council on the 16th day of November, 2021, and had its second reading and was adopted and passed during the public meeting of the City Council on the 7th day of December, 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST: _____
Tiffany Carranza
City Clerk

Approved as to Form:

Michael W. Barrett
City Attorney