

CENTRAL CONTRA COSTA SOLID WASTE AUTHORITY

Amendment Number 7 and Restatement
of

ORDINANCE NO. 96-1

PERMITTING OF COMMERCIAL RECYCLERS

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BE IT ORDAINED by the BOARD OF DIRECTORS of the CENTRAL CONTRA COSTA SOLID WASTE AUTHORITY, as follows:

Section I. Purpose and Findings.

The Central Contra Costa Solid Waste Authority hereby recites and finds as follows:

a. As of the year 2000, the California Integrated Waste Management Act of 1989 requires 50% of the waste that was disposed of in landfills in 1990 to be diverted from the waste stream.

b. The diversion and recycling of Recyclable Materials will assist the Central Contra Costa Solid Waste Authority (CCCSWA) in helping Member Agencies achieve these state-mandated goals and help postpone the need for new landfill capacity.

c. The CCCSWA has franchised a residential recycling program on behalf of the constituents of the CCCSWA that includes the Cities and Towns of Danville, Lafayette, Moraga, Orinda, Walnut Creek and certain unincorporated areas of Central Contra Costa County in an effort to meet the mandatory landfill diversion goals. The CCCSWA wishes to provide for a commercial recycling program to further diversion efforts.

d. The Board of Directors of the CCCSWA has determined that consistent achievement of the 50% landfill diversion goal will be promoted by the jurisdiction-wide collection of Commercially Generated Recyclable Materials.

e. The CCCSWA, through the common powers of its Member Agencies, has the authority to institute a commercial recycling permitting program throughout the area encompassed by its jurisdiction. This authority is based upon the powers vested in Cities and Counties to enact Ordinances concerning municipal, police, and sanitation issues not in conflict with state statutes, including but not limited to, those powers provided for in California Constitution Article II Section 7, Government Code Section 37101, and Public Resources Code Sections 40050, et seq.

f. The collection of information concerning diversion quantities and commodity types per each member jurisdiction from Commercial Recyclers will assist the CCCSWA and its Member Agencies in planning for the achievement of the mandatory goals under the California Integrated Waste Management Act of 1989 and in measuring their progress toward the consistent achievement of those goals.

g. The CCCSWA does not intend, and nothing in this Ordinance shall be construed, to regulate in any way hazardous materials, hazardous substances, hazardous waste, or medical waste, as those terms may be variously defined in any federal, state or local law or regulation.

h. The Board of Directors finds that it is in the best interest of the people of Central Contra Costa County to institute a wide-scale Commercial Recycling Permitting program to encourage and track the recycling of Commercially Generated Recyclable Materials generated by Commercial Entities within the Central Contra Costa County area.

i. The Board of Directors finds that licensing or permitting of Commercial Recyclers is required to provide for orderly tracking of recycling within the commercial sector and to ensure that Commercially Generated Recyclable Materials are delivered to bone fide Recycling Facilities.

j. The Board of Directors further finds that all Commercial Entities should be encouraged to recycle to the maximum extent practicable all Recyclable Materials generated through their commercial operation to ensure that the maximum types and quantities of materials will be diverted from landfills and that implementation of effective reuse, recycling and diversion programs requires reliance on accurate data obtained through permitting and reporting obligations required for Permitted Commercial Recycler and Commercial Entities.

k. To these ends, the CCCSWA seeks through the permitting of Commercial Recyclers to provide Commercial Entities with commercial garbage accounts opportunities to recycle certain types of materials to ensure that the maximum types and quantities of Recyclable Materials will be diverted from landfill disposal.

Section II. Effective Date.

This Ordinance shall take effect on June 1, 2005.

Section III. Definitions.

The following words and phrases, whenever used in this Ordinance shall be construed as hereafter set out, unless it shall be apparent from the context that they have a different meaning.

- a. "CCCSWA" means the Central Contra Costa Solid Waste Authority or its designated representative.
- b. "Commercial Entity" shall mean business, commercial, industrial, governmental, and nonprofit uses and all other types of Premises other than single-family residential, multi-family residential that have commercial garbage accounts, and mixed-use Premises if predominantly residential.
- c. "Commercial Recycler" means a Person or business entity that is 1) in the business of collecting and/or transporting Commercially Generated Recyclable Materials to a Recycling Facility owned or operated by itself or an affiliate, 2) only collects and/or 3) only transports Commercially Generated Recyclable Material to a Recycling Facility owned and/or operated by an independent third party recycler.

- d. **"Commercial Recycling Permit" or "Permit"** means a permit issued by CCCSWA, according to the procedures set forth in this Ordinance which authorizes the Commercial Recycler to collect and/or transport Commercially Generated Recyclable Materials from the Service Area.
- e. **"Commercially Generated Recyclable Materials"** means Recyclable Materials generated at any Commercial Entity and separated, handled, packaged or offered for collection whether discarded or offered for sale, by the Waste Generator for collection in a manner different from Solid Waste (e.g. garbage or refuse) for the purpose of being reused or processed and then returned to the economic mainstream in the form of commodities. Commercially Generated Materials includes, along with other Recyclable Materials, Construction and Demolition Recyclable Materials, Organic Recyclable Materials and Electronic Waste Recyclable Materials.
- f. **"Construction and Demolition Recyclable Materials"** means Solid Wastes, such as building materials, packaging and inerts resulting from construction, remodeling, repair and demolition operations on pavement, houses, commercial buildings, and other structures, which are suitable for reuse or processing at a Recycling Facility.
- g. **"Electronic Waste Recyclable Materials"** means consumer and business electronic devices that are offered by a Commercial Entity for disposal or recycling, including but not limited to such items as computers, CRTs, printers, televisions, cell phones, computer hard drives, stereo equipment, video cassette recorders, digital video disc players, microwaves, and cordless telephones and related electronic items or appliances.
- h. **"Executive Director"** means the Executive Director of the CCCSWA.
- i. **"Green Waste"** means tree trimmings, grass cuttings, dead plants, leaves, branches, and dead trees (not more than six (6) inches in diameter) and similar materials generated at the Premises.
- j. **"Local Jurisdiction"** means Contra Costa County, and the Cities/Towns of Danville, Lafayette, Moraga, Orinda, and Walnut Creek to the extent their boundaries are within the Service Area.
- k. **"Member Agencies"** means the member agencies of the CCCSWA, which includes Contra Costa County, and the Cities/Towns of Danville, Lafayette, Moraga, Orinda, and Walnut Creek.
- l. **"Organic Recyclable Materials"** means organic materials (excluding Green Waste) such as vegetable, fruit, grain, dairy, meat, fish and non-recyclable paper discards that are separated, handled, packaged or offered by a Waste Generator for collection in a manner different from Solid Waste (e.g. garbage or refuse), and separated from Recyclable Materials for the purpose of being processed and then returned to the economic mainstream in the form of commodities such as, but not limited to, compost, soil amendment, mulch, animal feed, and fertilizer.
- m. **"Permitted Commercial Recycler"** means a Person or Commercial Entity that has complied with the legal requirements of the Local Jurisdiction in its plans to do business and is

permitted by the CCCSWA to collect and/or transport Generated Recyclable Materials from the CCCSWA jurisdictional boundaries.

- n. **"Person"** means an individual, association, partnership, corporation, or joint venture.
- o. **"Premises"** means the land or building in the Service Area where Solid Waste (e.g. garbage or refuse), Green Waste, or Recyclable Materials are generated.
- p. **"Recyclable Materials"** means domestic, commercial or industrial by-products of some potential economic value, whether discarded or offered for sale, set aside, handled, packaged, or offered for collection by the Waste Generator in a manner different from Solid Waste (e.g. garbage or refuse), including but are not limited to paper (newspaper, white and computer paper, magazines, corrugated cardboard, telephone books, grocery bags, chip board (i.e., cereal/shoe boxes), and mixed paper), glass (bottles and plate), aluminum, tin, plastics (HDPE and PET), ferrous and nonferrous scrap metals, wood, tires, Construction and Demolition Recyclable, Electronic Recyclable Waste and Organic Recyclable Materials for the purpose of being reused or processed and then returned to the economic mainstream in the form of commodities.
- q. **"Recycling Facility"** means a facility that has adequate capacity for receipt, sorting, storage and processing of Recyclable Materials so that they can be further processed or sold to end-use markets, and is operated in compliance with applicable state and local statutes and regulations, including permitting requirements when applicable.
- r. **"Residual"** means contaminant material, separated from Recyclable Materials or Green Waste that cannot be recycled, composted, marketed or otherwise utilized, and shall be disposed of as Solid Waste (e.g. garbage or refuse), hazardous waste, or medical waste.
- s. **"Service Area"** means the physical area encompassed by the jurisdiction of the CCCSWA's Member Agencies.
- t. **"Solid Waste (e.g. garbage or refuse)"** means all putrescible and non-putrescible solid, semi-solid and liquid wastes including garbage, trash, refuse, paper, rubbish, ashes, plastic, glass, metals, industrial wastes, demolition and construction wastes, discarded home and industrial appliances, and other discarded solid and semi-solid wastes as defined in the California Public Resource Code Section 40191, as that section may be amended from time to time except any of the above offered for sale.
- u. **"Source Separated Recyclables"** means Recyclable Materials that have been segregated from the Solid Waste (e.g. garbage or refuse) intended for landfill disposal by or for the generator thereof on the Premises, which materials are intended to be handled differently than Solid Waste (e.g. garbage or refuse), including mixtures of different types of Recyclable Materials, and separate from Organic Recyclable Materials.
- v. **"Waste Generator"** means the Commercial Entity that separates, handles, packages or offers for collection Source Separated Recyclables in a manner different from Solid Waste (e.g. garbage or refuse) for the purpose of being reused or processed and then returned to the economic mainstream in the form of commodities.

Section IV. Authorized Commercial Recycling.

a. Commercial Entities should separate Recyclable Materials for recycling from other Solid Waste (e.g. garbage or refuse), for transfer to Recycling Facilities for the purpose of reuse or reprocessing. Commercial Entities within the Service Area are encouraged to recycle Source Separated Recyclable Materials.

b. Recyclable Materials separated for recycling must be stored in containers or another manner sufficient to prevent access by rodents, insects and animals and must be collected by a Permitted Commercial Recycler with sufficient frequency so as not to create a health hazard, public nuisance or fire hazard. Putrescible Solid Waste and non-putrescible Solid Waste tainted by putrescible Solid Waste is presumed to be inappropriate for recycling. Organic Recyclable Materials shall be separated from Recyclable Materials in such fashion as to not contaminate the Recyclable Materials.

c. Collection locations may include the service alley of a Premises or other location agreed upon by the business owner or manager, its Permitted Commercial Recycler and designated Local Jurisdiction representative. No collection location shall be located in the public's right-of-way.

d. Businesses may also take Commercially Generated Recyclable Materials generated on their Premises to a Recycling Facility.

Section V. Permitted Commercial Recyclers.

Permitted Commercial Recyclers may collect Source Separated Recyclable Materials, Construction and Demolition Recyclable materials and Electronic Waste Recyclable Materials and any other Commercially Generated Recyclable Materials except Organic Recyclable Materials for recycling and transport of such materials to a Recycling Facility provided that both the Commercial Recycler and the Recycling Facility have obtained any and all necessary permits or licenses required by this Ordinance and/or by any other regulatory agency having jurisdiction.

In addition, the Executive Director or his or her designee may issue Permits to Commercial Recyclers to collect Organic Recyclable Materials from those locations not included in any other CCCSWA residential or commercial food waste recycling program.

Section VI. Commercial Recycler Permit.

Any Person seeking to transport or convey, or cause or permit to be transported or conveyed, Source Separated Recyclables, Construction and Demolition Recyclable Materials, Organic Recyclable Materials, and/or Electronic Waste Recyclable Materials, or any Commercially Generated Recyclable Materials must obtain a CCCSWA Commercial Recycler Permit prior to undertaking any commercial recycling activities within the CCCSWA Service Area. Any Commercial Recycler operating without a permit shall be deemed in violation of this Ordinance and shall be subject to the enforcement and impoundment provisions set forth in Section X and XX of this Ordinance. The exceptions to this requirement for obtaining a Commercial Recycling Permit shall be limited to an owner, commercial tenant, occupant or property manager which removes Commercial Recyclable Materials from a Premises via self-haul and are transported to a Recycling Facility, donations of Commercial Recyclable Materials to charitable organizations or non-profit entities or by a company whose removal of the Commercial Recyclable Materials is incidental to the service being performed by the company at the Premises. The

determination of whether removal of Commercial Recyclable Materials is incidental to the services being performed may, be for example, based on whether fees are charged on a volume or hourly basis, and the reasonableness of those fees relative to those charged by third parties for comparable services. Any Person or entity required hereunder to obtain a Commercial Recycler Permit and not having so obtained one, shall within twelve (12) calendar days of CCCSWA's mailing of such notice apply for a CCCSWA Recycling Transporter's Permit or be subject to the penalties and impoundment provisions set forth herein.

Section VII. Commercial Recycler Permit Application.

a. The application for a Commercial Recycler Permit must be submitted with a certification under penalty of perjury to the CCCSWA. Such non-refundable permit fees shall accompany the application for first-time applicants and renewal applicants as the Board of Directors may establish by resolution.

b. The Application shall include:

1. The name, business and mailing address, telephone, fax number and electronic mail address (if applicable) of the applicant, including emergency phone number.
2. The type of business and company.
3. The business license number(s) for all Local Jurisdictions in which the applicant operates or will operate.
4. The contact name(s) of such personnel employed to work in the CCCSWA Service Area.
5. The type, kind and make of each vehicle to be used by the applicant in the collection and/or transportation of Commercially Generated Recyclable Materials, including license plate number.
6. Whether such vehicle is so constructed as to prevent unintended loss of contents.
7. The type and cover used for covering its contents.
8. Type(s) of container(s) used for collection.
9. The method, manner and frequency of cleaning such vehicles.
10. A description of the Commercially Generated Recyclable Materials to be collected and/or transported.
11. The final destinations where all or part of the Commercially Generated Recyclable Materials may be processed.
12. The average percent of Residual.
13. The intended destination for disposal of all Residual.

14. A list of references.

15. A list of any environmental or other regulatory citations, complaints, notices or violations, or other regulatory enforcement sanctions pending or brought against applicant's business in the last 5 years.

16. A statement that, if any of the information in the application changes in any material respect, the applicant will notify the CCCSWA in writing of the change or changes and will file a new application if required by the CCCSWA.

17. A statement that the applicant will identify what level of insurance is required based on the criteria set forth in section IX and will maintain Insurance information as required.

18. A statement that the applicant agrees to furnish such information and reports required in the quarterly reports described below in Sec. XIII.

19. A statement that the applicant agrees to operate in accordance with all applicable laws.

c. The Residual and non-recyclable portion of the Permitted Commercial Recycler's collected and transported material may not exceed the percentage limits contained in the Commercial Recycler's Permit Application.

Section VIII. Issuance of Commercial Recycler Permit.

a. If the Executive Director finds that the application is consistent with the intent and purpose of this Ordinance, the Executive Director has the authority to issue the Permit subject to any conditions that he or she deems necessary to carry out the purpose of this Ordinance including limitations of Residual percentage.

b. If the application is denied, the Executive Director shall so inform the applicant in writing, which shall be mailed to the applicant's address shown on the application. The applicant may, within ten calendar days of CCCSWA's mailing of such notice, appeal the Executive Director's decision by submitting a written statement to the Board of Directors setting forth all facts on which the applicant intends to rely in contesting the denial of the Permit. The Board of Directors may refer the appeal to a hearing officer for adjudication. The decision of the Board of Directors shall be final.

Section IX. Insurance and Indemnity Requirements.

a. Each Commercial Recycler that has issued to it a permit shall maintain in force, and provide proof of, the following insurance: general liability, automobile and workers' compensation with the following limits.

Level 1 Commercial Recyclers

Level 1 Commercial Recyclers have actual annual gross revenue from the previous year, or projected annual gross revenue of greater than \$250,000 (not limited to revenues collected in the CCCSWA's Service Area):

Level 1 Commercial Recyclers shall maintain insurance limits not less than:

- i. General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage.
- ii. Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.
- iii. Worker's Compensation as required by the California Labor Code and Employer's Liability: \$1,000,000 per accident for bodily injury or disease.

Level 2 Commercial Recyclers

Level 2 Commercial Recyclers have actual annual gross revenue from the previous year, or projected annual gross revenue not-to-exceed \$250,000 (not limited to revenues collected in the CCCSWA's Service Area) and uses collection vehicles that meet any of the following criteria:

1. Have more than two axles,
2. Have on-board compacting equipment,
3. Have mechanized bin or cart tipping equipment,
4. Are roll-off vehicles,
5. Are front end-loading vehicles.

Level 2 Commercial Recyclers shall maintain insurance limits not less than:

- i. Commercial General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. The Commercial General Liability insurance aggregate must be available for insuring the activities under this permit or the general aggregate limit shall be twice the required occurrence limit.
- ii. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage.
- iii. Worker's Compensation and Employer's Liability: Workers Compensation limits as required by the California Labor Code and Employer's Liability Limits of \$100,000 per accident for bodily injury.

Level 3 Commercial Recyclers

Level 3 Commercial Recyclers have actual annual gross revenue from the previous year, or projected annual gross revenue not-to-exceed \$250,000 (not limited to revenues collected in the CCCSWA's Service Area), and Level 2 vehicle criteria does not apply to any of that Commercial Recycler's vehicles.

Level 3 Commercial Recyclers shall maintain insurance limits not less than:

i. Commercial General Liability: \$300,000 combined single limit per occurrence for bodily injury, personal injury and property damage. The Commercial General Liability insurance general aggregate limit shall be available for insuring the activities under this permit or the full general aggregate shall be twice the required occurrence limit.

ii. Automotive Liability: bodily injury liability \$300,000 each person; \$300,000 each occurrence; \$50,000 property damage each occurrence, or a \$300,000 combined single limit per occurrence for bodily injury and property damage.

iii. Workers' Compensation and Employer's Liability Coverage: Workers' Compensation limits as required by the California Labor Code and Employers' Liability limits of \$100,000 per accident.

b. No such policy shall be changed or canceled except upon 15 days' prior written notice to the CCCSWA.

c. Each Permitted Commercial Recycler shall provide a certificate of insurance. CCCSWA can request and the Commercial Recycler shall provide certified copies of all required insurance policies, including endorsements affecting the coverage required by this Section.

d. Each Permitted Commercial Recycler shall defend, indemnify and hold harmless the CCCSWA and its Board, the Member Agencies and their City or Town Councils and their Boards, their officers, employees and agents, of and from any and all claims for damages, costs, expenses, penalties, losses or liability in law or equity, of any kind and nature whatsoever, in connection with the performance of duties under this section.

Section X. Other Requirements.

a. Labeling of Collection Containers:

Proper labeling of outside collection bins or other containers used for handling of Commercially Generated Recyclable Materials is essential to assist in proper usage of the collection bins and containers for their intended purpose, to avoid contamination, and to educate customers. Separately, the labeling is necessary to ensure that only Permitted Commercial Recyclers are performing recycling services covered by CCCSWA Ordinances and that CCCSWA's obligation to provide exclusivity for Solid Waste collection within its Service Area is observed. Therefore, in order to properly label and identify bins, Permitted Commercial Recyclers must clearly place their business name and phone number on all recycling bins.

b. Labeling of Construction and Demolition Recyclable Material bins

In addition, bins used for the collection of Construction and Demolition Recyclable Materials must have labels that are readable from a minimum of five (5) feet away containing at least two-inch (2") font lettering. They must also detail the types of acceptable Recyclable Materials that may be placed in the bin. If the list of acceptable Recyclable Materials changes, then the label must be updated to reflect the change in service. Additionally, there must be a notice placed on the bin that states "No Garbage" to ensure that only Recyclable Materials are collected.

c. To ensure compliance, if CCCSWA staff encounters a collection bin or container that is not properly labeled, as defined above, the CCCSWA may leave a notice on the bin or container or otherwise attempt to contact the Permitted Commercial Recycler or other bin owner to instruct Permitted Commercial Recycler or other bin owner that proper labeling and permitting is required. Compliance with these labeling requirements shall be enforced as follows:

1. If a bin or container is found that is not properly labeled, the container or bin owner shall within three (3) business days from the bin owner or subject property owner's receipt of written notice requesting compliance with this Ordinance, properly label the bin or container and obtain a Commercial Recycling Permit, if a permit is required and a valid permit is not in place. CCCSWA may impose an administrative fee on the Permitted Commercial Recycler of Fifty Dollars (\$50.00) per bin or container for such improperly labeled bin.

2. Prior to removal and impoundment, CCCSWA shall provide written notice to the Premises owner or occupant, to the bin owner if known, and, where the bin or container appears to be related to contracting or construction activities, to the party that has obtained a construction or demolition permit from the County or City for the Premises where the bin or container is located. If the lack of proper labeling is not corrected, or CCCSWA has not been contacted or cannot determine the ownership of the bin or container after reasonable efforts, within three (3) business days from receipt of written notice requesting compliance with this Ordinance, CCCSWA or its agent may impound the bin or container and have the bin or container stored as provided for pickup by the owner. For purposes of this Section, written notice may be accomplished by either email or overnight mail, and is deemed received one business day after it is sent.

3. If a Permitted Commercial Recycler fails on three or more occasions within a twelve (12) month period to properly label collection containers, and written notice has been given on at least two (2) of the prior occasions, CCCSWA may thereafter remove and impound the bins or containers which are found to be defectively labeled without prior notification to bin or container owner. Such removal without notice may continue during the remaining term of the permit, provided the Permitted Recycler or bin owner has failed to make satisfactory arrangements with CCCSWA to avoid the removal and impoundment.

4. When bins are removed and impounded by CCCSWA, or its agent, prior to return of the bin, the Executive Director will impose and its agent will bill the bin owner for collection, storage and return of the bins improperly labeled. The removal fees shall be based on then current CCCSWA refuse collection rates and the impoundment or storage fee shall be at current Central Contra Costa storage rates, as determined by CCCSWA. If a bin is not claimed within three (3) months of the date it is collected, it may be sold for removal and storage charges, or recycled, at the discretion of CCCSWA.

d. In addition to the above, pursuant to CCCSWA Ordinance No. 97-01, to the extent that CCCSWA has granted an exclusive franchise to collect Solid Waste, each person must use the franchisee for collecting Solid Waste unless an exemption applies. The CCCSWA's franchised Solid Waste hauler may enforce any exclusive franchise to collect and transport Solid Waste within the Local Jurisdiction. For purposes of this Ordinance, any bin with contents made up of more than 50% Solid Waste, even if the contents are mixed with Recyclable Materials, will be deemed to be 100% filled with Solid Waste and subject to the exclusive Solid Waste franchise.

e. Recyclable Materials may not be accumulated in such a manner that they:

1. Create a fire hazard dangerous to Persons or property;
2. Become offensive to the public peace, health and safety;
3. Attract or create a home or breeding ground for vectors; or
4. Become a public or private nuisance.

f. Recyclable Materials must be collected in properly labeled containers as addressed in subsection X of this ordinance and transported in leak proof containers or vehicles constructed such that no Recyclable Materials or Residual can leak, fall, or be blown from the container or vehicle. If Recyclable Materials do fall, blow, or leak out of a collection vehicle or container, the Permitted Commercial Recycler must immediately pick up the Recyclable Materials and otherwise clean the place onto which the Recyclable Materials fall or are blown.

g. Every vehicle operated by the Permitted Commercial Recycler for collecting, transporting, and recycling shall bear the Commercial Recycler's trade name and phone number on the sides of the vehicle.

Section XI. Expiration of Commercial Recycler Permit.

Each Commercial Recycling Permit issued under this Ordinance shall expire annually on June 30.

Section XII. Suspension, Conditioning and Revocation of Commercial Recycling Permit

a. The Executive Director may investigate the actions of any Permitted Commercial Recyclers conducting commercial recycling business within the Service Area, after failure of a Permitted Commercial Recycler to comply with one or more conditions of the Permit, or after other violation(s) of this Ordinance by Permitted Commercial Recyclers. Non-compliance includes: hauling Recyclable Material in excess of stated Residual limit contained in the Commercial Recyclers Permit Application and knowingly transporting Recyclable Materials for the purpose of land filling.

Following proper notice and an opportunity for a hearing, the Executive Director may take any or all of the following actions:

1. Temporarily suspend the Permit; or
2. Impose additional conditions within the Permit; or
3. Revoke the permit.
4. Recommend to the Board of Directors that civil or criminal legal proceedings be initiated to obtain injunctive relief, damages, and restitution or criminal sanctions.

b. If the Executive Director suspends, conditions, or revokes the Permit, the Executive Director shall so inform the Permitted Commercial Recycler in writing, which shall be mailed to the Commercial Recycler's address shown on the Permit application. The Permitted Commercial Recycler may, within ten calendar days of CCCSWA's mailing of such notice, appeal the

Executive Director's decision by submitting a written statement to the Board of Directors setting forth all facts on which the applicant intends to rely in contesting the decision. The Board of Directors may refer the appeal to a hearing officer for adjudication. The decision of the Board of Directors shall be final.

c. In the event that a Permit is suspended or revoked, the Permitted Commercial Recycler shall forward the Permit, along with any overdue quarterly reports, to the Executive Director not later than the end of the eighth calendar day after CCCSWA's mailing of notice of such suspension or revocation. The Permitted Commercial Recycler shall immediately cease all business activities and operations within the CCCSWA jurisdictional boundaries for which a permit is required by this Ordinance.

Section XIII. Quarterly Reporting and Audit Requirements.

a. All Commercial Recyclers who are issued a CCCSWA Commercial Recycler Permit to conduct recycling business within the Service Area shall submit to the CCCSWA quarterly reports that document recycling information monthly for purposes of measuring and planning progress toward compliance with the requirements of state-mandated diversion goals. Each quarterly report must be submitted no later than 30 days after the end of the respective quarter ending on March 31, June 30, September 30, or December 31 of each year.

b. The quarterly reports submitted by each Permitted Commercial Recycler shall contain the following information:

1. The number of accounts the Permitted Commercial Recycler has within the Service Area and in each Local Jurisdiction.

2. The total tonnage of Commercially Generated Recyclable Materials collected by the Permitted Commercial Recycler in each Local Jurisdiction.

3. The total tonnage of each type of Commercially Generated Recyclable Material collected by the Permitted Commercial Recycler in each Local Jurisdiction.

4. The total tonnage of Residual disposed as a result of collection of Commercially Generated Recyclable Materials in each Local Jurisdiction.

c. The CCCSWA, by its representative or other qualified third party, may conduct an audit of the records of any Permitted Commercial Recyclers to verify the tonnages collected, recycled and disposed of. The CCCSWA shall have the right to inspect such records on reasonable written notice to the Permitted Commercial Recycler and such records shall be made available at a location acceptable to the CCCSWA. The information contained in the records shall contain, at a minimum, the following for the applicable period of review:

1. The business name, address, phone number and contact Person of each Commercial Entity doing business in the Service Area which was serviced by the Commercial Recycler; and

2. The date that Commercial Entity's service began, and, if applicable, the date of termination of service; and

3. The total tonnage of Commercially Generated Recyclable Materials collected by the Permitted Commercial Recycler in each Local Jurisdiction; and

4. The name, address and phone number of Recycling Facility used by the Permitted Commercial Recycler; and

5. The total tonnage of Residual disposed and disposal location as a result of collection in each Local Jurisdiction.

d. Failure to permit the CCCSWA to conduct such an inspection in a timely manner after notification may be grounds for suspension or revocation of the Permit, or other legal action as may be available pursuant to this Ordinance or at law.

e. All Commercial Entities conducting recycling on-site and whose facilities any Authority, Member Agency, or Local Jurisdiction Ordinance regulates, such as the City of Walnut Creek's Municipal Code Section 10-2.4003, shall furnish the information required by Section XIII. (b) (1) through (7), above, on a quarterly basis.

f. Information that is furnished pursuant to Section XIII (b) and (c), above, which pertains to its business and financial affairs and is designated as a trade secret of the Permitted Commercial Recycler, Commercial Entity or Recycling Facility, shall be handled as exempt from public disclosure to the full extent provided for in Sections 6254 (n) and 6254.7(d) of the Government Code. Any information provided which is deemed by the permittee to be a trade secret must be clearly designated as "trade secret" by the permittee prior to submission to CCCSWA.

g. Failure to timely submit a quarterly report may result in the revocation or suspension of the Commercial Recycler's Permit pursuant to this Ordinance.

Section XIV. False Information.

The submission of false information to the CCCSWA by any Person in connection with a Permit application, Permit hearing procedure, audit, or quarterly report, shall be deemed a violation of this Ordinance and shall subject the Person to enforcement as set forth in Section XX and a permit revocation.

Section XV. Permit Fees.

a. The CCCSWA shall have the authority to impose an annual permit fee which shall be in an amount of \$40.00 per year or \$65.00 for first time applicants, or such other amount as may be set by resolution from time to time by the CCCSWA Board, which fee is intended to defray costs to CCCSWA and its members for processing and issuing of permits under this Ordinance and the program costs associated with this Ordinance and related Commercial Recycling programs of CCCSWA.

b. Commercial Recyclers whose reports or payment are late will be assessed a penalty of \$50.00.

Section XVI. Contracting with Multiple Permitted Commercial Recyclers.

Nothing in this Ordinance precludes Commercial Entities from contracting with more than one Permitted Commercial Recyclers.

Section XVII. Right of Commercial Entity to Dispose of Commercial Recyclable Material.

This Ordinance does not limit the right of a Commercial Entity to donate, sell or otherwise dispose of Commercial Generated Recyclable Materials, as long as disposal complies with this Ordinance.

Section XVIII. Rights of Commercial Recyclers.

It is the intent of this Ordinance that it shall not be interpreted to interfere with any federal or state laws concerning intra or interstate commerce or transport of materials. This Ordinance shall be interpreted in a manner so as to reconcile any purported conflicts between its contents and other laws in light of the limited objectives set forth herein.

Section XIX. Judicial Review.

Judicial review of a final decision made under this Ordinance may be had by filing a petition for a writ of mandate in accordance with the provisions of the Code of Civil Procedure Sec. 1094.5. Any such petition shall be filed within ninety-days (90) after the date the decision becomes final as provided in the Code of Civil Procedure Sec. 1094.6, which shall be applicable to such actions.

Section XX. Enforcement.

a. For any violation of this Ordinance, the Executive Director shall have the discretion to take any or all of the following actions: (1) revoke or suspend the Permit of the violator; (2) deny the issuance of or suspend future Permits, (3) bring a civil action for restitution and/or damages; (4) seek injunctive relief; and (5) refer the violation for prosecution as a misdemeanor.

b. If any violation of this Ordinance is charged as a misdemeanor, the penalty upon conviction of the violator shall be imprisonment in the county jail for a period not to exceed thirty (30) days or by a fine not exceeding \$1,000, or both such fine and imprisonment.

c. The provisions set forth in paragraphs a and b above shall be cumulative as to each other and as to the administrative and impoundment provisions set forth in Section X, as well as to other remedies which CCCSWA may have at law.

Section XXI. Severability.

If any provision of this Ordinance or the application thereof to any Person, is held invalid by a court of competent jurisdiction, such invalidity shall not affect the other provisions or application of the remaining provisions of this Ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this Ordinance are hereby declared to be severable.

AMENDED by the Central Contra Costa Solid Waste Authority Board of Directors this ____ day of _____, 20__ by the following vote:

AYES: Members:

NOES: Members:

ABSENT: Members:

Chair
Central Contra Costa Solid
Waste Authority
County of Contra Costa, State of
California

COUNTERSIGNED:

Acting Secretary of the Central Contra
Costa Solid Waste Authority
County of Contra Costa, State of California

APPROVED AS TO FORM:

Kenton L. Alm,
Counsel for the Authority

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