



CENTRAL CONTRA COSTA

SOLID WASTE AUTHORITY

ORDINANCE NO. 12-1

INTERIM COMMERCIAL RECYCLING SERVICES

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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. The California Integrated Waste Management Act of 1989 requires 50% of the waste be diverted from the waste stream.

b. Assembly Bill 341 establishes a new diversion goal of 75% for 2020 and also requires mandatory commercial recycling for all commercial entities generating four (4) cubic yards or more of waste and multi-family residential with five (5) units or more must adopt recycling activities.

c. 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.

d. 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.

e. The Board of Directors of the CCCSWA has determined that consistent achievement of the 50% landfill diversion goal and work toward future achievement of 75% by 2020 will be promoted by the jurisdiction-wide collection of Commercially Generated Recyclable Materials.

f. Efforts by the CCCSWA and the private sector to encourage voluntary diversion of commercial and special event recyclable materials have not achieved desired levels of diversion. Additional efforts are necessary to ensure continued compliance with the requirements of the state recycling law and to ensure maximum recovery of valuable resources.

g. The CCCSWA is entering into an “interim” period between start of AB 341 required Mandatory Commercial Recycling, starting in July 1, 2012, and the beginning of the CCCSWA new franchise period, starting on/about February 28, 2015. The interim period will require new commercial services to respond to mandatory commercial requirements and conclusion of the CCCSWA Commercial Permit Program.

Section II. Effective Date.

a. This Ordinance shall take effect on _____. This Ordinance will be reviewed periodically once implemented and amendments will be recommended to the CCCSWA Board of Directors, as needed, to improve effectiveness and performance of commercial recycling services governed by this Ordinance.

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. **"Authorized Commercial Recycler"** means a Person or Commercial Entity that has complied with local legal requirements and is franchised or permitted by the CCCSWA to collect and/or transport Commercial Recyclable Materials from the CCCSWA service area.

b. **"Authorized Food Waste Collector/Hauler"** means a Person or Commercial Entity that has complied with local legal requirements and is franchised or permitted by the CCCSWA to collect and/or transport Commercial Generated Food Waste Materials from the CCCSWA service area

c. **"CCCSWA"** means the Central Contra Costa Solid Waste Authority or its designated representative.

d. **"Commercial Entity"** means 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.

e. **"Commercial Recycler"** means a Person or business entity that is 1) in the business of collecting and/or transporting Commercial 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.

f. **"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.

g. **"Commingled Recyclables"** means more than one type of Recyclable Materials in a bin, cart, debris box, compactor, or other type of container that are separated from solid waste.

h. **"Composting Facility"** means a permitted facility in which green waste, food waste, and other organic waste materials are processed into biologically stable organic material.

i. **“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 Commercial Entity structures, which are suitable for reuse or processing at a Recycling Facility.

j. **“Digestion Facility”** means a permitted facility in which green waste, food waste, and/or other organic waste materials are processed within an enclosed chamber using microorganisms to break down biodegradable material, normally in the absence of oxygen.

k. **“Executive Director”** means the Executive Director of the CCCSWA.

l. **“Food Waste”** means food scraps separated from Solid Waste and offered for collection that will decompose and/or putrefy.

m. **“Generator”** means any person or business whose act or process produces Solid Waste, Recyclable Materials, Green Waste, or Food Waste, or whose act first causes solid waste to become subject to regulation.

n. **“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.

o. **“Interim Commercial Recycling”** means the “interim” period between start of AB 341 Mandatory Commercial Recycling in July 1, 2012, and the beginning of the CCCSWA next franchise period in February 28, 2015, where new commercial services will need to be designed and installed to respond to mandatory commercial requirements and conclusion of the CCCSWA Permit Program.

p. **“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.

q. **“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.

r. **“Multi Family Dwelling Units”** means any residential premises, other than single family, used for residential purposes, that has centralized services and may be billed as one address.

s. **“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 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.

t. Permitted Construction and Demolition Transporter means a Person or business entity that is 1) in the business of collecting and/or transporting Construction & Demolition Recyclable Materials and/or Green Waste to a Recycling Facility owned or operated by itself or an affiliate, 2) only collects and/or 3) only transports Construction and Demolition Recyclable Materials and/or Green Waste to a Recycling Facility owned and/or operated by an independent third party recycler, and applies and is permitted by the CCCSWA to provide these specific services.

u. "Person" means an individual, association, partnership, corporation, or joint venture.

v. "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.

w. "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 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, Green 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.

x. "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.

y. "Residual" means contaminant material, separated from Recyclable Materials 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.

z. "Self-Haul" means the act of transferring Source Separated Recyclables to a Recycling Facility for Reuse or Reprocessing by the Commercial Entity generating the Recyclable Materials using its own vehicles , or use of other method of transfer that does not require payment for transfer services.

aa. "Service Area" means the physical area encompassed by the jurisdiction of the CCCSWA's Member Agencies.

bb. "Small Business" means Commercial Entity who generates two (2) cubic yards or less of Solid Waste each week.

cc. "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.

dd. "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.

Section IV. Requirement for Commercial Entities.

a. All Commercial Entities are required to segregate Source Separated or Commingled Recyclable Materials for recycling from other Solid Waste (e.g. garbage or refuse), for collection or transfer to Recycling, Composting Facilities, or other approved facilities for the purpose of reuse or reprocessing.

b. Each Commercial Entity shall be responsible for ensuring and demonstrating its compliance with the requirements of this Ordinance. Each Commercial Entity shall:

- 1.** Segregate Source Separated or Commingled Recyclable Materials from Solid Waste; and
- 2.** Subscribe to a basic level of recycling service that includes at a minimum, the collection of Recyclable Materials and transfer to a Recycling Facilities for the purpose of reuse or reprocessing, unless the commercial entity chooses to Self-Haul; and
- 3.** Enter into a written service agreement with a Commercial Recycler.

c. In place of an agreement with a Commercial Recycler, the Commercial Entity may Self-Haul all Source Separated Recyclables and maintain record of Self-Hauling activities in accordance with this Ordinance or any other applicable law or regulation.

d. Each Commercial Entity shall use containers to collect and store Recyclable Materials and shall designate areas to collect and/or store Recyclable Materials.

e. Each Commercial Entity shall prominently post and maintain one or more signs in maintenance or work areas or common areas where Recyclable Materials are collected and/or

stored that specify the materials to be source separated and/or commingled, in addition to collection procedures for such materials.

f. Each Commercial Entity shall notify and instruct employees in writing of applicable source separation requirements, including outreach and training on what materials are required to be source separated and/or commingled and how to segregate such material. A copy of such instruction or training materials shall be provided to the CCCSWA Executive Director or designee, upon request.

g. All Recyclable Materials shall be placed for collection in covered collection containers conforming to the following requirements. No container shall be loaded beyond its capacity. It shall be the Commercial Entity's responsibility to keep the containers used for the storage and collection of Recyclable Material generated on the premises in a clean and sanitary condition. No material or containers shall be kept or handled in such a manner as to become a nuisance. No putrescible materials shall be commingled with Recyclable Materials, unless specifically permitted. No Recyclable Material shall be allowed to become odoriferous or a producer of vermin. Lids on containers shall remain closed at all times while stored or placed for collection.

h. Each Commercial Entity shall ensure that Recyclable Materials generated at its property/ies will be taken only to a Recycling, Composting or Digestion Facility or make other arrangements to ensure that the materials are recycled or processed and not delivered to a landfill for disposal. Commercial Entities shall not dispose of, or arrange for disposal of Recyclable Materials by placement in a landfill except in an emergency situation, or when no viable markets or Recycling Facilities are available, as determined by the CCCSWA Executive Director, or designee. Further, all Commercial Entities are encouraged to consider recycling additional materials, whether or not they have been specifically designated.

i. The Commercial Entity's agreement with the Commercial Recycler for recycling services and other recycling documents shall be available for inspection by the CCCSWA Executive Director, or designee, at the principal location of the Commercial Entity during normal business hours.

j. No Commercial Recycler shall be held liable for the failure of its customers to comply with such regulations, unless specified in the contract or permit issued by the CCCSWA.

Section V. Authorization of Commercial Recyclers.

a. No person shall provide services as a collector or hauler of Commercial Recyclable Materials within the boundaries of the CCCSWA without either being a:

1. Authorized Commercial Recycler, or
2. Permitted Construction and Demolition Transporter, or
3. Special Permit Collector.

b. Commercial Recyclers will be required to enter into a separate franchise-contract or permit authorizing specified services and fees for activities within the CCCSWA service area.

Section VI. Requirements for Commercial Recyclers.

a. Recycling services provided by Commercial Recyclers shall include, at a minimum, all of the following:

- 1.** Collection of Commercial Recyclable Materials at a minimum of two (2) times per month, or more, as specified by contract, or permit. Collection scheduling below this minimum requirement will require CCCSWA notification;
- 2.** Collection of Commercial Recyclable Materials as identified by CCCSWA Executive Director, or designee;
- 3.** Utilization of recycling receptacles which comply with standards established in this Ordinance;
- 4.** Appropriate and color-coded signage on all recycling receptacles, containers, chutes and/or enclosures which allows users to clearly and easily identify which containers to use for Recyclable Materials, Food Waste or Solid Waste.

b. Source Separated and/or Commingled Recyclables may be collected and must be stored in containers or another manner sufficient to prevent access by rodents, insects and animals and must be collected by a Commercial Recycler with sufficient frequency so as not to create a health hazard, public nuisance or fire hazard.

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

d. Commercial Recyclers shall offer collection service and automated lift containers, bins or roll-off bins for Recyclable Materials sufficient to accommodate the quantity and types of Recyclable Materials.

e. Commercial Recyclers shall identify automated lift containers, bins or roll of bins for Recyclable Materials with its name, recognizable corporate or company logo, and phone number of the Commercial Recycler that is legible from a distance of fifty (50) feet.

f. Commercial Recyclers shall equip and provide automated lift containers, bins and roll-off bins for Recyclable Materials, with the option to add locks and/or other suitable features, where feasible, to prevent scavenging. They shall conduct all activities in accordance with applicable laws, CCCSWA ordinances and regulations and best management practices.

g. Vehicles and equipment and containers shall be kept in a clean and well-maintained condition. Vehicles and equipment and containers shall be covered during transit on public roads and highways to prevent loss of materials and unsafe conditions.

h. Commercial Recyclers shall not take any customer's Recyclable Materials to a landfill or other site for disposal. Such materials shall be taken to a Recycling Facility or Commercial Recyclers shall make other arrangements for recycling the materials instead of disposal. The authorized Commercial Recyclers shall maintain a copy of a service agreement and/or receipts documenting that the Commercial Entity's Recyclable Materials have been properly delivered, as well as any documentation evidencing an event of force majeure which prevented the proper delivery of Recyclable Materials. Such documents shall be available for inspection by the CCCSWA Executive Director, or designee, at the Commercial Recycler's place of business during normal business hours and maintained for not less than 3 (three) years.

i. Service agreements made between the Commercial Recycler and the Commercial Entity being served will not exceed the effective date of this Ordinance as shown in Section XXIII, unless change by Board action.

Section VII. Special Permit Collection.

a. At the discretion of the CCCSWA Executive Director, or designee, special permits may be issued to allow servicing of special needs which are not being addressed by Commercial Recyclers or other authorized services

b. An application for a special permit must be submitted to the CCCSWA. A non-refundable permit fee shall accompany the application for first-time applicants and renewal applicants as the Board of Directors may establish by resolution.

c. The special permit application shall include, but will not be limited to:

- 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 primary contact name(s) and contact information (business telephone number, after-hours telephone number, and email address).*
- 5.** *Description of services to be provided in the CCCSWA service area.*
- 6.** *The applicant agrees to furnish such information and reports required in the quarterly reports described in this Ordinance.*
- 7.** *A statement that the applicant agrees to operate in accordance with all applicable laws.*

Section VIII. Self-Hauling by Commercial Entity.

a. Nothing in this ordinance shall preclude any Person from Self-Hauling Recyclable Materials generated by that Person to a Recycling Facility. A Commercial Entity may transport Recyclable Materials generated at its business or property to a Recycling Facility without using one of the authorized recyclers listed in Section V only if the Commercial Entity completes its activity via Self-Hauling.

b. Self-Hauling does not include contracting for or hiring a third party to transport the Recyclable Materials. Self-Hauling strictly prohibits payment of a third party collector/hauler to transfer Recyclable Materials unless that collector/hauler is authorized by the CCCSWA.

c. The CCCSWA Executive Director may restrict or prohibit Self-Hauling by a Commercial Entity if he or she determines, after providing notice and an opportunity for a hearing, that the Commercial Entity's Self-Hauling activities violate the provisions of this Section or any other applicable law or regulation.

d. Commercial Entities performing Self-Haul must submit a report to the CCCSWA on a quarterly schedule documenting all Self-Haul for the specified period. The CCCSWA will develop a Self-Haul report form that will include the following information:

- 1.** The name, address and telephone number of the Commercial Entity's representative managing or familiar with the Commercial Entity's Self-Haul practice.
- 2.** A list of the types of Recyclable Materials transported by Self-Haul.
- 3.** For each type of Recyclable Material, the amount (weight) that is being taken from the Commercial Entity's business or property to a Recycling Facility on a quarterly basis by Self-Haul.
- 4.** The name and address of the receiving Recycling Facility.
- 5.** A written statement, signed by the Commercial Entity or representative, certifying that the Commercial Entity is in compliance with the requirements of this section.

e. Nothing in this ordinance shall preclude any Commercial Entity from selling or exchanging at fair market value, for reuse or recycling, Source Separated Recyclable Materials generated from that Commercial Entity or property; or from donating to another entity for reuse or recycling, Source Separated Recyclable Materials generated from that Commercial Entity or property.

Section IX. Commercial Food Waste Collection.

- a. Only an Authorized Food Waste Collector/Hauler shall have exclusive right and privilege to collect, transfer, process, and dispose commercially generated Food Waste accumulating at a Commercial Entity’s property in the CCCSWA Service Area.
- b. Such Authorized Food Waste Collector/Hauler shall offer collection service and sealed containers, bins or roll-off bins sufficient to accommodate anticipated generation of Food Waste.
- c. Such Authorized Food Waste Collector/Hauler shall perform collection, transfer, processing, and disposal at least once each week and in a manner sufficient to prevent access by rodents, insects and animals and must be collected with sufficient frequency so as not to create a health hazard or public nuisance.
- d. Collected commercial Food Waste will be taken to a Recycling Facility designated by the CCCSWA.

Section X. Small Business Recycling Collection Program.

- a. Valley Waste Management, currently under franchise with the CCCSWA, operates a Small Business Recycling Collection Program as part of services required under its franchise agreement with the CCCSWA.
- b. Under the Small Business Recycling Collection Program, Valley Waste Management collects Recyclable Materials from small businesses, that is, those who generate two (2) cubic yards or less of waste materials each week.
- c. The Small Business Recycling Collection Program is not exclusive to the Waste Management Franchise Agreement, as defined in Section 4.1.D. of the agreement.

Section XI. Service for Multi-Family Dwellings

- a. Valley Waste Management, currently under franchise with the CCCSWA, collects and removes all Recyclable Materials for Multi-Family Dwellings in accordance with franchise agreement requirements for said services.
- b. Multi-Family Dwellings are residential units other than single-family that require centralized collection services.
- c. Services provided to Multi-Family Dwellings are exclusive to the Valley Waste Management Franchise agreement and cannot be serviced for recycling under any authority provided by this Ordinance.

Section XII. Ordinance Exemptions

The following shall be exempt from the requirements of this Chapter:

- a. **Government.** The State of California, a special district or other local public agency, or any employee thereof, when collecting or transporting Recyclable Materials produced by operation or system of the entities described above. Municipal corporations and governmental

agencies using their own vehicles and employees engaged in the collection, transportation, or disposal of Recyclable Materials within the boundaries of the CCCSWA.

b. Inadequate Space and Zoning Violations. A Commercial Entity may be exempted from the requirements of this Chapter by the CCCSWA Executive Director or designee, if it is determined, through a site visit or confirmation by a Commercial Recycler under contract with the CCCSWA, that either:

- a) There is inadequate storage space for automated lift containers, bins or roll off bins for Recyclable Materials on site and that it is infeasible for the Commercial Entity to share automatic lift containers, bins or roll off bins for Recyclable Materials with a Commercial Entity on an adjoining property, or;
- b) Compliance with this Chapter will result in a violation of zoning codes or other local agency regulations for minimum parking spaces.

If, after reviewing the site, the CCCSWA Executive Director determines that it is feasible for recycling containers to be placed either on site or shared with an adjoining business or property, then the Commercial Entity will not be exempted from these requirements and will be responsible for full compliance with this Chapter.

c. Does not Generate Recyclable Materials. A Commercial Entity may be exempted from the requirements of this Chapter by the CCCSWA Executive Director or designee, if it is determined, through a site visit or confirmation by a Commercial Recycler under contract with the CCCSWA, that Recyclable Materials or Green Waste are not generated on site by the Commercial Entity.

d. Exemption Application. If the Commercial Entity seeks an exemption, an application for such exemption shall be submitted on a form prescribed by the CCCSWA. After reviewing the exemption request, and after an on-site review, if applicable, the Executive Director shall either approve or disapprove the exemption request.

Section XIII. Unlawful Collection of Recyclable Materials

a. All Recyclable Materials placed in containers, bins or roll-off bins for Recyclable Materials provided or owned by any authorized Commercial Recycler shall be considered owned by and be the responsibility of the authorized Commercial Recycler. No person shall collect Recyclable Materials placed in such containers, bins or roll-off bins, unless written permission of the Commercial Recycler has been given.

b. All Recyclable Materials placed in Recyclable Materials containers provided or owned by the Commercial Entity shall be considered owned by and the responsibility of that Commercial Entity until the material is placed at a Commercial Recycler's designated point of collection.

c. No person other than the party under contract with the Commercial Entity to collect the Recyclable Materials shall remove or otherwise interfere with Recyclable Materials which have been placed at a designated recycling or Recyclable Materials collection location. It shall be unlawful for any person to engage in the business of collecting, removing or transporting, or otherwise organize or direct the collection, removal or transportation of

Recyclable Materials without being an authorized Commercial Recycler described under Section V.

d. The following procedures will be followed in cases where unlawful collection is taking place using roll-off bins, or other types of containers or receptacles, for Recyclable Materials:

1. The Commercial Recycler places dated “Notification of Violation” on unmarked or non-permitted bin.
2. The Commercial Recycler sends notification immediately (by phone or e-mail) to CCCSWA staff with all available information about the bin’s owner (company name, phone, etc.). Three photos with date stamp are emailed the same day:
 - a. Photo of location (address on building, street sign)
 - b. Photo of bin with any contact information and CCCSWA sticker on bin
 - c. Photo of contents in bin
3. CCCSWA will send a letter via PDF email attachment or Fed Ex Overnight to:
 - a. Bin owner, and/or
 - b. Property owner
4. Property owner or bin owner has three business days after receipt of notification to contact the CCCSWA and a.) Obtain a permit, b.) Correctly mark their bin, or c.) Both correctly mark their bin and obtain a permit.
5. CCCSWA will email authorization for the franchised refuse service to pull the bin after 3 business days with no response.
6. Bin owner can collect their impounded bin from the franchised refuse service after paying a fee based on collection and storage charges as determined by the CCCSWA and franchised refuse service.

Section XIV. Reporting and Audit Requirements.

a. All authorized Commercial Recyclers who conduct recycling business within the CCCSWA 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 Commercial Recycler shall contain the following information:

1. The number of accounts the Commercial Recycler has within the Service Area and in each Local Jurisdiction.
2. A list of accounts, by name and address, the Commercial Recycler has within the Service Area and in each Local Jurisdiction, provided as an attachment to the report.
3. The total tonnage of commercially-generated Recyclable Materials collected by the authorized Commercial Recycler in each Local Jurisdiction.

4. The total tonnage of each type of commercially-generated Recyclable Materials collected by the Commercial Recycler in each Local Jurisdiction.
 5. 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 authorized 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 authorized 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 authorized Commercial Recycler in each Local Jurisdiction; and
 4. The name, address and phone number of Recycling Facility used by the authorized 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 service privilege, or other legal action as may be available pursuant to this Ordinance or at law.
- e. Information that is furnished pursuant to Section XIV (b) and (c), above, which pertains to its business and financial affairs and is designated as a trade secret of the authorized Commercial Recycler, Commercial Entity or Recycling Facility, shall be handled as exempt from public disclosure to the extent possible as provided by Sections 6254(n) and 6254.7(d) of the Government Code. Any information provided which is deemed to be a trade secret must be clearly designated as "trade secret" prior to submission to CCCSWA.
- f. Failure to timely submit a quarterly report may result in the revocation or suspension of the Commercial Recycler's Permit pursuant to this Ordinance.
- g. The submission of false information to the CCCSWA by any Person in connection with quarterly reporting shall be deemed a violation of this Ordinance and shall subject to contract or permit suspension or revocation.

Section XV. Insurance Requirements.

Each Commercial Recycler shall maintain in force, and provide proof of, the following insurance: general liability, automobile and workers' compensation with the following limits.

1. Level 1 - 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). Shall maintain insurance limits not less than:

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

2. Level 2 - 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). Shall maintain insurance limits not less than:

- a. 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.
- b. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage.
- c. 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.

3. Level 3 - 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. Shall maintain insurance limits not less than:

- a. 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.
- b. 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.
- c. 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.

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

Section XVI. Service Rates, Fees, and Oversight.

a. All Commercial Recyclers who conduct business in the CCCSWA service area will submit a rate and/or fee schedule at least once annually, normally at service contract or permit renewal or upon request by the CCCSWA Executive Director, or designee.

b. Recognizing that this Ordinance does not require rate review/setting, Commercial Recyclers who conduct business in the CCCSWA service area will manage rates and fees that recognize and support the CCCSWA objective to increase commercial entity participation and increase collection of Recyclable Materials. The CCCSWA Executive Director, or designee, may require submission of cost basis data for rates or fees that appear to exceed normal escalation using Bay Area cost indices.

Section XVII. Contract and Permit Fees.

a. The CCCSWA Board shall impose annual contract and permit fees by resolution which are intended to defray costs to CCCSWA and its members for administering this Ordinance and the program costs associated with this Ordinance and related Commercial Recycling programs of CCCSWA.

b. Commercial Recyclers whose annual payments are late may be assessed a penalty of \$50.00.

Section XVIII. IMPLEMENTATION AND ENFORCEMENT

a. Executive Director Authority

The CCCSWA Executive Director is authorized to administer and enforce the provisions of this Ordinance. The Executive Director, or anyone designated by the Executive Director, to be an enforcement officer may exercise such enforcement powers. To the extent permitted by law, the Executive Director or designee will be given reasonable opportunity to inspect any collection container, collection vehicle load, or receiving facility for collected Solid Waste, or Recyclable Materials.

b. Enforcement. *Reserved for future administrative enforcement provisions.*

Section XIX. FORMS, REGULATIONS AND GUIDELINES

a. After public notice and a public hearing, the Executive Director may adopt necessary forms, rules, regulations, and guidelines which may be necessary or desirable to aid in the administration or enforcement of the provisions of this article, including all necessary policies and procedures for the issuance of the permits, administration of this article, collection of fees and bonds and/or indemnities, or proof(s) of insurance.

b. The CCCSWA shall provide information on its website regarding what materials are accepted as Recyclable Materials.

Section XXI. DISCLAIMER OF LIABILITY

a. The degree of protection required by this Ordinance is considered to be reasonable for regulatory purposes. The standards set forth in this Chapter are minimal standards and do not imply that compliance will ensure safe handling of Recyclable Materials. This Chapter shall not create liability on the part of the CCCSWA, or any of its officers or employees

for any damages that result from reliance on this Ordinance or any administrative decision lawfully made in accordance with this Ordinance. All persons handling discarded materials within the boundaries of the CCCSWA should be and are advised to conduct their own inquiry as to the handling of such materials. In undertaking the implementation of this Ordinance, the CCCSWA is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officer and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

SECTION XXII. SEVERABILITY

a. If any section, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this article. The CCCSWA hereby declares that it would have passed this Ordinance and adopted each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

SECTION XXIII. SUNSET DATE.

This Ordinance shall expire on February 28, 2015, unless the CCCSWA Board of Directors takes action before that date to extend the term of this Ordinance.

AMENDED by the Central Contra Costa Solid Waste Authority Board of Directors
this _____ day of _____, 2012 by the following vote:

AYES: Members: _____

NOES: Members: _____

ABSENT: Members: _____

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

COUNTERSIGNED:

Board 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