



**CENTRAL CONTRA COSTA SOLID  
WASTE AUTHORITY**

**ORDINANCE NO. 15-1**

**MANDATORY COMMERCIAL RECYCLING**

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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.**

- A. The Central Contra Costa Solid Waste Authority (the “CCCSWA”) hereby recites and finds as follows:
1. The California Integrated Waste Management Act of 1989 requires that each city and county divert 50% of its waste stream.
  2. Assembly Bill 341 (“AB 341”) establishes a new diversion goal of 75% by 2020 (Public Resources Code sec. 41780.01). AB 341 also requires mandatory commercial recycling for all Responsible Parties generating four (4) cubic yards or more of waste per week, and for multi-family residential premises with five (5) units or more (Public Resources Code sec. 42649.2).
  3. The diversion and recycling of Recyclable Materials will assist the CCCSWA in helping Member Agencies achieve these state-mandated goals and help postpone the need for new landfill capacity.
  4. The member agencies have previously delegated their authority to the CCCSWA to enter into agreements concerning solid waste, recyclables, green waste and food waste and to implement their SRREs and HHWEs.
  5. 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.
  6. The Board of Directors of the CCCSWA has determined that consistent achievement of the 50% landfill diversion goal and future achievement of 75% by 2020 will be promoted by the jurisdiction-wide collection of Recyclable Materials from Commercial or Industrial establishments.
  7. The CCCSWA has initiated new franchised solid waste services commencing February 28, 2015 to serve residential, commercial and other waste generators within its jurisdiction. These services include commercial collection and processing services designed to meet and exceed State and local diversion goals, including the commercial recycling mandated by AB 341.

8. This ordinance was preceded by Ordinance 12-1 (which expired February 28, 2015) and Ordinance 96-1 (which was terminated on September 26, 2012).

## **Section II. Effective Date.**

- A. This Ordinance shall take effect on June 1, 2015. This Ordinance will be reviewed periodically once implemented and amendments will be recommended to the Board of Directors, as needed, to improve effectiveness and performance of commercial recycling services governed by this Ordinance.

## **Section III. Definitions.**

- A. 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.
  1. **“Board of Directors”** means the Board of Directors of the CCCSWA.
  2. **“CCCSWA”** means the Central Contra Costa Solid Waste Authority or its designated representative.
  3. **“Commercial or Industrial Premises”** means property upon which business activity is conducted, including but not limited to retail sales, services, wholesale operations, manufacturing and industrial operations, but excluding businesses conducted upon residential premises that are permitted under applicable zoning regulations and are not the primary use of the property.
  4. **“Composting Facility”** means a permitted facility in which green waste, food waste, and other organic waste materials are processed into biologically stable organic material.
  5. **“Construction and Demolition Debris”** means used or discarded materials removed from Premises during construction or renovation of a structure resulting from construction, remodeling, repair or demolition operations on any pavement, residential or commercial building or other structure.
  6. **“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.
  7. **“Executive Director”** means the Executive Director of the CCCSWA.
  8. **“Food Waste”** means food scraps separated from Solid Waste and offered for collection that will decompose and/or putrefy.
  9. **“Franchised Recycling Contractor”** means the Person that is franchised by the CCCSWA to collect and/or transport Recyclable Materials generated at Multifamily

Residential, Commercial or Industrial Premises within the Service Area.

10. **“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 Commercial or Industrial Premises.
11. **“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.
12. **“Multi-Family Residential Premises”** means a complex of dwelling units consisting of five (5) units or more used for residential purposes and where there are kitchen facilities and residents do not pay rent on a per day basis regardless of whether the resident therein is transient, temporary or permanent.
13. **“Permitted Construction and Demolition Debris Transporter”** means a Person or business entity that has been issued a Permit from the CCCSWA and that is in the business of collecting and/or transporting Construction and Demolition Debris and/or Green Waste to a Recycling Facility.
14. **“Person”** means an individual, association, partnership, corporation, or joint venture.
15. **“Premises”** means any tract or parcel with or without habitable buildings or appurtenant structures within the CCCSWA Service Area where Solid Waste is generated or accumulated.
16. **“Recyclable Materials”** means any material, any part of which may be recycled. Recycled Materials shall include, but not be limited to the following: newspapers, glass, tin, aluminum, metal, food and beverage containers, cardboard, mixed waste paper and magazines, waste motor oil, plastic containers and other recyclable or reusable goods.
17. **“Recycling or Processing 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. Such facility must be able to demonstrate that it obtains no more than 10% residual after processing and handling Recyclable Materials, in accordance with CalRecycle regulations for processing and handling facilities as they may be amended from time to time.
18. **“Residual”** means contaminant material, separated from Recyclable Materials or Green Waste that cannot be recycled, composted, marketed or otherwise utilized, and must be disposed of as Solid Waste, hazardous waste, or medical waste.
19. **“Responsible Party”** means the Person(s) who subscribes to Solid Waste collection services at a Commercial or Industrial, or Multi-Family Residential Premises, or, if

there is no such subscriber, the owner(s) of the Commercial or Industrial, or Multi-Family Residential Premises, or tenant(s) of Commercial or Industrial Premises.

20. **“Self-Haul”** means the act of transferring Recyclable Materials to a Recycling Facility for reuse or reprocessing by the Responsible Party using its own employees and vehicles.
21. **“Service Area”** means the physical area encompassed by the jurisdiction of the CCCSWA.
22. **“Solid Waste”** means all putrescible and non-putrescible solid, semi-solid and liquid wastes including garbage, trash, refuse, soiled paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated or chemically fixed sewage sludge that is not hazardous waste, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semi-solid wastes as defined in California Public Resource Code section 40191, as that section may be amended from time to time. Any such material that a Waste Generator discards and does not sell or dispose of in any manner for which the Waste Generator receives compensation is Solid Waste.
23. **“Special Permit Collector”** means a Person that has complied with local legal requirements and is permitted by the CCCSWA to collect and/or transport Recyclable Materials generated at Commercial or Industrial Premises from the Service Area that are not being addressed by Franchised Recycling Contractors or other authorized services.
24. **“Waste Generator”** means any person as defined by Section 40170 of the Public Resources Code, whose act or process produces Solid Waste, or whose act first causes Solid Waste to become subject to regulation.

#### **Section IV. Requirement for Responsible Parties.**

- A. Each Responsible Party within the Service Area shall be responsible for ensuring and demonstrating its compliance with the requirements of this Ordinance. Each Responsible Party shall:
  1. Segregate Recyclable Materials from Solid Waste; and either:
    - a. Subscribe to a basic level of recycling service using the Franchised Recycling Contractor that includes at a minimum, the collection of Recyclable Materials and transfer to a Recycling Facility for the purpose of reuse or reprocessing; or
    - b. Self-Haul all Recyclable Materials and maintain and submit records of Self-Hauling activities in accordance with section VI. D. of this ordinance or any other applicable law or regulation.

- B. Each Responsible Party shall notify and instruct employees in writing of applicable segregation requirements, including outreach and training on what materials are required to be separated from each other and/or commingled, and how to segregate such material.
- C. All Recyclable Materials shall be placed for collection in covered collection containers conforming to the following requirements:
  - 1. No container shall be loaded beyond its capacity.
  - 2. It shall be the Responsible Party'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.
  - 3. No material or containers shall be kept or handled in such a manner as to become a nuisance.
  - 4. No putrescible materials such as Food Waste shall be commingled with Recyclable Materials, unless specifically permitted.
  - 5. No Recyclable Material shall be allowed to become odoriferous or a producer of vermin.
  - 6. Lids on containers shall remain closed at all times while stored or placed for collection.
- D. When self-hauling, each Responsible Party 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. In these cases Responsible Parties 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 Responsible Parties are encouraged to consider recycling additional materials, whether or not they have been specifically designated.
- E. The Franchised Recycling Contractor shall not be held liable for the failure of its customers to comply with such regulations.

## **Section V. Authorization of Commercial Recyclers.**

- A. No person shall provide services as a collector or hauler of Recyclable Materials generated at Commercial or Industrial Premises or Multi-Family Residential Premises within the boundaries of the CCCSWA without either being:
  - 1. The Franchised Recycling Contractor, or
  - 2. A Permitted Construction and Demolition Debris Transporter, or

3. A Special Permit Collector.

- B. Special Permit Collectors will be permitted to collect only non-standard items that Franchised Recycling Contractor does not collect as of the effective date of this Ordinance. Special permits may be issued at the discretion of the Executive Director to allow servicing of needs that are not being addressed by franchised or other authorized services.
- C. Notwithstanding the above, this ordinance is not intended to prevent the collection and hauling of donated Recyclable Materials by civic, youth, or charitable organizations, or the collection and hauling of Recyclable Materials that are sold to the vendors that collect and haul such Recyclable Materials for net compensation to the Responsible Party or Waste Generator.

**Section VI. Self-Hauling by Responsible Party.**

- A. A Responsible Party may transport Recyclable Materials generated at its business or property to a Recycling Facility without using the Franchised Recycling Contractor only if the Responsible Party 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 Responsible Party if he or she determines, after providing notice and an opportunity for a hearing, that the Responsible Party's Self-Hauling activities violate the provisions of this Section or any other applicable law or regulation.
- D. Responsible Parties that choose to Self-Haul must keep records documenting all Self-Haul activities for a one-year period. Such records must be made available to the CCCSWA upon demand. The CCCSWA will utilize a Self-Haul report form that will include the following information:
  - 1. The name, address and telephone number of the Responsible Party's representative managing or familiar with the Responsible Party'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 Responsible Party'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.

## Section VII. Ordinance Exemptions.

- A. Responsible Parties shall be exempt from the requirement to either subscribe to recycling service or to Self-Haul their Recyclable Materials under this Ordinance when any of the following exemptions apply:
1. Inadequate Space and Zoning Violations. A Responsible Party may be exempted from the requirement to segregate and recycle Recyclable Materials under this Ordinance by the Executive Director or designee, if it is determined, through a site visit or confirmation by the Franchised Recycling Contractor, 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 Responsible Party to share automatic lift containers, bins or roll off bins for Recyclable Materials with a Responsible Party on an adjoining property, or;
    - b. Compliance with this Ordinance will result in a violation of zoning codes or other local agency regulations for minimum parking spaces, as officially determined by a member agency's planning agency or department.
  2. No Generation of Recyclable Materials. A Responsible Party may be exempted from the requirements of this Ordinance by the Executive Director or designee, if it is determined, through a site visit or confirmation by the Franchised Recycling Contractor under contract with the CCCSWA, that Recyclable Materials or Green Waste are not generated on site by the Responsible Party, owner or tenant.
  3. Donation of Recyclable Materials to a Civic, Youth, or Charitable Organization. A Responsible Party is exempted from the requirements to segregate and recycle Recyclable Materials under this Ordinance if it donates those materials to a civic, youth, or charitable organization.
  4. Sales of Recyclable Materials by Waste Generator. Nothing in this Ordinance prohibits the ability of a Waste Generator or Responsible Party to sell or dispose of its Recyclable Materials for net compensation.
  5. Collection of Recyclable Materials as Part of On-Property Clean-Up Services. A Responsible Party or Waste Generator is exempted from the requirements to segregate and recycle Recyclable Materials under this Ordinance if it hires a business to collect and haul away its Recyclable Materials and/or Solid Waste as part of a larger project involving clean-up services on the property.
  6. Construction and Demolition Debris Recycling. To the extent a Responsible Party generates Construction and Demolition Debris, the collection and recycling of that material is governed by CCCSWA Ordinance No. 12-2.
  7. Exemption Application. If the Responsible Party 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.

- B. Responsible Parties that sell or donate Recyclable Materials, or have Recyclable Materials collected as part of on-property clean-up services shall report the activities to the CCCSWA as described in Section VI. D.

### **Section VIII. Reporting Requirements.**

Reporting requirements applicable to the Franchised Recycling Contractor are specified in its franchise agreement. Responsible Parties that choose to Self-Haul must keep records as described in Section VI. D.

### **Section IX. 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 Franchised Recycling Contractor or Special Permit Collector shall be considered owned by and be the responsibility of the Franchised Recycling Contractor or Special Permit Collector. No person shall collect Recyclable Materials placed in such containers, bins or roll-off bins, unless written permission of the Franchised Recycling Contractor or Special Permit Collector has been given.
- B. It shall be unlawful for any Person, other than a Person performing Self-Hauling, to collect, remove or transport, or otherwise organize or direct the collection, removal or transportation of Recyclable Materials without being a Franchised Recycling Contractor, a permitted Construction and Demolition Debris Transporter or a Special Permit Collector as described under Section V.
- C. The following procedures may be followed in cases where unlawful collection is taking place using roll-off bins, or other types of containers or receptacles (referred to as “bins” in this section), for Recyclable Materials:
  - 1. The Franchised Recycling Contractor will place a dated “Notification of Violation” on the unmarked bin, or on any bin identified as not belonging to an Franchised Recycling Contractor or Special Permit Collector.
  - 2. The Franchised Recycling Contractor or Special Permit Collector sends notification immediately (by phone or e-mail) to the CCCSWA staff with all available information about the bin’s owner (company name, phone, etc.). The three photos (including date stamp) described below are to be emailed the same day:
    - a. Photo of location (address on building, street sign),
    - b. Photo of bin with any contact information and the Notification of Violation posted on the bin, and
    - c. Photo of contents in bin.

3. Prior to removal and impoundment, the CCCSWA shall provide written notice to the Premises owner or occupant, and to the bin owner if known. If the bin has not been removed, marked with appropriate identification, or the CCCSWA has not been contacted or cannot determine the ownership of the bin after reasonable efforts, within three (3) business days from receipt of written notice requesting compliance with this Ordinance, the CCCSWA or its agent may impound the bin and have the bin stored as provided for pickup by the bin's owner. For purposes of this section, written notice may be accomplished by email, personal service, US mail, or overnight mail. If the notice is delivered by email or personal service, it is deemed received the same day of delivery. If the notice is delivered by overnight mail, it is deemed received one business day after it is sent. If the notice is delivered by US mail, it is deemed received five calendar days after it is sent.
4. When bins are removed and impounded by the CCCSWA, or its agent, prior to return of the bin, the Executive Director will impose and the CCCSWA or the CCCSWA's agent may bill the bin owner a fee to cover collection, storage and return of the bins improperly labeled. The fee shall be based on the Debris Box Rates ("Per Pull") for collection of one twenty yard box as published in the current Rate Year Schedule of Rates for the CCCSWA member jurisdiction where the bin is located. 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 the CCCSWA.

## **Section X. Implementation and Violations.**

- 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. Violations. Any person violating any of the provisions or failing to comply with any mandatory requirements of this ordinance is guilty of a misdemeanor. Any person convicted of a misdemeanor under the provisions of this code shall be punished by a fine of not more than \$1,000.00 or by imprisonment in the county jail for a period not exceeding six months, or both fine and imprisonment. Notwithstanding the above, the prosecuting authority may file a complaint or make a motion to amend an accusatory pleading specifying that the offense is an infraction. Every violation determined to be an infraction is punishable by (1) a fine not exceeding one hundred dollars (\$100) for a first violation; (2) a fine not exceeding two hundred dollars (\$200) for a second violation of the same ordinance within one year; (3) a fine not exceeding five hundred dollars (\$500) for each additional violation of the same ordinance within one year. Each person is guilty of a separate offense for each and every day during any portion of which any violation of any provision of this ordinance is committed, continued or permitted by such person.

- C. Administrative Enforcement. In addition to and as an alternative to any criminal or civil legal remedies that may be pursued, the CCCSWA may enforce any violations of this ordinance by administrative proceedings.
- D. Enforcement Postponed. The CCCSWA will not enforce this Ordinance for six months from its effective date.

**Section XI. 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 Section. 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.


**PASSED AND ADOPTED** by the Central Contra Costa Solid Waste Authority Board of Directors this 30<sup>TH</sup> day of April, 2015, by the following vote:


AYES: MEMBERS: ANDERSEN, ANDERSON, ARNERICH, MITCHOFF, SILVA, SMITH, TROTTER, WORTH, WYKLE


NOES: MEMBERS: NONE

ABSENT: MEMBERS: ANDERSSON, CARLSTON, STEPPER

ABSTAIN: MEMBERS: NONE

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

COUNTER-SIGNED:  
  
 Janna McKay, Secretary of the Board,  
 Central Contra Costa Solid Waste  
 Authority, County of Contra Costa,  
 State of California

APPROVED AS TO FORM:  
  
 Kenton L. Alm, Counsel for the  
 Central Contra Costa Solid Waste Authority,  
 County of Contra Costa, State of California

