

TITLE IV

Chapter 4.01 BUSINESS RECYCLING, NON-RESIDENTIAL PROPERTY RECYCLING, MULTI-FAMILY PROPERTY RECYCLING AND SINGLE FAMILY RESIDENTIAL PROPERTY (PROPERTY MANAGED BY AN ASSOCIATION OR OTHER) RECYCLING

4.01.010 Purpose and Declarations.

A. It is the intent and purpose of this title to insure the proper management of solid waste, recyclable material, organic material and bulky items generated at businesses, non-residential properties, and multi-family residential properties in the SWA region.

B. It is the further purpose of this title to provide a mechanism for the implementation of recycling programs for businesses, non-residential properties, and multi-family residential properties within the SWA region and thereby enable SWA member agencies to meet and maintain the solid waste diversion requirements set forth in the Public Resources Code section 41780 (a) (2), by:

1. Requiring businesses, non-residential properties, and multi-family residential properties in the SWA region to keep recyclable materials and organic material separate from solid waste for recycling.

2. Requiring businesses, non-residential properties, and multi-family residential properties to provide for the collection of recyclable materials.

3. Requiring businesses, non-residential properties, and multi-family residential properties to inform their employees, tenants, and residents concerning recycling requirements.

C. It is also the intent of this title to provide for the uniform regulation of business, non-residential property, and multi-family residential property recycling and for the collection of recyclable materials and organic materials in the SWA region.

D. Multi-family residential properties are not required by any provision in this code to separate food material for recycling.

E. If any portion of title IV is for any reason held invalid or unconstitutional by any decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining part of this title.

4.01.035 Participation in Recycling Program

All businesses, non-residential properties, and multi-family residential properties, shall participate and cooperate in a recycling program and an organic material recycling program. Each business, non-residential property and multi-family residential property (the party contracting for solid waste removal service, owners or generators), shall subscribe to a recycling service and an organic material service or self-haul recyclable materials to a recycling facility. Single-family residential properties managed by an association or other organization shall also subscribe to recycling service and a green material service, or self-haul recyclable and/or green materials to a recycling facility if they are not participating in a residential curbside collection recycling program.

4.01.040 Requirements for All Businesses and Non-Residential Properties

- A. Each business or non-residential property shall be responsible for ensuring and demonstrating its compliance with the requirements of this title and shall:
1. Enter into a written service agreement with a franchised waste hauler for solid waste collection on, at minimum, a weekly basis, and
 2. Subscribe to a service for removal of large and bulky items, as needed, and;
 3. Subscribe to a basic level of recycling service that includes, at a minimum, the collection of recyclable materials, and;
 4. Source separate organic material from solid waste and subscribe to a basic level of organic material collection service.
- B. Alternatively to section 4.01.040(A)(3) and (4) above, each business or non-residential property (the party contracting for solid waste removal service, owners or generators) may submit a self-hauling application form to the GME certifying that all self-hauling activities will be completed in accordance with the provisions of this title and any other applicable laws or regulation. Upon review, a copy of the self-haul form will be returned to the applicant. A copy of such form shall be made available to the GME within ten (10) business days upon request.
- C. Each business and non-residential property shall provide recyclable materials containers, to be used by generators, in maintenance or work areas where recyclable materials may be collected and/or stored.
- D. Each business and non-residential property shall prominently post and maintain one or more signs in maintenance or work areas where recyclable materials are collected and/or stored that set forth what materials are required to be source separated in addition to collection procedures for such materials;
- E. Each business and non-residential property shall notify and instruct employees, in writing, of applicable source separation requirements, including what materials are required to be source separated and how to source separate such materials. A copy of such instruction shall be provided to the GME within ten (10) business days upon request.
- F. Each business and non-residential property shall ensure that recyclable materials generated at their site will be taken only to a recycling facility and not to a landfill.
- G. The Service Agreement or other recycling documents shall be made available to the GME within ten (10) business days upon request.
- H. Nothing in this title shall abridge the right of any business and non-residential property, owner, or generator, or any other person, to sell or exchange at fair market value its own recyclable materials which are source separated for reuse and recycling.
- I. No franchised waste haulers shall be held liable for the failure of its customers to comply with such regulations.

4.01.050 Requirements for All Multi-Family Residential Properties

A. Each multi-family residential property shall be responsible for ensuring and demonstrating its compliance with the requirements of this code and shall enter into a written service agreement with a franchised hauler for solid waste collection on, at minimum, a weekly basis, and shall:

1. Source separate recyclable materials and green material from solid waste, and;
2. Subscribe to a recycling service that reserves a minimum of 30% of total capacity for recycling materials, and;
3. Place recyclable materials containers in a location or locations at least as convenient to tenants as the solid waste containers, and;
4. Subscribe to a service for removal of bulky waste such as tenants' furniture and household belongings.

B. Alternatively to section 4.01.050(A)(1) through (3) above, any multi-family residential property may complete and submit a self-hauling application form to the GME certifying that all self-hauling activities will be completed in accordance with the provisions of Title IV and any other applicable laws or regulations. Upon review, a copy of the self-haul form will be returned to the applicant. A copy of such form shall be made available to the GME within ten (10) business days upon request.

C. Each multi-family residential property shall notify and instruct tenants and residents in writing, of recycling requirements, including what materials are required to be recycled and how to keep recyclable materials and green material out of solid waste containers such as dumpsters, carts or roll off bins. A copy of such instruction shall be provided to the GME within ten (10) business days upon request.

D. Each multi-family residential property shall ensure that recyclable materials and green material generated at their site will be taken only to a recycling facility and not to a landfill for proper disposal.

E. The Service Agreement or other recycling documents shall be made available within ten (10) days upon request of the GME.

F. Nothing in this title shall abridge the right of any multi-family residential property, or any tenant, to sell or exchange at fair market value its own recyclable materials which are source separated for reuse and recycling.

G. No franchised waste haulers shall be held liable for the failure of its multi-family customers to comply with such regulations.

H. After taking reasonable measures to inform tenants of recycling requirements and tenant responsibilities, no multi-family residential property shall be cited for non-compliance with SWA Code as a result of the failure of his or her rental property tenants to source separate designated recyclable materials from solid waste. Such reasonable measures may include, but are not limited to lease agreement provisions requiring tenants to source separate recyclable materials and periodic tenant education efforts such as the distribution of information flyers or handouts.

4.01.060 Special Requirements

In addition to any and all requirements that apply to the recycling of recyclable materials throughout the SWA region under sections 4.01.040 and 4.01.050 above,

collection service received or provided in the SWA region shall be subject to the following additional special requirements:

A. All containers and bins provided by a franchised waste hauler within the collection area of the SWA region shall be equipped with locks and shall remain locked at all times, except when solid waste or recyclable materials are being deposited or collected in accordance with the provisions of this section;

B. No container, bin, or cart within the SWA region shall be placed or located in such a manner that blocks or impedes passage through the alley or through any doorway of any building adjoining the alley, notwithstanding that such building may be abandoned or otherwise out of use.

Compliance with the above special requirements shall be the sole responsibility of the business, non-residential property, multi-family residential property.

4.01.070 Designation of Recyclable Materials

Recyclable materials shall be source separated from solid waste collection, removal, transportation or disposal pursuant to sections 4.01.040 and 4.01.050. The GME shall designate recyclable materials that must be source separated by businesses, non-residential properties, and multi-family residential properties. Such a designation shall consider materials market conditions and the availability of a cost-effective system for recycling such materials.

4.01.080 Ownership of Recyclable Materials.

A. All recyclable materials placed in automatic lift containers, bins, carts, or roll off bins for recyclable materials provided by any franchised waste hauler sufficient to accommodate the quantity and types of recyclable materials of businesses or non-residential properties, and multi-family residential properties shall be considered owned by and be the responsibility of the franchised waste hauler. Without permission of the franchised waste hauler, no person shall collect recycling materials placed in automatic lift containers, bins, carts, or roll off bins for recyclable materials by customers.

B. All recyclable materials placed in recyclable materials containers provided by businesses, non-residential properties, multi-family residential properties shall be considered owned by and be the responsibility of that business, non-residential property, multi-family residential.

4.01.090 Requirements for Franchised Waste Haulers

A. Commercial waste haulers shall be franchised pursuant to the provisions of section 2.01.040 of this code and such franchise shall be in full force and effect.

B. Franchised waste haulers shall offer collection service in containers, bins, carts or roll off bins for solid waste, recyclable materials, and organic materials sufficient to accommodate the quantity and types of solid waste, recyclable materials, and organic materials to all its customers.

C. Franchised waste haulers shall equip and provide containers, bins, carts and roll off bins for solid waste, recyclable materials and organic materials with locks and/or other suitable features to prevent scavenging of recyclable materials and organic materials.

D. A franchised waste hauler shall provide a written service agreement to a customer before the franchise waste hauler begins to collect customer's solid waste and/or recyclable materials and/or organic material.

E. Franchised waste haulers shall conduct all of its activities in accordance with all applicable laws, the SWA Code, and best management practices. Vehicles, equipment and containers shall be kept in a clean and well-maintained condition.

F. Franchised waste haulers shall not take a customer's recyclable materials and organic material to a landfill or other site for disposal, but to a recycling facility.

G. The GME may restrict the hours of collection of solid waste or recyclable materials and organic material by franchised waste haulers in designated areas.

H. Franchised waste haulers, upon request, shall provide the GME with a copy of a service agreement or other document (e.g., receipt from a recycling facility) demonstrating that the generator's recyclable materials and organic materials are being taken to a recycling facility. The service agreement or other document shall be available for inspection by the GME at the franchised waste haulers' place of business during normal business hours.

I. SWA staff may audit all franchised waste haulers' records in the SWA region.

4.01.100 Franchised Waste Hauler Service Agreements

Service agreements shall incorporate, but are not limited to, the following terms and conditions:

A. Be clearly labeled as a service agreement;

B. Describe the services to be provided by the franchised waste hauler and the cost for providing such services to the customer;

C. Clearly state the initial term and renewal terms;

D. Allow for any term that is mutually agreed to by the customer and the franchised waste hauler but recognizing that the hauler's franchise must remain in full force and effect throughout the term of the agreement;

E. May contain automatic renewal for successive periods of no longer than one (1) year, unless either party gives written notice of termination by certified or registered mail at least sixty (60) days prior to termination date of the current agreement;

F. May be amended as mutually agreed upon by the customer and franchised waste hauler;

G. Customers are to receive written notice of price increases not less than thirty (30) days prior to the effective date of such price increase.

H. Franchisees shall respond to customer inquiries regarding the service agreement within thirty (30) days.

I. Include language stating that collection containers will be removed from the property of a customer within thirty (30) days of final termination of services to the customer.

J. Not require customers to pay over three (3) months liquidated damages during the renewal term and over six (6) months liquidated damages during the initial term of the service agreement;

K. Not require a customer to give a franchised waste hauler the exclusive right to provide recycling services or organic material collection services as a condition of a waste hauling contract unless the customer affirmatively indicates that is its desire.

L. Not require customers to give notice of any offer by a competitor or require customers to give franchised waste haulers the right to respond to such an offer.

M. National contracts or agreements are exempt from the requirements of contract length and renewal terms.

N. Franchises must be in full force and effect for the service agreement to be effective.

The requirements for service agreements contained in this section shall be incorporated into all new service agreements and all service agreement renewals.. Existing service agreements between a franchised waste hauler and a customer executed before January 1, 2009 shall remain in force for the remainder of the existing contract and shall be governed by the terms and conditions specified in the existing service agreement contracts, provided that such existing service agreements shall comply, to the extent allowable by law, with the recycling programs established by this title.

4.01.120 Appeal Upon Denial of Self-Haul

Application

A. Within thirty (30) days of written notification of award denial or within sixty (60) days of GME's failure to act on the self-haul application, applicant has the right to meet with the GME to review the items cited in the written notice and provide any additional evidence to support an award. Within fifteen (15) days of such meeting, the GME will make a final, written determination of the application, based on the reviews of additional evidence, together with the original application. GME will send a copy of all final, written determinations, including reasons for denial, if any, to both applicant and the Board.

B. Applicant may, within ten (10) days after receiving the GME's, and/or his or her designee's, final denial, request a public hearing before the Board by submitting to the Clerk a written petition for an appeal hearing. If a public hearing is requested, the Clerk shall set the matter for hearing at the next regularly scheduled Board meeting or any later date as agreed upon by the applicant and Clerk. At such hearing, applicant may present evidence in writing and through testimony of its employees and others relevant to the application. During such hearing, the Board may demand from the applicant such additional information, as the Board may deem relevant and necessary. Standard rules of evidence are not in effect at such public hearing, and the applicant shall have the burden of proof to show facts demonstrating that the applicant does in fact meet the requirements of this code. Any hearing may be continued or adjourned to a stated time and place without the giving of further notice. The Board will provide applicant with a written explanation of its determination on the application within thirty (30) days of such hearing. The Board's decision is final.

4.01.130 Self-Hauling.

A. A business, non-residential property, multi-family residential property, owner, or generator, may haul or transport recyclable materials and/or organic material generated and collected at its business, non-residential property, or multi-family residential property to a recycling facility (rather than hiring a franchised waste hauler) only if an owner, generator, employee, or tenant of the entity completes this activity by utilizing a vehicle owned by either an employee or the entity.

B. A business, non-residential property, multi-family residential property, owner, or generator, may designate a third (3rd) party to self-haul bulky items, recyclable materials and/or organic material and represent the owner, generator, employee, or tenant of the entity.

C. A business, non-residential property, or multi-family residential property that hauls or transports recyclable materials and/or organic material generated and collected at its business, non-residential property, or multi-family residential property, to a recycling facility without the utilization of a franchised waste hauler must complete and submit, for review by the GME a self-hauling form that certifies that all self-hauling activities will be completed in accordance with the provisions of Title IV or any other applicable law or regulation. The self-hauling form shall be made available to the GME within 10 business days upon request. At a minimum, the business, non-residential property, multi-family residential property, owner, or generator, shall provide the following information on the self-hauling form:

1. The name, address and telephone number of the business, non-residential property, or multi-family residential property representative that is signing the self-hauling form;

2. A list of the types of materials that are being transported;

3. For each type of recyclable material and/or organic materials, the amount that is being taken from the business, non-residential property, or multi-family residential property to a recycling facility;

4. The name and address of the recycling facility.

D. The self-hauling form shall contain a written statement, signed by the business, non-residential property, multi-family residential property, owner, or generator, certifying that the owner, or generator is in compliance with the requirements of Title IV.

E. The GME may restrict or prohibit self-hauling by a person if the GME determines, after providing notice and an opportunity for a hearing, that the person's self-hauling activities violate the provisions of Title IV or any other applicable law or regulation.

4.01.140 Reporting.

A. Franchised waste haulers shall provide quarterly reports to the SWA identifying, at a minimum, the following:

1. The total number of business and non-residential property customers they have in the SWA region.

2. The total number of business and non-residential property customers they have in the SWA region who source separate recyclable materials.

3. The total number of multi-family residential property complex customers they have in the SWA region.

4. The total number of multi-family residential property units in each multi-family residential property complex customer.

5. The total number of multi-family residential property complex customers they have in the SWA region who source separate recyclable materials and organic materials.

6. The recyclable materials and organic materials tonnage collected and removed within the SWA region during the previous quarter.

7. The location of the recycling facility(ies) to which the recyclable materials and organic material were taken during the previous quarter.

Due dates for reporting periods:

<u>Reporting Period:</u>	<u>Due Date</u>
January 1 – March 31:	May 1
April 1 – June 30:	August 1
July 1 – September 30:	November 1
October 1 – December 31:	February 1

B. If the quarterly report is not filed by the due dates above, the report shall be deemed delinquent, and the franchised waste hauler shall pay to the SWA a delinquent report charge in the amount of fifty dollars (\$50.00). If the report remains delinquent for more than fifteen (15) days, the grantee shall pay to the SWA a delinquent report charge in the amount of one hundred dollars (\$100.00).

C. Franchised waste haulers' failure to file the reports required by this chapter shall constitute cause for termination or suspension of its franchise pursuant to section 2.01.140 or termination or suspension of its authorization status pursuant to section 4.01.100(A)(8).

D. Upon request of the GME, self-haulers shall prepare reports identifying, at a minimum, the following:

1. An estimate of the material tonnage collected and removed within the SWA Region during the previous quarter.

2. The location of the recycling facility(ies) to which the material were taken during the previous quarter.

E. Quarterly reports shall be made available to the GME, and/or his or her designee within 10 business days upon request.

F. The GME, and/or his or her designee, shall provide and establish guidelines, forms and other appropriate material to assist franchised waste haulers and self-haulers in preparing the reports required by this chapter.

4.01.150 Exemptions from Recycling Standards.

A. Any business or non-residential property (the party contracting for solid waste removal service, owners or generators) that generates less than 4 cubic yards of solid waste per week is exempt from the commercial recycling requirements in section 4.01.040(A)(3) and (4).

B. Any business or non-residential property (the party contracting for solid waste removal service, owners or generators) that generates less than ½ (one half) cubic yard of organic material per week is exempt from the organic material recycling requirements of section 4.01.040(A)(4) .

C. Any multi-family residential property (the party contracting for solid waste removal service, owners or generators) that generates less than 4 cubic yards of solid waste per week is exempt from the recycling requirements in section 4.01.050(A)(1) through (3); and any multi-family residential property (the party contracting for solid waste removal service, owners or generators) that generates less than ½ (one half) cubic yard of green material is exempt from the green material recycling requirements of section 4.01.050(A)(1) .

D. Notwithstanding any other provision herein, a business, non-residential property, or multi-family residential property shall be exempt from the requirements in sections 4.01.040 and 4.01.050 if no recyclable materials nor organic materials are being generated by any activities occurring on the owner's business or non-residential property.

E. Notwithstanding any other provision herein, a business, non-residential property, or multi-family residential property shall not be required to source separate recyclable materials and organic material if that business, non-residential property, or multi-family residential property demonstrates to the GME, that there is no collection service or other system available for recycling such material.

F. Notwithstanding any other provision herein, a business, non-residential property, or multi-family residential property shall be exempt from the requirements in sections 4.01.040 4.01.050 if neither recyclable materials nor organic materials are not being generated by any activities occurring at the business or non-residential property.

G. Businesses, non-residential properties, and multi-family residential properties may be exempted by the GME if it is determined, through a site visit requested by the business, non-residential property, or multi-family residential property that:

1. That there is not adequate storage space for automatic lift containers, bins, carts or roll off bins for recyclable materials and/or organic materials on site and that it is infeasible for the business, non-residential property, or multi-family residential property to share automatic lift containers, bins, roll off bins or carts for recyclable materials with another business, non-residential property, or multi-family residential property on an adjoining property or;

3 That compliance with Title IV results in a violation of zoning code requirements or municipal zoning regulations for minimum parking spaces. If the GME determines that it is feasible for recycling containers to be placed on site or shared with an adjoining business, non-residential property, or multi-family residential property then that business, non-residential property, or multi-family residential property will be responsible for compliance with Title IV.

H. An application for an exemption shall be submitted to the GME, on a form prescribed by the GME. After reviewing the request, the GME shall either approve or disapprove the exemption request.

Comment [GD1]: This provision is inconsistent with State Law (AB 341 of 2011; Chapter 476, PRC Part 3, Division 30, Sections 42649.1 and 42649.2)

All multi-family residential properties of 5 units or more are required to source-separate recyclable material.

SWA Code will be amended to reflect this **current** State of California mandate at the next available opportunity.

4.01.160 Solid Waste Authority Rules and Regulations.

A. The GME is authorized to make and enforce administrative rules and regulations governing recycling at businesses, non-residential properties, and multi-family residential properties, and all related activities including recyclable material, organic material, and commercial solid waste generation, storage, recovery, accumulation, collection, removal, transportation and disposal; the manner in which commercial solid waste, organic material, and recyclable material services are provided; types of commercial solid waste, recyclable material, and organic material containers and vehicles used therefor; for the operation and maintenance of sanitary methods of commercial solid waste, recyclable material, and organic material transfer, processing, recycling, and/or disposal; reporting requirements for franchised waste haulers and self-haulers; and for the effective administration of this title. All such rules and regulations shall be consistent with the provisions of the SWA Code and shall be effective on the thirtieth (30th) day following the filing of any such rules and regulations with the Clerk.

B. The SWA Board may and is hereby empowered to grant to a qualified applicant a non-exclusive franchise to engage in the business of collecting, transporting or disposing of commercial solid waste and/or recyclable materials and/or organic materials kept, accumulated or generated in the SWA region.

C. The SWA Board may grant a franchise based on compliance with this code. Any grant of a franchise by the SWA Board may be subject to such terms conditions, rules, regulations, restrictions, and limitations, as the SWA Board deems necessary to protect the public health, safety, or welfare.

D. The SWA Board hereby empowers and grants to the GME the authority to designate recycling materials and make administrative rules and regulations governing business, non-residential property, or multi-family residential property recycling.

E. The SWA Board hereby empowers and grants to the GME the authority to administer, implement and enforce Title IV and administrative rules and regulations governing business, non-residential property, or multi-family residential recycling thereafter.

F. It shall be unlawful and constitute a violation of Title IV for any person to violate or otherwise fail to comply with any rule or regulation issued pursuant to this chapter.

4.01.170 Rights Reserved to SWA

In addition to all other rights reserved to the SWA under this title, the following shall apply:

A. There is hereby reserved to the SWA every right and power, and the exercise thereof, which is reserved or authorized by any provision of any lawful ordinance, title or resolution of the SWA, whether enacted before or after the effective date of Title IV.

B. Neither the granting of any franchise nor any provision of any franchise shall constitute a waiver of or a bar to the exercise of any governmental right or power of the SWA.

C. The grantee shall have no recourse whatsoever against the SWA, its officials, officers, employees or agents or any of the SWA member entities, their officials, officers, employees, or agents for any loss, cost, expense or damage arising out of any

provision or requirement of this title or of any franchised waste hauler franchise issued under this title or because of the enforcement of title IV.

D. There is hereby expressly reserved to the SWA the power and authority to amend any chapter of this title so as to require additional or greater standards on the part of the grantee.

4.01.180 Administration and Costs

A. The administration, implementation, and enforcement of this title is the duty of the GME, and/or his or her designee. The GME is authorized and directed by the SWA Board to administer title IV.

B. SWA franchise fees will fund administrative, implementation and enforcement costs.

4.01.190 Unlawful Acts.

A. It shall be unlawful to combine recyclable materials and/or organic materials with each other or with other solid waste. Failure to source separate recyclable materials and/or organic materials for recycling is a violation of this Ordinance.

B. It shall be unlawful for franchised waste haulers to collect solid waste that contains visible signs of recyclable materials.

C. It shall be the responsibility of the business, non-residential property, multi-family residential property, owner, or generator, whose solid waste was not removed because it contained recyclables, to properly separate recyclables from the uncollected solid waste for proper recycling. Allowing such unseparated solid waste to accumulate will be considered a violation of this title and Sacramento County Code section 6.20.115, Refuse Removal.