

Attachment B  
SANTA BARBARA COUNTY  
PUBLIC WORKS DEPARTMENT  
RESOURCE RECOVERY & WASTE MANAGEMENT DIVISION  
RULES AND REGULATIONS  
GOVERNING CHAPTER 17 OF THE COUNTY CODE

CHAPTER 1-GENERAL PROVISIONS

1-100            Definitions

1-101. For the purposes of these Rules and Regulations, the following words and phrases shall have the meaning set forth herein, and words and phrases not ascribed a meaning herein shall have the meaning as set forth in Santa Barbara County Code, Chapter 17, as it may be amended from time to time:

"Applicant" means the person applying on behalf of a Solid Waste Enterprise to the County of Santa Barbara for a permit to provide Unscheduled Solid Waste Handling Services.

"County Code" means the Santa Barbara County Code.

"Service or Serviced" means the collection and transportation of Solid Waste to recycling and disposal facilities by a permittee during the provision of Unscheduled Solid Waste Handling Services.

CHAPTER 2-REGULAR SOLID WASTE HANDLING SERVICES

2-100            Commercial Recycling Program Protocols

2-101            Compliance Protocol

The Commercial Recycling Program Protocols (hereinafter "Protocol" or "Protocols") shall be applicable to and mandatory for all "persons" and "responsible parties" associated with "Commercial Premises" (hereinafter "Business" or "Businesses") as these terms are defined in County Code Chapter 17, excluding public and private educational institutions (i.e., schools). Further, state mandated commercial recycling has been in effect since 2011. Through AB 341, Mandatory Commercial Recycling, any Business generating four (4) or more cubic yards of Solid Waste per week is required to have a recycling program in place. Any Multi-Family Unit with five (5) or more units is required to have a recycling program in place.

A Business will be in compliance with the Protocol if the Business subscribes to the Collection services of an authorized Collector, or the Business chooses to donate or sell its Recyclables to a commercial recycler that does not charge for its service, or the Business

provides its own Collection and transportation of Recyclables services (self-haul to drop-off facilities). Otherwise, the Business must qualify for and obtain an applicable waiver as described in Section 2-102 to be in compliance with the Protocol.

The key component to the Commercial Recycling Program Protocol is compliance by each Business. The following information outlines responsibilities of the County and Franchisee to ensure compliance.

Visual Inspection Schedule: Each Business's trash and recycling container will be checked by the Franchisee route driver in coordination with the inspection schedule for SB 1383 outlined in the Franchise Agreement. To ensure consistent inspections, the Franchisee will provide drivers with a list of Businesses to be checked for that day. Results of these inspections will be provided to the County as part of the monthly report.

Visual Inspection Process: If Recyclables are found in the trash container, the driver will document responses to the following questions:

- a. Does the Business have recycling containers?
- b. Are the containers being used?
- c. Does the Business need more recycling containers?

If the answer to question "a" is no, the driver will inform office staff that the Business is in non-compliance. Office staff will make a follow-up phone call to the Business explaining the requirements of the Protocols, options available, and repercussions of non-compliance.

If the answer to question "b" is no, the driver will inform office staff that the Business needs to be educated on the appropriate use of the containers. If the Business chooses to not use the containers, they will be informed of the non-compliance fee (see 2-103 below).

If the Business requests a waiver from the Protocols, see the Waiver Protocol (2-102) below.

If the answer to question "c" is yes, the driver will inform office staff that the Business requires additional recycling containers.

County Participation: County staff may ride with a driver to determine participation at the County's discretion. The County may conduct separate audits of each Business annually to ensure compliance. County staff will periodically review materials being tipped at area landfills to gauge the quantity of Recyclables that continue to be buried from the commercial sector and identify any particular routes that appear to be in non-compliance.

## 2-102 Waiver Protocol

The following outlines the procedure a Business shall use to obtain a waiver or exemption from the requirements of the Protocols

STEP 1: The Business expresses an interest in obtaining a waiver or being exempt from participating in the program.

STEP 2: Franchisee will refer the Business to the Mandatory Commercial Diversion Waiver form available on the County's LessIsMore.org website to formally request a waiver from the Protocol. For purposes of this section, the Business will have the burden to produce evidence sufficient to allow the County to make the determination that the Business qualifies for a waiver from the requirements of the Protocol.

The following are eligible reasons for being granted a waiver from the Protocol:

If the Business generates four (4) or more cubic yards of waste, or the Multi-Family complex has five (5) or more units, a waiver may be granted if:

- a. Physical Space Constraints – the area available to house containers is insufficient for the requisite service.
- b. De Minimis Volume – the Business or Multi-Family complex demonstrates that the quantities of Recyclable material discarded constitute less than 10% of the overall waste volume.

If the Business generates less than four (4) cubic yards of waste, or the Multi-Family complex has four (4) or fewer units, a waiver from the Protocol may be granted if:

- a. According to County Code 17-6, provided the Director, or his or her designee, after receiving a written application from the Business, finds that the requirements of the Protocol are infeasible or unnecessary to maintain the required level of service, or;
- b. The Business would suffer undue or unreasonable hardship by participating in the Protocol.

STEP 3: County will notify the Franchisee of the waiver application after which the Franchisee will arrange a site visit to verify the applicant's claim. Franchisee will notify the County of the date and time of the site visit so that County staff may attend if desired.

STEP 4: If Franchisee performs the site visit without County participation, Franchisee will document information about the site visit, including relevant photographic evidence, and communicate it in a format acceptable to the County.

STEP 5: County determines if waiver is granted or not. County shall notify the Business of this determination (hereinafter, "Notice of Determination").

- a. If the County determines the Business is not entitled to the waiver or exemption, the Business may appeal by requesting an administrative review hearing of the adverse determination within ten (10) working days of personal service or the date of the mailing of the Notice of Determination.
- b. The Notice of Determination shall contain a statement that if the Business fails to request an appeal of an adverse determination, the Notice of Determination shall be deemed a final administrative order or decision for purposes of Code of Civil Procedure Section 1094.5.
- c. An appeal of the Notice of Determination shall be heard by the Director of Public Works (or his or her designee) as the hearing examiner. The administrative appeal hearing shall be set no sooner than twenty (20) and no later than forty-five (45) days following a request for an appeal hearing. Notice of the appeal hearing shall be mailed at least twelve (12) calendar days before the date set for the hearing. Failure to appear timely will cause the Notice of Determination to become a final order or decision.
- d. After the hearing, the hearing examiner shall uphold, vacate or modify the initial determination of the County. The decision of the hearing examiner shall be deemed a final administrative order or decision for purposes of Code of Civil Procedure 1094.5. The hearing examiner's decision shall be deemed served within two days after the date it was mailed to the address provided by the Business.

## 2-103 Non-Compliance Fee

The following explains the process for collecting the Non-Compliance Fee for Non-Compliance with the Commercial Recycling Program, how the fee or rate is imposed and collected, and the use of the fee.

**Levying Fee:** If a Business refuses to recycle or receives recycling containers but does not use them appropriately (high levels of contamination or trash), and has not been granted a waiver, the Business will be deemed to be in Non-Compliance with this Protocol, and State Law as appropriate.

Those Businesses that generate less than four (4) cubic yards of waste per week or Multi-Family complexes of less than five (5) units, that refuse to participate will pay a Non-Compliance Fee for Non-Compliance with the Commercial Recycling Program. This fee will be included in the Business trash bill and will be 20% of the Business's trash collection rate (not including bin rentals).

Prior to being referred to the County for confirmation that the Non-Compliance Fee is to be levied, the Franchisee will:

- a. Contact the Business via certified letter explaining their non-compliance and the potential for a fee to be levied if they do not participate, and

- b. One week after confirmation that the certified letter was received, provided the business has not implemented an appropriate recycling program, make a follow-up phone call to the Business explaining their non-compliance and that they will be assessed the Non-Compliance Fee if they do not participate.

If the Business fails to comply, the Franchisee will refer the Business to the County for a final determination of non-compliance. County staff will contact the non-compliant Business a final time to ensure that they are aware of the Protocol and the repercussions of not participating. Businesses that refuse to participate will be communicated to the Franchisee, and they will levy the Non-Compliance Fee as described above. The Franchisee will denote these Businesses in their database such that they are easily distinguishable from other customers.

Fee Distribution): Each month, haulers will submit a report identifying Businesses that are being assessed the non-compliance fee and shall forward all fee monies to the County. The County will expend funds generated by the fee on recycling education and promotion programs.

#### 2-104 Non-Compliance – State Mandates

The following explains the process for enforcing Mandatory Commercial Recycling Law (AB 341) which supersedes the County Commercial Recycling Program.

Those Businesses that generate more than four (4) cubic yards of waste per week or Multi-Family complexes of five (5) units or more, that refuse to participate voluntarily will have appropriate recycling service established and billed by the Franchisee. Prior to being referred to the County for confirmation that recycling service will be established involuntarily, the Franchisee will:

- a. Contact the Business via certified letter explaining their non-compliance and the potential for service to be established involuntarily if they do not participate, and
- b. One week after confirmation that the certified letter was received, provided the business has not implemented an appropriate recycling program, make a follow-up phone call to the Business explaining their non-compliance and that they will have service automatically established if they do not voluntarily participate.

If the Business fails to comply, the Franchisee will refer them to the County for a final determination of non-compliance. County staff will contact the non-compliant Businesses a final time to ensure that they are aware of the Protocol and the repercussions of not participating. Businesses that refuse to voluntarily participate will be communicated to the Franchisee, and they will establish recycling service at 30% of the current trash service level. At this point, the Business is eligible to incur the Non-Compliance Fee for non-use or contamination of the recycling bin as detailed above.

#### 2-105 Contamination Protocol

A significant increase in the contamination of recyclables being collected can negatively impact the quality of all materials collected, increase the cost for processing, and decrease the revenues associated with the sale of the materials. Because of these significant impacts, a protocol for minimizing contamination is very important.

No level of putrescible material is acceptable. There can be no more than 25% overall contamination of the commingled recyclables collected. If the levels of contamination exceed the thresholds identified above, the Business will be notified immediately and the Franchisee will deliver educational materials regarding the appropriate use of the containers. Franchisee will place additional labeling on each container that identifies appropriate materials that are acceptable in the affected container(s). The Franchisee will also offer technical assistance, free of charge, to assist in establishing a proper recycling program. If a Business continues to contaminate their containers, the Franchisee will invoke the Non-Compliance process in Sections 2-103 and 2-104 as appropriate.

### CHAPTER 3-UNSCHEDULED SOLID WASTE HANDLING SERVICES

#### 3-100. Grant and Denial of a Permit

3-101. All persons interested in providing Unscheduled Solid Waste Handling Services who comply with the Application requirements of Article III, Section 17-44(d) of the County Code are eligible to apply for a permit. Permit applications shall be available through the Resource Recovery & Waste Management Division, and once completed, shall be filed with the Resource Recovery & Waste Management Division.

There will be up to ten (10) Unscheduled Solid Waste Handling permits issued by the Director of Public Works unless the Director determines a community need for additional permits based on public demand for Unscheduled Solid Waste Handling Services which are not being adequately supplied or capable of being supplied by the existing permittees.

3-102. Any person or Solid Waste Enterprise receiving payment for providing Unscheduled Solid Waste Handling Services must obtain a permit, unless such services are exempt pursuant to Article III, Section 17-44(k) of the County Code. Payment of services includes any type or manner of payment by a person or responsible party to a person or Solid Waste Enterprise providing Unscheduled Solid Waste Handling Services, including but not limited to, payment for the Collection or transportation of Solid Waste, payment for the rent or lease of a Container, or payment for the cost of disposal at an authorized disposal site. In addition, any person or responsible party who receives a discount of, or a reduction in, the Collection service rate or who pays a person or Solid Waste Enterprise a consulting charge, fee or other tangible consideration shall be considered to be making a payment for purposes of this section.

3-103. Upon receipt of a completed application for a permit to provide Unscheduled Solid Waste Handling Services, the Director shall determine if the Applicant meets all the requirements of Chapter 17, the Rules and Regulations, and all applicable State and Federal laws and regulations. The Applicant shall be notified in writing of the Director's decision to issue or not to issue the permit within thirty (30) days from the receipt of a complete application.

3-104. If the Director determines that a permit will not be issued, the Applicant shall be notified in writing of the Director's decision within 30 (thirty) days from the receipt of a complete application. The notification shall state the reasons for denial. The Applicant may, within 15 days of the date of the notification, request in writing to the Clerk of the Board that a hearing be held pursuant to Section 17-44(e)(2) of the County Code. After the hearing and consideration of all relevant evidence, including the Director's recommendation, the Board shall do either of the following:

- .1 Grant the permit to provide Unscheduled Solid Waste Handling Services; or,
- .2 Deny the grant of a permit to provide unscheduled services pursuant to Section 17-44(e) (2) of the County Code. The reasons for denial shall be specified in writing.

3-105. The term of a permit to provide Unscheduled Solid Waste Handling Services shall be for a period of 5 (five) years from the date of issue, unless otherwise conditioned by the Board pursuant to Section 3-400.

3-106. By signing the permit in the space provided for signature, the Applicant shall be deemed to have accepted all of the terms and conditions specified in the permit.

3-107. No permit granted pursuant to these Rules and Regulations or Chapter 17 of the County Code shall be assignable or transferable, either voluntarily or by operation of law, without the written permission of the Board of Supervisors.

3-108. The accounting of a permittee shall be conducted in such a way to identify the assets, liabilities, revenues, expenses and net worth of the permitted unscheduled Solid Waste Enterprise operating in the County. The accounting shall not be combined, consolidated or in any way incorporated with the accounting of any other entity owned or operated by the permittee. The permittee may be required to provide the Resource Recovery & Waste Management Division an annual notarized statement of the permittee's manager, or other responsible officer of the permittee, showing in detail the gross revenues arising from operations pursuant to the permit for the previous year. A permittee shall not be required to establish a separate legal business entity in order to comply with the accounting requirements of Chapter 17.

3-109. A permittee shall at all times comply with Section 17-20 of the County Code, pertaining to bonds, indemnification, and insurance. Once the determination has been made by the Director or the Board of Supervisors to issue a permit, a permittee must provide written documentation of compliance with this section prior to the actual issuance of the permit. No permit shall be valid until such written documentation has been delivered to, and approved by, the Resource Recovery & Waste Management Division.

3-110. Unscheduled Solid Waste Handling Services shall only be provided through the use of a roll-off Container. As a significant portion of the material collected in roll-off containers is collected from construction sites, the CalGreen Construction Waste Management Requirements pertaining to minimum recycling levels must be followed. As of 2021, a minimum

of 65% of most construction material must be recycled. Adherence to the CalRecycle standards must be demonstrated annually by filling out an annual compliance form distributed by the County. An exemption to this requirement may be made by the Resource Recovery & Waste Management Division if the permittee can demonstrate that the material collected was not Recyclable.

3-200. Fees

3-201. A permittee shall pay a fee in the amount to be determined by Resource Recovery & Waste Management Division per Container per customer as stated in the release of the annual rates. The monthly fee must be payable to the Santa Barbara County Resource Recovery & Waste Management Division by the 15th of each month immediately following the billing period. All fees received pursuant to this section shall be deposited to the Solid Waste Enterprise fund or to such other fund as the board may designate. (Ord. No. 4188, § 2)

3-202. Accompanying payment of permit fees, the permittee must provide a monthly submittal to the Resource Recovery & Waste Management Division identifying the date of service, name of customer, drop location, and total revenue from each customer including bin delivery, bin rental, and bin transportation charges. If a customer is serviced more than once in a calendar month, this must be indicated by date on the submittal. If a question arises concerning the accuracy of the information contained in the monthly submittals, the Resource Recovery & Waste Management Division shall be allowed access to the permittee's financial records where costs for delivery, rental, transportation, and disposal are listed separately for unscheduled service. Unless disclosure of a permittee's financial records is otherwise required by law, this monthly submittal will not be available for public inspection or review and is to be used only by the Resource Recovery & Waste Management Division to implement this section.

3-203. The delinquent payment or nonpayment of the fees required by this section from a permittee shall be prima facie evidence that the permittee is operating in violation of these Rules and Regulations and Chapter 17 of the County Code. For purposes of this section, a permittee shall be delinquent if the fees are not paid in full within 30 (thirty) days from its designated due date.

3-204. If necessary, fees may be adjusted each fiscal year by the Board subject to the limitations of Section 17-44(g) of the County Code.

3-300. Enforcement Program

3-301. In the event of an alleged violation of any provision of Chapter 17 of the County Code or these Rules and Regulations, the Resource Recovery & Waste Management Division will attempt to obtain the voluntary compliance of a permittee. Absent an immediate threat to the public health, safety or the environment, the Resource Recovery & Waste Management Division will advise the permittee in writing of the alleged violation and shall request the permittee to correct the alleged violation. The permittee shall have 48 (forty-eight) hours to correct an alleged violation unless the alleged violation is determined by the Director to pose an immediate threat



to public health, safety or the environment, in which case the permittee shall be required to correct the alleged violation immediately.

3-302. In the event the permittee is unable to correct the alleged violation within the 48 (forty-eight) hour period, the Director may extend in writing the time for compliance up to an additional 30 (thirty) days. The Director shall have the discretion whether to extend the time for compliance, but in no event shall the time for compliance be extended if the Director determines the permittee has willfully refused to correct the alleged violation.

3-303. In the event the permittee is unable or unwilling to correct the alleged violation during the 48 (forty-eight) hour period or any extension thereof, the Director shall have the discretion to pursue any and all legal remedies to obtain the permittee's compliance with Chapter 17 and these Rules & Regulations including the suspension, amendment or revocation of the Unscheduled Solid Waste Handling Permit as described in Section 3-400.

3-304. Pursuant to Section 3-400, the number and location of the zones in which a permittee can operate may be designated or restricted, or the permit may be suspended, amended or revoked, if the Board finds that the provision of Unscheduled Solid Waste Handling Services is being used as a substitute for or in lieu of Regular Solid Waste Handling Services being provided by a Collector(s) franchised or licensed by the County to operate within a particular zone(s). For purposes of this section, it is prima facie evidence that Unscheduled Solid Waste Handling Services are being used as a substitute for or in lieu of Regular Solid Waste Handling Services if one or more of the following conditions exist:

.1 A responsible party who is being provided with Regular Solid Waste Handling Services cancels such services and after such cancellation is serviced more than 20 (twenty) times in a calendar year by a Solid Waste Enterprise(s) permitted to provide Unscheduled Solid Waste Handling Services in the County.

.2 A responsible party who is not being provided with Regular Solid Waste Handling Services is serviced more than 20 (twenty) times in a calendar year by a Solid Waste Enterprise(s) permitted to provide Unscheduled Solid Waste Handling Services in the County.

3-305. Exemptions to the restrictions of Sections 3-304.1 and 3-304.2 may be granted by the Director upon written request by the permittee. The Director must determine that the exemption will not result in the unscheduled services being used as a substitute for or in lieu of Regular Solid Waste Handling Services. The written request for an exemption shall include the following information: the name of the customer; the location of the Container(s); the type of material to be collected or transported in the Container(s); the estimated duration of the unscheduled services, and; the estimated number of times the Container(s) will be serviced during the extension. The written request for an exemption shall be submitted to the Resource Recovery & Waste Management Division. The Director will inform the permittee whether the exemption is approved within 15 (fifteen) days of receipt of the request for an exemption. The intent of this Section is to protect a Collector who has been granted an exclusive franchise or license to provide Regular Solid Waste Handling Services and not to discourage competition among those authorized to provide Unscheduled Solid Waste Handling Services.

3-306. Enforcement of Sections 3-304.1 and 3-304.2 will be based, in part, upon the written or oral complaint of the franchised or licensed Solid Waste Collector entitled to provide exclusive Regular Solid Waste Handling Services within a particular zone to the Resource Recovery & Waste Management Division unless the violation of either of these sections is otherwise brought to the attention of the Director who has the discretion to enforce these Rules and Regulations.

3-307. Nothing in these Rules and Regulations shall limit in any way the authority of the Director or his or her designee, to issue citations for any violation of Chapter 17 of the County Code pursuant to Section 1-15 of the County Code.

3-308. On an annual basis, as referenced in Section 3-110, all Unscheduled Solid Waste Handling permittees shall submit a summary report that lists all landfill tipping receipts related to all unscheduled hauling services that requires a permit in the unincorporated area of Santa Barbara County. Landfill tipping fees would include weight tickets associated with material to be landfilled and not preprocessed prior to disposal. This report shall be used to determine compliance with the requirement of all unscheduled haulers to divert material to the level determined by the CalGreen Construction Waste Management Requirements as defined by CCR Title 24, Part 11. Adherence to CalGreen standards is a requirement for a permit for the unincorporated area of Santa Barbara County. The deadline for this annual report will be April 1 of every year containing all data of the previous calendar year.

#### 3-400. Suspension, Amendment, or Revocation of a Permit

3-401. The Director may recommend to the Board of Supervisors the suspension, amendment or revocation of a permit pursuant to Sections 17-44(e) and (f) of the County Code. The permittee shall be notified in writing of the Director's recommendation to suspend, amend, or revoke a permit. The notification shall state that the proposed action will be effective 15 (fifteen) days after the date of notification, unless the permittee requests in writing to the Clerk of the Board that a hearing be held pursuant to Section 17-44(e)(2). If the written request for a hearing is timely received by the Clerk of the Board, the proposed action shall be stayed until the conclusion of the hearing by the Board of Supervisors.

3-402. In making the determination to recommend to the Board the suspension, amendment, or revocation of a permit, the Director may consider all relevant evidence, including, but not limited to, the permittee's failure to recycle material at the levels established by the CalGreen standards, the permittee's failure to pay the fees required hereunder within 30 (thirty) days of the due date, the permittee's incursion of late fees pursuant to Section 17-59 of the County Code, and the degree of compliance or noncompliance by the permittee with the provisions of these Rules and Regulations and Chapter 17 of the County Code.

3-403. At the hearing, the Board may consider all relevant evidence, including, but not limited to, the recommendation of the Director, the permittee's failure to recycle material at the levels established by the CalGreen standards, the permittee's failure to pay the fees required hereunder within 30 (thirty) days of the due date, the permittee's incursion of late fees pursuant

to Section 17-59 of the County Code, and the degree of compliance or noncompliance by the permittee with the provisions of these Rules and Regulations and Chapter 17 of the County Code. After the hearing, the permit may be suspended, amended, or revoked. If the permit is suspended or amended, the Board may grant a permit to provide Unscheduled Solid Waste Handling Services subject to conditions which will bring the Solid Waste Enterprise into compliance with the standards of Chapter 17 of the County Code, these Rules and Regulations, or applicable State or Federal laws or regulations. The conditions shall be specified in writing, and may include conditions which mitigate against potential adverse public safety, health, and welfare impacts. The Board may also limit the term of the permit notwithstanding any other law or regulation to the contrary.

CHAPTER 4-FEES FOR USE OF COUNTY OWNED AND/OR OPERATED FACILITIES

(Reserved)

CHAPTER 5-ABATEMENT OF NUISANCE

(Reserved)

CHAPTER 6-ENFORCEMENT AND PENALTIES

(Reserved)