

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 to promote recycling by:
1. Requiring businesses, non-residential properties, multi-family residential properties and single family residential properties managed by an association or other organization in the Sacramento Regional Solid Waste Authority (hereinafter referred to as "SWA") region to keep recyclable materials separate from all other solid waste for recycling.
 2. Requiring businesses, non-residential properties, multi-family residential properties and single family residential properties managed by an association or other organization to provide for the collection of recyclable materials.
 3. Requiring businesses, non-residential properties, multi-family residential properties and single family residential properties managed by an association or other organization to inform their employees, tenants, and residents concerning recycling requirements.
- B. It is the further purpose of Title IV to provide a mechanism for the implementation of recycling programs for businesses, non-residential properties, multi-family residential properties, and single family residential properties managed by an association or other organization within the SWA region to 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).
- C. It is also the intent of Title IV to provide for the uniform regulation of business, non-residential property, multi-family residential property and single family residential property managed by an association or other organization recycling and for the collection of recyclable materials in the SWA region.
- D. 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 Title IV.

4.01.020 Applicability

Title IV shall be applicable only within the SWA region of Sacramento County.

4.01.030 Definitions

Unless the context otherwise requires, the definitions set forth in Title IV shall govern the interpretation of Title IV. When consistent with the context, words used in the present tense include the future tense, words in the plural number include the singular, and words in the singular number include the plural. The word "shall" is always mandatory and not merely discretionary.

- A. "Authorization" means the process of approving a recycler for collection and removing recyclable materials from businesses, non-residential properties, and multi-family residential properties, by the General Manager/Engineer, and/or his or her designee, pursuant to Title IV Section 4.01.110.

B. "Authorized Recycler" means any person or business entity who lawfully collects, accepts, transports or otherwise processes recyclable materials from businesses, non-residential properties, and multi-family residential properties, owners, or generators for financial gain or profit and has been certified and approved by the General Manager/Engineer, and/or his or her designee, pursuant to Title IV.

C. "Board" means the Board of Directors of the Sacramento Regional Solid Waste Authority.

D. "Business" means any commercial entity; proprietorship, firm, partnership, person in representative or fiduciary capacity, association, venture, trust, corporation which is organized for financial gain or for profit, or non-profit corporation or entity (restaurant, retail facility, office, markets, office buildings, hotels, motels, shopping centers, theaters, including commercial and industrial entities), but not including multi-family dwelling units, located in the SWA region.

E. "Certificate of Operation" means the license that a recycler must obtain from the SWA before it may collect recyclable materials in the SWA region.

F. "Clerk of the Board" means the Clerk of the SWA Board.

G. "Collection" means the act of collecting and removing solid waste or recyclable materials at the place of generation.

H. "Commercial Hauler or Hauler" means any person who collects, hauls, or transports commercial solid waste for a fee by use of any means, including, but not limited to, a dumpster truck, roll-off truck, a side-load, front-load, or rear-load garbage truck, or a trailer.

I. "Commercial Solid Waste" means all solid waste as defined in subdivision (LL) hereof, and generated by commercial and industrial sources, multi-family dwelling units and residential remodel and/or construction removal sources; that is collected by a commercial hauler

J. "County" means the County of Sacramento.

K. "Customer" means an owner, or generator that contracts for solid waste removal services and enters into a service agreement with a franchised waste hauler or authorized recycler for recycling services. Where several businesses share garbage containers and service, "customer" refers only to the entity that arranges for the service.

L. "Franchise" means a commercial solid waste collection franchise issued under the provisions of this Code to a commercial hauler within the SWA region.

M. "Franchised Waste Hauler" means a commercial hauler or hauler holding a franchise issued by the SWA pursuant to this Code. A franchised waste hauler may also collect, haul, or transport recyclable materials.

N. "General Manager/Engineer" means the General Manager/Engineer of the Department of Waste Management and Recycling of the County's Municipal Services Agency.

O. "Generator" means each business, non-residential property, multi-family residential property or single family residential property managed by an association or other organization that generates one or more recyclable materials as a result of its business activities, non-residential property, multi-family property or single family residential property managed by an association or other organization activities.

P. "Multi-Family Residential Property" means any multi-family dwelling, building or group of buildings that contain (s) five (5) or more individual dwelling units on a single tax lot. Multi-family complexes include, but are not limited to, apartment complexes, mobile home parks, senior housing/care facilities, and condominium complexes.

Q. "National Contracts" means contracts between waste management companies and multi-sited waste generating companies that operate throughout the country

R. "Non-Residential Property" means real property that is located in the SWA region and used primarily for: (1) commerce, including but not limited to offices, stores, restaurants, motels, hotels, recreational vehicle parks, theaters, and service stations; (2) not-for profit organizations; and (3) institutional uses, including churches, and hospitals. The term non-residential property shall not include any residential units or undeveloped land.

S. "Ordinance" means SWA Title IV as enacted through Ordinance 21.

T. "Owner" means the person who owns a business, non-residential property, multi-family residential property or single family residential property managed by an association or other organization. An owner also may be a generator.

U. "Person" means an individual, firm, limited liability company, association, partnership, industry, public or private corporation, or any other entity whatsoever.

V. "Recycler" means any person or business entity that lawfully collects recyclable material.

W. "Recycling" means the process of collecting, sorting, cleansing, treating and reconstituting materials that would otherwise become solid waste and returning them for use or reuse in the form of raw materials for new, used or reconstituted products which meet the quality standard necessary to be used in the market place. Recycling does not include transformation as defined in Public Resources Code Section 40201.

X. "Recycling Documents" mean, but are not limited to, service agreements, self-haul forms, inspection reports, compliance documentation, educational materials, and signs.

Y. "Recycling Facility" means those facilities or operations that receive, process, and transfer to market recyclable materials that have been source separated from the solid waste stream.

Z. "Recyclable Material" or "Recyclables" means materials that have been separated from the solid waste stream prior to disposal and returning them for use or reuse in the form of raw materials for new, used or reconstituted products which meet the quality standard necessary to be used in the market place, and that are not land-filled.

AA. "Recyclable Materials Container" means any box, tub, cart, or other container.

BB. "Removal" means the act of removing solid wastes or recyclables from the place of waste generation.

CC. "Responsible Party" or "RP" means whoever contracts for solid waste removal service for businesses, non-residential properties, multi-family properties, or single family residential properties managed by an association or other organization, owners, or generators.

DD. "Rubbish" means non-putrescible solid wastes such as ashes, paper, cardboard, tin cans, yard waste, wood, glass, bedding, crockery, plastics, rubber by-products and litter.

EE. "Sacramento Regional Solid Waste Authority" (SWA) means the joint powers authority of Sacramento County and the City of Sacramento.

FF. "Scavenger" means individual (s) that are involved in the theft of recyclable materials that businesses, non-residential properties, multi-family residential properties, owners, or generators have placed either in or near automatic lift containers, bins or roll off bins for recyclable materials for collection.

GG. "Scavenging" means the uncontrolled and unauthorized removal of recyclable materials at any point in the solid waste management system.

HH. "Self-Haul" when used in reference to recyclable materials generated by a business, non-residential property, multi-family residential property, single family residential property managed by an association or other organization, owner, or generator means a business, non-residential property, multi-family residential property, single family residential property managed by an association or other organization, owner, or generator employee designated by the owner, or generator, who collects, transports and hauls recyclable materials from the business, non-residential property, multi-family residential property, or single family residential property managed by an association or other organization in a vehicle owned by either an employee or the entity. Self-Haul may also include a third (3rd) party, designated by the owner or generator and approved by the SWA General Manager/Engineer, and/or his or her designee, who collects, transports and hauls recyclable materials from the business, non-residential property, multi-family residential property, or single family residential property managed by an association or other organization to a recycling facility rather than hiring a franchised waste hauler or an authorized recycler to perform this function.

II. "Self-Hauling Form" means the form provided by the SWA General Manager/Engineer and/or his or her designee on which a business, non-residential property, multi-family residential property, single family residential property managed by an association or other organization, owner, or generator certifies that all self-hauling activities will be completed in accordance with the provisions of Title IV or any other applicable law or regulation.

JJ. "Service Agreement" means a written agreement between a franchised waste hauler or authorized recycler and an owner or generator concerning the collection of recyclable materials.

KK. "Single Family Residential Properties" means all individual residential dwelling units and complexes that are located on a single tax lot and managed by an association or other organization.

LL. "Solid Waste" means all putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, discarded home and industrial appliances, dewatered, treated or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semi-solid wastes, and other discarded solid and semi-solid wastes. Solid waste does not include hazardous waste or low-level radioactive waste regulated under Chapter 7.6 (commencing with Section 25800) of Division 20 of the Health and Safety Code or medical waste. Solid waste does not include recyclable materials set out for separate collection for the purposes of recycling, and that are not land filled.

MM. "Source Separate or Source Separated" means the process of removing recyclable materials from solid waste for the purpose of recycling.

NN. "Subcontract" is a contract assigning some of the obligations of a contract to a third party.

OO. "SWA" means the Sacramento Regional Solid Waste Authority.

PP. "SWA Region" means the territorial jurisdictions of any city or county who is a member of the SWA.

QQ. "Tenant" means someone who pays rent to live in a multi-family residential dwelling unit that is owned by someone else;

RR. "Toter" means a type of recycling container that may be used for recycling when there are space constraints or where few recyclables are generated.

SS. "WMR" means the Department of Waste Management and Recycling of the County's Municipal Services Agency.

4.01.035 Participation in Recycling Program

All businesses, non-residential properties, multi-family residential properties, and single family residential properties shall participate and cooperate in a recycling program. Each business, non-residential property and multi-family residential property (whoever contracts for solid waste removal service, owners or generators), shall subscribe to a recycling 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 services or self-haul recyclable 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 (whoever contracts for solid waste removal service, owners or generators), shall be responsible for ensuring and demonstrating its compliance with the requirements of Title IV and shall:

1. Source separate recyclable materials from solid waste;
2. Subscribe to a basic level of recycling service that includes, at a minimum, the collection of recyclable materials and;
3. Enter into a written service agreement with a franchised waste hauler or authorized recycler or;

4. Submit a self-hauling application form to the General Manager/Engineer, and/or his or her designee certifying that all self-hauling activities will be completed in accordance with the provisions of Chapter 4, Title IV or 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 General Manager/Engineer, and/or his or her designee, within ten (10) business days upon request.

B. Each business and non-residential property, owner, or generator, shall provide recyclable materials containers, to be used by generators, in maintenance or work areas where recyclable materials may be collected and/or stored.

C. Each business and non-residential property, owner, or generator, 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;

D. Each business and non-residential property, owner, or generator, 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 General Manager/Engineer, and/or his or her designee, within ten (10) business days upon request. This requirement shall not apply to a business or non-residential property that has five (5) or less employees.

E. Each business and non-residential property, owner, or generator, shall ensure that recyclable materials generated at their site will be taken only to a recycling facility and not to a landfill for proper disposal.

F. The Service Agreement or other recycling documents shall be made available to the General Manager/Engineer, and /or his or her designee, within ten (10) business days upon request.

G. Nothing in Title IV 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.

H. No franchised waste haulers or authorized recyclers shall be held liable for the failure of its customers to comply with such regulations.

4.01.050 Requirements for All Multi-Family Properties and Single-Family Residential Properties Managed by an Association or Other Organization

A. Each multi-family residential property and each single-family residential property managed by an association or other organization (whoever contracts for solid waste removal service, owners or generators), shall be responsible for ensuring and demonstrating its compliance with the requirements of Title IV and shall:

1. Source separate recyclable materials from solid waste;
2. Subscribe to a recycling service that diverts 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.
4. Enter into a written service agreement with a franchised waste hauler or authorized recycler or;
5. Complete and submit a self-hauling application form to the General Manager/Engineer, and/or his or her designee certifying that all self-hauling activities will be completed in accordance with the provisions of Chapter 4, Title IV or 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 General Manager/Engineer, and /or his or her designee, within ten (10) business days upon request.

B. Each multi-family residential property, single family residential property managed by an association or other organization, owner, or generator, 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 out of solid waste containers such as dumpsters, totes or roll off bins. A copy of such instruction shall be provided to the General Manager/Engineer, and/or his or her designee, within ten (10) business days upon request.

C. Each multi-family residential property, single family residential property managed by an association or other organization, owner, or generator, shall ensure that recyclable materials generated at their site will be taken only to a recycling facility and not to a landfill for proper disposal.

D. The Service Agreement or other recycling documents shall be made available within ten (10) days upon request of the General Manager/Engineer, and/or his or her designee.

E. Nothing in Title IV shall abridge the right of any multi-family -residential property, single family residential property managed by an association or other organization, 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.

F. No franchised waste haulers or authorized recyclers shall be held liable for the failure of its customers to comply with such regulations.

G. After taking reasonable measures to inform tenants of recycling requirements and tenant responsibilities, no multi-family residential property owner shall be cited for non-compliance with this Chapter 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 Chapter 4.01.040 and Chapter 4.01.050 above, collection service received or provided in the SWA region shall be subject to the following additional special requirements:

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

B. No recycling, automatic lift container, bin, or toter within the collection area of 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, owners, or generators.

4.01.070 Designation of Recyclable Materials

Recyclable materials shall be source separated from solid waste collection, removal, transportation or disposal pursuant to 4.01.040 and 4.01.050. The General Manager/Engineer, and/or his or her designee, shall designate recyclable materials that must be source separated by businesses, non-residential properties, multi-family residential properties, single family residential properties managed by an association or other organization, owners, or generators. Such a designation shall consider materials market conditions and the availability of a cost-effective system for recycling such materials.

Furthermore, all businesses, non residential properties, multi-family residential properties, single family residential properties managed by an association or other organization, owners, or generators are encouraged to consider recycling additional materials, whether or not they have been designated as recyclable materials.

4.01.080 Ownership of Recyclable Materials

A. All recyclable materials placed in automatic lift containers, bins, toters, or roll off bins for recyclable materials provided by any franchised waste hauler or authorized recycler sufficient to accommodate the quantity and types of recyclable materials of businesses or non-residential properties, multi-family residential properties, single family residential property managed by an association or other organization, owners, or generators, shall be considered owned by and be the responsibility of either the franchised waste hauler or authorized recycler. Without permission of either the franchised waste hauler or authorized recycler, no person shall collect recycling materials placed in automatic lift containers, bins, toters, 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, single family residential properties managed by an association or other organization, owners, or generators, shall be considered owned by and be the responsibility of that business, non-residential property, multi-family residential, owner, or generator.

C. Except as authorized by Title I Chapter 1.01.040 of the SWA Code and 4.01.110 (Requirements for Recyclers) and 4.01.130 (Self-Hauling) of Title IV hereof, it shall

be unlawful for any person to engage in the business of collecting, removing or transporting, or otherwise organize, direct or sponsor the collection, removal or transportation of recyclable materials within the SWA region without possessing a valid franchise granted by the SWA, or a certificate of operation, or complete and retain on-site a self-hauling form certifying that self-hauling activities will be completed in accordance with the provisions of Title IV.

4.01.090 Requirements for Franchised Waste Haulers

A. Commercial waste haulers shall be “Franchised” pursuant to the provisions of Title I Chapter 1.01.040 of the SWA code and such “Franchise” shall be in full force and effect; and

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

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

E. Franchised waste haulers may subcontract for collection of recyclable materials, so long as the subcontractor holds a current franchise or is an authorized recycler.

F. 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.

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

H. The General Manager/Engineer, and/or his or her designee, may restrict the hours of collection of solid waste or recyclable materials by franchised waste haulers in designated areas.

I. Franchised waste haulers, upon request, shall provide the General Manager/Engineer, and/or his or her designee, with a copy of a service agreement or other document (e.g., receipt from a recycling facility) demonstrating that the generator’s recyclable materials are being taken to a recycling facility. The service agreement or other document shall be available for inspection by the General Manager/Engineer, and/or his or her designee, at the franchised waste haulers’ place of business during normal business hours.

J. 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 30.

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 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 upon enactment of SWA Ordinance 19 by the Sacramento Regional Solid Waste Authority. Existing service agreements between a franchised waste hauler and a customer executed before the effective date of SWA Ordinance 19 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 new recycling programs established by Title IV.

4.01.110 Requirements for Recyclers

A. No person shall provide service as a recycler within the SWA region without having obtained a certificate of operation and becoming an "authorized recycler". Recyclers shall file a certificate of operation application form approved by the General Manager/Engineer, and/or his or her designee, providing the information and documentation that is requested by the General Manager/Engineer, and/or his or her designee, including but not limited to the following:

1. The name, address and telephone number of the applicant;
2. A description of the vehicles that the applicant will use to collect recyclable materials, including the make, model, and serial number or Vehicle Identification Number (VIN) of each vehicle; and

3. Authorized recyclers shall defend, indemnify and hold harmless SWA, the County of Sacramento the City of Sacramento their respective officials, officers, directors, agents, employees and volunteers from and against any and all demands, claims, actions,

losses, liabilities, damages, and costs, including reasonable attorneys' fees, arising out of or resulting from the authorized recycler's activities, except and in proportion to the extent caused by the active negligence or willful misconduct of SWA, the County of Sacramento the City of Sacramento, their respective officials, officers, directors, agents, employees, or volunteers.

4. Without limiting the authorized recycler's indemnification, the authorized recycler shall maintain in force at all times during the term of this authorization certificate and any extensions or modifications thereto, insurance as specified in the addendum of the certificate of operation agreement. It is the responsibility of the authorized recycler to notify its insurance advisor or insurance carrier(s) regarding coverage, limits, forms and other insurance requirements specified in the addendum of the certificate of operation agreement.

5. A written statement certifying that the applicant has reviewed and will comply with all of the requirements in the certificate of operation and Title IV.

B. If General Manager/Engineer, and/or his or her designee, determines that the applicant complies with the terms of Title IV, the General Manager/Engineer, and/or his or her designee, shall grant a certificate of operation. The General Manager/Engineer, and/or his or her designee, shall deny an application for a certificate of operation if the General Manager/Engineer, and/or his or her designee, determines that the applicant does not comply with the terms of Title IV.

C. The certificate of operation shall remain in effect for a period of one (1) year.

D. The General Manager/Engineer, and/or his or her designee, may revoke a certificate of operation if the General Manager/Engineer, and/or his or her designee, determines, after providing notice and an opportunity for a hearing, that an authorized recycler has violated the provisions in the certificate of operation or any applicable law.

E. Authorized recyclers shall offer collection service and automatic lift containers, bins or roll off bins for recyclable materials sufficient to accommodate the quantity and types of recyclable materials to all its customers.

F. Authorized recyclers may subcontract for collection of recyclable materials, so long as the subcontractor holds a current franchise or is an authorized recycler.

G. An authorized recycler shall conduct all of its activities in accordance with all applicable laws, the SWA Code and best management practices. An authorized recycler's vehicles, equipment and containers shall be kept in a clean and well-maintained condition.

H. An authorized recycler's automatic lift containers, bins or roll off bins for recyclable materials shall be clearly identified with the name, or recognizable corporate or company logo, and phone number of the authorized recycler that is legible from a distance of fifty (50) feet.

I. Authorized recyclers shall equip and provide to all recycling, automatic lift containers, bins or roll off bins for recyclable materials locks and/or other suitable features to prevent scavenging of recyclable materials.

J. An authorized recycler shall take a customer's recyclable materials to a recycling facility, not to a landfill or other site for disposal.

K. The General Manager/Engineer, and/or his or her designee, may restrict hours of collection of recyclable materials by authorized recyclers in designated areas in the SWA region.

L. Authorized recyclers, upon request, shall provide the General Manager/Engineer, and/or his or her designee, with a copy of a service agreement or other document (e.g., receipt from a recycling facility) demonstrating that the business, non-residential property, multi-family residential property, single family residential properties managed by an association or other organization, owner's, or generator's, recyclable

materials are being taken to a recycling facility. The service agreement or other document shall be available for inspection by General Manager/Engineer, and/or his or her designee, at the authorized recyclers' place of business during normal business hours.

M. SWA staff may audit all authorized recyclers' recycling records in the SWA region.

4.01.120 Appeal Upon Denial of Certificate of Operation or Self-Haul Certificate

A. Within thirty (30) days of written notification of award denial or within sixty (60) days of General Manager/Engineer's, and/or his or her designee's, failure to act on the franchise application, applicant has the right to meet with the General Manager/Engineer, and/or his or her designee, 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 General Manager/Engineer, and/or his or her designee, will make a final, written determination of the application, based on the reviews of additional evidence, together with the original application. General Manager/Engineer, and/or his or her designee, 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 General Manager/Engineer's, and/or his or her designee's, final denial, request a public hearing before the Board by submitting to the Clerk of the Board a written petition for an appeal hearing. If a public hearing is requested, the Clerk of the Board 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 of the Board. 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, single family residential property managed by an association or other organization, owner, or generator, may haul or transport recyclable materials generated and collected at its business, non-residential property, multi-family residential property, or single family residential property managed by an association or other organization to a recycling facility (rather than hiring a franchised waste hauler or authorized recycler) 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, single family residential property managed by an association or other organization, owner, or generator, may designate a third (3rd) party to self-haul recyclable materials and represent the owner, generator, employee, or tenant of the entity.

C. A business, non-residential property, multi-family residential property, single family residential property managed by an association or other organization, owner, or

generator, that hauls or transports recyclable materials generated and collected at its business, non-residential property, multi-family residential property, or single family residential property managed by an association or other organization to a recycling facility without the utilization of a franchised waste hauler or authorized recycler must complete and submit, for review by the General Manager/Engineer, and/or his or her designee, 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 General Manager/Engineer, and/or his or her designee within 10 business days upon request. At a minimum, the business, non-residential property, multi-family residential property, single family residential property managed by an association or other organization, 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, or single family residential property managed by an association or other organization representative that is signing the self-hauling form;
2. A list of the types of recyclable materials that are being transported;
3. For each type of recyclable material, the amount that is being taken from the business, non-residential property, multi-family residential property or single family residential property managed by an association or other organization to a recycling facility monthly;
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, single family residential property managed by an association or other organization, owner, or generator, certifying that the owner, or generator is in compliance with the requirements of Title IV.

E. The General Manager/Engineer, and/or his or her designee, may restrict or prohibit self-hauling by a person if the General Manager/Engineer, and/or his or her designee, 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 and authorized recyclers shall provide quarterly reports to the SWA identifying, at a minimum, the following:

1. The total number of customers they have in the SWA region.
2. The total number of customers they have in the SWA region who source separate recyclable materials.
3. The total number of multi-family residential property complexes and single family residential properties managed by an association or other organization they have in the SWA region.
4. The total number of multi-family residential property units in each multi-family residential property complex and each single family residential property units managed by an association or other organization.
5. The estimated percentage of customers they have in the SWA region who source separate recyclable materials.
6. The recyclable 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 were taken during the previous quarter.

Due dates for reporting periods:

Reporting Period Due Date

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 or authorized recycler 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' or an authorized recyclers' failure to file the reports required by this chapter shall constitute cause for termination or suspension of its franchise pursuant to Title I chapter 1.01.140 or termination or suspension of its authorization status pursuant to 4.01.100 (A)(8).

D. Self-haulers shall prepare quarterly reports identifying, at a minimum, the following:

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

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

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

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

4.01.150 Exemptions from Recycling Standards

A. Notwithstanding any other provision herein, a business, non-residential property, owner, or generator, shall be exempt from the requirements in Chapter 4.01.040 of Title IV if the owner, or generator subscribes to a weekly collection service less than four (4) cubic yards of solid waste.

B. Notwithstanding any other provision herein, a multi-family residential property, a single family residential property managed by an association or other organization, owner, or generator, shall be exempt from the requirements in Chapter 4.01.050 of IV if the owner, or generator subscribes to a weekly collection service less than ten (10) cubic yards of solid waste.

C. Notwithstanding any other provision herein, a business, non-residential property, multi-family residential property, single family residential property managed by an association or other organization, owner, or generator, shall not be required to source separate recyclable materials if the business, non-residential property, multi-family residential property, single family residential property managed by an association or other organization, owner, or generator, demonstrates to the General Manager/Engineer, and/or

his or her designee, that there is no collection service or other system available for recycling such material.

D. Notwithstanding any other provision herein, a business, non-residential property, multi-family residential property, owner, or generator, shall be exempt from the requirements in Chapter 4.01.040 and Chapter 4.01.050 of Title IV if: 1) all of the generators on the owner's business, non-residential property or multi-family residential property are exempt from or not required to comply with the provisions of Chapter 4.01.040 and Chapter 4.01.050; or 2) recyclable materials are not being generated by any activities occurring on the owner's business, non-residential property or, multi-family residential property.

E. Customers with existing businesses, non-residential properties, multi-family residential properties, single family residential property managed by an association or other organization, owners, or generators, may be exempted by the General Manager/Engineer, and/or his or her designee, if it is determined, through a site visit requested by the business, non-residential property, multi-family residential property, single family residential property managed by an association or other organization, owners, or generators: 1) that there is not adequate storage space for automatic lift containers, bins, toters or roll off bins for recyclable materials on site and that it is infeasible for the business, non-residential property, multi-family residential property, single family residential property managed by an association or other organization, owners, or generators, to share automatic lift containers, bins, roll off bins or toters for recyclable materials with another business, non-residential property, multi-family residential property, single family residential property managed by an association or other organization, owner, or generator on an adjoining property and; 2) that there is not adequate storage space for recycling containers such as toters inside businesses, non-residential properties, multi-family residential properties, single family residential property managed by an association or other organization 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 General Manager/Engineer, and/or his or her designee, determines that it is feasible for recycling containers to be placed on site or shared with an adjoining business, non-residential property, multi-family residential property, single family residential property managed by an association or other organization, owner, or generator, then that business, non-residential property, multi-family residential property, single family residential property managed by an association or other organization, owner, or generator, will be responsible for compliance with Title IV.

F. An application for an exemption shall be submitted to the General Manager/Engineer, and/or his or her designee, on a form prescribed by the General Manager/Engineer, and/or his or her designee. After reviewing the request, the General Manager/Engineer, and/or his or her designee, shall either approve or disapprove the exemption request.

G. The following Persons shall automatically be exempt from the requirements in Chapter 4.01.040 and 4.01.050 of Title IV:

1. The United States, State of California, a City, the County, a special district or other local public agency, or any employee or member of the armed forces thereof, when collecting or transporting recyclable materials produced by operation of the public entity under a system of recyclable materials' collection and transportation operated and maintained by the public agency within the SWA region.

2. Municipal corporations and other governmental agencies using their own vehicles and employees engaged in the collection, transportation or disposal of recyclable materials within the SWA.

4.01.160 Solid Waste Authority Rules and Regulations

A. The General Manager/Engineer, and/or his or her designee is authorized to make and enforce administrative rules and regulations governing recycling at businesses, non-residential properties, multi-family residential properties, or single family residential properties managed by an association or other organization and all related activities including recycling and commercial solid waste generation, storage, recovery, accumulation, collection, removal, transportation and disposal; the manner in which commercial solid waste and recycling services are provided; types of commercial solid waste and recycling containers and vehicles used therefor; for the operation and maintenance of sanitary methods of commercial solid waste and recycling disposal; reporting requirements for franchised waste haulers, authorized recyclers and self-haulers; and for the effective administration of Title IV. 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 of the Board.

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 or recyclable 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 General Manager/Engineer, and/or his or her designee, the authority to grant Certificates of Operation and authorize recyclers, to make administrative and non-substantive changes to Certificates of Operation forms, designate recycling materials, and make administrative rules and regulations governing business, non-residential property, multi-family residential property or single family residential property managed by an association or other organization recycling.

E. The SWA Board hereby empowers and grants to the General Manager/Engineer, and/or his or her designee, the authority to administer, implement and enforce Title IV and administrative rules and regulations governing business, non-residential property, multi-family residential or single family residential property managed by an association or other organization 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 Title IV, 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 or authorization nor any provision of any franchise or authorization 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 officers, employees or agents or any of the SWA member entities, their officers, employees, or agents for any loss, cost, expense or damage arising out of any provision or requirement of

Title IV or of any franchised waste hauler franchise or authorized recycler certificate of operation issued under Title IV 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 Title IV so as to require additional or greater standards on the part of the grantee.

4.01.180 Administration and Costs

A. The administration of Title IV is the duty of the General Manager/Engineer, and/or his or her designee. The General Manager/Engineer, and/or his or her designee, 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 with other solid waste. Failure to source separate recyclable 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 unlawful for authorized recyclers to collect recyclable materials that contain visible signs of solid waste.

D. It shall be the responsibility of the business, non-residential property, multi-family residential property, single family residential property managed by an association or other organization, 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 Title IV and Sacramento County Code, Section 6.20.115, Refuse Removal.

4.01.200 Implementation and Enforcement.

The implementation and enforcement of Title IV is the duty of the General Manager/Engineer, and/or his or her designee, of the Department of Waste Management and Recycling. The General Manager/Engineer, and/or his or her designee, is authorized and directed by the SWA Board to implement and enforce Title IV.