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INCREASING RECYCLING NOW! GUIDEBOOK FOR COMMUNITY ADOPTION OF RECYCLING AND PAY AS YOU THROW (PAYT) ORDINANCE

Practical Guide and Model Language for Communities

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ORGANIZATION OF THE REPORT

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PAYT On the GO...!!!

INCREASE RECYCLING ... NOW!

INTRODUCTION

Many communities and counties want to increase recycling, but frankly, don't know where to start. There are LOTS of feasible steps you can take to increase recycling... One of the most effective - and least politically difficult - options is to implement a local recycling and "Pay as you Throw" (PAYT) ordinance.



About PAYT

Pay As You Throw (PAYT) is a program in which households pay more to put out more trash for collection, and pay less if they put out less trash - behavior affects bill, like electric, water, and other service. Rather than an "all you can eat buffet" system, this turns trash into a utility and reduces overuse of services. PAYT provides a very strong incentive to recycle more, and in fact, PAYT has been shown to be the **most effective** way to increase recycling.¹ Pay As You Throw (PAYT)² brings strong advantages:³

- Increases recycling by 50% or more - even in places with drop-off only recycling programs - and increases composting and waste reduction;
- Decreases waste disposed to the landfill by 17%;
- Is a fairer system, charging households only for the service they use - like a utility;

¹ Skumatz, Lisa A., "Beyond Case Studies: Quantitative effects of recycling and variable rates programs", *Resource Recycling*, September 1996, Skumatz, Lisa A., "Nationwide Diversion Rate Study Quantitative Effects of Program Choices on Recycling and Green Waste Diversion: Beyond Case Studies" Skumatz Economic Research Associates, Superior, CO, July 1996, and other publications noted in this document.

² PAYT systems fit with many different collection systems. The program may charge more for bigger cans of trash (potentially in "wheelies", which can be collected via automated trucks" or for multiple cans of trash. Some communities use special "pre-paid" logo-ed trash bags or fee for special logo-ed bags or stickers.

³ These quantitative benefits come from Skumatz, Lisa A. and David Freeman, "Pay as you Throw (PAYT) in the US: 2006 Update and Analyses", Prepared for Skumatz Economic Research Associates and USEPA, SERA, Superior, CO, 2007; or Skumatz, Lisa A. "Frequently-Asked Questions about PAYT", Skumatz Economic Research Associates, Superior, CO, 2000; Skumatz, "Variable Rates in Solid Waste: ...", for the Reason Foundation, Los Angeles, 1993, and other citations).

- Doesn't increase costs for most cities;
- Reminds customers every time they pay a bill to reduce (behavior is retained); and
- PAYT is among the cheapest and fastest methods of reducing green house gas emissions!⁴ (even cheaper than many of the most common energy efficiency programs, and it creates jobs too!)

HOW to Achieve Recycling & PAYT?

- ⇒ **IF the community uses municipal staff** to collect trash, then the change to PAYT is straightforward. Select a PAYT system, choosing from among a subscribed variable can, or bag, tag / sticker-based systems,⁵ and educate residents about the new system.⁶
- ⇒ **IF the community contracts with a hauler/carter** to provide service, then revised PAYT service can be easily implemented at the next contract revision, or may potentially be negotiated sooner than the expiration date.⁷
- ⇒ **IF trash is collected by one or more private haulers in the competitive marketplace**, then the easiest option is to **pass a PAYT ordinance**⁸ that requires all haulers operating within town / city / county limits to provide service using a PAYT rate structure.⁹ This maintains a level playing field, doesn't "take" any hauler customers, and brings the strong

⁴ Skumatz, Lisa A., Ph.D., "Recycling and Climate Change: Finding the "Biggest Bang" Community Strategy for Reducing Greenhouse Gas Emissions", 2007, revised 2008, Skumatz Economic Research Associates, Inc. Superior, CO, 2008. Jobs impacts illustrated in Skumatz, Lisa A., Ph.D. and David Juri Freeman, "Colorado Roadmap for Moving Recycling and Diversion Forward: Strategies and Implications", Prepared for State of Colorado Department of Public Health and Environment, Denver, CO, by Skumatz Economic Research Associates, Superior, CO, February, 2008.

⁵ For detail about these choices, see PAYT frequently asked questions on www.payt.org or www.paytwest.org or see PAYT manuals or toolkits from SERA, from EPA, or from a number of states (including California, Iowa, Wyoming, Illinois, Massachusetts, or many other states). These provide information on technical / administrative / rate aspects of the new system, and implementation and education tips.

⁶ Note that all the research on PAYT indicates that technical issues related to the adoption of PAYT are very straightforward; political aspects can be more complicated. The Citizen's committee may be helpful. Other political "cover" for adopting PAYT may be provided from the results of the household survey (PAYT is usually a fairly high-scoring option in the survey) or from households on fixed incomes that can save money under a PAYT system. The equity of a utility-type system for trash collection is usually very popular with households. Research shows that after the program has been in place, 89-95% of the population prefers the new system and doesn't want to go back to the hold program. (Skumatz, "Frequently-Asked Questions about PAYT", Skumatz Economic Research Associates, Superior, CO, 2000; Skumatz, "Variable Rates in Solid Waste: ...", for the Reason Foundation, Los Angeles, 1993, and other citations).

⁷ Sweeteners to induce renegotiation may be to offer contract extensions or similar.

⁸ **Pay As You Throw (PAYT) Ordinance:** Passing a PAYT ordinance requires haulers operating within your jurisdiction to use PAYT rates – rates that charge more for households that put out more trash for collection. This turns trash into a utility like electricity – fee for service. Studies show this is the single most effective strategy that can be implemented to increase recycling – and it is a continual reminder to recycle more every time the household gets a bill. A summary of the key elements of this highly recommended ordinance is found on the back of this fact sheet, and examples are provided on www.payt.org or www.paytwest.org. If your community does its own collection, the program should be designed to meet the criteria within the ordinance.

⁹ The ordinance does NOT "set" PAYT rate levels, but requires a PAYT rate "structure", which is generally legal.

recycling performance. The key elements of the ordinance are outlined below¹⁰, and sample language can be found at www.payt.org or www.paytwest.org. A second option is to undertake a districting, franchising, or contracting process, requiring PAYT for the successful / selected hauler(s).

Assuming the community does not currently use municipal staff for collection, one of the key questions is whether to achieve the recycling and PAYT options using an ordinance, or using a contracting process. The table below highlights the advantages of each option.

Table 1. Advantages of Ordinances vs. Contracts for PAYT with Private / Competitive Hauling System

Advantages of Ordinance	Advantages of Contract
<ul style="list-style-type: none"> • Fewer citizen complaints. Maintains "choice" of service provider for residents, reducing negative citizen feedback. • Less resistance from haulers. Reduces hauler complaints about "taking" business. • Maintains marketplace competition - small and large haulers continue in business in the area (not the case under contracting, where one or limited number of winning hauler(s) is/are selected). • No need to "notice" the state of the change or "taking" of business. • Minimal City effort. City does not insert itself into the provision of service much; no RFP or procurement process and minimal on-going oversight. • Retains "level playing field" for haulers - each implements the program and provides services knowing others will be operating under the same rules. 	<ul style="list-style-type: none"> • One hauler selected, potentially reducing rates (economies of scale) over multiple hauler situation. • Potential reduction in wear/tear on streets if one hauler providing all service. • One hauler to contact if problems arise. • City "control" over hauler and service increased. • Can "designate" facility destinations for materials.

¹⁰ The "best-performing" ordinance includes Curbside recycling for all households with the cost embedded in the trash rate; PAYT implemented with an option for a small (lower-cost) trash container; and significant differentials between trash service rates for different volumes of trash. See details below. Note that the system can also work very well in communities without curbside recycling service.

Option 1 – Passing a Recycling / PAYT Ordinance



By far, the easiest option to achieve the goals of 1) increased recycling, and 2) more equitable and incentivizing rates, is to pass a “recycling and PAYT” ordinance. This is particularly advantageous in areas in which the jurisdiction has historically not been much involved in trash / recycling or in the provision of service. This option tends to lead to far fewer complaints - from residents or haulers - than other options for achieving the recycling and PAYT goals because:

- It retains a level playing field for haulers - The new requirements
- It retains choice for customers.

The key elements of this ordinance¹¹ are described below. A sample ordinance¹² is provided in the Appendix, along with examples from a number of communities and counties.

Tips for a Successful, Comprehensive PAYT Ordinance

Happily, there is a very easy and workable option for communities served by private haulers... a hauler PAYT ordinance, passed at the local level... and it can be implemented fairly quickly. Based on a study of ordinances in more than 100 communities and counties, we suggest the following key elements for a comprehensive and successful ordinance.

Key Elements of the Ordinance¹³

- **Safety Issues:** Requirements for truck and operator safety issues, avoiding leakage, etc.
- **Recycling Opportunities:** All haulers providing service within the community's/county's boundaries must:
 1. offer curbside recycling to every single family (or up to X-plex) household with garbage service;
 2. provide recycling service at least every other week;
 3. must collect at least a base set of materials that the community lists (usually newspaper, waste paper, cardboard, chipboard / paperboard, aluminum and steel /

¹¹ Examples of necessary ordinances and the process are found on www.payt.org or www.paytwest.org.

¹² Thanks to assistance from Constance Hornig, Esquire on the preparation of the Model Ordinance language and this summary of RFP steps and schedule.

¹³ See sample PAYT ordinances from other towns and counties on www.payt.org or www.paytwest.org; or use the template ordinance your town may want to adapt and adopt!

bimetal cans, glass bottles, and #1 and #2 plastics, but the list will vary based on your local markets / MRF); and

4. must provide recycling container(s) that are at least 64 gallons in total size, and are covered (preferred);
- **Fees and PAYT:** The cost of the recycling program must be embedded in the trash rate, with no separate charge, fee, or line-item for recycling. The cost for trash service must be in a PAYT structure. The PAYT system must:
 1. Offer, as its smallest container, a container no larger than 32 gallons, and must offer service in 32 gallon increments above this service;
 2. The cost of the trash container service must be set so that, throughout the service levels available, double the service volume cannot cost less than 80%¹⁴ more in total to the household.¹⁵
 3. The community should establish auditing rights.
 - **Reporting and Audit Authority:** The community should require haulers to report the trash and recycling tons collected within the community's boundaries, with reporting at least quarterly. This will allow the community to monitor progress in recycling. Establishing the authority to audit compliance with the ordinance is also important.
 - **Educational responsibilities:** The community should designate minimum requirements for frequency of recycling education (e.g. requiring haulers to provide annual outreach or mailers to customers).¹⁶

Advantages of a Local PAYT Ordinance:

- Covers all haulers, establishing a level playing field for haulers (which they are generally satisfied with) and the new programs bring them business opportunities;
- Better levels of service for residents;
- Better participation and diversion from recycling and other programs;
- More equitable rates;
- Safety, health, and other benefits to the community.

¹⁴ The community may, of course, set a different percentage increment. This value – 80% -- is based on statistical studies that balance two objectives: 1) providing a strong recycling incentive, and this value was found to provide almost the same recycling incentive to households as rates that double for double the service; and 2) backing off from very aggressive rates to recognize the fact that the largest cost in providing trash or recycling service is getting the truck to the door – arguing for flatter rates. This differential tries to provide incentives, but also help decrease the risk of not covering fixed costs of the operations. If a community selects a lower percentage, be careful to provide enough incentive to modify behavior – perhaps not less than 50% extra.

¹⁵ For example, if a 32-gallon container costs \$10/month, then a 64-gallon container would cost \$18, and a 96 gallon container would cost \$26, etc. Note that the ordinance sets rate structure, but not rate levels, and thus, is not rate-setting. Haulers may increase the level of the rates they need in order to cover the cost of recycling and the PAYT rate structure.

¹⁶ Often the best programs have both the hauler and the community providing education to households. This establishes the portion for which the hauler is responsible. This can augment community outreach efforts and provide a coordinated message.

Option 2 - Contracting¹⁷



A somewhat more complex - but also beneficial - option to achieve PAYT is to undertake an initiative to district or franchise trash collection, or alternatively to contract with a hauler (usually one hauler, or if your town is large, two or more haulers may be selected) for trash service.

This is more complex than an ordinance-based process because the political issues are more prickly. The new system may lead to some local haulers being "winners" and others, "losers", and the losers will not usually stay quiet, because their livelihood is affected. However, if your community has multiple haulers providing service, an ordinance establishing districts, franchises, or undertaking a contracting process for collection service can lead to:

- PAYT rates and better recycling (the goal achieved by both strategies - ordinance and contracting);
- lower rates because of economies of scale and collection from all households in an area;
- lower wear and tear on streets from fewer trash trucks plying the same neighborhoods and lower greenhouse gas emissions, and
- "neater" streets, with trash containers out on one day instead of multiple collection days, among other benefits.

A new contract can lead to benefits for your community; however, it requires strong political will to pass the program. Many communities that have taken this approach have heard complaints from residents that they do not like having their choice among haulers taken away - that they like their haulers. In addition, haulers will tend to prefer the "status quo" and fear possibly losing some of their customers - or all their customers if they are an unsuccessful bidder. They will likely oppose the new contracting option. To implement a contract requires a number of steps, outlined in the Appendix.¹⁸

THAT'S IT - One of the most effective steps your community can take NOW to increase recycling!!

Your town will see MUCH more recycling if you undertake these steps. Additional help and guidance is provided below in the tips and end notes - and don't forget to look on the websites mentioned. Good luck, and feel free to call or email for additional help.

¹⁷ Similar to options for "districting" or "franchising".

¹⁸ Thanks to assistance from Constance Hornig, Esquire on the preparation of the Model Ordinance language and this summary of RFP steps and schedule.

Prepared by Skumatz Economic Research Associates, Inc. (SERA) with partial funding from American Beverage Association. For more PAYT information, tools, fact sheets, talking points, and other materials, see: www.payt.org or www.paytwest.org or contact:

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APPENDIX A - MODEL RECYCLING / PAYT ORDINANCE

AN ORDINANCE OF THE [insert name of THE GOVERNING BODY] OF [insert name of LOCAL JURISDICTION¹⁹], REGARDING IMPLEMENTATION OF VARIABLE RATES FOR COLLECTION OF CURBSIDE RECYCLABLES BY SERVICE PROVIDERS OPERATING IN THE [insert name of LOCAL JURISDICTION]

ORDINANCE NO. 20XX-x

SECTION 1. [Chapter x] ___ of the [local jurisdiction code] is added as follows:

101. **FINDINGS.** The [GOVERNING BODY[of the]LOCAL JURISDICTION] makes the following findings:

(a) **Disposal of wasted resources.** In 2007, residents and businesses in this [LOCAL JURISDICTION] discarded over _____ tons of materials for disposal, or _____ pounds per capita. (These materials are referred to in this [Chapter], as “municipal solid waste”.) But an estimated ___% of these discarded materials and could be reused, recycled or put to other beneficial use, resulting in significant energy and resource savings.

[(b) **Green house gas or non-beneficial disposal.** An estimated ___% of these discarded materials are disposed in landfills that do *not* collect and burn discharged landfill gases and therefore emits green house gases into the atmosphere. An estimated ___% of those discarded materials are disposed in landfills that collect and burn, but do not *recover* landfill gases for beneficial purposes or generate power. As these landfills reach permitted capacity, it is becoming more difficult and expensive to site, permit and develop new landfills]²⁰.

(c) **Variable Rates: disposal diversion incentive.** Increasingly, state and local governments across the United States and the world require that waste generators pay **variable rates** (or PAYT / Pay as You Throw): charges for refuse and garbage collection services that incrementally increase with disposed refuse and garbage volume (such as 32, 64 or 96 gallon carts) or weight, with lesser or no charges for recyclables and / or organics collection services, to encourage recycling and discourage disposal. Variable rates do not necessarily reflect actual operational costs but rather constitute behavioral incentives (or disincentives) proportionate to the waste they discard.

(d) **Avoided disposal cost component of variable rates.** Diverting materials from disposal saves and reduces disposal costs, both operating and capital. [Landfill capacity is preserved and landfill life extended, deferring siting, design, permitting and construction costs for new cells.] Therefore, the incremental portion of variable rates represents not only the incremental operational and capital costs of collecting, transporting and disposing of more materials, but also an avoided cost of disposing of those diverted materials.

¹⁹ Such as “City Council” or “County Board of Supervisors”.

²⁰ Adapt this finding to local disposal options.

(e) **[LOCAL JURISDICTION] responsibility.** The responsibility for protecting the public health and safety through responsible municipal solid waste management has historically been the responsibility of [LOCAL JURISDICTION].

(f) **Fairness of paying for use.** Increasingly, other local governments are funding municipal solid waste management costs through service fees proportionate to use, as is done for water, sewer and electric utilities. Residents and businesses generally perceive that paying for one's own service, and not subsidizing some one else's greater service, is equitable. In order for customers to see the cost savings they realize from discarding less, and recycling more, it is important that municipal solid waste services are itemized on customers' bills, and that billing is relatively frequent (not annual or semi-annual).

102 **[LOCAL JURISDICTION] POLICY.** In order to provide generators of municipal solid waste with the financial incentive to divert municipal solid waste from disposal by source reduction, reuse, recycling or other beneficial use, the [GOVERNING BODY] declares that it is **[LOCAL JURISDICTION]** policy to establish and charge variable customer charges for municipal solid waste collection, transportation and disposal services.

103 **REFUSE AND GARBAGE SERVICE LEVEL OPTIONS.** Every public or private provider of residential refuse and garbage service must offer each of its customers the option to subscribe to different levels of service with different capacities of refuse and garbage containers, such as 32, 64 and 96 gallon carts. For residential customers, one option must be small, the approximate capacity equivalent of a 32 gallon cart. If a customer does not exercise its option, the provider may establish a default level of service, such as a 32 gallon cart.

104 **MANDATORY RECYCLABLES SERVICE.** Every municipal or private provider of residential refuse and garbage service must offer each of its residential customer's curbside recyclables collection service at least every other week, in lidded containers no smaller the 64 gallons capacity. The [insert APPLICABLE ADMINISTRATOR²¹] may define "residential" for purposes of this Chapter²² and promulgate regulations governing additional recyclables collection service specifications and standards, such as prescribing the types of recyclables that the provider must collect (for example, newspaper, waste paper, cardboard, chipboard / paper board, aluminum and steel / bimetal cans, glass bottles and #1 and #2 plastics). .

²¹ such "Director of Public Works", "Director of Natural Resources" or "Director of Health"

²² or alternatively:

- "Residential" has the meaning provided in INSERT RELEVANT LOCAL CODE CITATION, such as Section XX of the City/County Code" or
- "Residential means "related to detached, single family homes or duplexes, other than condominiums or townhouses."

104. **VARIABLE RATES.** Every provider of residential refuse and garbage collection service must charge variable rates described in Section 101(c) for the corresponding level of service. To the extent permitted by the State constitution and applicable law, the provider may structure its incremental charges on either a cost-basis or incentive-basis.

105. **INCENTIVE STRUCTURE OF VARIABLE RATES**

(a) **Prescribed variable rate increments.**

(1) **Multiples prescribed by service providers.** As a condition of any permit, license or franchise to collect residential recyclable materials or as an obligation under any contract to collect residential recyclables materials²³, the permittee, licensee, franchisee or contractor must structure the increments of its variable rate at a prescribed multiple of the smallest level of service offered, such as increment equal to 80% or more of the charges for a 32 gallon cart (for example, \$10 for a 32, \$18 for a 64 and \$26 for a 96 gallon cart, respectively).

(2) **Multiples prescribed by [LOCAL JURISDICTION].** The [GOVERNING BODY] by resolution may prescribe a specific multiple applicable to all permittees, licensees, franchisees or contractors uniformly. However, that prescription of a specific multiple may not be construed as regulating or in any way setting the underlying service rate multiplicand, which the provider may establish and set in its sole discretion.

(b) **Remittance to [LOCAL JURISDICTION].** Subject to any preconditions or prohibitions under applicable law, the [LOCAL JURISDICTION] may require a permittee, licensee, franchisee or contractor to remit to the local government the incremental variable rate receipts that the permittee, licensee, franchisee or contractor collects from customers. The local government may establish rules and regulations governing the collection, holding and remittance of the incremental variable rate receipts held by the permittee, licensee, franchisee or contractor prior to remittance, including, without limitation, provision of security bonds.

105. **CUSTOMER NOTICE.** Every public or private provider of residential municipal solid waste collection service must give each of its customers written notice of service options and corresponding variable rate charges upon commencement of service and at least annually thereafter.

106. **IDENTIFICATION OF MUNICIPAL SOLID WASTE SERVICE CHARGES.** If any public or private provider of residential municipal solid waste collection service bills any customer for more than one service (such as municipal solid waste collection and water services), on each bill the

²³ Or alternatively, implementation merely as a local law . /code requirement: "Every public or private provider of municipal solid waste collection service. . .".

provider must clearly identify the variable rate charges for municipal solid waste services and itemize them separately from charges for other services.

107 COMBINATION OF REFUSE AND RECYCLABLES COLLECTION CHARGES. On each bill, every public or private residential of municipal solid waste collection service that provides both refuse and recyclables collection service must combine charges for refuse and recyclables collection service and may not itemize them separately, one from the other.

108. BILLING FREQUENCY. Every public or private provider of residential municipal solid waste collection service must bill each of its customers at least quarterly, once every 3 months.

110 REPORTING. Every public or private provider of residential municipal solid waste collection service must keep records of the weight or volume of refuse and garbage, and recyclables that it collects and disposes or diverts. A [LOCAL JURISDICTION] may also require by law or regulation, each provider collecting municipal solid waste in the [LOCAL JURISDICTION]'s jurisdiction to report those weights or volumes to the [LOCAL JURISDICTION] no less than quarterly and in the format that the [LOCAL JURISDICTION] requests.

110. [LOCAL JURISDICTION] COMPLIANCE AUDIT. A [LOCAL JURISDICTION] may audit a municipal solid waste provider's subscription, billing and other relevant records to determine whether or not the provider has complied with the provisions of this Chapter at the provider's office located nearest to the [LOCAL JURISDICTION] during hours that the office is open for business, on at least one week's notice.

109. DEFINITIONS. The following words used in this chapter have the meanings ascribed to them in [INSERT CROSS REFERENCE TO A PROVISION OF ANY EXISTING LAW THAT DEFINES MSW TERMS]: [municipal solid waste, [LOCAL JURISDICTION], refuse, garbage, recyclables, residential, source reduction, disposal, etc.]

APPENDIX B - SCHEDULE / STEPS FOR RFP PROCESS

ITERATIVE PROCESS OF PREPARING CONTRACTS AND RFP--REACHING PARTICIPANT CONSENSUS	Sample timeline ²⁴
Identify programs and services to be required / meetings with relevant decision-makers / staff; review programs / services / options from other locations; start assembling list of potential RFP recipients (wide distribution to allow potential designation of facilities, etc.)	Week 1-X
Begin drafting RFP and compiling MSW information for proposers	Week 2
Decisions on programs, procurement structure	Week 3
Begin drafting contract(s); contract covers services to be delivered, liquidated damages, responsibilities, etc.	Week 4-5
Distribute first draft of contract to procurement team for comments	Week 6
Discuss comments / questions	Week 7
Incorporate comments	Week 7-8
Distribute second draft of contract to decision-makers / staff and counsel for review-and-comment	Week 8
Identify draft evaluation criteria and weighting and pass / fail criteria; consider options for evaluation process and evaluation committee members	Week 9
Finish first draft of RFP and distribute for review	Week 9-10
Decision-makers and staff submit comment and questions on contract(s); procurement team reads/ responds- conference calls to discuss / clarify	Weeks 11-12
Incorporate comments into second draft of contract (s)	Weeks 13-14
Submit comment and questions on RFP; procurement team reads/ responds- conference calls to discuss / clarify	Week 13
Incorporate comments into second draft of RFP	Week 14
Distribute final draft contact(s) to procurement team for final read-through prior to issuance	Week 15
Procurement team reads contract, notes any corrections	Week 16
Distribute final draft RFP to procurement team for final review prior to issuance	Week 16
Final corrections of RFP for distribution to procurement staff for release	Week 17
Procurement staff prepares RFP for on-line release - publishes notice /advertises interstate (RE MRF, disposal designations)	Week 18
RFP, PROPOSERS' QUESTIONS, PARTICIPANTS' CLARIFICATIONS, PROPOSALS, AND EVALUATION	
Community issues RFP and draft contract	Week 19
Contractors submit Expressions of Interest	Week 20
Contractors submit questions and comments on RFP and draft Contract	Week 22
Procurement team summarizes potential proposers' policy / program / business questions for staff / decision-makers	Week 23
Decision-makers / staff / procurement department respond to potential proposers' comments	Week 24

²⁴ Certainly this schedule / steps and timeline would differ for each community; this is included only as a guideline.

Accepted comments incorporated into RFP, contract(s), procurement team reads through and releases amendments / clarifications - issues final RFP	Week 25
Proposals due	Week 28
Procurement team reviews and evaluates proposals, conducts due diligence, optional interviews and site visits; evaluate price proposals	Week 29
Procurement team meets to discuss evaluations, desirability to issue Best and Final Offer (BAFO) to incorporate acceptable proposers' exceptions and proposers' additional commitments into final agreement	Week 30
POSSIBLE BAFO (Best and Final Offer)	
Draft BAFO; determine desired changes in service, to be requested of proposers	Week 31
Community issues request for BAFO, with Contract reflecting any changes based on proposed contract exceptions / service supplements	Week 32
Contractors submit BAFO	Week 34
FINALIZATION / APPROVAL OF CONTRACT / IMPLEMENTATION	
Procurement team evaluates BAFOs - meet to discuss and direct procurement team	Week 35
Procurement team holds negotiations (such as any contractor exceptions) with top 2 or 3 contractors (limited to e.g. 2 apiece) - reports results / recommendations	Weeks 36 and 37
Recommended contractor submits required contract documentation (insurance, guaranties, etc.) and executes agreement	Week 38-39
Work session or other process with relevant governing body - meet to approve contract (special meetings, if necessary?)	Week 40
Contractor purchases any containers, vehicles and implements its transition plan	As needed
Contractor commences service	As agreed

APPENDIX C - RECYCLING / PAYT ORDINANCES FROM OTHER JURISDICTIONS

Larimer County

> Policies > Waste Haulers

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LARIMER COUNTY, COLORADO, REGARDING LICENSING OF COMMERCIAL WASTE HAULERS OPERATING IN LARIMER COUNTY

Ordinance No. 1991-1

IT IS HEREBY FOUND by the Board of County Commissioners of Larimer County, Colorado, after public hearing held upon notice that:

1. Sorting and recovery of recyclables from the waste stream in Larimer County is necessary to maximize the useful life of the Larimer County Landfill and to thereby protect the public health of the residents of this county.
2. Commercial Waste Haulers operating within Larimer County must be licensed in order to protect the public health and welfare of residents and landfill employees in the following aspects:
 - a. Commercial Waste Haulers within Larimer County, through their pickup and hauling activities constitute a significant component of the traffic upon County Roads and State Highways within this County, contributing to the deteriorating air quality and road wear, so that licensing of haulers to maximize the efficiency of their operations is necessary;
 - b. County goals of efficient control of all aspects of the landfill operations and maximum utilization of recycling and waste reduction in order to extend the landfill's useful life and to protect the health and welfare of landfill employees and County residents requires the ability to direct and control Commercial Waste Haulers operating within the County for recovery at the Landfill.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Larimer County, Colorado, as follows:

Section 1.

- a. No Commercial Waste Hauler may operate within the unincorporated area of Larimer County, Colorado without first having obtained a Waste Hauler Annual Operating License for such activity.
- b. The following persons or entities are not required to obtain a Waste Hauler Annual Operating License:
 1. A Civic, community, benevolent or charitable nonprofit organization that collects, transports and markets materials for resource recovery solely for the purpose of raising funds for a civic, benevolent or charitable activity;
 2. A person who transports waste or recyclable materials produced by such person;

3. A property owner or agent thereof who transports waste or recyclable materials left by a tenant upon such owner's property, so long as such property owner does not provide waste collection service for compensation for tenants on a regular or continuing basis;
4. A demolition or construction contractor or landscaper who produces and transports waste in the course of such occupation, where the waste produced is merely incidental to the particular demolition or construction work being performed by such person.

Section 2.

Annual Operating Licenses shall be issued by the Larimer County Natural Resources Director on behalf of Larimer County to Commercial Waste Haulers who meet the minimum requirements for said operations established pursuant to this ordinance by the Larimer County Natural Resources Director. Commercial Waste Haulers who wish to obtain a license shall be required to submit a completed application along with an annual license fee of \$25.00 per company to the Larimer County Natural Resources Department.

All licenses issued under this ordinance shall run from the date of issue until the 31st day of January of the year following the date of issuance.

Section 3.

Each vehicle used in a Commercial Waste Hauling enterprise licensed hereunder, shall bear an identification issued by the Natural Resources Director in a conspicuous place upon the vehicle, clearly visible to the landfill Gate Attendants from their normal work location, which identification shall be issued by the Natural Resources Director at the time the license is granted.

Section 4.

The Larimer County Natural Resource Director shall establish minimum regulations and standards for the licensing of Commercial Waste Haulers who wish to operate within the unincorporated area of Larimer County.

- a. The designation of weight or volume based fee structures designed to provide economic incentive for resource recovery and waste minimization.
- b. All Commercial Waste Haulers licensed by Larimer County shall make available to their customers within the Fort Collins and Loveland Urban Growth Areas, at the customer's option, curbside collection of recyclable materials, as said materials are designated annually by the Director of Natural Resources. Within the Loveland Urban Growth Area, the Director of Natural Resources shall designate minimum materials to be recycled as those materials collected by the City of Loveland curbside collection program, unless otherwise directed by the Board of County Commissioners. Within the Fort Collins Urban Growth Area, the Director of Natural Resources shall designate minimum materials to be recycled as those materials designated for curbside recycling by the City Manager of Fort Collins, pursuant to Section 15-414, Ordinance No. 116-1990, City of Fort Collins, unless otherwise directed by the Board of County Commissioners.
- c. Nothing in this ordinance or in the regulations and standards established hereunder shall be construed as allowing the County to regulate, interfere with, designate, manipulate, or in any way set

the rates charged by Commercial Waste Haulers licensed by Larimer County. The amount charged by licensed Commercial Waste Haulers, on a volume or weight basis, shall be at the sole discretion of each individual trash hauler, provided said charges provide a reasonable economic incentive to their customers for waste reduction and accurately reflect the actual amounts of waste generated by said customers.

Section 5.

Any finding or determination made by the Natural Resources Director pursuant to the provisions of this Ordinance shall be made subject to the following procedures:

- a. The Natural Resources Director shall initially publish all such proposed findings or determinations as written proposed findings or determinations. Publication, for the purpose of this provision, shall mean mailing of such proposed findings or determinations to all Larimer County licensed Commercial Waste Haulers and the publication in a newspaper of general circulation in Larimer County of a public notice describing in summary fashion said proposed written findings or determinations. Said mailing or public notice shall indicate that a copy of the proposed findings or determinations may be obtained in the Natural Resources Director's office, and state that interested parties shall have 15 days from the date of publication in which to submit written comments to the Board of County Commissioners.
- b. Upon the expiration of 15 days following the publication of the notice of the proposed findings or determinations, the Natural Resources Director may adopt final findings or determinations, either in the form as originally proposed, or as modified in the discretion of the Board of County Commissioners. Such final findings or determinations shall be mailed to all Larimer County licensed Commercial Waste Haulers and to any interested party who submitted timely written comments upon the proposed findings or determinations. All such findings and determinations shall include a brief statement of the right of interested parties to appeal.
- c. Any interested party who submitted timely written comments, upon the proposed findings or determination and any Larimer County licensed Commercial Waste Hauler may appeal any final finding or determination of the Larimer County Natural Resources Director by submitting a written request for appeal addressed to the Larimer County Natural Resources Director and Board of County Commissioners within ten (10) days of the mailing of the final finding or determination. All appeals shall be heard by the Board of County Commissioners at a regular or special public meeting. The Board shall schedule an appeal hearing to be held within thirty (30) days of receipt by the Board of the written appeal request. The review by the Board shall be de novo. All parties to the appeal may be represented by counsel. At the conclusion of said hearing, the Board may adopt, reject or adopt with amendment the finding or determination of the Natural Resources Director. The Board in its discretion may take the matter under advisement and issue a written decision within a reasonable time, provided that the vote of the Board shall be taken in public session. In all events, the written decision of the Board shall be final.

Section 6.

It shall be a misdemeanor for any person, firm or entity to engage in any commercial waste hauling within the unincorporated area of Larimer County without first having obtained a license for said operation. Each separate commercial pickup of waste at any site or deposit of waste at the Larimer



County Landfill, without a license therefore as required herein, shall constitute a separate violation which shall be punishable by a fine of \$300.00 or ninety (90) days in the County Jail, or both.

Section 7.

"Commercial waste hauling" for the purposes of this Ordinance shall be defined as the provision of a service of collecting, transporting or disposing of waste for another for a fee, by a private entity, on a regular or periodic basis, but shall not be construed to include the hauling, transporting, collecting or disposing of trash or waste by a construction contractor, which activity is directly associated with construction or excavation activities.

The term "waste" shall include all discarded matter from the preparation of food, all condemned food products, and all refuse and discarded matter from the handling, storage, preparation and sale of produce, and all substances which are discarded from dwellings, rooming houses, hotels, clubs, restaurants, boarding houses, eating places, shops, stores or other places of business, recreation, or residence. Septage, sewage, materials collected for reuse or recycling, and/or by-products of waste water and/or water treatment facilities, shall not be defined as waste for the purposes of this Ordinance.

Section 8.

Should any section or sections of this Ordinance be determined by a Court of competent jurisdiction to be unconstitutional or invalid for any reason, then that section or sections shall be deemed severable and the remaining provisions of this Ordinance shall continue in full force and effect.

Section 9.

This Ordinance may be published upon final adoption by title and short outline only.

Section 10.

The provisions of this ordinance shall become effective July 1, 1992.

INTRODUCED, FIRST READ, AND SET FOR PUBLIC HEARING ON THE 28TH DAY OF MAY, 1991.

NOTICE OF PUBLIC HEARING PUBLISHED IN THE FORT COLLINS COLORADOAN ON THE 8TH DAY OF JUNE, 1991.

APPROVED AND ADOPTED UPON SECOND READING AND AFTER PUBLIC HEARING ON THE 8TH DAY OF JULY, 1991.

PUBLISHED AFTER ADOPTION IN THE FORT COLLINS COLORADOAN ON THE 1ST DAY OF AUGUST, 1991.

BOARD OF COUNTY COMMISSIONERS OF LARIMER COUNTY, COLORADO

Moe Mekelburg
Chairman, Board of County Commissioners
Attest: Sherry E. Graves



Boulder County



COPY

ORDINANCE NO. 2007 - 01

**AN ORDINANCE FOR THE LICENSING OF THOSE IN THE BUSINESS OF
COLLECTING AND TRANSPORTING DISCARDED MATERIALS WITHIN THE
UNINCORPORATED AREA OF BOULDER COUNTY**

WHEREAS, boards of county commissioners are empowered by C.R.S. section 30-15-401(1)(a)(II) to inspect vehicles proposed to be operated in the conduct of the business of transporting ashes, trash, waste, rubbish, garbage, or industrial waste products or any other discarded materials; and

WHEREAS, boards of county commissioners are empowered by C.R.S. section 30-15-401(1)(a)(IV) to regulate the activities of persons in the business of collecting and transporting such materials within the unincorporated area by requiring each such person to secure a license from the County and charging a fee therefore; and to require adherence to such reasonable standards of health and safety as the board may prescribe and to prohibit any such person from commercially collecting or disposing of such materials without a license and when not in compliance with such standards of health and safety as may be prescribed by the board; and

WHEREAS, the Colorado legislature has expressly endorsed "local efforts ...focused toward the reduction of the volume ...of the waste stream ...through source reduction, recycling, composting, and similar waste management strategies." and also recognizes that "improper disposal of solid wastes poses significant public health risks and environmental hazards." Section 30-20-101, C.R.S.

WHEREAS, boards of county commissioners are empowered by C.R.S. section 30-15-401(1)(a)(VI) to require every person in the business of transporting discarded materials to and from disposal sites to have, before commencing such operations, in such motor vehicle a motor vehicle liability insurance policy or evidence of such policy issued by an insurance carrier or insurer authorized to do business in the state of Colorado in the amounts required by 30-15-401(1)(a)(VI); and

WHEREAS, persons or companies in the business of hauling waste, recyclables and compostables within Boulder County, through their collection and transportation activities are able to supply the County with information necessary for long-term solid waste management planning and therefore should be required to submit annual information about their hauling activities to the County; and

WHEREAS, the County desires to encourage waste reduction, in order to further the waste diversion goals supported by the County; and

WHEREAS, it is the intent of this Ordinance to: (1) reduce the volume of waste, recyclables and compostables entering the waste stream and landfills; (2) encourage the recycling of certain discarded materials; (3) obtain information for long-term solid waste planning; and (4) to protect the health, safety and welfare of the public; and

WHEREAS, the County desires to encourage cities and towns within the County to enact ordinances to accomplish the same goals in incorporated areas of the County, and utilize this document as a model.

NOW, THEREFORE BE IT ORDAINED BY THE COUNTY COMMISSIONERS OF THE COUNTY OF BOULDER AS FOLLOWS:

SECTION 1: DEFINITIONS

A. For the purpose of this Ordinance, the following words, terms, and phrases will have the following meanings:

1. The term "Hauler" shall mean person or company in the business of collecting, transporting or disposing of Discarded Materials for another, for a fee, or for no fee, except as described in Section 2B below.
2. The term "Discarded Materials" shall mean all putrescible and non-putrescible solid wastes discarded from any residential or commercial sources including Recyclable Materials and Compostable Materials. The term "Discarded Materials" shall exclude liquid wastes, sewage, sewage sludge, septic tank or cesspool pumpings; discarded or abandoned vehicles or parts thereof; residential appliances containing chlorofluorocarbon refrigerants; materials used as fertilizers or for other productive purposes, household hazardous wastes, and hazardous materials as defined in the rules and regulations adopted by the Hazardous Materials Transportation Act of 1987.
3. The term "Garbage" shall mean Discarded Materials from Residential and Multi-Family customers, excluding Recyclable Materials and/or Compostable Materials that have been source-separated for collection.
4. The term "Periodic Garbage Collection" shall mean the regular collection of Garbage from single-family or multi-family residential properties, on a schedule of not less often than once every five weeks.
5. The term "Residential Customer" shall mean all residential structures with not more than two residential units that receive Periodic Garbage Collection service.
6. The term "Multi-family Customer" shall mean a residential structure with three or more residential units that employs a communal system for Periodic Garbage Collection.
7. The term "Commercial Customer" shall mean any premises where a commercial, industrial, or institutional business or enterprise is undertaken, including, without limitation, retail establishments, restaurants, hospitals, manufacturing factories, schools, day care centers, office buildings, nursing homes, clubs, churches, and public facilities.
8. The term "Recyclable Materials" shall mean Discarded Materials from any residential or commercial source that are collected separately for the purpose of such materials being re-processed into new or different products or packaging materials, provided that such materials have been designated in subsection 6B of this Ordinance as recyclable.
9. The term "Compostable Materials" shall mean Discarded Materials from any residential or commercial source that are collected separately for the purpose of such materials being

composted, or otherwise processed through natural degradation into soil amendment, fertilizer or mulch.

10. The Boulder County Recycling Center shall mean the recyclables processing facility owned by Boulder County located at 1901 63rd St., Boulder, CO.

SECTION 2: LICENSE REQUIRED

A. No person or entity shall operate as a Hauler within the unincorporated area of Boulder County, Colorado without a current Annual Hauler License for such activity.

B. Exemptions. The following persons or entities shall not be subject to this ordinance.

1. A civic, community, benevolent or charitable nonprofit organization collecting, transporting and marketing recyclables solely for the purpose of raising funds for a civic, community, benevolent or charitable activity.
2. A property owner or agent thereof who transports Discarded Materials left by a tenant upon such owner's property, so long as such property owner is not compensated for such collection service on a regular or continuing basis;
3. Demolition or construction contractors or landscaping companies that produce and transport Discarded Materials produced incidentally to the demolition, construction, or landscaping work ;
4. Haulers who provide regular Periodic Garbage Collection service will be exempt from the recycling requirement of this Ordinance where such services are being provided in neighborhoods or communities where all Residential Customers receive recycling services through a separately funded recycling collection program.

SECTION 3: LICENSING PROCESS

A. The application for a Hauler License shall be submitted to the Boulder County Resource Conservation Division on a completed Boulder County Hauler Licensing Program Application and Self-Certification Form.

SECTION 4. IMPLEMENTATION STANDARDS

A. The Boulder County Land Use Department, Resource Conservation Division, shall set standards for the implementation of the Hauler licensing program including the amount of license fees, the area of Boulder County subject to unlimited recycling requirements, schedule for requiring collection of compostable materials and area of the county to be covered by this requirement, and the designation of Recyclable Materials.

SECTION 5: LICENSE FEES

A. The Boulder County Land Use Department, Resource Conservation Division shall issue a Hauler License upon the applicant satisfying the requirements herein, and upon full payment of an annual license fee, as specified in the Hauler Licensing Implementation Standards issued by the Land Use Department, Resource Conservation Division. All license fees shall be paid in full and shall accompany the application for such license. The amount of the license fee shall be based on the actual cost of administering the Hauler Licensing Program.

SECTION 6: LICENSEE REQUIREMENTS

A. Annual Reporting

All haulers will submit annual reports on the weight (in tons) of Discarded Materials, including Garbage, Recyclable Materials (by commodity, or aggregated into commingled containers; mixed paper; single stream (commingled containers combined with mixed paper) and Compostable Materials collected and transported from within the unincorporated areas of Boulder County. Reports will be submitted to the County Land Use Department, Resource Conservation Division, 1901 63rd St, Boulder, Colorado 80301 by January 31, each year, using a Boulder County Hauler Report Form provided by the County.

B. Designation of Recyclable Materials

Changes to the list of designated Recyclable Materials shall be proposed by the Resource Conservation Division to the Board of County Commissioners, after notice to and consultation with the Resource Conservation Advisory Board (RCAB) and representatives of the licensed Haulers operating within the unincorporated county.

C. Service for Multi-family Customers and Commercial Customers

Haulers who collect Discarded Materials including Recyclable Materials and Compostable Materials from Multi-family Customers and/or Commercial Customers shall offer such services with a frequency as is necessary to prevent overflow from the collection containers utilized for the collection and preparation of such materials by such Multi-family Customers and Commercial Customers.

The following sections D-H shall be implemented 90 days following satisfactory conclusion of acceptance tests of the Boulder County Recycling Center single stream technology:

D. Requirement to provide unlimited recycling services without an additional fee

Haulers that provide Periodic Garbage Collection services to Residential Customers shall also provide to these customers weekly or bi-weekly collection of recyclables and shall charge a single rate for Garbage Collection and collection of unlimited amounts of recyclable material.

Each Hauler may provide household recycling containers for the collection and preparation of recyclables to all residential customers. Such Haulers may also establish such reasonable and industry-accepted

requirements, rules, or regulations for the separation and preparation of Recyclable Materials as are necessary to provide for the orderly collection of Recyclables Materials. Except for materials not properly prepared for recycling, Haulers may not dispose of Recyclable Materials set out for collection by their customers by any means other than delivery to a lawfully operating recyclables processing facility.

In the event the Hauler elects to perform collection of waste, including Recyclable Materials, through subcontractors or agents, such agency relationship shall not relieve the Hauler of responsibility for compliance with the provisions of this subsection or any rule promulgated hereunder.

All Recyclable Materials placed for collection shall be owned by and be the responsibility of the customer until the materials are collected by the Hauler. No person other than the person placing the Recyclable Materials for collection or that person's hauler shall take physical possession of any Recyclable Materials separated from garbage, set out in the vicinity of the curb, and plainly marked for Recyclable Material collection.

E. Volume-based rates

Haulers that provide Periodic Garbage Collection services to their Residential Customers shall charge these customers for this service on the basis of the volume of the Garbage containers subscribed by the customer for periodic garbage collection by the Hauler.

Each Hauler shall determine a single standardized Garbage container volume of approximately thirty-three (33) gallons which is the typical volume of a Garbage bag or Garbage can used by a Residential Customer. The Hauler shall establish a single standardized price to be charged for the collection of this base volume. The Hauler shall charge the same standardized price for each base volume unit of Garbage subscribed regardless of the number of Garbage containers, or standardized volume, placed for collection by the customer.

The provisions of this subsection shall not be construed to prohibit any Hauler from establishing rules and regulations regarding the safe maximum weight of containers of Garbage and/or Recyclable Materials or Compostable Materials. A Hauler may refuse to collect any Garbage container which is overloaded or which contains a volume of Garbage greater than the rated or specified volume of such container, or shall account for and bill the customer for the collection of such excess Garbage.

Special pickups for bulky items for additional fees are permitted.

F. Flat monthly fee

In addition to the volume-based rates, Haulers may establish a flat monthly fee that may be charged to Residential Customers regardless of whether Garbage, Recyclable or Compostable Materials are placed by the customer for collection during the month. The flat monthly fee may be charged for the purpose of covering the combined fixed operational costs for collecting Garbage and Recyclable Materials and Compostable Materials.

If a Hauler elects to charge a flat monthly fee, the fee shall not exceed the monthly volume-based rate charged, assuming the collection of only one standard Garbage container per week. In the event that a Hauler elects to establish a flat monthly fee, all bills for services provided by such contractor to

Residential Customers shall clearly identify both the flat monthly fee and the volume-based fees charged to the customer for the collection of Garbage.

Nothing herein shall prevent or prohibit such Hauler from charging additional fees for providing services in addition to collection of Garbage, Recyclable Materials or Compostable Materials.

G. Notification of new customers

Haulers shall notify New Residential Customers in writing that the service includes the collection of Recyclable Materials, which materials are designated for recycling collection in subsection 6B, and of such rules and regulations as have been established by the Hauler for the orderly collection of Recyclable Materials as authorized by subsection 6 E regarding the acceptable weight and volume for the collection of Recyclable Materials.

Haulers shall also notify new Residential Customers that the service includes the collection of Compostable Materials pursuant to Section 6J.

H. County to Supply Information

The County will furnish to each Hauler information that explains the changes to the County's ordinance. Haulers must distribute this information to all their Residential customers no later than 90 days after the effective date of this ordinance. In addition, the County may, no more frequently than twice per calendar year, produce an educational flyer about recycling and waste reduction opportunities in Boulder County. Haulers shall copy and distribute this flyer, not to exceed one sheet of paper in length, to all their residential customers and multi-family customers, at no charge to the County.

I. Haulers that provide Periodic Garbage Collection from Commercial Customers shall offer recycling services for the same range of materials as required for Residential Customers.

The following section shall become effective once the schedule for requiring collection of compostable materials and the area of the county covered by this requirement are implemented:

J. Requirement to provide compost collection services without an additional fee.

Haulers that provide Periodic Garbage Collection services to Residential Customers in the urbanized areas, such as but not limited to Niwot, Heatherwood and Gunbarrel, shall also provide to these customers weekly or bi-weekly collection of 96 gallons of Compostable Material and shall charge a single rate for Garbage Collection and collection of Recyclable and Compostable Material.

Each Hauler may provide household compost collection containers for the collection of Compostable Material to all Residential Customers. Such Haulers may also establish such reasonable and industry-accepted requirements, rules, or regulations for the separation and preparation of Compostable Material as are necessary to provide for its orderly collection. Except for materials not properly prepared for recycling, Haulers may not dispose of Compostable Material set out for collection by their customers by any means other than delivery to a lawfully operating compostables processing facility.

In the event the Hauler elects to perform collection of waste, including Compostable Material, through subcontractors or agents, such agency relationship shall not relieve the Hauler of responsibility for compliance with the provisions of this subsection or any rule promulgated hereunder.

All Compostable Material placed for collection shall be owned by and be the responsibility of the customer until the materials are collected by the Hauler. No person other than the person placing the compostable materials for collection or that person's hauler shall take physical possession of any compostable materials separated from garbage, set out in the vicinity of the curb, and plainly marked for compostable material collection.

SECTION 7: PENALTIES FOR NON-COMPLIANCE

A. It shall be a violation of this Hauler Licensing Ordinance 2007-01 for any person, firm or entity to engage in any commercial waste hauling within the unincorporated area of Boulder County without first having obtained a license for said operation. Each separate Periodic Garbage Collection service or each separate collection from a Residential, Multi-Family or Commercial Customer of Discarded Materials at any site, or deposit of Discarded Materials conducted without a license shall constitute a separate violation. Any such violation shall be punishable by a fine of not more than five hundred dollars (\$500.00) for each separate violation.

B. Any other violation of this Waste Hauler Licensing Ordinance 2007-01 shall be punishable by a fine of not more than five hundred dollars (\$500) for each separate violation and/or may result in the suspension or revocation of the license.

C. Law enforcement personnel may use the Penalty Assessment Procedure described in C.R.S. section 16-2-201 for violations of this Hauler Licensing Ordinance 2007-01. This statute permits an arresting officer to issue a penalty assessment notice and release an alleged violator upon the terms of the notice or take the alleged violator before a county court judge. The penalty assessment notice shall be a summons and complaint, and shall contain the identification of the person, firm or entity that has violated this Ordinance. The penalty assessment notice shall also specify the offense, the applicable fine and require that the alleged violator pay the fine or appear to answer the charge at a specified time and place.

D. No enforcement action for a violation of this Hauler Licensing Ordinance 2007-01 shall be taken more than one calendar year after the date on which said violation occurred.

SECTION 8: SAVINGS CLAUSE

A. If any section, clause, sentence or part of this ordinance is adjudged by any court of competent jurisdiction to be invalid, such invalidity shall not affect, impair or invalidate the other provisions of this ordinance which can be given effect without such invalid provision.

SECTION 9: REPEAL OF ORDINANCE 95-2

This ordinance shall be known as and be referred to as the "**Commercial Waste Hauler Licensing Ordinance 2007 - 01.**" Commercial Waste Hauler Licensing Ordinance #95-2 is hereby repealed and re-enacted as Commercial Waste Hauler Licensing Ordinance 2007 - 01 herein.

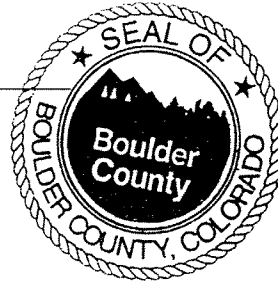
SECTION 10: EFFECTIVE DATE

This ordinance shall be effective thirty days after publication and adoption on second reading. INTRODUCED, READ AND ADOPTED ON FIRST READING NOVEMBER 29, 2007, and ordered published in the LongmontTimes-Call.

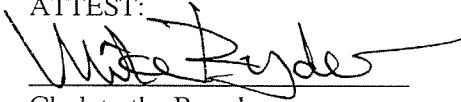
THE BOARD OF COMMISSIONERS
OF THE COUNTY OF BOULDER, COLORADO



Ben Pearlman, Chair



ATTEST:



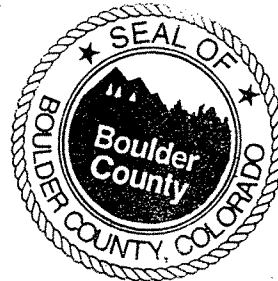
Clerk to the Board

ADOPTED ON SECOND AND FINAL READING on DECEMBER 20, 2007.

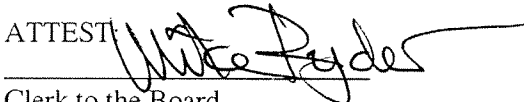
THE BOARD OF COMMISSIONERS
OF THE COUNTY OF BOULDER, COLORADO



Ben Pearlman, Chair



ATTEST:



Clerk to the Board

Pitkin County

See PAGE 7 FOR FLOW CONTROL, PAYT, & RECYCLING

AN ORDINANCE OF THE
BOARD OF COUNTY COMMISSIONERS
OF PITKIN COUNTY, COLORADO, REGARDING
LICENSING OF PROFESSIONAL WASTE HAULERS
OPERATING IN PITKIN COUNTY AND
ESTABLISHING PENALTIES FOR THE ACCUMULATION
OF RUBBISH UPON PRIVATE LANDS WITHIN THE COUNTY

Ordinance No. 91-1, Series 1991

IT IS HEREBY FOUND by the Board of County Commissioners of Pitkin County, Colorado, after public hearing held upon notice that:

1. In March of 1990 the Board of County Commissioners adopted a Resolution increasing County landfill tip fees for unsorted wastes and providing discounts for pre-sorted, recoverable materials in order to support the true costs of landfilling and so as to promote resource recovery by providing economic incentives for recycling within Pitkin County.
2. Sorting and recovery of recyclables from the waste stream in Pitkin County is necessary to maximize the useful life of the Pitkin County Landfill and to thereby protect the public health of the residents of this County.
3. Waste Haulers operating within Pitkin County must be licensed in order to protect the public health and welfare of residents and landfill employees in the following aspects:
 - a. Waste Haulers within Pitkin County, through their pickup and hauling activities constitute a significant component of the traffic upon County Roads and State Highway 82 within this County, contributing to the deteriorating air quality in the Roaring Fork Valley and the overcrowded and unsafe road conditions on those roads, so that licensing, regulation, and inspection of haulers and their vehicles so as to maximize the efficiency of their operations is necessary;
 - b. County goals of efficient control of all aspects of the Landfill operations and maximum utilization of recycling in order to extend the Landfill's useful life and to protect the health and welfare

of landfill employees requires the ability to direct and control professional Waste Haulers operating within the County so as to promote separation of presorted materials for recovery at the Landfill.

4. The health and welfare needs of Pitkin County, as recited above, will be best served by the institution by all licensed Waste Haulers of single truck pickup of the entire waste stream, including presorted recoverables, at all Pitkin County residences serviced by said Waste Haulers, as soon as the technology for such service becomes feasible.

5. Unregulated dumping and accumulation of rubbish and trash upon public and private lands within Pitkin County is unsightly and constitutes a present danger to the health and welfare of the residents of this County.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Pitkin County, Colorado, as follows:

Section 1. No Commercial Waste Hauler may operate within the unincorporated area of Pitkin County, Colorado, without first having obtained an Annual Operating License for such activity.

Section 2. Annual Operating Licenses shall be issued on behalf of Pitkin County to Commercial Waste Haulers who meet the minimum requirements for said operations established pursuant to this ordinance by the Pitkin County Manager. Commercial Waste Haulers who wish to obtain a license shall be required to submit a completed application along with an annual license fee of \$200 per company and \$50 per vehicle to the Pitkin County Manager.

Section 3. The Pitkin County Manager shall establish regulations and minimum standards for the licensing of Commercial Waste Haulers who wish to operate within Pitkin County, which shall be subject to approval of the Board of County Commissioners and shall include at least:

- a. Minimum standards for vehicles, insurance, and equipment to be employed in trash pickup services, including standards for handling of presorted recyclables;
- b. Minimum standards for trash, waste, and recoverables pickup services which may be offered within the unincorporated area of Pitkin County;
- c. The designation of weight or volume based fee structures designed to provide economic incentive for resource recovery.

d. Upon the finding by the County Manager that the technology is available for single truck residential pickup of the entire waste stream, including presorted recoverables, utilizing existing equipment, in an economically feasible fashion, the County Manager shall give all licensed Waste Haulers notice that within ninety days of their receipt of said notice, their license with Pitkin County shall incorporate a requirement to provide such single truck residential pickup. Thereafter, no license shall be issued for Commercial Waste Hauling within Pitkin County except upon a commitment by the applicant to provide such single truck residential pickup on all applicant's routes within the County.

Section 4: Any regulation or standard adopted by the County pursuant to the provisions of Section 3 of this Ordinance shall be made subject to the following procedures:

A. The County Manager shall initially publish all such proposed regulations or standards in writing. Publication, for the purpose of this provision, shall mean mailing of such proposed regulations or standards to all Pitkin County licensed Waste Haulers and the publication in a newspaper of general circulation in Pitkin County of a public notice describing in summary fashion said proposed regulations or standards, indicating that a copy of the regulations or standards may be obtained in the County Manager's office, and stating that interested parties shall have 15 days from the date of publication in which to submit written comments to the County Manager.

B. Upon the expiration of 15 days following the publication of notice of the proposed regulations or standards, the County Manager may adopt final regulations or standards, either in the form as originally proposed, or modified in accordance with written comments received by the County Manager from interested parties. Such final regulations or standards shall be mailed to all Pitkin County licensed Waste Haulers and to any interested party who submitted comments upon the proposed regulations or standards. All such regulations and standards shall include a brief statement of the right of interested parties to appeal.

C. Any interested party and any Pitkin County licensed Waste Hauler may appeal any finding, regulation or standard of the Pitkin County Manager by submitting a written request for appeal addressed to the County Manager and Board of County Commissioners within ten (10) business days of the mailing of the final regulation or standard. All appeals shall be heard by the Board of County Commissioners at a regular or special public meeting. Upon filing of an

appeal, the Board shall schedule an appeal hearing within thirty (30) days. The review by the Board shall be de novo, at which time interested parties shall be entitled to appear and present such evidence as they deem appropriate. Interested parties may be represented by counsel. Upon the conclusion of said hearing, the Board may adopt, reject or adopt with amendment the standard or regulation of the County Manager.

Section 5. It shall be a misdemeanor for any person, firm or entity to engage in any commercial waste hauling within the unincorporated area of Pitkin County without first having obtained a license for said operation. Each separate commercial pickup of waste at any site or deposit of waste at the Pitkin County Landfill, without a license therefor as required herein, shall constitute a violation of this requirement which shall be punishable by a fine of \$300.00 or 90 days in the County Jail, or both.

Section 6. Commercial waste hauling, for the purposes of this Ordinance, shall be defined as the provision of a service of hauling waste or trash for another for a fee, by either private or public entity, on a regular or periodic basis, but shall not be construed to include the hauling of trash or waste by a construction contractor, which activity is directly associated with construction or excavation activities on lands within the County.

The term waste shall be construed to include "garbage," "rubbish," "trash" and "junk" and shall include all wastes from the preparation of food, condemned food products and all refuse and waste from the handling, storage, preparation and sale of produce, and all substances, which are discarded from dwellings, rooming houses, hotels, clubs, restaurants, boarding houses, eating places, shops, stores or other places of business or residence.

Section 7. (a) It shall be unlawful for any person or entity to dump or to allow to be deposited or accumulate any garbage, rubbish, waste, trash or junk upon any public or private property not designated as a landfill or upon the alleys behind or the sidewalks or roadways in front of said properties, excepting industrial tracts and agricultural lands as defined in Section 30-15-401, (1), (a), (I), CRS 1973.

(b) Every owner or occupant of premises within Pitkin County shall keep the area within 10 feet of their trash storage facility free of garbage, rubbish, waste, trash and junk.

(c) The collection and disposal of garbage, rubbish, waste, trash and junk within Pitkin County shall be as often as

necessary to prevent a public health danger, fire danger or inhibition of right-of-way access.

(d) No person transporting garbage, rubbish, waste, trash or junk within Pitkin County shall allow any to fall or be blown from the container or vehicle.

Section 8. Upon determining that garbage, rubbish, waste, trash or junk has been dumped upon either public or private property in violation of Section 7 hereof by any person, or has been allowed to accumulate on any private property within unincorporated Pitkin County, any employee of the Aspen/Pitkin Environmental Health Department, or its designee may issue a Citation to the person responsible for the dumping or the owner of the property on which such materials have accumulated.

Section 9. Violation of Section 7 of this Ordinance shall be a class 2 petty offense pursuant to Colorado Statute and shall be subject to the following schedule of fines:

1st offense: \$50 fine

2nd offense: \$100 fine

3rd and following offenses: \$300 fine

Section 10. (a) Upon the determination of the Aspen/Pitkin Environmental Health Department, the Sheriff's Office, the Fire Marshall or their designee that the owner of any parcel of property within unincorporated Pitkin County has permitted garbage, rubbish, waste, trash or junk to accumulate in violation of Section 7 hereof, a notice may be issued by posting same in a prominent location on said property and mailing a copy of such notice to the owner at the last known address for that person from the records of the County Treasurer. Upon the expiration of 10 days from the date of the posting of said notice, if said accumulated garbage, rubbish, waste, trash or junk has not been removed, the Environmental Health Department, or its designee, may cause to have the same removed. Upon said removal, the Aspen/Pitkin Environmental Health Department, or its designee, shall prepare an invoice for the entire cost of said removal, including a 5% fee for inspection and incidental costs, which shall be assessed against the property and submitted to the property owner for payment. Said assessment shall be a lien against the property until paid and shall have priority over all other liens.

(b) If conditions which violate any provision of this Ordinance are determined by the Environmental Health Department, its designee or the Fire Marshall of the fire district the offense is located in, to be an immediate public health danger, fire hazard or a hazard in blocking emergency access, they shall

cause the immediate removal of the violation. In such case, a minimum fee of fifty dollars (\$50.00) shall be charged against such premises and against the owner or occupant thereof.

Section 11. Should any section or sections of this Ordinance be determined by a Court of competent jurisdiction to be unconstitutional or invalid for any reason, then that section or sections shall be deemed severable and the remaining provisions of this Ordinance shall continue in full force and effect.

Section 12. This Ordinance may be published upon final adoption by title and short outline only.

INTRODUCED, FIRST READ, AND SET FOR PUBLIC HEARING ON THE 13TH DAY OF NOVEMBER, 1990.

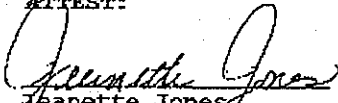
SET FOR SECOND READING AND PUBLIC HEARING ON THE 27TH DAY OF NOVEMBER, 1990.

NOTICE OF PUBLIC HEARING PUBLISHED IN THE ASPEN TIMES ON THE 31ST DAY OF JANUARY, 1991.

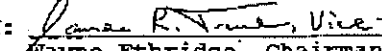
APPROVED AND ADOPTED UPON THIRD READING AND CONTINUED PUBLIC HEARING ON THE 12th DAY OF February, 1991.

PUBLISHED AFTER ADOPTION IN THE ASPEN TIMES ON THE 21 DAY OF February, 1991.

ATTEST:



Jeanette Jones
Deputy Clerk & Recorder


BOARD OF COUNTY COMMISSIONERS
OF PITKIN COUNTY, COLORADO

BY:  Vice-Chairman
Wayne Ethridge, Chairman

DATE: _____

RECOMMENDED FOR ADOPTION:


Reid Haughey
County Manager


Jim Duke
Director of Resource Recovery

**PITKIN COUNTY
WASTE HAULER REGULATIONS
AND STANDARDS**

I. FINANCIAL RESPONSIBILITY

A. Each licensed Waste Hauler shall maintain, at a minimum, the following insurance coverage at all times:

- | | | |
|---------------------------------|--------------------------|---------------|
| 1. For each vehicle | \$ 500,000.00 | PIP |
| | <u>Statutory minimum</u> | Collision |
| | <u>Statutory minimum</u> | Comprehensive |
| 2. General Commercial Liability | \$ 500,000.00 | |

II. EQUIPMENT STANDARDS

A. All Waste Hauler vehicles and storage containers shall be subject to inspection by Pitkin County and shall incorporate watertight hoppers, tarp covers or enclosed containers as reasonably required to prevent leakage, spills or blowing waste in transit.

III. SERVICES

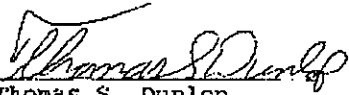
(A) All licensed Waste Haulers shall deliver waste and recoverables to the County's designated site, with exceptions based on mutual approval by both Waste Haulers and County staff, for the purpose of maintaining an environmentally sound method of solid waste management.

(B) All licensed Waste Haulers shall offer to all of its regular customers waste hauling service for all presorted recyclables on which Pitkin County offers a discounted tip fee.

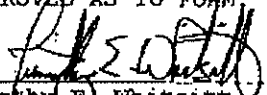
(C) All Waste Haulers will charge their customers for waste hauling on a weight or volume based fee structure that accurately reflects the actual amounts of waste generated by their customers. Such fees shall pass on any discounts in tip fees offered by the County for any portion of the waste stream. However, the county shall not regulate rates charged by licensed waste haulers to customers within the county for waste hauling services.

(D) All Waste Haulers shall bear the responsibility of maintaining the quality of all recyclables delivered to the Pitkin County landfill, and shall be subject to assessment of the full tip fee for any delivered recyclables which are unacceptably contaminated.

(E) All Waste Haulers shall provide to each customer the service of hauling presorted recoverables on at least as regular


Thomas S. Dunlop
Director of Environmental Health

APPROVED AS TO FORM:


Timothy E. Whitsitt
County Attorney

pccah/wp/12.48B

Aspen



Ordinance NO.____
(Series 2005)

AN ORDINANCE AMENDING CHAPTER TWELVE OF THE MUNICIPAL CODE OF THE CITY OF ASPEN, COLORADO TO ENCOURAGE RECYCLING BY BUSINESSES AND RESIDENTS

WHEREAS, The City Council of the City of Aspen finds that a significant reduction of the volume of solid waste and a corresponding increase in the volume of Recyclable Materials generated by citizens and businesses in the City would benefit the public welfare by reducing the consumption of important, non-renewable natural resources and by saving energy and reducing greenhouse gas emissions; and,

WHEREAS, increasing recycling and reducing trash volumes will extend the life of the Pitkin County landfill as long as possible, thereby protecting city residents from future large cost increases when the landfill closes and trash must be transported to distant landfills; and,

WHEREAS, The City Council's intent in enacting this ordinance is to decrease the amount of solid waste and increase waste reduction and recycling practices by the citizens of and businesses located in the City; and,

WHEREAS, the Aspen City Council desires to ensure that Aspen demonstrates leadership and excellence in environmental practices including increasing the community's recycling volumes and decreasing volumes of non-recycled trash; and,

WHEREAS, the Aspen City Council has determined that the existing rules and regulations governing solid waste are inadequate to protect non-renewable natural resources, save energy, reduce pollution, and extend the life of the landfill; and,

WHEREAS, these rules and regulations will make it much easier for residents and businesses to recycle and increase recycling success in Aspen.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASPEN, COLORADO:

Section 1

That Chapter 12 of the Municipal Code of the City of Aspen, Colorado is hereby amended by the addition of a new section 12.06 which section shall read as follows:

12.06.000 Waste Reduction

12.06.010 Definitions.

For purposes of this section, the following terms shall have the meanings ascribed to them:

“*Audit Card*” shall mean a card that waste Haulers give to customers who have included banned Yard Waste in their garbage or who have failed to properly sort their Recyclable Materials.

“*Commercial Customers*” shall mean any premises utilizing collection service where a commercial, industrial or institutional enterprise is carried on, including, without limitation, retail establishments, restaurants, hospitals, schools, day care centers, offices, nursing homes, clubs, churches and public facilities.

"*Hauler*" means any person in the business of collecting, transporting or disposing of garbage for another, for a fee, in the City.

"*Multi-family Customer*" means the occupants, taken together, of a residential building or set of residential buildings that use a collective, common system for the collection of garbage generated by the occupants.

"*Recyclable Materials*" means any materials that are designated by the city manager in the “Recyclable Materials List” which may include, but are not limited to, newspaper, office paper, cardboard, glass containers, plastic containers, steel cans, and aluminum cans,.

"*Residential Customer*" means every occupant of a residential building or set of residential buildings who receives periodic garbage collection service, and who does not use a collective, common system for the collection of garbage generated by the occupants.

“*Yard Waste*” shall mean materials generated from the maintenance of the vegetation on a property that have been designated by the city manager in the “Banned Yard Waste List” which may include, but are not limited to, grass clippings, leaves, weeds, holiday trees, and other plant materials.

12.06.020 Exemptions

The following persons are exempt from the provisions of this chapter:

- (1) Any person or agent thereof who transports to the landfill only the garbage that person generates.
- (2) Any person who transports only liquid wastes (such as restaurant grease), discarded or abandoned vehicles or parts thereof, discarded home or industrial appliances, household hazardous wastes, or hazardous materials as defined in the rules and regulations adopted by the United States Hazardous Materials Transportation Act, 49 U.S.C. Section 5101, et seq.
- (3) Any Commercial Customer contracting trash pickup with a Hauler who proves he or she transports his or her cardboard recycling to the Rio Grande Recycling Center or Pitkin County Materials Recovery Facility may apply for an annual cardboard self hauling exemption. Such exemption shall be granted upon satisfactory demonstration to the Environmental Health Director that:

(i) Said customer is taking his or her recyclable cardboard to the Rio Grande Recycling Center or Pitkin County Materials Recovery Facility,

(ii) Is not allowing recyclable cardboard to be placed in trash containers, and that

(iii) Complying with the requirements of section 12.06.030 would be unduly burdensome to the applicant.

(4) Any Commercial Customer contracting trash pickup with a Hauler who proves he or she has cardboard recycling services provided by a separate Hauler may apply for an annual separate cardboard recycling service exemption. Such exemption shall be granted upon satisfactory demonstration to the Environmental Health Director that:

(i) Said customer's cardboard is picked up by a hauler separate from said customer's trash hauler, and that

(ii) The customer is not allowing recyclable cardboard to be placed in trash containers.

12.06.030 Hauler Requirements

(A) No person shall operate as a solid waste Hauler within the city limits without first obtaining a business license from the City. In order to receive a city business license, a solid waste Hauler must comply with the requirements of this chapter.

(B) Except for customers exempt from the provision pursuant to subsection 12.06.020, Haulers providing trash service in the City of Aspen shall include in the base rate for trash pickup service the pickup of Recyclable Materials as designated by the City Manager in the Recyclable Materials List. It shall be unlawful for Haulers to deduct any amount from a customer's rate if the recycling services are not used unless the customer has received an exemption from the Environmental Health Department.

(C) The collection of Recyclable Materials for Residential Customers shall be provided on the same day and upon the same frequency as trash pickup.

(D) Haulers shall provide collection of Recyclable Materials for Multi-family and Commercial Customers as often as necessary to prevent the overflow of the recycling containers and to permit the customer to use the recycling containers without causing an overflow.

(E) Any person licensed to operate as a solid waste Hauler within the City shall charge all Residential Customers on the basis of volume of trash collected, which shall be measured by the volume capacity of the container used by the customer. All charges shall be based upon units of volume no greater than 32 gallons. The charge for the second unit shall be

no less than the charge for the first unit of volume. The charge for each subsequent unit of volume shall be no less than the charge for the first unit of volume.

(F) In offering or arranging for services, a Hauler shall provide reasonable notice of the full range of container sizes or levels of services offered by the Hauler, and shall provide to each customer that customer's requested container size or level of service.

(G) Each Hauler shall submit an annual report to the city manager of the weight in tons or cubic yards of garbage, trash, Recyclable Materials (as determined by the City Manager in the Recyclable Materials List pursuant to 12.06.040) and Yard Waste materials collected within the limits of the City. For loads that contain garbage or Recyclable Materials originating in part from within the limits of the City, and in part from outside the limits of the City, the reported quantity may be estimated by the Hauler, and reported as an estimate. Reports shall be submitted for the year by January 31 of the succeeding year, using a form or forms provided by the Environmental Health Director. All reports shall be treated as confidential commercial documents under the provisions of the Colorado Open Records Act.

(H) Nothing in this section shall be construed as prohibiting any Hauler from providing separate pricing for special collection of bulky items, Yard Waste, contaminated recyclables, unscheduled pick up of trash, extra volumes of trash, such as bags, boxes, or bundles, or more than what was subscribed with a Hauler for trash.

(I) Except for materials that customers have not properly prepared for recycling and so are grossly contaminated (15 percent or more of trash), Haulers may not dispose of Recyclable Materials set out by recycling customers by any means other than at a recycling facility that sorts, packages, and otherwise prepares Recyclable Materials for sale. Haulers must notify customers of contaminated recyclables with an Audit Card provided by the Environmental Health Department.

(J) Upon the initial provision of solid waste collection services to new customers, ninety days prior to any opt out or auto renewal date, and on or before December 31 of the year of adoption of this ordinance with respect to existing customers, Haulers shall notify such customers of the provisions of this ordinance by a letter provided by the City of Aspen.

Haulers will also provide within the above reference letter information on the materials designated for recycling collection pursuant to 12.06.040 and such rules and regulations as established by the Hauler for the orderly collection of Recyclable Materials as authorized pursuant to 12.06.050(b). Such notice shall further include for Residential Customers the notification of the variable rate system employed by the Hauler, and shall be in a form reasonably acceptable to the City to ensure that customers are fully informed of the availability of recycling and level of service options.

For group accounts, the notices required herein may be sent to the group representative for said account, provided that such notice shall further notify said representative of its

obligation to notify all individual customers or users of the service within the group of the availability of recycling services.

On or before January 31 of each year, the Hauler shall deliver to the City's Environmental Health Director a true and correct copy of the notification sent to each customer type, i.e. Residential, Multi-family or Commercial, on or before December 31 of the previous year.

(K) Haulers shall not pick up trash that contains banned Yard Waste materials. Haulers shall notify customers of the ban with an Audit Card provided by the Environmental Health Department. The Environmental Health Department, once notified by the customer, will determine when the customer has removed the contaminating materials and then contact the Hauler to approve the collection of the trash, which the Hauler may choose to pick up at the next scheduled pickup or which may incur a charge for an extra pickup.

12.06.040 Designation of Recyclable Materials and Banned Yard Waste Materials.

(A) The Recyclable Materials that haulers are required to pick up shall be set forth in the City of Aspen's "Recyclable Materials List," which shall be prepared and amended from time to time by the City Manager. The Recyclable Materials List shall be developed after consultation with the Pitkin County Landfill Director/Manager, the Environmental Health Director, representatives of the licensed Haulers operating within the City, as well as the public, and shall be available for review on the City's Environmental Health Department website.

(B) The Yard Waste material that is required to be separated from trash shall be set forth in the City of Aspen's "Banned Yard Waste List," which shall be prepared and amended from time to time by the City Manager. The Banned Yard Waste List shall be developed after consultation with the Pitkin County Landfill Manager, the City of Aspen Environmental Health Director, licensed Haulers operating within the City, as well as the public, and shall be available for review on the City's Environmental Health Department website.

12.06.050 Placement of Recyclable Materials and Yard Waste for Pickup

(A) All recyclables and Yard Waste accumulated on any premises shall be placed in a container separate from garbage, or in a suitable manner such as cardboard broken down and placed on a shelf.

(B) Recycling containers for storing and setting out Recyclable Materials may be of any color or design as long as it does not interfere with industry-accepted requirements for the preparation of materials for recycling that are necessary to provide for the orderly collection of Recyclable Materials.

12.06.060 Educational Materials

(A) The City Environmental Health Department shall provide an annual summary of waste and recycled material totals collected in Aspen, and shall report on other measures of success and aspects of the ordinance.

(B) The City will provide Audit Cards that the Haulers must use to notify their customers of contamination of Yard Waste in trash and contamination of trash in recyclables. In addition, the City will produce an educational flyer, not to exceed one sheet of paper in length. Haulers shall distribute this educational flyer at least once a year to all their customers that may be at the same time as materials sent out under section 12.06.030(j). The City will consult with the Haulers about the educational flyer prior to printing them.

12.06.070 Audits and Violations

(A) Each Hauler licensed pursuant to this Article shall maintain accurate and complete records of the services provided to all customers, the charges to such customers and payments received, the form and recipients of any notice required pursuant to this Article, and any underlying records, including any books, accounts, contracts for services, written records of individual level of service requests, invoices, route sheets or other records necessary to verify the accuracy and completeness of such records. It shall be the duty of each Hauler to keep and preserve all such documents and records, including any electronic information, for a period of three (3) years from the end of the calendar year of such records, except for paper records of route sheets, which may be discarded one (1) year after the end of the calendar year of such route sheets.

(B) If requested, each Hauler shall make its records available for audit by the City Manager during regular business hours in order for the City to verify Hauler compliance with the provisions of this chapter. All such information shall be treated as confidential commercial documents under the provisions of the Colorado Open Records Act.

(C) Violation of any provision of this chapter by any person, firm or corporation, whether as Hauler, owner or occupant, shall be unlawful and subject to the penalty provisions in section 1.04.080 of this Code. Each violation shall constitute a separate offense.

12.06.080 Sunset Provision

This ordinance shall remain in effect until three years from the date of adoption, at which time the Aspen City Council shall amend, expand or repeal the ordinance.

Section 2

That a new section 14.08.130 of the Municipal Code of the City of Aspen, Colorado is hereby enacted to read as follows:

14.08.130 Solid Waste Collection Business License--Required

In order to obtain a business license, a solid waste Hauler must comply with the requirements of Chapter 12.06, entitled "Waste Reduction."

Section 3

This ordinance shall not become effective until sixty days after adoption by the City Council. It is not the intention of the City Council in the adoption of this ordinance to interfere with any valid contractual arrangement between Haulers and their Residential, Multi-family, or Commercial Customers. Accordingly, sub-sections 12.06.030 B, C, D, and E shall not apply in those instances in which Haulers have contracts with customers, the provisions of which are inconsistent with said subsections of this Chapter until the terms of said contracts authorize the customer or Hauler to renew or amend said contract. Evidence of a contract may be provided upon request to the City Attorney by a written contract or other evidence satisfactory to the City Attorney.

Section 4

This ordinance, when effective, shall not have any effect on existing litigation and shall not operate as an abatement of any action or proceeding then pending under or by virtue of the ordinances repealed or amended as herein prohibited, and the same shall be construed and concluded under such prior ordinances.

Section 5

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional in a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and shall not affect the validity of the remaining portions thereof.

Section 6

A public hearing on the ordinance shall be held on the ___ day of _____, 2005, in the City Council Chambers, Aspen City Hall, 130 South Galena, Aspen, Colorado.

INTRODUCED, READ, AND ORDERED PUBLISHED as provided by law by the City Council of the City of Aspen on the ___ day of _____, 2005.

Helen Kalin Klanderud, Mayor

ATTEST:

Kathryn S. Koch, City Clerk