

**REVISIONS TO THE BOULDER COUNTY
HAULER LICENSING ORDINANCE**

ORDINANCE NO. 2016-__

**AN ORDINANCE FOR THE LICENSING OF THOSE IN THE BUSINESS OF
COLLECTING AND/OR TRANSPORTING DISCARDED MATERIALS WITHIN AND
THROUGH 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 (referred to hereinafter as "landfill materials"), 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 transporting landfill materials, or industrial waste products or any other discarded materials including electronic devices, recyclable materials, construction and demolition waste, architectural paint, landscaping materials and compostable materials within and through 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

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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 the tracking and planning of waste diversion; 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; and

WHEREAS, cities and towns within the County may consent to have this ordinance apply within their boundaries, as provided in section 30-15-401(8), C.R.S.

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 “Architectural Paint” shall mean interior and exterior architectural coatings sold in containers of 5 gallons or smaller, as defined in C.R.S. §25-17-403.
2. The “Boulder County Recycling Center” shall mean the material recovery facility (MRF) owned by Boulder County located at 1901 63rd St., Boulder, CO.
3. 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 that receive Regular or Periodic Landfill Materials Collection service.
4. 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 into soil amendment, fertilizer, mulch, sludge or biogas.
5. The term “Construction and Demolition or C&D Materials” shall mean the waste materials produced in the process of construction, renovation, or demolition of structures (including buildings, bridges and roads). In addition, it includes the materials generated as a result of natural disasters. Components of C&D material include materials or debris such as asphalt, concrete, dimensional lumber,

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fiberboard, plywood, ferrous metals, non-ferrous metals, asphalt shingles, cardboard, carpet, brick, wallboard, plastic, and cardboard.

6. The term “Discarded Materials” shall mean all putrescible and non-putrescible solid wastes discarded from any residential or commercial sources including Recyclable Materials, Compostable Materials, Construction and Demolition (C&D) Materials, Electronic Devices, Architectural Paint, Reuse Materials, and Landscaping Materials. The term “Discarded Materials” shall exclude liquid wastes, sewage, sewage sludge, septic tank or cesspool pumpings; discarded or abandoned vehicles or parts of; 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 pursuant to the Hazardous Materials Transportation Act, 49 U.S.C. §§ 5101-5127.
7. The term “Electronic Device” (referred to hereinafter as “e-waste”) shall mean waste electronic devices including television sets, central processing units (CPUs), computer monitors, peripherals, printers, fax machines, laptops, notebooks, ultra books, net books, electronic tablets, digital video disc (DVD) players, video cassette recorders (VCRs), radios, stereos, video game consoles and video display devices with viewing screens greater than four inches diagonally as defined in C.R.S. §25-17-302(3)(a).
8. 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 exempted in Section 2B below.
9. The term “Landfill Materials” shall mean Discarded Materials from Residential, Commercial and Multi-Family Customers, excluding Recyclable Materials and/or Compostable Materials that have been source-separated for collection.
10. The term “Landscaping Materials” shall mean organic material such as food waste, yard waste, and pet waste.
11. The term “Multi-family Customer” shall mean a residential structure or mobile home park with three or more residential units that receive Regular or Periodic Landfill Materials Collection service.
12. The term “Periodic Landfill Materials Collection” shall mean the regular collection of landfill materials from Residential, Commercial or Multi-Family Customers, on a schedule of not less often than once every five weeks.
13. The term “Regular Landfill Materials Collection” shall mean the regular collection of landfill materials from Residential, Commercial or Multi-Family Customers, on a schedule of more often than once every five weeks.

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14. The term “Residential Customer” shall mean all residential structures with not more than two residential units that receive Regular or Periodic Landfill Materials Collection service.
15. 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.
16. The term “Reuse Materials” shall mean Discarded Materials from any residential or commercial source that are collected separately for the purpose of reusing in the same or different way after reclaiming or reprocessing.

SECTION 2: LICENSE REQUIRED

A. No person or entity shall operate as a Hauler within the unincorporated area of Boulder County, Colorado, or any municipality which consents to the application of this ordinance within its jurisdiction, 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 not in the regular business of 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.

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 Resource Conservation Division, shall set standards for the implementation of the Hauler Licensing Program including the amount of license fees, the area of

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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 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 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 for Discarded Materials collected from and/or transported within the unincorporated areas of Boulder County or any municipality which consents to the application of this ordinance within its jurisdiction, without a current Annual Hauler License for such activity.

Annual reports will include the following information:

- Weight (in tons) of the following:
 - Discarded Materials
 - Landfill Materials
 - Total Landfilled C&D Materials
 - Total Recycled C&D Materials
 - Recyclable Materials (by commodity or aggregated into commingled containers; mixed paper; single stream (commingled containers combined with mixed paper))
 - Compostables
 - E-waste
 - Landscaping Materials
 - Architectural Paint
 - Reuse Materials
 - Other information deemed necessary as waste diversion reports are further developed

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- Name and final destination facility(s) of landfill, recycling, composting, C&D, e-waste, architectural paint, reuse materials, and/or landscape materials

Reports shall be submitted to the Boulder County Resource Conservation Division by January 31, each year, via Boulder County's ReTRAC software or other software designated by Boulder 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 the Resource Conservation Advisory Board (RCAB) and representatives of the licensed Haulers operating within the unincorporated county before they can be added to the Implementation Standards.

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 material by such Multi-family Customer and Commercial Customers.

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

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

Each Hauler may provide recycling containers for the collection and preparation of recyclables to all residential, multi-family and commercial 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

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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 landfill materials, set out in the vicinity of the curb, and plainly marked for Recyclable Material collection.

E. Requirement to provide compost collection services without an additional fee
Haulers that provide Periodic Landfill materials Collection services to Residential Customers in the urbanized areas, identified as Region 5 on the Boulder County Resource Conservation Division Waste Hauler Ordinance Regions map provided yearly to licensed haulers, shall also provide to these customers weekly or bi-weekly collection of Compostable Material and shall charge a single rate for Landfill materials 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 composting, 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 landfill materials, set out in the vicinity of the curb, and plainly marked for compostable material collection.

F. Volume-based rates

Haulers that provide Periodic Landfill Materials Collection services to their Residential, Multi-Family and Commercial Customers shall charge these customers for this service on the basis of the volume of the Landfill Materials containers subscribed to by the customer for periodic Landfill Materials collection by the Hauler.

In order to encourage waste reduction by offering smaller volume collection, each Hauler shall establish a single standardized price to be charged for the collection of a base volume of approximately 32 gallons, which is the typical volume of a Garbage canor cart used by a Residential, Multi-Family or Commercial Customer. Each hauler shall chargean incrementalstandardized price for each base volume unit of Landfill

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Material subscribed to or placed by the customer, whichever is more, regardless of the number of containers placed by the customer for collection.

Each Residential, Multi-Family or Commercial Customer shall be afforded the opportunity to subscribe to service limited to 32 gallons only, 64 gallons only, or 96 gallons only. The provisions of this subsection shall not be construed as prohibiting any Hauler from also establishing rules and regulations regarding the safe maximum weight of containers of Landfill Materials and/or Recyclable Materials or Compostable Materials. A Hauler may refuse to collect any Landfill Materials container which is overloaded or which contains a volume of Landfill Materials greater than the rated or specified volume of such container or shall account for and bill the customer for the collection of such excess Landfill Materials.

Special pickups for bulky items are permitted at an additional fee, as agreed upon between the Hauler and the customer.

G. Flat monthly fee

In addition to the volume-based rates, Haulers may establish a flat monthly fee that may be charged to Residential, Multi-Family and Commercial Customers regardless of whether Landfill Materials, 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 Landfill Materials and Recyclable Materials and Compostable Materials.

The fee shall not exceed the monthly volume-based rate charged, assuming the collection of only one standard Landfill Materials container (approximately 32 gallons) per week. All bills for services provided by such contractor to Residential Customers, Multi-family Customers and Commercial Customers shall clearly identify both the flat monthly fee and any volume-based fees charged to the customer for the collection of Landfill Materials.

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

H. Notification of new customers

Hauler shall notify New Residential, Multi-family and Commercial 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 or Recyclable Materials as authorized by subsection 6E regarding the acceptable weight and volume for the collection of Recyclable Materials.

Haulers shall also notify new Residential, Multi-family and Commercial Customers that the service includes the collection of Compostable Materials pursuant to Section 6J.

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I. Disposition of Recyclable Materials

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 Landfill Materials, set out in the vicinity of the curb, and plainly marked for recyclable material collection.

Each Hauler shall haul all the customer's Recyclable Materials only to the Boulder County Recycling Center, a publicly owned facility located at 1901 63rd Street Boulder, Colorado 80301, unless a customer notifies the Hauler in writing that recyclables should be delivered to another processing center. Such designation must be approved by the Boulder County Board of County Commissioners.

J. County to Supply Information

The County may 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, Multi-Family and Commercial customers, at no charge to the County.

SECTION 7: ELECTRONICS COLLECTION LANDFILL BAN

A. In accordance with section 25-17-301 to 308, C.R.S., the "Electronics Recycling Job Act," haulers are prohibited from knowingly collecting the following electronic equipment for landfill disposal:

Waste electronic devices include television sets, central processing units (CPUs), computer monitors, peripherals, printers, fax machines, laptops, notebooks, ultra books, net books, electronic tablets, digital video disc players, video cassette recorders and video display devices with a screen greater than four inches.

Haulers may not collect electronics from industry, businesses, governmental agencies, institutions and schools unless the material is being managed under the Universal Waste Rule (Colorado Hazardous Waste Regulations 6 CCR 1007-3 Part273)

SECTION 8: AUDIT, PENALTIES FOR NON-COMPLIANCE

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A. It shall be a violation of this Hauler Licensing Ordinance #2016 - 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 Landfill Materials Collection service or each separate collection from a Residential, Multi-family or Commercial Customer 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 2016 -xx 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. Each Hauler shall make its records available for audit by the County at a location within the Denver metropolitan area during regular business hours when requested by the County in order to allow it to verify Hauler compliance with the provisions of this Ordinance. Among other records, each Hauler shall make available for review all customer invoices and similar documents reflecting actual pricing to customers. All information that is confidential pursuant to the provisions of the Colorado Open Records Act, § 24-72-201, et seq., C.R.S., shall be treated as such.

D. 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 #2016 -xx. 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 which 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 #2016 -xx shall be taken more than one calendar year after the date on which said violation occurred.

SECTION 9: 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.

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SECTION 10: REPEAL OF ORDINANCE 95-2

This ordinance shall be known as and be referred to as the "**Commercial Waste Hauler Licensing Ordinance 2016 xx.**" Commercial Waste Hauler Licensing Ordinance #2007 -01 is hereby repealed and re-enacted as Commercial Waste Hauler Licensing Ordinance #2016 xx herein.

SECTION 11: EFFECTIVE DATE

This ordinance shall be effective thirty days after publication and adoption on second reading. INTRODUCED, READ AND ADOPTED ON FIRST READING _____2016, and ordered published in the Times-Call.

THE BOARD OF COMMISSIONERS
OF THE COUNTY OF BOULDER, COLORADO

, Chair

, Commissioner

, Commissioner

ATTEST:

Clerk to the Board

ADOPTED ON SECOND AND FINAL READING on _____

THE BOARD OF COMMISSIONERS
OF THE COUNTY OF BOULDER, COLORADO

, Chair

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CERTIFICATE

I hereby certify that the foregoing Ordinance No.XXXX was introduced, read and adopted on first reading at the regular meeting of the Board of County Commissioners of the County of Boulder on _____2013, and the same was published in full in the Times-Call, a newspaper of general circulation published in Boulder County, on _____2013, and thereafter was adopted on second and final reading at a regular meeting of the Board of County Commissioners of the County of Boulder on _____2013.

Clerk and Recorder

State of Colorado)
)ss.
County of Boulder)

Subscribed and sworn to before me this ____ day of _____, 2013.

(S E A L)

Notary Public
My Commission expires: