

ORDINANCE
4308

NO.

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**AN ORDINANCE OF THE VENTURA COUNTY BOARD OF SUPERVISORS
~~REPEALING ORDINANCES AND ENACTING NEW PROVISIONS AMENDING~~
~~DIVISION 4, CHAPTER 7, ARTICLE 3~~ TO THE VENTURA COUNTY
ORDINANCE CODE PERTAINING TO SOLID WASTE ~~HANDLING~~COLLECTION
AND DISPOSAL, WASTE REDUCTION, AND WASTE DIVERSION PROGRAMS
FOR UNINCORPORATED AREAS**

The Board of Supervisors of the County of Ventura ordains as follows:

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SECTION 1: ~~Division 4, Chapter 7, Article 3 of the Ventura County Ordinance - Ventura County Ordinance No. 4155 (Article 3 and Sections 4740, 4741, 4750,~~

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~~4760, 4770, 4780, 4785 and their subsections of the Ventura County~~

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~~Ordinance Code) Code is hereby amended - is hereby repealed; and to read as follows:~~

~~2. Article 3 and Sections 4740, 4741, 4750, 4760, 4770, 4780, 4785, 4786, 4787,~~

~~4788, 4789 and their subsections are hereby enacted to be a part of Chapter 7~~

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~~of Division 4 of the Ventura County Ordinance Code:~~

ARTICLE 3 - SOLID WASTE PROGRAMS FOR UNINCORPORATED AREAS

Sec. 4740 - **SOLID WASTE PROGRAMS GENERALLY** - This Article provides

for the regulation of Solid Waste ~~C~~ollection, processing, and disposal in the unincorporated area of the County; for planning and implementation of programs for attainment of ~~Solid Ww~~aste ~~D~~iversion goals established by the California Integrated Waste Management Act of 1989 (commencing with Section 40000 of the Public Resources Code), as amended; for the establishment -of fees for the recovery of

for the recovery of program costs; and -for other requirements ~~that~~ the County -
may -determine -necessary, -related -to Solid Waste, Solid Waste
~~Handling~~Collection and Solid Waste Facilities, that are not encompassed within the
regulatory powers of the local enforcement agency under Sections 4700-4730 of
this Chapter.

Sec. 4740-1 - **Authorization** - This Article is enacted as authorized by the
California Integrated Waste Management Act of 1989 (commencing with Section
40000 of the Public Resources Code), as amended, and specifically to Sections
40057, 40058, 40059, and 41900-41903. This Article is also enacted as authorized
by Article 11, Section 7 of the California Constitution that provides for the police
powers reserved to the County of Ventura.

Sec. 4740-2 - **Administration** - The ~~County Public Works~~ Agency enforces
and administers the ~~the~~ provisions of this Article. Where the Director is invested
with discretion pursuant to this Article, decisions made in the exercise of such
discretion may be appealed in accordance with Section 4789.

Sec. 4740-3 - **Application of Article and Effect on Other Remedies** - This
Article shall apply to all unincorporated areas located within the County. This Article
shall not limit, preclude, or supersede any other criminal or civil liability or remedy
provided in any other law or regulation applicable to Solid Waste, Solid Waste
~~Collection~~ ~~Handling~~ and Solid Waste Facilities nor shall this Article preclude any
other person from enforcing laws or regulations affecting Solid Waste to the extent
permitted by law.

Sec. 4741 - **DEFINITION OF TERMS** - Unless the context provides otherwise,

this Article and its terms shall be construed in accordance with the following definitions and, where terms are not defined in this Article shall be construed in accordance with the usage and definition of terms provided in the Act and regulations promulgated thereunder.

Sec. 4741-1 - **Accounting Standards** - "Accounting Standards" means the methods and procedures established by the Financial Accounting Standards Board, known generally as Generally Accepted Accounting Principles, and referred to hereinafter as "GAAP."

Sec. 4741-2 - **Act** - "Act" means the California Integrated Waste Management Act of 1989 (commencing with Section 40000 of the Public Resources Code), as amended.

Sec. 4741-3 - **Agency** - "Agency" means the Public Works Agency of the County.

Sec. 4741-4 - **Board** - "Board" means the Board of Supervisors of the County.

Sec. 4741-5 - **Business of Collection of Solid Waste** - "Business of Collection of Solid Waste" means a business enterprise in any form that obtains or receives Solid Waste for the purpose of removal, hauling, or transportation and includes, without limitation, Solid Waste ~~hauling-s~~**Collection Services**. For purposes of this Article, Business of Collection of Solid Waste ~~is shall be synonymous also referred to as with~~ "Solid Waste **HaulingCollection** Service."

Sec. 4741-6 - **Collection - "Collection" or "Collect" means to take physical possession of Solid Waste or Recyclable Materials at, and remove from, the place of**

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generation.

Sec. 4741-~~67~~ - **Collector** - "Collector" means any ~~P~~person ~~who engages~~ing in the Business of Collection of Solid Waste generated at, or from, any property, whether commercial or residential, located in the unincorporated area of the County. For purposes hereof, "Collector" shall include the owner or owners of, and the person in the control of, such business. "Contract Collector" shall mean any Collector that has entered into a contract or franchise with the County to ~~C~~collect Solid Waste and/or Recyclables in any portion of the unincorporated area of the County.

Sec. 4741-~~78~~ - **Commercial Customer** - "Commercial Customer" means a Commercial Generator ~~that receives~~ing Solid Waste ~~Hauling~~Collection Services from ~~any~~ Collector with respect to such Solid Waste. Commercial Customer may also mean a Residential Customer, as defined herein, ~~that operates~~ing a business enterprise, licensed and permitted by the County, on the same parcel on which ~~the residential~~a Dwelling Unit is located, and the principal activities of which are physically separate from the ~~residential~~Dwelling Unit and, at that customer's sole option, Solid Waste and ~~Recyclables generated from the subject Dwelling Unit~~ and ~~the business enterprise are serviced together by a single Collector.~~ In the event the Commercial Customer shares Solid Waste or Recyclable Materials containers and/or Collection service, Commercial Customer shall be the same as Responsible Party.

Sec. 4741-~~89~~ - **Commercial Generator** - "Commercial Generator" means any Person ~~that generates~~ing Solid Waste within the unincorporated area of the

County ~~that~~ is not a Residential Generator. For purposes of the commercial Diversion requirements of Section 4770-2 only, Commercial Generator shall also include Multi-Family Dwelling of five (5) units or more, regardless of either the amount of commercial Solid Waste generated or the level of Solid Waste Collection Service.

Sec. 4741-~~109~~ - **Composting** - "Composting" or "Compost" means the process of controlled biological decomposition of organic Solid Waste.

Sec. 4741-~~101~~ - **County** - "County" means the County of Ventura, a political subdivision of the State of California.

~~Sec. 4741-11 - **Data Information Standards** - "Data Information Standards" means the methods and procedures established for the County data information system that are required to carry out the County's business functions and to maintain consistency with accounting standards.~~

Sec. 4741-~~122~~ - **Director** - "Director" means the Director of the ~~County Public~~

~~Works~~ Agency, or such

other County official as the Director may designate in writing.

Sec. 4741-13 - **Disposal** - "Disposal" means the final disposition of Solid Waste at a Solid Waste Facility.

Sec. 4741-~~134~~ - **Diversion** - "Diversion", ~~"Diverted"~~ and ~~"Divert"~~ means activities ~~that~~ ~~reduc~~ing or ~~eliminate~~ing the amount of Solid Waste from Solid Waste ~~Disposal~~ and which return these materials to ~~the~~ economic mainstream commercial use in the form of raw materials for new, reused, or reconstituted products, which meet the quality standards necessary ~~to be for~~

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commercial use, or for other purposes of reused in the marketplace.

Sec. 4741-145 - **Dwelling Unit** - "Dwelling Unit" means one or more rooms with internal access between all rooms, which provide complete independent living facilities for at least one family, including provisions for living, sleeping, eating, cooking, bathing, and sanitary facilities.

Sec. 4741-156 - **Gardening or Landscaping Services** - "Gardening or Landscaping Services" means the provision of gardening or landscaping services to residences or businesses for which the eCollection and transport of Solid Waste is limited to trimmings and other landscape-related material generated by, and through, the provision of these services.

Sec. 4741-167 - **Green Materials** - "Green Materials" means all Solid Waste ~~that constitutes~~consisting of discarded vegetative or organic materials such as, without limitation, grass clippings, leaves, twigs, weeds, brush, bushes, shrub and tree prunings, holiday trees, and garden trimmings. Green Materials do not include food scraps or ~~refuse~~Refuse, and may also exclude certain discarded organic materials ~~that~~which, because of their size or other properties, are determined by the Director to be uneconomical to Recycle.

Sec. 4741-~~17~~18 - **Hearing Officer** - "Hearing Officer" ~~shall~~means the person designated by the Director to conduct hearings in accordance with Section 4785 et seq. The ~~h~~Hearing ~~e~~Officer may include any employee of the County other than the investigating officer involved in the particular proceeding or such

officer's supervisor.

Sec. 4741-~~1819~~ - **Inert Waste** - "Inert Waste" means Solid Waste ~~that does not contain~~ing no hazardous waste or soluble pollutants at concentrations in excess of applicable water quality objectives. For purposes of this Article, Inert Waste does not include any decomposable waste ~~(Title 23, California Code of Regulations, Section 2524), or Solid Waste which, under the Act, is required to be disposed of in a Class -1, 2, or 3 disposal~~Solid Waste facility unless such material is included incidentally or inadvertently with Inert Waste and constitutes less than five percent (5%) by volume of the Inert Waste. Inert Waste shall include, without limitation, concrete, asphalt, sand, gravel, rock, soil or brick that otherwise meets this definition.

Sec. 4741-~~1920~~ - **Land Clearing Services** - "Land Clearing Services" means the periodic cleanup and removal of organic or inorganic materials~~Waste~~ from land parcels for which the ~~e~~Collection and transport of Solid Waste is limited to the materials ~~cleared and removed from these job sites~~the subject parcel. For purposes of this Article, Land eclearing Services shall not include the eCollection and transport of Solid Waste from construction sites, ~~the demolition of existing~~ structures, or the cleanup~~removal of litter~~Solid Waste ~~or from an unpermitted dump sites.~~

Sec. 4741-~~201~~ - **Liquid Waste** - "Liquid Waste" means any waste materials that are not spadeable.

Sec. 4741-~~212~~ - **Multi-Family Dwelling** - "Multi-Family Dwelling" means a

building, or portion of a building, containing two or more Dwelling Units.

Sec. 4741-2~~23~~³⁴ - **Operator** - "Operator" means any person that is a **Contract** Collector or any person that establishes or operates a Solid Waste Facility.

Sec. 4741-2~~34~~³⁴ - **Person** - "Person" means any individual, group of individuals, firm, sole proprietorship, partnership, corporation, committee, association, public agency or entity, or any other organization or group, public or private.

Sec. 4741-2~~45~~⁴⁵ - **Records** - "Records" means accounting and such other records as deemed necessary by the County for the evaluation of service rates, operator service delivery, program performance, and verification of revenues and fees.

Sec. 4741-2~~56~~⁵⁶ - **Recyclables or Recycledable Materials** - "Recyclables" or "Recycledable Materials" means all Solid Waste ~~that is~~ identified for Diversion in accordance with programs determined by the Director or the Board.

Sec. 4741-27 - ~~Recycle, Recycled or Recycling~~ - "Recycle", "Recycled", or "Recycling" means the process of Collecting, sorting, cleansing, treating and/or reconstituting or Composting materials which would otherwise become Refuse and returning them for commercial use in the form of raw materials for new, used or reconstituted products meeting the quality standard necessary for commercial use, or for other purposes of reuse. Recycling does not include burning, incinerating, or thermally destroying Solid Waste.

Sec. 4741-28 - Refuse - "Refuse" means Solid Waste designated for Disposal by the Collector and does not include Recyclable Materials or "hazardous waste", as

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defined in California Health and Safety Code Sections 25117 and 25141.

Sec. 4741-~~2629~~ - ~~Regular Collection Service~~ - "Regular Collection Service" means Solid Waste ~~Hauling~~Collection Services provided by a ~~Contract~~ Collector to Residential and/or Commercial Customers for Solid Waste and/or Recyclables ~~e~~Collection on a scheduled basis, for which the ~~Contract~~ Collector ~~has provided containers and~~ has established a regular ~~monthly or bi-monthly~~ billing cycle.

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Sec. 4741-~~3027~~ - ~~Residential Customer~~ - "Residential Customer" means a Residential Generator ~~that receives~~ing Solid Waste ~~Hauling~~Collection Services from a ~~Contract~~ ~~ny~~ Collector ~~with respect to such Solid Waste.~~

Sec. 4741-~~2831~~ - ~~Residential Generator~~ - "Residential Generator" means any ~~p~~Person ~~that generates~~ing Solid Waste from any Single-Family Dwelling or Multi-Family dwelling, and from onsite domestic uses accessory to these dwellings, in the unincorporated area of the County.

Sec. 4741-32 - **Responsible Party** - "Responsible Party" means the individual or entity responsible for the management of Solid Waste and/or Recyclable Materials generated by a Commercial Generator.

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Sec. 4741-~~2933~~ - ~~Revenues~~ - "Revenues" means actual, or expected, cash inflows from the Business of Collection of Solid Waste in the unincorporated area of the County, including all forms of consideration such as, but not limited to, monthly service charges, one-time service charges, special ~~Collection handling~~ charges, or any other revenue arising from the use, operation, or delivery of Solid Waste ~~Hauling-Collection~~ Services. This definition of Revenues shall be applicable only to the calculation of Contract Collector fees only due to County, and for all other

purposes revenues shall be defined in accordance with GAAP.

~~Sec. 4741-34 - **Self-Hauling** - "Self-Hauling" means a process by which a Generator transports its own Solid Waste and/or Recyclables rather than using a Contract Collector for such service.~~

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Sec. 4741-305 - **Single-Family Dwelling** - "Single-Family Dwelling" means a building or a mobile home containing one principal Dwelling Unit.

Sec. 4741-316 - **Solid Waste** - "Solid Waste" means those discarded wastes defined as such in the Act, whether or not these wastes are, or may be, designated for Diversion. For purposes of this definition, the term "discarded" shall have the meaning used for that term in the Act as ~~provided by the Legislature~~ and interpreted by the courts of California.

Sec. 4741-327 - **Solid Waste Facility** - "Solid Waste Facility" means any facility for which a Solid Waste Facility permit is required by the Act ~~and/or~~ by any regulation promulgated ~~thereunder~~ by the State of California, ~~and which is operating with all required governmental permits and approvals~~. For purposes of this Article, Solid Waste Facility shall also mean any facility ~~which engages in~~ the commercial Composting, chipping, grinding or other processing of ~~yard-debris and~~ Green Materials and the sale of products derived from these operations, ~~whether or not any permit and which is operating with all required governmental permits and approvals by the State of California, provided, however, unless a Solid Waste Facility permit is required by the Act,~~ "Solid Waste Facility" shall not include publicly owned sewage treatment plants or any facility for which the processing of ~~yard-debris and~~ Green Materials is undertaken principally for on-site horticultural or agricultural use.

~~Sec. 4741-33 - Solid Waste Handling - "Solid Waste Handling" means the collection, transportation, storage, transfer, or processing of Solid Waste.~~
~~Sec. 4741-38 - Source Separate - "Source Separate" means the process of removing Recyclable Materials from Solid Waste at the place of generation, prior to Collection, and placing such materials into separate containers designated for Recyclables.~~

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Sec. 4741-~~34~~39 - Temporary Collection Service - "Temporary, Collection Service" means Solid Waste ~~Hauling-Collection~~ Services provided by a Contract Collector ~~to Commercial Customers~~ on a ~~one-time or limited term basis~~, for which the Contract Collector ~~has temporarily placed containers, or has otherwise provided for the removal of Solid Waste and/or Recyclables from a job or work site.~~ ~~Provision of Temporary Collection Service either to a Commercial or Residential~~ Customer shall be for a maximum of thirty (30) consecutive days, and not more than sixty (60) total days in any calendar year.

Sec. 4750 - CONTRACT OR FRANCHISE OR CONTRACT FOR OPERATION OF BUSINESS OF COLLECTION OF SOLID WASTE - The purpose of ~~this s~~Section 4750 and its subsections is to regulate matters of Solid Waste Collection, processing, Diversion and Disposal of Solid Waste within the unincorporated areas of the County including, without limitation, frequency of Collection, means of collection and transportation, level of services, charges and fees, and the nature, location and extent of providing Solid Waste Hauling Collection Services; to facilitate the implementation of waste reduction and

Diversion programs; and to establish fees which shall be used to pay costs associated with regulating the ~~e~~Collection, ~~processing, Diversion and Disposal~~ of Solid Waste ~~and of implementing Diversion programs~~ in the unincorporated areas ~~of Ventura County.~~

Sec. 4750-1 - ~~Solid Waste Collection Contract or Franchise or Contract~~ **Required** - Except as set forth in Section 4750-~~87~~ herein, no Person shall establish, operate or carry on the Business of Collection of Solid Waste in the unincorporated area of the County without ~~either first obtaining,~~ at the County's ~~sole~~ option, a ~~contract or franchise or contract with the County~~ approved by the Board allowing the provision of Solid Waste Collection Services. ~~At the County's option, S~~~~said contract or franchise or contract may be granted shall be established pursuant to Section 40059 of the Public Resources Code, either~~ with or without competitive bidding; ~~on and may be~~ an exclusive, partially exclusive or nonexclusive ~~contract or franchise, at the County's option~~ basis; ~~and shall include such terms and conditions as approved by the Board.~~ The type of ~~Solid Waste collection~~ contract or franchise ~~or contract~~ required shall be determined by the type of services s provided, as follows:

Sec. 4750-1.1 - **Regular Service Collection Contract or Franchise** - Persons providing Regular Collection Service, ~~as defined herein,~~ shall be required to obtain a ~~Regular Service Collection C~~ contract or F ~~franchise for Regular Collection Service~~ with the County, and shall provide the full range of Solid Waste ~~Hauling~~ Collection Services, as specified by the Director, to Residential and/or Commercial Customers, including the ~~e~~Collection of both Solid Waste and ~~the collection of Recyclables, pursuant to Section 4770.~~ - Persons holding a valid

~~Regular Service Collection Ccontract or Ffranchise authorizing Regular Collection Service~~ may also provide Temporary Collection Service, ~~as defined herein pursuant to the terms of said contract or franchise.~~

Sec. 4750-1.2 - **Temporary Service Collection Contract or Franchise** -

Persons providing Temporary Collection Service only, ~~as defined herein,~~ shall be required to obtain a contract or franchise allowing for Temporary Service Collection Contract or Franchise with the County, and shall be subject to the Diversion requirements of Section 4770-2.1 Service, and Section 4770-2.3. Persons holding such a Temporary Service Collection Ccontract or Ffranchise are limited to providing Temporary Collection Service, and are not authorized to provide Regular Collection Service, ~~as defined herein.~~

Sec. 4750-2 - **Contract or Franchise Provisions** - Each ~~Regular Collection Service and Temporary Collection Service Franchise or Ccontract or franchise for Regular and Temporary Collection Service~~ may include, but ~~shall~~may not necessarily be limited to, provisions that govern the following: term; service area boundaries; service type; service levels; service rates; days and hours of Ccollection; routes and schedules; Ccollection equipment; destination facilities; Diversion requirements; environmental campaigns and programs; customer service; accounting and reporting requirements; compliance with laws; County regulatory fees and charges; financial assurance; performance surety; default and remedies; and assignment.

Sec. 4750-3 - **Approval of Collector Contract Applications and Assignments** - The ~~granting of County's approval of contracts or franchises for~~

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Regular Collection Service and Temporary Collection Service ~~Franchises or Contracts by the County~~, and of any assignments of such franchises or contracts, shall be at the ~~sole~~ discretion of the Board, and shall be based upon an assessment of the applicant's or assignee's qualifications including, without limitation, organizational and fiscal administration, Solid Waste management experience, environmental practices, compliance with laws, and service performance record.

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Sec. 4750-4 - Solid Waste Collection Contract or Franchise Sunset Date

~~It is the intent of the County to reevaluate and to potentially change its regulatory system and service area boundaries for solid waste collection in the unincorporated area, effective March 1, 2014. Therefore, no new contract or franchise term shall be approved nor permitted to extend beyond this date. As required, uniform expiration dates for all franchises or contracts shall be accomplished through renegotiation of existing agreements or, where appropriate, through exercise of the County's option to issue notices of nonrenewal.~~

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Sec. 4750-54 - Limitation on the Number of Regular Service Contract Collectors for Commercial Generators - ~~Effective January 1, 2005, and continuing thereafter, n~~No new contract or franchise to provide Regular Collection Service ~~Contracts or Franchises to operate or carry on the Business of Collection of Solid Waste from to~~ Commercial Generators in the unincorporated area of the County shall be ~~establish~~approved unless the Board, by resolution, first makes a determination, ~~in its sole discretion, that~~ there is a need for the additional Regular Collection ~~s~~Service. When making this determination, the Board may consider all

factors relevant to maintenance of the public health, safety, and welfare including, without limitation, the nature and geographical distribution of existing services; the competitiveness of existing service rates; the success of County waste Diversion programs implemented by existing Contract Collectors for compliance with State mandates; the potential for adverse environmental or other impacts which the granting of additional ~~e~~Collection contracts or franchises might create; the interests of affected Commercial Generators and existing Contract Collectors; and whether a public demand exists for additional commercial ~~C~~ollection services which are ~~neither being adequately supplied then being, nor capable of being~~ adequately supplied ~~or capable of being supplied~~ by existing Contract Collectors. ~~If, at any time, the Board determines that there is a need for additional contracts or franchises for the collection of Solid Waste from Commercial Generators in the unincorporated area of the County, the Board may approve such contracts or franchises.~~

Sec. 4750-~~65~~ - **Parking of Collection Vehicles and Trailers** - The parking of vehicles and trailers used in the Business of Collection of Solid Waste in, on or about the public streets or highways of the unincorporated area is prohibited. ~~Each Contract Collector and/or any Person who otherwise is a Collector of Solid Waste generated by Residential and/or Commercial Customers located a in the unincorporated area of the County of Ventura~~Each Contract Collector ~~shall be required to~~ maintain a permitted site for such vehicles and trailers, in compliance with the Ventura County Zoning Ordinance. Further, each Contract Collector shall not otherwise be in violation of sections of the Ventura County Ordinance Code

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related to the parking of commercial and oversize vehicles.

Sec. 4750-~~76~~ - **Collector Fee** - Each ~~Contract~~ **Contract** Collector ~~and any Person who otherwise is a Collector of Solid Waste generated by Residential and/or Commercial Customers located in the unincorporated area of the County~~ shall pay a Collector Fee to the County based on the Revenues from its Business of the Collection of Solid Waste in the unincorporated area. Payment shall be made in accordance with Section 4780-~~45~~ of this Article and the Collector ~~schedule of Fees~~ adopted by Board ~~resolution of the Board~~. This fee shall be in addition to ~~any~~ other fees ~~paid, taxes, charges and costs payable or to be paid~~ by the Contract Collector to the County and/or other federal, state and local governmental agencies.

Sec. 4750-~~87~~ - **Exclusions from the Requirements of Sections ~~4750-1~~ and**

~~4750-7. A Person shall not be required to have a contract or franchise with the~~

~~County pursuant to Section 4750-1 - or to pay a Collector Fee pursuant to Section~~

~~4750-7 with respect to, but only to the extent of, the~~The

following activities ~~and Persons are excluded from the requirements of Section 4750;~~

a) Inert or Liquid Waste - The ~~e~~Collection of ~~I~~inert ~~W~~waste or ~~L~~iquid

Wwaste where -

such wastes ~~are legally taken, in accordance with applicable law, are taken~~

to any location other than a ~~permitted~~ Solid

Waste Facility; ~~or or~~

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b) Onsite Waste Facilities - The ~~e~~Collection of Solid Waste which, in accordance with applicable law, is ~~legally~~ taken to any onsite Solid Waste Facility within the same parcel of land or within the same land use authorization boundary as where the Solid Waste ~~originated-was-generated~~ ~~(e.g. conditional-use-permit)~~; or

c) Special Districts - The ~~C~~ollection of Solid Waste where such ~~C~~ollection is—
statutorily regulated by the governing body of a Special District for areas -
within that ~~D~~istrict's boundaries if the County determines ~~that~~ said ~~D~~istrict's regulations meet the purposes and intent of the Act insofar as such performance within said ~~d~~District boundaries is concerned; or

d) Gardening or Landscaping Services - The provision of Gardening or Landscaping Services, ~~as defined herein~~; or

e) Land Clearing Services - The provision of Land Clearing Services, ~~as defined herein~~.

Sec. 4750-~~88~~ - Enforcement of Exclusive Contracts or Franchises - Any Contract Collector who has entered into an exclusive contract or franchise with the County in accordance with Section 4750-~~4~~ may ~~at any time~~ bring an action in the Ventura County sSuperior ~~c~~Court for injunctive relief and/or damages against any Person engaging in the Business of Collection of Solid Waste ~~wh~~eich, by virtue of such business, is infringing upon the exclusive service area granted by the said contract or franchise to the said Contract Collector and who, in violation of Section

4750-4, has no contract or franchise with the County authorizing such activity. Prior to bringing such action, the Contract Collector shall notify the Director of its intention to file an action. In its discretion, the County may join in such action as a plaintiff, may bring an independent action to enforce Section 4750-4 or any pertinent contract or franchise or may take no action. Any action filed by the Contract Collector shall be pursued solely at the Contract Collector's expense, and the Contract Collector shall include in its claim any costs incurred by the County as a result of this action if assigned by the County, and shall reimburse the County for such costs if collected in the action.

Sec. 4760 - FRANCHISE OR CONTRACT OR FRANCHISE FOR OPERATION OF SOLID WASTE FACILITIES - The purpose of ~~this s~~Section 4760 ~~and subsections~~ is to regulate matters of ~~s~~Solid ~~w~~Waste processing and ~~D~~eisposal in the unincorporated area of the County including, without limitation, the nature, location, and extent of providing Solid Waste Facility services; the level of services, charges and fees; the establishment of financial assurance and indemnification; and the implementation of waste processing and Diversion programs.

Sec. 4760-1 - Solid Waste Facility Contract or Franchise or Contract Required - No Person shall establish or operate a Solid Waste Facility in the unincorporated area of the County ~~unless~~without first obtaining, at the County's ~~option, sole option~~, either a contract or (1) a non-exclusive or exclusive franchise has been grant~~approved~~ by the Board allowing to such Person in accordance with the establishment or operation provisions of the applicable law or (2) the Board has entered into a contract with such Person to establish or operate a Solid Waste

Facility. At the County's option, said contract or franchise may be granted with or without competitive bidding; on an exclusive, partially exclusive or nonexclusive basis; and shall include such terms and conditions as approved by the Board.

Sec. 4760-2 - Solid Waste Facility Contract or Franchise or Contract Provisions - Each Solid Waste Facility contract or Franchise or Contract may include, but may not necessarily shall not be limited to, provisions that govern the following activities: facility administration and record- keeping; tonnage tracking and reporting; rate regulation; Solid Wwaste Diversion programs; County regulatory fees and charges; environmental and permit compliance; financial assurance, performance surety, default and remedies; and assignment.

Sec. 4770 - WASTE DIVERSION REQUIREMENTS - The purpose of this sSection 4770 and its subsections is to provide for the implementation of residential and commercial Diversion programs by Contract Collectors to hat will assistallow the County to achieve and comply with the Act's Solid Waste in achieving the Diversion goals established in the Actrequirements.

Sec. 4770-1- Residential Customer Diversion Requirements

Sec. 4770-1.1 - Director's List of Residential Recyclables - The Director shall develop, maintain, and publish, and update as appropriate, in consultation with Contract Collectors and other Diversion industry representatives, a list of Recyclables generated by Residential Customers ("Director's List of Residential Recyclables") that shall be subject to the requirements of Section 4770-1.2. In determining whathich types of Solid Waste shall be included on the Director's List of Residential Recyclables, the— Director shall periodically consider and evaluate

processing capability and capacity, market availability, and economic feasibility. Except as provided in Section 4770-1.4 below, each Contract Collector providing services to Residential Customers shall provide for Collection of all materials on the Director's List of Residential Recyclables. Nothing in this ~~s~~Section 4770-1 is intended to limit, or preclude, the separate Collection and Diversion of materials ~~not other than and in addition to those listed~~ on the Director's List of Residential Recyclables.

Sec. 4770-1.2 - **Supply and Use of Separate Containers for Residential Recyclables** - Each Contract Collector providing regular Collection Service to residential Customers shall supply to each of its Residential Customers, and each Residential Customer shall accept, except to the extent such Residential Customer is determined to be exempt pursuant to Section 4770-1.4, a Collection container designated for the separate deposit of Green Materials by the Residential Customer and a Collection container designated for the separate deposit of commingled Recyclables by the Residential Customer. The Contract Collector's supply of such containers shall be in addition to other containers supplied by the Contractor Collector for ~~Solid Waste—generally Refuse~~. Where it would be more feasible, the Contract Collector may, upon the advanced written approval of the Director, supply containers for use in common by several Residential Customers provided such Residential Customers have access to each type of container required by this ~~s~~Section 4770-1.2. As a part of its Regular Collection Service, each Contract Collector shall Collect Green Materials and commingled Recyclables from such containers, if any, deposited therein by the Residential Customer. The Contract Collector shall keep these materials separate from ~~non-Recyclable—Solid~~

~~Waste~~Refuse, take measures to minimize contamination, and shall handle these materials in a manner ~~which ensure~~ing s

~~that~~ they are Recycled or otherwise ~~d~~Diverted from Disposal.

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Sec. 4770-1.3 - **Pricing Incentives for Residential Waste Diversion** - Each Contract Collector providing ~~s~~Regular Collection Services to Residential Customers shall offer multiple levels of service and pricing incentives ~~which~~to encourage the separation of Recyclables from Refuse~~refuse~~, and ~~which~~to discourage Disposal. These ~~levels of service and~~ associated pricing, ~~which may include variable~~ container ~~rates, shall be designated and approved in advance by the Director.~~ The Director may exempt a Contract Collector from some or all of the requirements of this section if the Director determines that offering multiple levels of service is not economically feasible.

Sec. 4770-1.4 - **Exemptions from Section 4770-1.2 Residential Diversion Requirements** - The

~~Director may exempt~~

~~a~~ Contract Collector from some or all of the requirements of Section 4770-1.2 if the

~~Director determines that supplying separate containers for commingled Recyclables is~~

~~not economically feasible, or if the materials designated on the Director's List of~~

Residential Recyclables can be otherwise separated and effectively Diverted from

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~~De~~isposal. In addition, there shall be an exemption available for Green Materials containers as provided in this section. If such exemption is granted in accordance with this section, the Contract Collector shall not be required to supply ~~a~~ separate Green Materials container to the exempt Residential Customer and the ~~exempt Residential~~ Customer shall not be charged the additional fee applicable to that ~~container~~ that would otherwise be allowed. Any Residential Customer may apply for an exemption with respect to the Green Materials container by submitting an application for such exemption to the Director. A form for application of the exemption shall be prepared by the Director and supplied to anyone requesting such application. The Director may require that such application be signed under penalty of perjury by the person applying for the exemption. Based upon such application and, if requested by the Director, an inspection of the premises affected, the Director may exempt such Residential Customer if the Director finds that either of the following is true: (a) that

the Residential Customer does not generate any ~~significant~~ Green Materials; or (b) that the Residential Customer is Composting or causing to be ~~e~~Composted, or is otherwise ensuring that other Persons ~~C~~ompost or divert, whatever Green Materials are generated by the Residential customer. If the applicant refuses to allow an inspection, the Director may deny the application. As a further condition of granting such exemption, the Director may require that the Residential Customer consent to continuing inspection of the affected premises at any reasonable time; that the Residential Customer remain in compliance with the requirements of the exemption as provided in this section; and that the Residential Customer comply with all state and local laws and regulations governing Composting. The Director may revoke any exemption that has been granted at any time the Director determines that the Residential Customer is no longer qualified for the exemption or is not complying with the terms and conditions of the exemption. Any exemption issued by the Director, and any denial or revocation of the same, shall be in writing. The Director shall mail or deliver a copy of any exemption, or denial or revocation, to the Residential Customer and to the Contract Collector from whom such Residential Customer obtains services.

Sec. 4770-2 - ~~Commercial Customer~~ Waste Diversion Requirements

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Sec. 4770-2.1 - Applicability - The commercial Diversion requirements of

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Section 4770-2 shall apply to the following, except to the extent exempt pursuant to

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section 4770-2.7: (a) Contract Collectors as specified herein; (b) Commercial Generators

generating four (4) cubic yards or more of Solid Waste per week; and (c) Multi-Family

Dwellings of five (5) or more regardless of the volume of Solid Waste generated, which

Multi-Family Dwellings are defined and referred to as "Commercial Generators" for purposes of Section 4770-2.

Sec. 4770-2.2 - Director's List of Commercial Recyclables - The Director

may develop, maintain, publish, and update as appropriate, in consultation with Contract Collectors and other Diversion industry representatives, a list of Recyclables generated by Commercial Customers ("Director's List of Commercial Recyclables") which shall be subject to the Commercial Diversion Requirements of Section 4770-2. In determining which types of Solid Waste shall be included on the Director's List of Commercial Recyclables, the Director shall consider and evaluate processing capability and capacity, market availability, and economic feasibility. Each Contract Collector providing Regular, or Temporary, Collection Service to Commercial Customers shall separate, or cause to be separated, and arrange for the Diversion of, all materials on the Director's List of Commercial Recyclables from any Collected Solid Waste. Compliance with the Diversion requirements of this section is mandatory for Contract Collectors providing Regular Collection Service and Temporary Collection Service. Nothing in this Section 4770-2 is intended to limit, or preclude, the separate Collection and Diversion of materials not listed on the Director's List of Commercial Recyclables.

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~~Sec. 4770-2.1 - Director's List of Commercial Recyclables - The Director may develop, maintain, and publish, in consultation with Contract Collectors and other Diversion industry representatives, a list of Recyclables generated by Commercial Customers ("Director's List of Commercial Recyclables") that shall be~~

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~~subject to the requirements of Section 4770-2.2. In determining what types of Solid Waste shall be included on the Director's List of Commercial Recyclables, the Director shall consider and evaluate processing capability and capacity, market availability, and economic feasibility. Except as provided in Sec. 4770-2.5 below, each Contract Collector providing services to Commercial Customers shall separate or cause to be separated from refuse and shall arrange for Diversion all materials on the Director's List of Commercial Recyclables. Compliance with the Diversion requirements of this section is mandatory for Contract Collectors providing Regular Collection Service and Temporary Collection Service. Nothing in this section is intended to limit or preclude the separate collection and Diversion of materials other than and in addition to those on the Director's List of Commercial Recyclables.~~

Sec. 4770-2.23 - **Regular Collection Service: Supply and Use of Separate Recyclables Containers for Commercial Customers** - Each Contract ~~Contract~~ Collector providing Regular Collection Service shall supply to each of its Commercial Customers and each Commercial Customer shall accept, ~~unless such Commercial Customer is determined to be exempt pursuant to Section 4770-2.5 and utilize~~, one or more ~~c~~Collection containers, as appropriate, designated for the separate deposit of materials on the Director's List of Commercial Recyclables by the Commercial Customer. The Contract Collector's supply of such containers shall be in addition to other containers supplied by ~~theContract~~ Collector ~~for for Solid Waste generallyRefuse~~. Where it would be more feasible, ~~the-Contract~~ Collector may, upon the written approval of the Director, supply containers for use in

common by several Commercial Customers provided such Commercial

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Customers

have access to the type and number of containers sufficient to fulfill the requirements of this section. As a part of its Regular Collection Service, each Contract Collector shall collect Green Materials and other Recyclables on the Director's List established pursuant to Section 4770-2.12, if any, deposited therein by the Commercial Customer. ~~The The Contract~~ Collector shall keep these materials separate from ~~non-Recyclable Solid Waste~~ Collected Refuse, take measures to minimize contamination, and shall ~~ensure and theseuch~~ materials ~~in a manner which ensures that they~~ are Recycled or otherwise Diverted from Disposal.

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Sec. 4770-2.4 - Commercial Diversion Requirements - Effective July 1, 2012.

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each Commercial Generator shall ensure the Diversion of its commercial Recyclables in

at least one of the following ways:

(1) Source Separate commercial Recyclables from Solid Waste; enter into a Solid Waste Collection service Contract with a Contract Collector; and subscribe to a basic level of Collection service which includes, at a minimum, the Collection of commercial Recyclable Materials; or

(2) Enter into a Solid Waste Collection service Contract with a Contract Collector; and subscribe to a level of service which includes, at a minimum, Collection of the Commercial Generator's commercial Recyclables which may be commingled with other Solid Waste, including Refuse, and then Diverted at a Solid Waste Facility,

including an ability to provide written verification of such from Collector and Solid Waste

Facility upon request of the County; or

(3) Upon request of Director, provide evidence, such as original receipts or weight tickets, of Self-Hauling Solid Waste to a Solid Waste Facility or recycling facility at which Recyclable Materials will be Diverted from Solid Waste in accordance with all required governmental permits and approvals.

Nothing in this Section shall preclude a Commercial Generator from donating, selling, or exchanging at fair market value, for reuse or Recycling, Source Separated Recyclable Materials.

Sec. 4770-2.5 - Pricing Incentives for Commercial Waste Diversion -

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Each Collector providing Regular Collection Service to Commercial Customers shall offer multiple levels of service and pricing incentives to encourage the separation of commercial Recyclables from Refuse and to discourage Disposal. These levels of service, and associated pricing, shall be designated and approved in advance by the Director pursuant to the process stated in the Contract Collector's contract or franchise with the County and may include, without limitation: variable container rates for Refuse; small bin or barrel service for commercial Recyclables Collection; rates for Recycling which are set below rates charged for Refuse containers of comparable size; and additional charges for containers containing mixed or contaminated loads requiring separation of commercial Recyclables at a Solid Waste Facility. The Director may exempt a Contract Collector from some, or all, of the requirements of this section if the Director determines offering multiple levels

~~of service is not economically feasible.~~

Sec. 4770-2.36 - Temporary Collection Service: Collector Separation of Recyclables Generated by Commercial Customers - Each Contract Collector providing Temporary Collection Service to Commercial Generators shall separate or cause to be separated from Refuse ~~refuse~~ all materials on the Director's List of Commercial Recyclables as follows:

Sec. 4770-2.36.1 - Containerized Temporary Service - Each Contract Collector providing Temporary Collection Service involving containers shall supply to each of its Commercial Customers and each Commercial Customer shall accept, ~~unless determined to be exempt pursuant to Section 4770-2.5, and utilize~~ one or more ~~e~~Collection containers designated for the separate deposit of materials on the Director's List of Commercial Recyclables. The Contract Collector's supply of such containers delivered to a Commercial Customer's ~~job-site~~property shall be in addition to other containers delivered by the Contract Collector for ~~Solid Waste generally~~Refuse. As a part of its Temporary Collection Service, each Contract Collector shall ~~C~~ollect ~~commercial~~ Recyclables, if any, deposited therein and keep these materials separate from ~~non-Recyclable Solid Waste~~Refuse. Where it would be more feasible, a Contract Collector may supply a single container to its Commercial Customer for ~~the commingling of commercial materials~~Recyclables and other materials, provided that, upon ~~c~~ollection and removal, the Contract Collector

~~delivers such containers to a permitted material recovery facility~~Solid Waste Facility for the separation and ~~Diversion~~ of commercial Recyclables. ~~Whether placed~~

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in separated or commingled containers, the Contract Collector shall ~~take measures to~~ minimize contamination, and ~~ensure shall handle these materials~~ commercial Recyclables in a manner which ensures that they are ~~R~~Recycled or otherwise ~~d~~Diverted from disposal.

Sec. 4770-2.63.2 - Non-Containerized Temporary Service - Each Contract -

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Collector providing Temporary Collection Service through the direct loading of Solid Waste into motorized vehicles or trailers shall ~~Source accomplish the s~~Separation of Recyclable materials from ~~Refuse refuse~~ prior to ~~c~~Collection and removal, or, alternatively, shall deliver commingled loads to a ~~permitted materials recovery~~ Solid Waste Facility at which for the separation and Recycling of commercial Recyclables from Refuse will occur. Whether separated at the Collection job site or delivered to a ~~materials recovery~~ Solid Waste Facility, the Contract Collector ~~shall~~ ~~shall take measures to~~ minimize contamination, and ~~shall handle~~ ensure these ~~materials~~ commercial Recyclables in a manner that ensures that they are ~~R~~Recycled or otherwise ~~D~~diverted from ~~D~~disposal.

Sec. 4770-2.7 - Exemptions - The following exemptions shall apply to the requirements of Section 4770-2:

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(a) The State of California, a special district or other local public agencies other than the County, as defined, or any employee thereof, when Collecting or transporting Recyclable Materials produced by operation or system of these aforementioned entities; and

(b) Municipal corporations and governmental agencies, other than the County, operating vehicles with their own employees engaged in the Collection, transportation,

or Disposal of Recyclable Materials within the unincorporated area of Ventura County.

(c) The Commercial Generator produces less than four (4) cubic yards of Solid Waste per week;

(d) No Collection service for managing Commercial Generator Solid Waste exists;

(e) No Recyclable Materials are generated by any Commercial Generator activity;

(f) It is determined, through a site visit by County staff requested by the Commercial Generator, either:

(1) There is inadequate storage space for Recyclable Materials Collections containers or equipment on-site and it is infeasible for the Commercial Generator to share Recyclable Materials Collection equipment with a Commercial Generator on an adjoining property; or

(2) Compliance with this Section will result in a violation of zoning codes or County regulations for minimum parking spaces.

(g) No viable markets or Solid Waste Facility with Recyclables Materials processing capabilities are available, as determined by the Director.

Sec. 4770-2.8 - Reporting - To facilitate the County's monitoring of compliance with the commercial Diversion requirements of Section 4770-2, each Contract Collector providing Solid Waste Collection Service to a Commercial Generator shall provide, in addition to all other reporting requirements, information to the County per a quarterly basis for each Commercial Customer in a format approved in advance by the Director

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including:

(a) Address of each commercial property where Regular Solid Waste Collection Service is provided;

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(b) Name, address and telephone number of the Responsible Party for each

Commercial Customer facility;

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(c) Number and type (by cubic yard size) of each Collection container provided to each Commercial Customer;

(d) Frequency of Solid Waste Collection Service for every Collection container

at each commercial property; and

(e) Information regarding a Commercial Customer's potential non-compliance

with the commercial Diversion requirements of Section 4770-2.

The Director may, in his or her discretion, modify the reporting requirements as

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necessary and Contract Collector shall be required to comply with any such modification after receiving reasonable notice of same.

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~~Sec. 4770-2.4 Pricing Incentives for Commercial Waste~~

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~~Diversion~~ Each Collector providing services to Commercial Customers shall offer multiple levels of service and pricing incentives which encourage the separation of Recyclables from refuse, and which discourage disposal. These levels of service and associated pricing shall be designated and approved in advance by the Director, and may include, without limitation: (a) variable container rates for refuse,

~~small bin or barrel service for Commercial Recyclables collection, and rates for Recycling which are set below rates charged for refuse containers of comparable size; and (b) surcharges for containers that contain mixed or contaminated loads that require separation of Recyclables at a permitted materials recovery facility. The Director may exempt a~~

~~Contract Collector from some or all of the requirements of this section if the Director determines offering multiple levels of service is not economically feasible.~~

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~~Sec. 4770-2.5 **Exemption from Sections 4770-2.2 and 4770-2.3** The Director may exempt a Contract Collector from some or all of the requirements of Section 4770-2.2 and/or Section 4770-2.3 if the Director determines that one of the following is true: (a) that supplying separate containers for commingled Recyclables is not economically feasible; (b) that the materials designated on the Director's List of Commercial Recyclables will be otherwise separated and effectively diverted by the Contract Collector or Commercial Customer from disposal, or (c) that the Commercial Customer does not generate significant amounts of Recyclables. If such exemption is granted in accordance with this section, the Collector shall not be required to supply a separate Recycled Materials container to the exempt Commercial Customer and the exempt Commercial Customer shall not be charged the additional fee applicable to that container that would otherwise be allowed. Any Commercial Customer may apply for an exemption with respect to the Recycled Materials container by submitting an application for such exemption to the Director. A form for application of the exemption shall be prepared by the Director and supplied to anyone requesting such application. The Director may require that such application be signed under penalty~~

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~~of perjury by the person applying for the exemption. Based upon such application and, if requested by the Director, an inspection of the premises affected, the Director may exempt such Commercial Customer if the Director finds that either of the following is true: (a) that the Commercial Customer does not generate any significant Recyclable Materials; or (b) that the Commercial Customer is diverting or causing to be diverted, through back-hauling, self-hauling, or other means, whatever Recyclable Materials are generated by the Commercial Customer. If the applicant refuses to allow an inspection, the Director may deny the application. As a further condition of granting such exemption, the Director may require that the Commercial Customer consent to continuing inspection of the affected premises at any reasonable time; that the Commercial Customer remain in compliance with the requirements of the exemption as provided in this section; and that the Commercial Customer comply with all state and local laws and regulations governing Diversion. The Director may revoke any exemption that has been granted at any time the Director determines that the Commercial Customer is no longer qualified for the exemption or is not complying with the terms and conditions of the exemption. Any exemption issued by the Director, and any denial or revocation of the same, shall be in writing. The Director shall mail or deliver a copy of any exemption, or denial or revocation, to the Commercial Customer and to the Contract Collector from whom such Commercial Customer obtains services.~~

Sec. 4770-35 - Waste Management Fee - Each Contract Collector ~~and any Person who otherwise is a Collector~~ of Solid Waste

generated by Residential and/or Commercial Customers located in the unincorporated

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area of the County shall pay a Waste Management Fee based on the revenues from

its Business of the Collection of Solid Waste in the unincorporated area. Payment shall be made in accordance with Section 4780-54 of this Article and the ~~schedule of Waste~~

~~Management Fees~~ adopted by resolution of the Board. This fee shall be used to pay

costs associated with preparing, adopting,

implementing, and administering the County

Source Reduction and Recycling

Element, Household Hazardous Waste Element,

Nondisposal Facility Element, and such other plans and programs as may be required

by the Act or by Board for integrated waste management, bioenergy, and pollution

prevention policies for the unincorporated area of the County. This fee shall be in

addition to any other fees paid, or to be paid, by the Contract Collector.

Sec. 4780 - FINANCIAL AND INFORMATION MANAGEMENT

Sec. 4780-1 - Accounting Information Generally - Financial information submitted by Operators to the County shall be prepared and maintained in accordance with GAAP.

Sec. 4780-2 - Accounting Accrual Method - Operators may utilize any of the four following accounting methods for recognizing economic performance and earnings, provided that such method is consistent with the standards set forth in GAAP and with the operator's internal audits or federal income tax returns, and

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with the statement of Revenues pursuant to Section 4780-~~54~~: (1) specific performance, (2) proportional performance, (3) completed performance, or (4) ~~e~~Collection.

~~Sec. 4780-3 - Data Information Generally - Data information relevant to the Business of Collection of Solid Waste and the operation of Solid Waste Facilities submitted to the County by Operators shall be prepared and maintained in accordance with published County Data Information Standards provided by the Director.~~

Sec. 4780-~~43~~ - **Records** - Operators shall maintain Records for at least five (5) years following the period to which they pertain. Upon seven (7) days written notice, the County shall have the right to inspect the required Records at any time during official business hours.

Sec. 4780-~~54~~ - **Fee Payment and Statement of Revenues** - Fees required by Sections 4750-~~76~~ and 4770-~~35~~ shall be paid quarterly by each Contract Collector within 30 days of the close of each calendar quarter, i.e. prior to April 30, July 30, October 30, and January 30 of each calendar year. Accompanying payment of such fees, ~~Contract the~~ Collector shall file with the Director a separate statement for each contract service area, verified by the Contract Collector's oath or the oath of the manager or other responsible officer of the Contract Collector, showing total Revenues from its Business of the Collection of Solid Waste originating within the contract service area during the preceding quarter. Such statement shall contain, in a format approved by the Director, supporting documentation of Revenues received

during the preceding quarter by jurisdictional allocation of tonnage ~~C~~collected and ~~D~~disposed, waste category or type, generator type, number of customers, and such other factors as may be determined by the Director as necessary for program administration. Simultaneously with the filing of the statement, ~~theContract~~ Collector shall submit to the Director all fees required by this Article and by resolution of the Board which are based upon a percentage of such Revenues for the preceding quarter. Fees shall be calculated based upon the Revenues from ~~theContract~~ Collector's Business of the Collection of Solid Waste in each contract service area located in the unincorporated area. _Acceptance of any payment from a ~~Contract~~ Collector shall not be construed as a release or as an accord and satisfaction of any claim the County may have for further or additional sums payable under this ordinance or for the performance of any other obligation under this Article.

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Sec. 4780-~~65~~ - **Audit** - The County shall have the right to audit the Records required herein and the cost of the audit shall be borne by the Operator when inaccuracies in the Records result in a material difference in the disclosure of the Operator's economic position as it relates to, without limitation, the following: customer charges, fee assessments and payments, County specific service delivery costs, and program performance. For purposes of this Article, material difference shall mean a difference of ten percent (10%) or more.

Sec. 4780-~~76~~ - **Penalties** - Fees required pursuant to Sections 4750-~~76~~ and 4770-~~35~~, received after the due dates specified in Section 4780-~~54~~ shall include a late charge penalty on the amount due calculated at an annual rate of 12 percent,

which shall accrue until paid in full. For the purposes of this section, the post mark date shall be considered ~~as~~ the date of payment when properly endorsed by the United States Postal Service. At his or her sole discretion, Director retains the right to modify method of fee payments.

Sec. 4780-87 - Disclosure of Customer Names and Addresses - (a) ~~If/When~~ the County receives for its use the names or addresses of customers of a Contract Collector and such information constitutes a trade secret or is the confidential or proprietary information of such Contract Collector, upon request or as identified by ~~the~~ said Contract Collector, the County shall not disclose such information to the public or to any other Contract Collector without a court order compelling such disclosure.

(b) If any Contract Collector directly or indirectly obtains from the County or any of its personnel or agents any trade secret or confidential or proprietary information referred to in subsection (a) hereof which such information pertains to another Contract Collector, the Contract Collector that improperly obtained such information shall be liable for any damage caused thereby and shall indemnify the County with respect to any claims made arising therefrom.

(c) If any Person proposing to become a Contract Collector directly or indirectly obtains from the County or any of its personnel or agents any trade secret or confidential or proprietary information referred to in subsection (a) hereof which such information pertains to a Contract Collector, such Person shall be barred from becoming a Contract Collector for a period of three years following receipt of such information.

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(d) If, pursuant to the California Public Records Act, commencing with Section 6250 of the Government Code or pursuant to a subpoena, any Person requests from the County the opportunity to examine documents or to receive copies of documents that contain information that is protected from disclosure under subsection (a) hereof, the County shall notify all affected Contract Collectors. In the case where a subpoena has been served and where the Person requesting the documents refuses to withdraw the subpoena or to enter into some form of protective order acceptable to the affected Contract Collector, the affected Contract Collector shall file, at the Contract Collector's expense, an application with the court for a protective order or an order to quash such subpoena if the Contract Collector seeks to protect such information. The County shall not oppose such application. In the case where a request is made under the Public Records Act and where the Person making the request refuses to withdraw the request or to agree upon terms of disclosure that are acceptable to the affected Contract Collector, the County shall deny access to such documents on the ground that such information is exempt therefrom unless directed otherwise by the affected Contract Collector. In the event the Person requesting access to such documents files an action or motion with the court to obtain access, the affected Contract Collector shall, at the Contract Collector's expense, appear in the action or motion to oppose such access if the Contract Collector seeks to protect such information. Upon demand by the County, the affected Contract Collector, at the Collector's expense, shall also defend the County and shall indemnify the County with respect to any award of attorney's fees. In the case of a subpoena or request under the Public Records Act, the County shall comply with whatever order is issued

by the court pertaining thereto.

Sec. 4785 - **CIVIL ADMINISTRATION AND ENFORCEMENT** - The Agency and its Director are hereby authorized to administer and enforce Article 3 and Article 4 of Chapter 7 of Division 4 (commencing with Section 4740 of the Ventura County Ordinance Code), as amended.

Sec. 4786- **CRIMINAL SANCTIONS** - Any Person who violates any Section of Article 3, or any provision thereof is guilty of a misdemeanor/infracton as specified in Section 13-1 of the Ventura County Ordinance Code, and upon conviction thereof shall be punishable in accordance with Section 13-2 of the Ventura County Ordinance Code. Each such Person shall be guilty of a separate offense for each and every day during any portion of which any violation of Article 3 is committed, continued, or permitted by such Person and shall be punishable thereof as provided in Section 13-2 of the Ventura County Ordinance Code.

Sec. 4787 - **NOTICE OF VIOLATION** - In addition to any other remedies, the Agency may issue a notice of violation to any Person who is violating any provision of this Article. A notice of violation shall identify the Person, if known, committing the wrongful actions or failure to act; describe the time, place and nature of the pertinent activities; state the ordinance, applicable law or order that has been violated; and, identify the owner and, if known, the Person in possession of the property, if any, where the violation is occurring or has occurred. The Agency may issue a notice of violation by service of the notice on the Persons identified in the notice. A notice of violation may contain a specified time for corrective action. If corrective action is not taken within the specified time then the Director may

provide for whatever remedy the Director deems appropriate. Any contest of a notice of violation may be heard in accordance with the hearing procedures in Section 4788 et seq.

Sec. 4788 - HEARING OFFICER AUTHORITY AND HEARING PROCEDURE -

Any hearing conducted before the Hearing Officer pursuant to this Article shall be conducted in accordance with this Section and its Subsections.

Sec. 4788-1 - **Scope of Hearing Officer Authority** - The Hearing Officer shall have the authority to hear and determine any appeal of a notice of violation. The hearing officer may provide whatever remedy the Hearing Officer deems appropriate, including without limitation to affirm actions of the Agency or the Director, modify such actions or reverse such actions.

Sec. 4788-2 - **Petition For Hearing** - Any Person who is entitled to a hearing under this Article and who seeks to appeal shall request a hearing by service of a petition for hearing on the Agency within the time required by the pertinent section of this Article. The Agency shall prepare a form for such petition and shall make such form available to anyone on request. The petition shall state the name and address of petitioner and shall further state the name and address of any other Person whose rights will be or may be affected by the proceedings, including without limitation the owner and operator of any Solid Waste Facility, Collector, Solid Waste chipping and grinding operation or property affected thereby. The petition shall briefly state the material facts at issue the remedy sought and shall have attached any notice of noncompliance, abatement order, remedial cost claim or any other notification by the Agency that is at issue.

Sec. 4788-3 - **Notice of Hearing** - After a timely petition for hearing is served, the Agency shall serve notice of the hearing which shall be scheduled to commence no later than 120 days after service of the petition for hearing on the Agency. The notice of hearing shall state: (a) the nature of the proceeding; (b) the date, time and place of the hearing; and, (c) the name of the hearing officer.

Sec. 4788-4 - **Service of Notice of Hearing** - The Agency shall serve notice of the hearing, a copy of the petition for hearing, and a copy of this Section on all persons named in the petition that are affected thereby, on any Person that requests such notice, and on any other Person whose rights the Agency believes may be affected thereby, including without limitation any Person who is owner of record of any facility or property affected by the proceedings. The Agency shall complete such service of notice upon all such Persons no later than thirty (30) days prior to the date scheduled for commencement of the hearing. The Agency shall also cause the notice of the hearing to be published in a newspaper of general circulation at least one time not less than twenty (20) days before commencement of the hearing. The published notice shall state that copies of the petition for hearing and this Section are available for public review at the Agency. Attendance at the hearing by any Person shall constitute a waiver of any defective notice with respect to such Person. Failure of any person who was properly served with notice to appear at the hearing shall constitute a waiver of such Person's right to be heard.

Sec. 4788-5 - **Hearing Generally** - The hearing shall be public and shall be held before the Hearing Officer at the date, time and place stated in the notice of hearing or at such other date, time and place as may be ordered by the Hearing

Officer at the time of the hearing. The Hearing Officer may continue any hearing as may be reasonably necessary for the convenience of the Hearing Officer, witnesses, the Agency or any other Person entitled to receive notice of the hearing. Any new time and place for the hearing shall be publicly announced at the time and place of the noticed hearing. No further notice need be published or served upon anyone as to such continuances. Any Person affected by the proceedings may be heard and be represented by counsel. The Hearing Officer may consolidate several petitions for a hearing into one hearing if the petitions relate to the same factual issues, the same Collector, the same Solid Waste Facility, the same Solid Waste chipping and grinding operation or the same property.

Sec. 4788-6 - Evidence - The Hearing Officer shall require that all live testimony at the hearing be taken under oath if requested by the Agency or any affected Person. The Hearing Officer shall have the power to administer oaths or affirmations and to certify official acts. The Hearing Officer may permit testimony by affidavit or declaration if the Person providing such testimony is made available by subpoena or otherwise for cross examination where requested by any affected Person. The Hearing Officer may allow any testimony to be given in informal narrative style. The Agency and any affected Person shall have the right to call and examine witnesses, to introduce exhibits, to cross-examine witnesses on any relevant issue, even though such matter was not covered on direct examination, and to impeach any witness, regardless of whether that Person first called the witness to testify. Any relevant evidence shall be admissible if it is the sort of evidence upon which responsible Persons are accustomed to rely in the conduct of serious affairs,

regardless of the existence of any common law or statutory rule, which would make improper the admission of such evidence in a civil action. Hearsay evidence, including without limitation any report by the Agency, shall be admissible for any purpose but shall not be sufficient itself to support a finding on a material issue if there is conflicting evidence unless, in light of that evidence, the Hearing Officer determines that the hearsay evidence is trustworthy. Either before or after submission of the case for decision, the Hearing Officer may take official notice of any generally accepted technical or scientific matter and of any fact which may be judicially noticed by the courts of this state. The Agency and any affected Person at the hearing shall be informed of any matters to be officially noticed. Upon request, the Agency and any affected Person at the hearing shall be given reasonable opportunity on request to refute any officially noticed matters.

Sec. 4788-7 - **Subpoena Power** - At the request of the Agency or any affected Person, the Hearing Officer shall issue subpoenas and subpoenas duces tecum for attendance of witnesses and production of documents at the hearing. Compliance with the provisions of section 1985 of the Code of Civil Procedure shall be a condition precedent to the issuance of a subpoena duces tecum. Either before or after the hearing has commenced, the Hearing Officer may also issue subpoenas and subpoenas duces tecum as the Hearing Officer deems appropriate.

Sec. 4788-8 - **Contempt** - If any Person disobeys or refuses to respond to a subpoena or subpoena duces tecum, or refuses to take the oath or affirmation of a witness, or thereafter refuses to be examined, or is guilty of misconduct during the hearing, the Hearing Officer may certify the facts to the superior court for a contempt

proceeding. The court shall thereupon issue an order directing the Person to appear before the court and show cause why he should not be punished for contempt. The order and a copy of the certified statement shall be personally served on the Person against whom contempt has been charged. The same proceeding shall be held, the same penalties may be imposed and the Person charged may purge himself of the contempt in the same way as in the case of a Person who has committed contempt in a trial of a civil action before the superior court.

Sec. 4788-9 - **Record** - The Agency shall record the hearing either on a recording device or by use of a certified court reporter and shall make the recording or transcript available to any Person upon request. The Agency shall provide a certified copy of the transcript or recording, or a transcript prepared therefrom, to any Person who requests it and who pays to the Agency the cost of making and certifying copy and, in addition, the cost of preparing and certifying the transcript, if the transcript has not already been prepared.

Sec. 4788-10 - **Ruling** - At the conclusion of the hearing or within a reasonable time thereafter, the Hearing Officer shall issue a written ruling on the factual and legal issues presented. The ruling shall be supported by the weight of the evidence presented at the hearing. The Hearing Officer may decide the issues based upon the Agency's written report standing alone if the Person that petitioned for a hearing fails to appear at the time of the hearing and no other affected Person appears to present evidence. The ruling shall include the remedy, if any, that is ordered by the Hearing Officer.

Sec. 4788-11 - **Service of Ruling** - The Agency shall promptly serve the

Hearing Officer's ruling on each Person who was entitled to be served with notice of the hearing and any Person requesting a copy in writing. Said findings and ruling need not be published.

Sec. 4788-12 - **Finality of Ruling** - The Hearing Officer's ruling shall be final upon the date of service of the ruling and, subject to judicial review, shall be binding on the parties. All rulings by the Hearing Officer may be enforced immediately after they become final unless the superior court grants a stay or injunctive relief that prevents or limits enforcement thereof.

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Sec. 4789 - **APPEAL**

Sec. 4789-1 - **Appeal of Discretionary Decision of Director** - Any Person aggrieved by a discretionary decision of the Director under this Article may appeal such decision within ten (10) working days of issuance of the decision. The aggrieved Person shall first appeal to the Director in writing, stating why he or she believes the decision is in error. The Director shall provide the aggrieved Person with a final written decision containing the reasons on which such decision is based within thirty (30) working days of receipt of the appeal. If the aggrieved Person is not satisfied with the Director's final written decision, he or she may request a hearing pursuant to section 4788 herein.

Sec. 4789-2 - **Appeal of Ruling of Hearing Officer** - Any Person subject to a final ruling of a Hearing Officer and not satisfied with the Hearing Officer's ruling may appeal such ruling directly to the Board in writing. The appeal to the Board shall

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contain a copy of the Hearing Officer's final ruling and state clearly and concisely why the Person is aggrieved by the Hearing Officer's ruling. Any such appeal shall be filed with the Clerk of the Board within ten (10) working days of such ruling. The Clerk of the Board shall promptly set the matter for hearing at a regular meeting of the Board and shall notify the aggrieved Person and the Hearing Officer of the setting. The aggrieved Person and any interested parties may present oral or written testimony at the hearing. After the close of the hearing, the Board shall sustain or deny the appeal, or may modify the Hearing Officer's decision. The decision of the Board is final.

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SECTION 2: This Ordinance shall take effect thirty (30) days after its adoption.

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PASSED AND ADOPTED this 22nd day of June, 2004~~12~~, by the following votes:

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AYES:

~~Supervisors Mikels, Flynn, and Parks~~

NOES:

~~Supervisors Bennett and~~

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Long

ABSENT: _____

None



Steve Bennett

Chair, Board of Supervisors

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ATTEST:

JOHN F. JOHNSTON Michael Powers

Clerk of the Board of Supervisors,
County of Ventura,
State of California.

By: _____

Deputy Clerk of the Board

A handwritten signature in black ink, appearing to read "Christina", is written over a horizontal line. Below the line, the text "Deputy Clerk of the Board" is printed.