

ORDINANCE NO. 2007 - 01

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

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

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

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

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

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

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

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

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

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

SECTION 1: DEFINITIONS

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

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

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

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

SECTION 2: LICENSE REQUIRED

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

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

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

SECTION 3: LICENSING PROCESS

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

SECTION 4. IMPLEMENTATION STANDARDS

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

SECTION 5: LICENSE FEES

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

SECTION 6: LICENSEE REQUIREMENTS

A. Annual Reporting

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

B. Designation of Recyclable Materials

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

C. Service for Multi-family Customers and Commercial Customers

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

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

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

Deleted:

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

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

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

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

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

E. Volume-based rates

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

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

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

Special pickups for bulky items for additional fees are permitted.

F. Flat monthly fee

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

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

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

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

G. Notification of new customers

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

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

H. County to Supply Information

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

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

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

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

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

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

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

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

SECTION 7: PENALTIES FOR NON-COMPLIANCE

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

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

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

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

SECTION 8: SAVINGS CLAUSE

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

SECTION 9: REPEAL OF ORDINANCE 95-2

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

SECTION 10: EFFECTIVE DATE

This ordinance shall be effective thirty days after publication and adoption on second reading.
INTRODUCED, READ AND ADOPTED ON FIRST READING _____2007, and
ordered published in the LongmontTimes-Call.

THE BOARD OF COMMISSIONERS
OF THE COUNTY OF BOULDER, COLORADO

Ben Pearlman, Chair

ATTEST:

Clerk to the Board

ADOPTED ON SECOND AND FINAL READING on _____, 2007.

THE BOARD OF COMMISSIONERS
OF THE COUNTY OF BOULDER, COLORADO

Ben Pearlman, Chair

ATTEST:

Clerk to the Board