



REPORT TO THE PLANNING COMMISSION

AGENDA ITEM NO. **VIII-C**
COMMISSION MEETING 10-01-14

October 1, 2014

FROM: MIKE SANCHEZ, Assistant Director
Development and Resource Management Dept.

APPROVED BY

DEPARTMENT DIRECTOR

BY: BONIQUE EMERSON, AICP, Supervising Planner
Development Services Division



SUBJECT: WORKSHOP ON PROPOSED POLICY ON CRV RECYCLING FACILITIES
AND REVISIONS TO THE SOLID WASTE FACILITIES AND RECYCLING
ORDINANCE

RECOMMENDATION

This is a workshop and therefore there are no staff recommendations or Planning Commission actions to be taken.

EXECUTIVE SUMMARY

The Development and Resource Management Department (DARM) has prepared this report for a Planning Commission workshop on CRV beverage container recycling facilities in Fresno. The workshop is being held to update and inform the Commission on plans to update City codes and policies applicable to these facilities, so that community concerns may be addressed. The report contains information regarding current City policies and state regulations relating to CRV recycling facilities. The report discusses problems attributed to these facilities, and offers the attached policy and ordinance as possible solutions to these problems. The proposed policy and ordinance are tentatively scheduled to go before the City Council on October 30, 2014.

BACKGROUND / ANALYSIS

Current City Definitions

The current City policy for evaluating CRV recycling center applications on commercially zoned property is contained in Development and Resource Management (DARM) Department's Director's Classification No. 180, dated January 14, 1997 (copy attached as Exhibit A). A CRV Recycling Center, also known as a "Recycling Station," was defined in that Director's Classification as follows:

"A station where the general public may come to turn in for cash such California Redemption Value (CRV) materials as glass, aluminum, cans and the plastic 2-liter soda bottles. These stations will typically be located within existing commercial development that includes a grocery or other store that sells the recyclable product."

A CRV Recycling Center/Station (small) is different from a "Recycling Materials Light Processing Facility," (large) which is only allowed in industrial zone districts and is defined and permitted through Director's Classification No. 161, which was revised in 2004 (copy attached as Exhibit B).

Current City requirements for CRV recycling facilities

Director's Classification No. 180 currently mandates that Recycling Stations comply with the following:

- 1. The use, as proposed, will be defined as a "Recycling Station," where collection facilities will be available for the general public for the recycling of products such as glass (both clear and colored), aluminum cans, and plastics such as 2-liter soda bottles. It shall not include the collection of newspaper or cardboard.*
- 2. The use, as proposed, shall be permitted within an existing commercial development, typically in conjunction with a retailer such as a supermarket or super drug store that sells the "raw material."*
- 3. The minimum land area in which to develop this use is (a) one net acre of zone district size in the C-1, C-2 and C-3 (integrated commercial districts); and (b) one net acre parcel size in the C-4, C-5, and C-6 zone districts.*
- 4. It shall not be permitted on any commercial district as a sole use of property. If it is proposed to be a sole use, it must be located in an industrial district.*
- 5. The station shall be integrated into the existing commercial center, so as not to interrupt the flow of pedestrian or vehicular traffic.*
- 6. The station shall be so located and designed to be aesthetically compatible with the design of the existing commercial center.*
- 7. The station shall consist of a storage container with maximum dimensions of 12' [wide] by 40' [long] by 8' [tall].*
- 8. The station shall provide a minimum of three service parking spaces for the consumer to park while delivering their recyclable materials.*
- 9. The land use entitlement process that shall evaluate and grant conditional approval for this use will be the "Major Revised Exhibit" for a [special permit].*
- 10. The operator shall submit an operational statement as part of the submittal package that will include hours of operation. Depending upon the proximity of surrounding land uses, the Director shall have the flexibility to limit the hours of operation by time of day and by days of the week.*

State law and regulations for CRV recycling facilities

All standards and policies applied to CRV recycling facilities and all future policies and local codes must be consistent with the rules and regulations for CRV centers as established by the California Beverage Container Recycling and Litter Reduction Act (hereafter referred to as "the Act"), originally adopted in 1986 and most recently amended in 2013. The Act is administered by the California Department of Resources Recycling and Recovery (hereinafter, "CalRecycle"), which is a branch of the California Environmental Protection Agency. Regulations implementing

the Act are found in the California Code of Regulations, Title 14, Division 2, Chapter 5, Sections 2000 *et seq*. Following is a link to the pdf version of the Act:

<http://www.calrecycle.ca.gov/Publications/Documents/1478/20131478.pdf>

The number of CRV recycling facilities in the area

As of February 3, 2014, Fresno County had 94 beverage container recycling facilities that meet requirements of the state's CRV program, as listed on CalRecycle's website. This list comprises beverage container recyclers established by approvals from the City of Fresno, Fresno County and other jurisdictions, in all zone districts of those jurisdictions.

Approximately half of Fresno County's CRV recycling facilities in are located in the Fresno area. Attached as Exhibit C is a table listing the CRV recyclers within, or adjacent to, the City of Fresno (some of the locations on this list are in the County, but are so close to the City boundary that they would be considered in any policy to establish minimum distances between CRV recycling facilities).

Convenience Zones for CRV recycling facilities

Staff has often been asked why the City cannot eliminate or limit of the number of recycling facilities in the City of Fresno. The reason is because any grocery store listed in the online Progressive Grocer Marketing Guidebook as having gross sales of at least \$2 million/year qualifies under state regulations as a supermarket where a "convenience zone" is mandated. Within "convenience zones," CRV beverage container recycling service is required.

In urban areas, each convenience zone is circumscribed by a half-mile radius measured from the front door of a qualifying supermarket. This website explains in more detail how CalRecycle determines convenience zones:

http://www.calrecycle.ca.gov/BevContainer/Retailers/Zones.htm#What_Is

Attached to this report is a map from CalRecycle, showing Fresno's established CRV recycling program convenience zones (Exhibit D), as of February 7, 2014.

It should be noted that the Act does not require convenience zones for all stores which sell high numbers of beverages in recyclable containers, including some well-known "big box" stores, liquor stores, and various types of discount stores. A store has to carry a full line of groceries (fresh produce, dairy, meat, etc.) in order to qualify as a supermarket under CalRecycle regulations. Otherwise, the store is defined as "dealer" of beverages in recyclable containers. Dealers do not anchor convenience zones and are not required to provide for beverage container recycling. (CalRecycle has done this intentionally, or there would be so many convenience zones in a city that individual recyclers would be unable to collect enough CRV recyclables to remain in business). Dealers are only required to post a notice in the store advising customers of the location of the nearest CalRecycle approved CRV beverage container recycling facility.

CRV recycling facilities for beverage containers that are intended to satisfy "convenience zone" requirements are typically co-located on qualifying supermarket properties they serve, but that is not a requirement. As long as the recycling facility is within the half-mile radius, it meets

CalRecycle standards. A single CRV recycling facility may fill the need for multiple qualifying supermarkets located within a half-mile radius, provided that the CRV recycling facility is at a location where convenience zones overlap. As the Exhibit D map shows, approximately 29 supermarket convenience zones in Fresno are served by a CRV beverage container recycling facility (as of the date this map was provided by CalRecycle), with many of the supermarket convenience zones overlapping. Only six active convenience zones are un-served, and five are on hold for state review.

CalRecycle has three established alternatives for supermarkets which do not have a CRV recycling facility in their convenience zones:

- 1) The qualifying supermarket can pay a \$100/day fee to CalRecycle;
- 2) The qualifying supermarket can collect beverage containers within the store and pay those dropping off the containers via reverse vending machine or disbursement from store registers; and/or
- 3) The qualifying supermarket can be granted an exemption by CalRecycle.

The attached map of Fresno's CRV convenience zones shows 22 supermarkets which have been exempted by CalRecycle from the requirement to have a CRV recycling facility located within ½ mile of the front door of the store.

Exemptions can be granted for a variety of reasons. The presence of one or more existing beverage container recycling facilities close to a supermarket is one qualifying reason. The existence of a curbside recycling program in the area may be a qualifying factor as well (Fresno meets this criterion). Exemptions can also be granted to a supermarket when an on-site CRV recycling center is established in its convenience zone, but subsequently goes out of business due to lack to deposited containers. (This happened in Fresno on the northwest corner of Herndon and Marks Avenues).

A local jurisdiction may approve CRV recycling facilities in locations outside of established convenience zones, and may even approve multiple recycling facilities within a zone, but operators of these "extra" CRV facilities do not get the same state subsidies as the operators of the single designated CRV recycling facility which is located within a convenience zone.

Some of the off-site CRV beverage container recyclers serving Fresno's convenience zones have the industrial zoning needed to accept and process a broader range of recyclable materials in addition to beverage containers (e.g., ReCyCo on the northwest corner of Maple and Olive Avenues). These are the businesses which typically fall under the City's Director Classification No. 161 policies for "light processing."

The California Beverage Container Recycling and Litter Reduction Act does not allow a city to categorically deny CRV recycling facility applications or revoke all approvals. When serious and irresolvable nuisance issues have occurred in relation to CRV recycling facilities in various California cities, landlords have revoked leases for the facilities and local jurisdictions have removed approvals for them on public and private properties. CalRecycle has assisted the affected supermarkets in these situations with information on alternative recycling modalities (such as reverse vending machines) and consideration of exemptions.

Ordinance Versus the Policy

The following are the reasons the City is creating a new CRV Recycling Center Policy and amending the existing Solid Waste and Recycling Facilities Ordinance:

CRV Recycling Center Policy:

- This policy only impacts small recycling facilities that are located within commercial shopping centers.
- This policy would only apply to new and upgraded facilities (it would not impact existing facilities that are operating in compliance with an approved SPR or CUP).

Solid Waste and Recycling Facility Ordinance:

- This would apply to all recycling facilities (small and large, new and existing)
- This will require separate permitting and inspection requirements

Problems related to CRV Recycling Facilities in Fresno and Proposed Solutions

Issues related to the siting and operation of these facilities have been raised by advisory committees, Councilmembers, and the community at large. These issues include potential crime at the CRV recycling stations, theft of recyclable beverage containers from recycling and trash bins, visual blight and poor design, and overconcentration of these facilities.

Problem: Potential crime at recycling stations

The requirements applied to CRV recycling facility applications pursuant to Director's Classification No. 180 treat these recycling stations as an occasional "add-on" use in commercial shopping centers, not as integral features of the centers. Consequently, CRV recycling is typically relegated to loading zones and secondary parking areas behind shopping center buildings. These areas are less-traveled and less supervised, subject to higher risk of criminal activity. The operator of a recycling station typically has cash on hand, and may be considered an easy target in the absence of witnesses and passers-by to deter opportunistic theft.

Proposed Solution: Fresno Police Department's Problem-Oriented Policing Teams have repeatedly noted the need to reduce the potential for incidents at these businesses. The Police Department requested that either recycling stations have video cameras for ongoing surveillance, or that no cash be kept on hand. The industry objected to the infeasibility of a voucher system and the cost of a surveillance camera. As a compromise, the following has proposed to be added to the attached "CRV Recycling Center Policy":

"Recycling centers should not be located to the rear of the property behind buildings unless the center is clearly visible from the parking lot or a public street. Locating

these facilities behind buildings reduces visibility and pedestrian accessibility. If the applicant nonetheless chooses to place the facility to the rear of the property so that it is not clearly visible, the Fresno Police Department may require the following:

- a. The recycling center shall implement a voucher system. No money shall be kept in or about the licensed premises. The petitioner shall implement and utilize a voucher system to compensate patrons for raw recycled materials purchased by the business. The [recycling] center shall provide a patron with a "voucher" which can be exchanged for cash at a pre-determined business establishment (i.e., stores, check cashing locations, etc.). The purpose of this system is to safeguard the security of patrons as well as employees at the location.*
- b. The area shall be monitored by video surveillance."*

Problem: Theft of recyclable materials from recycling and trash bins

It is widely observed that persons are stealing cans and bottles from curbside recycling bins (a crime under Fresno Municipal Code Sections 6-213 through 6-217), and leaving litter behind.

Council District offices have expressed a particular concern regarding theft of recyclable beverage containers from residential "blue bins" in neighborhoods near shopping centers which have CRV recycling facilities.

The Department of Public Utilities Solid Waste Program was consulted to determine the extent of this problem. The Solid Waste Division Manager verified that plundering of recyclable material from bins is an ongoing issue for the City of Fresno (and its contracted recycling firm), and that it reduces the verifiable quantity of recyclables and introduces tracking error in the City's waste diversion rate. Commercial trash enclosures have been a frequent target of this plundering, and a requirement for lockable bins has been widely instituted by the City to thwart this activity. It is hoped that the new 100-pound load limit on beverage containers (new State regulation) will help curtail these large-scale thefts.

The Solid Waste Division notes that its largest losses from residential curbside recycling bins appear to be caused by organized crews who use trucks to traverse neighborhood streets ahead of the City's collection crews. They gather recyclables in quantities that are not typically brought to small CRV recycling centers behind supermarkets, but are instead taken to the larger processing facilities (whichever happens to be paying the best rates for the material at a given time).

Proposed Solution: A new condition is being added to the "CRV Recycling Center Policy" and the "Solid Waste and Recycling Facilities Ordinance" that reads as follows:

"Days of Operation. *All facilities which collect California Redemption Value (CRV) materials from the public shall not be open to the public on the day of and day after residential Solid Waste pick-up for the area in which the facility is located. If the facility is approved to receive other types of material from the public (green waste, construction and demolition debris, etc.) these other materials may be collected 7 days a week as long as CRV collection from the public is suspended on the two days a week noted above."*

Problem: Overconcentration of CRV recycling facilities

Having too many recycling stations and/or siting them too close to each other can cause competition ("price wars") that can undermine the CRV recycling centers which serve a designated convenience zone, as well as potentially exacerbating the plundering of recyclable beverage containers recycling and trash bins. To date, Fresno has not limited the number of recycling businesses that can be established in the City and has not established criteria for separating recycling stations from each other.

Proposed Solution: The following new condition is being added to the "CRV Recycling Center Policy":

***"Spacing.** New CRV Recycling Centers shall not be located within a half-mile of an existing recycling center (or existing light processing facility). This distance shall be measured from the boundaries of the actual facility and not the property line."*

The most current public draft dated July 2014 (the version attached to this staff report) states that a quarter-mile spacing requirement will be applied. This will be modified to a half-mile in the final public draft based on input from the recycling industry.

Problem: Visual blight and poor design

As noted above, the standards for CRV recycling facilities contained in Director's Classification No. 180 cause them to often be relegated to areas behind shopping center buildings. These areas are less visible (reducing the impact of any unsightly recycling stations), but such areas are also less supervised and more likely to suffer from graffiti and littering.

Current city policies also limit the size of CRV recycling stations. Operational needs have forced the operators to conduct activities and place containers outside during open hours, creating an undesirable environment for recycling employees, customers, and passers-by.

Without adopted design guidelines that require CRV recycling facilities to be located in permanent structures and integrated into shopping center design, the least expensive types of structures have tended to be employed. Intermodal steel freight boxes (ISO containers) may meet California Building Code standards for this occupancy, but they typically pose an eyesore. On the other hand, use of these ISO container structures has allowed the recycling stations to relocate as convenience zones have been deactivated and activated. Some CRV recycling facility operators have customized portable ISO-type structures with built-in compacting equipment that reduces or eliminates the outside storage of collected materials.

The photos in attached Exhibit E depict some of the CRV recycling facilities that are operating in Fresno.

Proposed Solution: The following new conditions are being added to the "CRV Recycling Center Policy":

1. **Shipping Container Screening.** A typical ISO (International Organization for Standardization) shipping container or other type of metal building or structure will not be allowed unless it is:

i. screened by a permanent decorative wall consistent with the architecture of the shopping center.¹

OR

ii. contained within a permanent or semi-permanent sheath-type structure or cover (see images below) that is consistent or compatible with the architecture of the shopping center.



2. **Architectural Compatibility.** Prominent architectural features of the center (such as tile accents) shall be incorporated into the design of the storage container. All structures that are part of the recycling center shall be aesthetically attractive and similar in design and character to the commercial center in which the facility is located. Submit pictures of the existing buildings in this center in order to verify that the color of the containers will match the existing buildings in this center.

Problem: Shopping carts

Shopping carts are often stolen from retail stores for the sole purpose of collecting recyclables. These carts are often left cluttered and abandoned at and around recycling facilities that accept CRV recycling materials.

Proposed Solution:

The following new conditions are being added to both the "Solid Waste and Recycling Facilities Ordinance" and the "CRV Recycling Center Policy":

¹ This wall shall screen the container (for aesthetic purposes) but shall not screen the entire Recycling Center.

Shopping Carts. *Shopping carts are prohibited on the premises and within 25 feet of the area used to accept recyclable materials.*

Shopping Carts. *The operator must comply with the Abandoned Shopping Carts Ordinance, Fresno Municipal Code Section 9-3101 et seq., as may be amended. All shopping carts found in the immediate vicinity of the Recycling Facility shall be returned to their owners by the operator. The operator must post a sign advising that it is illegal to take shopping carts or that possession of shopping carts is a misdemeanor.*

The following condition is being added to the "CRV Recycling Center Policy":

Shopping Carts. *All shopping carts found in the immediate vicinity of the recycling center not belonging to the existing shopping center shall be returned to their owners*

- a. *The applicant shall indicate in the operational statement how this will be accomplished.*
- b. *Post a sign advising that it is illegal to take shopping carts or that possession of shopping carts is a misdemeanor.*
- c. *Please reference and comply with the Abandoned Shopping Cart Ordinance if applicable.*

ENVIRONMENTAL FINDING

An environmental finding is not applicable at the level of consideration provided in a City Council workshop.

Attachments: Exhibit A, Director's Classification No. 180, dated January 14 1997
Exhibit B, Director's Classification No. 161, dated July 15, 2004
Exhibit C, CalRecycle listing of CRV beverage container recyclers in Fresno
Exhibit D, CalRecycle map showing Fresno's established CRV convenience zones (as of February 7, 2014)
Exhibit E, photographs of some of the CRV recycling facilities in Fresno
Exhibit F, Public Draft of the CRV Recycling Center Policies dated July 2014
Exhibit G, Draft modifications to the Solid Waste and Recycling Facilities Ordinance

Exhibit A

Director's Classification No. 180, dated January 14 1997

MEMORANDUM

DATE: January 14, 1997

TO: ALVIN P. SOLIS, Director *AS*
Development Department

THROUGH: NICK P. YOVINO, Manager *NY*
Planning Division

FROM: RAYBURN B. BEACH, JR., Senior Planner
Project Evaluation Section

SUBJECT: DIRECTOR'S CLASSIFICATION TO ADD "RECYCLING
STATIONS" IN THE C-1 AND C-5 ZONE DISTRICTS

The Department has received a letter dated November 12, 1996, from Mr. Michael Henebury, of Bulldog Recycling, requesting that the Director consider adding "Recycling" as a use permitted by right in any commercial zone district. For the purpose of this evaluation, consideration of adding the use to the C-1 and C-5 is used because of the "cumulative" nature of the uses in the commercial zone districts; that is, if it is permitted by right in the C-1 District, it is also permitted by right in the C-2, C-3, and C-4 Districts. The same holds true for the C-5 and C-6 Districts.

In terms of this Determination, "Recycling" will be narrowly defined as a station where the general public may come to turn in for cash, such California Redemption Value (CRV) materials as glass, aluminum cans, and the plastic 2-liter soda bottles. These stations will typically be located within an existing commercial development that includes a grocery or other store that sells the recyclable products.

The concept of a large recycling center where there is a large concentration of all types of recyclable materials that are collected, stored, packaged and transported, will specifically not be a part of this evaluation. That type of center is now permitted in the Industrial Zone Districts (M-1, M-2, and M-3).

In accordance with Section 12-408 of the Fresno Municipal Code, the Director can, if found appropriate, add uses to a zone district by the Director Classification procedure.

The first step in this procedure, is to examine the classification of the use. Section 12-408-C states: "The Director may classify such use as a permitted use, or as a permitted use subject to Conditional Use Permit. In no instance shall the Director determine that a use be permitted in a district when such use is specifically listed as first permissible in a less restricted district".

DIRECTOR CLASSIFICATION

Recycling Stations

January 14, 1997

Page No. 2

The use as proposed, "Recycling Station", is not listed in the Zoning Ordinance of the Fresno Municipal Code. As a result, the Director may, if deemed appropriate, add this use to the C-1 and C-5 Zone Districts either by right, or subject to a conditional use permit.

Staff is in full agreement with the concept of these recycling facilities, however, there are a few minor concerns about how this use will be implemented. In order to make the findings necessary to approve this request, staff offers the following definitions and conditions for evaluation.

1. The use as proposed, will be defined as a "Recycling Station", whereas collection facilities will be available for the general public for the recycling of products such as glass (both clear and colored), aluminum cans, and plastics as the 2-liter soda bottles. It shall **NOT** include the collection of newspaper or cardboard.
2. The use as proposed shall be permitted within an existing commercial development, typically in conjunction with a retailer such as a supermarket or super drug store that sells the "raw material".
3. The minimum land area on which to develop this use is: a) One (1) net acre of zone district size in the C-1, C-2 and C-3 (integrated commercial districts); and b) One (1) net acre parcel size in the C-4, C-5, and C-6 zone districts.
4. It shall **NOT** be permitted in any commercial district as a sole use of a property. If it is proposed to be a sole user, it must be located in an industrial district.
5. The Station shall be integrated into the existing commercial center, so as not to interrupt the flow of pedestrian or vehicular traffic.
6. The Station shall be so located and designed to be aesthetically compatible with the design of the existing commercial center.
7. The Station shall consist of a storage container with maximum dimensions of 12 x 40 feet, and a maximum height of 8 feet.
8. The station shall provide a minimum of three "service" parking spaces for the consumer to park while delivering their recyclable materials.
9. The Land Use Entitlement process that shall evaluate and grant conditional approval for this use, will be the "Major Revised Exhibit" for a site plan review. (Current fee is \$620.00 plus 2.5%.)
10. The operator shall submit an operational statement as part of the submittal package, that will include hours of operation. Depending upon the proximity of surrounding land uses, the Director shall have the flexibility to limit the hours of operation by time of day and by days of the week.

Section 12-408-C, lists four findings that must be made in order to allow the Director to add a new use to a zone district. The following evaluation of the proposed "Recycling Station" subject to the conditions listed above, states those findings and staff response to each.

1. *That the subject use and its operation are compatible with the uses permitted in the district where it is proposed to be allowed.*

As a secondary use to be established in conjunction with existing commercial uses, it would be compatible to the uses permitted in the district with which it is associated.

2. *That the subject use is similar to two or more uses permitted in the district within which it is proposed to be allowed.*

The proposed use is not necessarily similar to other uses in the district, but it complements and is secondary to such uses as grocery stores, supermarkets, super drug stores, and other retail outlets for beverages. Therefore, with the above mentioned conditions, this use can be deemed similar to other uses in the district.

3. *That the subject use will not cause substantial injury to the value of the property in neighborhoods or districts within which it is likely to be located.*

Subject to the conditions listed above, and subject to the controls imposed by the land use entitlement and provisions of code enforcement, the establishment of this use in an established commercial center will not be detrimental to surrounding land uses.

4. *That the subject use will be so controlled that the public health, safety, and general welfare will be protected.*

Safeguards are already established for the protection of the public health safety and welfare through the site plan review process and zoning ordinance requirements for property development standards.

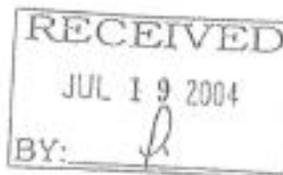
Recommendation

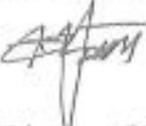
Subject to the definition and conditions listed above (items 1 - 9), the addition of this use is appropriate for the C-1, C-2, C-3, C-4, C-5, and the C-6 Zone Districts. Staff recommends that the Director add "Recycling Stations" as a use permitted by right in the C-1 and C-5 Zone Districts, subject to the definition and conditions listed above.

Exhibit B

Director's Classification No. 161, dated July 15, 2004

826
approved - with requirement for
a conditional use permit



DATE: July 15, 2004 
TO: NICK YOVINO, Director of Planning and Development
THROUGH: RAY VILLA, Code Enforcement Manager 
FROM: RICHARD SALINAS, Legal Analyst, CUP Strike Team, Code Enforcement Division

Re: MODIFICATION OF DIRECTOR'S CLASSIFICATION No. 161 TO INCLUDE THE REQUIREMENT OF A CONDITIONAL USE PERMIT; TO CLARIFY DISCREPANCIES, AND TO IMPOSE REQUIREMENTS CONSISTENT WITH THE SOLID WASTE RECYCLING ORDINANCE PERMIT REQUIREMENTS

It has become apparent that there is a need to impose additional, and more specific requirements on recycling facilities such that the public's health and safety are protected and that blight be minimized. This view has evolved from the City's experience with fires which have occurred at recycling facilities in the City of Fresno during the past 2 years and the sudden emergence of recycling facilities throughout the City.

Director's Classification No. 161 was adopted on June 25, 1992. At that time there was no listing for a recycling materials light processing facility in the Zoning Ordinance. When Director's Classification No. 161 was first adopted it incorporated a proposed text amendment that was still in draft form. The draft of the proposed text amendment contained 16 conditions for development of a recycling materials light processing facility within the M1 zoning district. The Director at that time also made several findings, including a finding that a recycling materials light processing facility was similar to the majority of manufacturing and storage uses in the M1 zoning district.

When Director's Classification No. 161 was adopted, it was anticipated that a final version of the proposed text amendment, which became part of Director's Classification No. 161, would be finalized and presented to the Planning Commission for processing and would become the final authority for allowing a recycling materials light processing facility use in the M1 zoning district. The proposed text amendment was never finalized and presented to the Planning Commission, however the need for refining and imposing additional conditions for the development of the recycling facility use in the M1 district remains. Additionally, with the proliferation of such facilities within the City of Fresno, and in light of the City's adoption of the Solid Waste Recycling Facility Ordinance, it has become necessary to modify Director's Classification No. 161 such that recycling materials light facilities are developed in a manner which will not cause substantial injury to the value of property in the neighborhoods or district in which they are likely to be located, and will not pose a threat to health and safety.

On December 16, 2003, the City Council Adopted Article 3 of Chapter 9 of the Fresno Municipal Code which is known as the "Solid Waste and Recycling Facilities Ordinance," ("SWR Ordinance") which requires that recycling materials light processing facilities apply for and obtain a permit authorizing them to operate. The permit is issued on an annual basis. The SWR Ordinance became effective 30 days from the date it was adopted. It has become apparent that there is a need to modify Director's Classification No. 161 to allow for an efficient implementation and enforcement of the SWR Ordinance, as well to clearly define the use and development requirements for the recycling materials light processing facility use.

RECOMMENDATION:

Currently, recycling materials light processing facilities are a "By-Right" use addressed by Director's Classification No. 161. In its current form, Director's Classification No. 161 inadequately defines the parameters for the operation of a recycling materials light processing facility. It also fails to adequately address the variety of recycling materials light processing facilities which are known to exist and which include facilities that recycle paper, non-ferrous metals, plastics and oil. Storage requirements relative to the different types of recycling materials light processing facilities are also inadequately addressed by Director's Classification No. 161. In light of the impending implementation of the SWR Ordinance, along with the other factors mentioned above, it is recommended that Director's Classification No. 161 be modified in accordance with the attached proposed modification. More specifically, it is recommended that the findings contained in the current Director's Classification 161 be retained and that the 16 conditions in the incorporated proposed text amendment be replaced by the modified Director's Classification No. 161 which is attached hereto.

Director's Classification # 161
(CUP Required)

Recycling Materials Light Processing Facility

- A. Processing Facilities under this Director's Classification may process the following recyclable materials: glass, paper, cardboard and aluminum cans/scrap, bi-metal aluminum/tin, and plastic, ferrous and non-ferrous metals (M3 only no shredding). Additional materials may be allowed subject to review and approval of the Development Department Director. Processing Facilities shall be sited only in the M1, M 2 and M3 industrial zones provided they comply with the following conditions, except where more restrictive limitations are required under redevelopment industrial design guidelines and/or state and federal regulations:
- (1) Facility does not abut a property zoned or planned for residential use.
 - (2) Processing facilities are limited to baling, briquetting, crushing, compacting, grinding, shredding and sorting of source-separated recyclable and reusable materials; recycling material accepted at the site shall not contain more than 10 percent of residual debris or 1 percent of putrescible debris.
 - (3) Power-driven processing shall be permitted, provided all noise level requirements are met. All power-driven processing shall be conducted in a wholly enclosed building which shall remain closed during power-driven processing. Outdoor power driven processing may be allowed subject to visual and noise screens, and separation from property lines approved by the Director.

- (4) Processing Facilities with outdoor storage shall provide a perimeter fence or wall, which is opaque, not less than eight feet in height and no higher than 12 feet. Fencing requests over 8 feet in height will be subject to a variance process.
 - (a) Security wire shall be subject to the provisions of Section 12-306-10.
- (5) Indoor storage must conform to all Fire Code requirements.
- (6) Post-processing exterior storage of baled materials is allowed, and must conform to the requirements and limitations under the Fire Code and Zoning Ordinance, and subject to review of a site plan. No exterior storage may exceed the height of the fence surrounding the facility or must be stored within a completely enclosed building.
- (7) All exterior storage of materials, other than baled material, shall be in sturdy containers or enclosures which are covered, secured, and maintained in good condition. Storage containers for flammable material shall be constructed of non-flammable material. All storage containers must be approved by the Director. No storage, excluding truck trailers and overseas containers, will be visible above the height of the fencing. Overseas containers are subject to Director approval and shall be limited to numbers and location.
- (8)
 - (a) A processing facility may accept used motor oil and/or used oil filters for recycling from the generator in accordance with Section 25250.11 of the California Health and Safety Code. All storage of used motor oil and/or used oil filters must be within a containment apparatus capable of containing all stored oil in the event of a spill or leak. No containment apparatus shall exceed a capacity greater

than 55 gallons. All used motor oil and/or used oil filter storage

containers shall be located on an approved surface that is protected from the elements and which must be approved by the Director.

- (b) A processing facility may accept used lead-acid batteries within the meaning of California Health and Safety Code Section 25215.1 ©). All batteries must be stored inside an enclosed building in a manner approved by the Fire Department.
- (9) All exterior storage must be located at least 150 feet from property zoned or planned for residential use. There shall be a 20 foot setback from the property line and/or fence or wall surrounding the facility, and no storage is allowed in this setback area.
- (10) A processing facility shall have a minimum area of one acre and a maximum area based on fire protection, availability of water and adequate vehicular access. A traffic analysis shall be provided for all facilities based on adequate public streets and shall limit shipments of material per day. Based on the proximity of residential uses in the surrounding area, the Development Department Director may require that all processing and storage of material shall be inside an enclosed building.
- (11) Facilities shall provide a minimum of 10 feet of landscaping along any abutting street and shall be subject to the provisions of Section 12-306-N-23 and 24.
- (12) The facility shall be maintained free of litter and any other undesirable materials, and will be cleaned of loose debris on a daily basis and will be secured from unauthorized

entry and removal of materials when attendants are not present.

- (13) Space shall be provided on site for the anticipated peak load of customers to circulate, park and deposit recyclable materials. If the facility is open to the public, space will be provided for a minimum of ten customers or the peak load, whichever is higher, except where the Director determines that allowing overflow traffic is compatible with surrounding businesses and public safety.
- (14) One parking space will be provided for each commercial vehicle operated by the processing center. Parking requirements will otherwise be as mandated by the zone in which the facility is located.
- (15) Noise levels shall not exceed 75 dBA as measured at the property line.
- (16) If the facility is located within 500 feet of property zoned or planned for residential use, it shall not be in operation between 7:00 p.m. and 7:00 a.m. The facility will be administered by on-site personnel during the hours the facility is open.
- (17) Any containers provided for after-hours donation of recyclable materials will be at least fifty feet from any property zoned, occupied or planned for residential use; shall be of sturdy, rustproof construction, shall have sufficient capacity to accommodate materials collected; and shall be secure from unauthorized entry or removal of materials.

- (18) Donation areas shall be kept free of litter and any other undesirable material. The containers shall be clearly marked to identify the type of material that may be deposited. Facility shall display a notice stating that no material shall be left outside the recycling containers.
- (19) Sign requirements shall be those provided for the zoning district in which the facility is located. In addition, facility will be clearly marked with the name and phone number of the facility operator and the hours of operation.
- (20) No dust, fumes, smoke, vibration or odor above ambient level may be detectable on neighboring properties.
- (21) A pass key to the interior and exterior of the facility shall be provided to the Fire Department so as to allow immediate access in the event of a fire or other emergency.
- (22) The Operator shall post signs at each entrance to the exterior and interior of the facility, as well as at the after hours donation containers stating which recyclable materials are accepted at the facility. The Operator shall also post signs at the entrance to the exterior and interior of the facility which list the hazardous materials stored at the facility.
- (23) A copy of the CUP/Site Plan shall be kept at the facility at all times and shall be made available upon request by City, County, State or Federal Officials.

Exhibit C

CalRecycle listing of CRV beverage container recyclers in
Fresno

List of Fresno Area CRV Beverage Container Recycling Operations (from CalRecycle, 2/3/14), Page 1 of 2

* denotes a location outside the City, but close to City boundaries

CRV Recycling Center Operator	Address	Council District	Zone District	Status
A & S Recycling	4420 W Ashlan Ave	1	C-6	
A & S Recycling	2624 S Elm Ave	3	C-M	
A and H Recycling	4790 E Belmont Ave	7	C-6	serves a new convenience zone
Alex Recycling	* 7064 E Belmont	n/a	[County]	
Allan Co	8921 N Chestnut Ave	6	C-1	serves a convenience zone
Allan Co	2525 S Sunland Ave	5	M-3	
Allan Co	2607 E Woodward St	3	M-2	
Aurora Recycling	* 2104 W Belmont	n/a	[County]	
Bairos Recycling Inc	2788 S Orange Ave	3	M-3	
Brunos Iron and Metal LP	* 3211 S Golden State Blvd	n/a	[County]	
Bulldog Recycling	5175 E Belmont Ave	4	C-2	serves a convenience zone
Bulldog Recycling	1631 N Golden State Blvd	3	M-1	
Bulldog Recycling	3232 E Ventura Ave	5	C-2	serves a convenience zone
Buy Back Inc	370 B St	3	C-1	serves a new convenience zone
Buy Back Inc	1439 S Cedar Ave	5	C-2	
Buy-Back-Inc	4309 S Chestnut Ave	5	C-2	facility recently closed; formerly served a convenience zone
Buy Back Inc	1435 Fresno St	3	CM	serves a convenience zone
Buy Back Inc	1405 W Shields Ave	1	C-2	serves a convenience zone
Buy Back Inc	3190 E Tulare St	5	C-1 & C-2	serves a convenience zone
Calwa Recycle	4545 E Church Ave	5	M-1 & M-3	
Curbside Recycling	4825 E Olive Ave	4	C-2 & P	approved by CalRecycle, but City planning approval not yet issued

List of Fresno Area CRV Beverage Container Recycling Operations (from CalRecycle, 2/3/14), Page 2 of 2

* denotes a location outside the City, but close to City boundaries

CRV Recycling Center Operator	Address	Council District	Zone District	Status
D & L Recycling	4818 E Tulare Ave	7	C-1	serves a convenience zone
Earth Wise Recycling Inc	* 2345 W Belmont Ave	n/a	[County]	
Earth Wise Recycling Inc	6055 N Figarden Dr	2	C-1	
Earth Wise Recycling	4400 W Shaw Ave	2	C-M	serves a convenience zone
Fresno Recycling	1701 S Orange Ave	5	C-M	
I Buy Recycling	3790 W Shields Ave	1	C-1	approved by CalRecycle, but City planning approval not yet issued
Kyle's Recycling	2640 E Ashlan Ave	7	C-1	serves a convenience zone
Kyles Recycling	2217 E Belmont Ave	7	C-1	in a former convenience zone (zone decertified by CalRecycle)
Kyle's Recycling/E & A Recycling	3313 N Cedar Ave	4	C-3	
Levis Iron and Metal Inc	* 2727 S Chestnut Ave	n/a	[County]	
NexCycle	2066 W Bullard Ave	2	C-1	serves a convenience zone
NexCycle	6670 N Cedar Ave	6	C-2	serves a convenience zone
NexCycle	4043 W Clinton Ave	3	C-1	serves a convenience zone
NexCycle	659 E Nees Ave	6	C-2	serves a convenience zone
NexCycle	4040 N West Ave	1	C-3	serves a convenience zone
North Recycling	* 3055 S Elm Ave	n/a	[County]	
Recycle OXBA	3053 E Shields Ave	7	C-2	serves a convenience zone
ReCyCo Inc Recycling Center	4585 E Olive Ave	7	M-1	serves a convenience zone
rePLANET LLC	6797 N Milburn Ave	2	C-2 & M-1	serves a convenience zone
rePLANET LLC	3330 W Shaw Ave	2	C-2	serves a convenience zone
Skees Recycling Inc	4638 E Thomas Ave	7	M-1	serves a convenience zone
Sunnyside Family Recycling center	5710 E Kings Canyon Rd	5	C-3	serves a convenience zone
Western Metal Co	2910 S Cherry Ave	3	M-3	

Exhibit D

CalRecycle map showing Fresno's established CRV
convenience zones (as of February 7, 2014)

Exhibit E

Photographs of some of the CRV recycling facilities in
Fresno



ISO container structure



Site-built structure (BuyBack Inc, southeast corner of Tulare & First Streets)



Open for business and awaiting recyclable material pickup
(Sunnyside Family Recycling, south side of Kings Canyon Road east of Clovis Avenue)



Closed



ISO container structures with aesthetic treatment





ISO container on major street, with landscape screening
(Nexcycle, behind the grocery store on the northwest corner of Bullard & West Avenues)



Custom modular structures (relocatable), with reverse vending facilities for use when the recycling station is closed (RePlanet, formerly on northeast corner of Palm & Shaw Avenues)

Exhibit F

Public Draft of the CRV Recycling Center Policies dated July
2014



Public Draft
CRV RECYCLING CENTER
POLICIES

Development and Resource Management Department
2600 Fresno Street, 3rd Floor, Rm 3076
Call (559) 621-8277 for an appointment or visit www.fresno.gov for information

Policy and Procedure No.

C-004

Date

July 2014

Target Audience:

Planning staff, the recycling industry, and the general public

Purpose:

The purpose of this policy is to promote quality, clarity, and consistency in applying the requirements and guidelines for the acceptance, processing, and approval of these applications, while maximizing the function and architectural compatibility of future recycling centers with surrounding properties. This policy shall replace Director's Classification 180. As such, this policy shall only apply to facilities where the public may come to turn in California Redemption Value (CRV) materials for cash or other type of payment and does not apply to large recycling facilities where various types of recyclable materials are collected, stored, packaged and transported.¹

These policies are adopted with the intent:

1. To implement the Recommendations of the Fresno City Council, Community Revitalization Division, and the Fresno Police Department.
2. To be consistent with the State of California Beverage Container Recycling and Litter Reduction Act revisions in effect as of January 1, 2008.
3. To allow the City of Fresno Development and Resource Management Department to have flexibility in the policies and procedures as the recycling industry and technology continues to evolve.
4. To create guidelines to ensure Recycling Centers do not adversely impact the sites where they are located or adjacent developments and neighborhoods.
5. To maintain a high standard of safety, aesthetics, and circulation for all Recycling Center sites within the City of Fresno.

POLICY GUIDELINES

The use as proposed, will be defined as a CRV Recycling Center² where collection facilities will be available for the general public for the recycling of glass (both clear and colored), aluminum cans, and plastic beverage containers as defined by the State of California Department of Conservation to be available for a *California Redemption Value (CRV)* refund.

¹ Light Processing Facilities are subject to Director's Classification 161 and permitted only in industrial districts, subject to approval of a conditional use permit application.

² Often called "facility" in this document

1. CRV Recycling Centers (previously called recycling stations) are:
 - a) allowed with a reduced fee Conditional Use Permit (see Procedures section, noticing required) in the C-1, C-2, C-3, C-4, C-5, C-6, and C-M³ zone districts.
 - b) only permitted to be located within an existing or proposed commercial development in conjunction with a retailer such as a supermarket, super drug store, or other large retailer that sells CRV type goods at the discretion of the Director, **or** as provided in number 2 of this section.
 - c) only permitted on property with a minimum land area of one (1) net acre. The one acre may be made up of several parcels if it is within an integrated shopping center.
2. A Recycling Center located on commercially zoned property (including property zoned C-M) that does not contain a retailer such as a supermarket, super drug store, or other retailer that sells CRV type goods is allowed subject to the following:
 1. The parcel must be adjoining and within 500 feet of an existing supermarket or super drug store.
 2. Is only permitted on property with a minimum land area of one (1) net acre. The one acre may be made up of several parcels if it is within an integrated shopping center.
 3. If the facility is the sole or primary use on the property, it shall comply with the following:
 - a. The property must be zoned C-5, C-6, or C-M.
 - b. The proposed facility shall be subject to a full Conditional Use Permit (noticing required). Full site improvements will be required.
 - c. The facility must comply with all property development standards (ie. building setbacks, landscaping, parking lot shading, parking, etc.) of the zone district in which the facility is located.
 - d. The site must have a minimum land area of one-half (1/2) net acre.
 - e. A permanent building is required.
 4. All new shopping centers or supermarket sites shall have an area designated and improved for the use of a Recycling Center as part of its original site plan. This area shall be permanently integrated and architecturally compatible with the center and shall provide adequate screening and design features so as to not detract from the design of the center.

DEVELOPMENT STANDARDS

A. MATERIALS ALLOWED TO BE COLLECTED

³ When located within the C-M zone district, the proposed center must comply with these Policies and Procedures except that when it is an ancillary use to a Recyclable Materials Light Processing Center, Director's Classification 161 (as modified on July 15, 2004) applies.

1. **CRV Materials Only.** The only items allowed to be collected for recycling are CRV and Commingled Materials as defined by section 14560.5 and 14512 of the California Beverage Container Recycling and Litter Reduction Act. The operator is not allowed to accept materials that are transferred to the site by an illegal means (i.e. use of a stolen shopping cart).
2. **No Metal or Paper Products.** No newspaper, cardboard, copper or industrial materials shall be accepted at the Recycling Center at anytime⁴.

B. LOT AREA

3. **Property Size Required.** Recycling Centers are only permitted on property with a minimum land area of one (1) net acre, unless it is the sole or primary use on the subject site. The one acre may be made up of several parcels if it is within an integrated shopping center. If the Recycling Center is the sole or primary use on the site, only one-half (1/2) acre is required.

C. LOCATION

4. **Parking Lots.** Recycling Centers may be located within the parking lot of an approved commercial center (in the zone districts previously identified).
5. **Visibility.** Recycling Centers shall not be located to the rear of the property (behind buildings), unless the center is clearly visible from the parking lot or a public street. Locating these facilities behind buildings reduces visibility and pedestrian accessibility. If the applicant chooses to place the facility to the rear of the property so that it is not clearly visible, the Fresno Police Department (FPD) may require the following:
 - a. The Recycling Center shall implement a voucher system. No money shall be kept in or about the licensed premises. The petitioner shall implement and utilize a voucher system to compensate patrons for raw recycled materials purchased by the business. The center shall provide the patron with a "voucher" which can be exchanged for cash at a predetermined business establishment (i.e. stores, check cashing locations, etc...). The purpose of this system is to safeguard the security of patrons as well as employees at the location.
 - b. The area shall be monitored by video surveillance.
6. **Obstruction to Vehicle or Pedestrian Circulation.** All previously approved or required drive aisles and vehicular circulation areas and access drives shall be unobstructed and maintained clear at all times. Pedestrian walkways shall not be blocked or inhibited. A 10-foot visibility triangle must be maintained.

D. MAXIMUM NUMBER ALLOWED

7. **Number.** An integrated shopping center is limited to having one (1) CRV Recycling Center (and one grouping of reverse vending machines) within the center.

⁴ If these materials are proposed, the facility is automatically considered a "Recyclable Materials Light Processing Center" and must comply with Director's Classification 161 (as modified on July 15, 2004).

8. **Spacing.** New CRV Recycling Centers shall not be located within a quarter-mile of an existing recycling center (or existing light processing facility). This distance shall be measured from the boundaries of the actual facility and not the property line.
9. **Size.** The CRV Recycling Center shall be limited to a maximum footprint of 700 square feet. Of these 700 square feet, only 500 square feet may be used for building storage area. The remaining 200 square feet may be used for office space, staging areas, or patios/permanent shade structures. If more than one storage container is proposed, all containers must be placed and designed so that they look and function like an integrated facility.

E. STORAGE AND MAINTENANCE OF MATERIALS

10. **Material Storage.** All recyclable materials and bags of materials shall be stored in storage units or within buildings at all times. If there are occasional overflow materials received, these materials shall be stored within the screened sorting area.
11. **Screened Sorting Area.** Applicant/Operator shall have clearly marked (on the site plan and on the ground) a 10-foot by 20-foot area adjacent to the entrance of the bin. Sorting shall occur only within this area. This area shall be screened by a 3-4 foot opaque wall, which may or may not be portable in nature. This wall must be compatible with the colors and materials of the Recycling Center. This is not required if all sorting occurs within a permanent building.
12. **Presorting Encouraged.** Applicant/Operator shall post sign advising customers that presorting prior to arrival is highly encouraged. The sign shall also advise that if the customer has not presorted the recyclables, that sorting shall be done within the designated screened sorting area.
13. **Refuse Container.** Each Recycling Center shall maintain an adequate on-site refuse container for disposal of non-hazardous waste and a container for customers to pour remaining liquids into from their CRV materials. These refuse containers shall be screened from public view (possibly behind required opaque wall). A description detailing how this material will be disposed of must be included in the operational statement.

F. FUNCTIONAL AND OPERATIONAL REQUIREMENTS

14. **Days and Hours of Operation.** Facility shall not be open on the day of or day after residential solid waste pick-up in the area where the facility is located. Centers shall not be open before 6am and shall close by 7pm.
15. **Noise.** The Recycling Center shall fully comply with the City of Fresno's Noise Ordinance (Section 10-101 of the Fresno Municipal Code).
16. **Maintenance.** The storage unit and surrounding area shall be cleaned and washed and all litter surrounding the site removed as needed to maintain a safe and healthy environment. Applicant shall indicate in the operational statement how this will be accomplished. **The applicant shall contact the Fresno Metropolitan Flood Control District (FMFCD) to ensure the washing of the site complies with all of the**

agency's rules and regulations.

17. **Building Permits.** The applicant shall obtain any necessary building permits from the Building and Safety Division.
18. **Solid Waste Permit.** All recycling facilities must obtain a Solid Waste Recycling Permit prior to starting operation and comply with all policies and procedures required to keep and maintain the permit. The fee for this permit will be collected at the time the application is submitted.
19. **Posting Property.** The applicant shall post the property with the appropriate Fresno Municipal signs advising that consumption of alcoholic beverages, gambling, **trespassing** or **loitering** will be in violation of municipal ordinances. The applicant must send a letter to the FPD, signed and dated by the applicant, every 180 days that authorizes FPD peace officers to enter the applicant's real property and/or establishment to enforce aforementioned activities at the business. The owners and employees are responsible for abating these activities when they occur during business hours.
20. **Frequent Police Incidents.** Frequent responses by the FPD arising out of or relating to the operation or management of the real property owned or controlled by the permittee causing any combination of the following: animal disturbances; violent criminal acts; illegal consumption of intoxicants in public view; gaming activities; and juvenile disturbances, or any of the other activities set forth in the Fresno Municipal Code Section 10-708(g) may result in a FPD recommendation to the Director of the Development and Resource Management Department to commence proceedings to revoke the site plan review or conditional use permit application for violation of the Management of Real Property Ordinance. In addition to recommending the commencement of revocation proceedings, the FPD may pursue any of the other remedies set forth in FMC, Section 10-710, including assessing fines against the proprietor for the violations of the Management of Real Property Ordinance.

'Frequent' means response by the FPD is occurring more than 1.5 times the average number of such responses (3 calls for every 2) for property of a similar size and character within the same policing district.
21. **Shopping Carts.** All shopping carts found in the immediate vicinity of the recycling center not belonging to the existing shopping center shall be returned to their owners
 - a. The applicant shall indicate in the operational statement how this will be accomplished.
 - b. Post a sign advising that it is illegal to take shopping carts or that possession of shopping carts is a misdemeanor.
 - c. Please reference and comply with the Abandoned Shopping Cart Ordinance if applicable.
22. **Restroom Facilities.** Provide an on-site restroom facility in a permanent building (no port-a-potties allowed) or a written letter from a nearby store within the shopping center that allows the recycling center employees to use the store's on-site restroom facilities.

23. **Lighting.** The Recycling Center shall be illuminated to ensure comfortable and safe operation. Lighting shall be hooded.
24. **Owner/Operator Identification.** The recycling center shall be clearly marked with the name and telephone number of the operator during all hours.
25. **CUP Compliance.** A copy of the CUP or Site Plan shall be kept at the facility at all times and shall be made available upon request by City, County or State Officials.

G. SITE AND FACILITY DESIGN

26. **Shipping Container Screening.** A typical ISO (International Organization for Standardization) shipping container or other type of metal building or structure will not be allowed unless it is:

- i. screened by a permanent decorative wall consistent with the architecture of the shopping center.⁵

OR

- ii. contained within a permanent or semi-permanent sheath-type structure or cover (see images below) that is consistent or compatible with the architecture of the shopping center.



27. **Architectural Compatibility.** Prominent architectural features of the center (such as tile accents) shall be incorporated into the design of the storage container. All structures that are part of the recycling center shall be aesthetically attractive and similar in design and character to the commercial center in which the facility is located. Submit pictures of the existing buildings in this center in order to verify that the color of the containers will match the existing buildings in this center.
28. **Shade Structures.** If the facility is not shaded by adjacent trees or buildings during operating hours, a shade structure is required for employees. Permanent shade structures are encouraged, but portable shade structures, tents, or umbrellas may be provided for the comfort and safety of the customers and attendant on a case-by-case basis. Shade structures shall remain clean and in good order and shall be replaced if

⁵ This wall shall screen the container (for aesthetic purposes) but shall not screen the entire Recycling Center.

damage or excessive wear becomes visible. To the extent possible, this shade structure or tent shall be architecturally compatible with the shopping center and recycling facility (i.e., nude or of similar colors as the building, and no bright blue tarp-colored tents or shade structures). The maximum square footage of these shade structures is 120 square-feet. Please include the details of the shade structure(s) in the operational statement. Elevations will be required with application submittal.

H. BUILDING HEIGHT

29. **Height.** Recycling Centers are limited to single story structures with a height no greater than 10-feet (15-feet if the structure includes architectural features), unless the Center is proposed to be located within a permanent existing building.

I. YARDS

30. **Setbacks.** Setbacks for Recycling Centers shall comply with all setback requirements set forth in the Fresno Municipal Code zone district classification where the facility is to be located.
31. **Distance from the Street.** No facility shall be located within 20-feet from a property line adjacent to a public street.
32. **Distance from Residential Property.** No facility shall be located within 200-feet of residential development or residential zone districts, measured from the outer limits of the proposed recycling center to the nearest residential property line.

J. LANDSCAPING

33. Landscaping within the immediate vicinity of the storage container and sorting area is highly encouraged and will be required if there is limited landscaping surrounding the facility. The use of portable landscaping is permitted.
34. If there is limited or no existing landscaping within the shopping center, additional landscaping will be required (one (1) tree for every 75-square feet of area that the Recycling Center uses).
35. Property Owners who propose to allow a Recycling Center on a property that is not in compliance with a previously approved landscape plan shall be required to install all previously required landscaping. The applicant will not be permitted to begin operations until such landscaping is installed.
36. Recycling Centers shall not be located within any required or existing landscaped areas.

K. SPACE BETWEEN BUILDINGS

37. If an ISO (International Organization for Standardization) shipping container is proposed, it must meet the following separation requirements:
- a. No connecting structures between or among these containers.

b. Must have 10-foot setback from buildings and property lines.

c. Must comply with all other requirements contained in the ["ISO Containers"](#) memorandum dated August 31, 2005.

L. FENCES, HEDGES, AND WALLS

38. All proposed fencing or walls shall be architecturally compatible with the existing shopping center. The transaction area shall not be screened by fencing.

39. Chain link fencing will only be allowed if it is not visible from the public right-of-way and shall not screen a transaction area. All proposed chain link fencing must contain slats that match the color of the existing shopping center and/or the Recycling Center storage unit. Fencing shall not exceed 6-feet in height.

M. OFF-STREET PARKING

40. For attended Recycling Centers, one (1) parking space shall be provided for each attendant on duty.

41. Recycling Centers that are located within the parking lot of an existing developed site shall not cause a deficiency in parking as required by the FMC and previously approved site plans or conditional use permits.

N. ACCESS

42. The facilities employees or patrons shall not block, interfere, or cause any vehicle to be left parked, standing, or otherwise unattended within any Fire Lanes, marked or unmarked, for the subject building and or property.

O. SIGNAGE

43. All advertising signs must be submitted for sign review for compliance with the Master Sign Program (MSP). If there is no MSP, all signs shall be submitted for sign review and comply with all provisions of the FMC. The signs shown on the containers must be approved through the sign review process. Signs required by this policy shall be reviewed and approved during the processing of the conditional use permit application.

44. Signs shall be compatible with the signage design of the development within which the facility is located.

45. Post a sign advising "No Loitering", "No Pan Handling", "No Public Drunkenness".

46. Signs shall not be illuminated.

47. Signs shall be placed on a maximum of two opposite elevations.

48. Signs shall not exceed the height of the recycling unit.

49. Grouping of reverse vending machine signs shall be limited to signage incorporated into the design of individual machines by manufacturers whereby sign size shall be

proportional to the size of the machine.

P. LOADING SPACES

50. **Existing Loading Spaces.** The proposed Recycling Center shall not interfere with required loading spaces within existing shopping centers.
51. **New Loading Space.** Additional loading spaces are not required for new Recycling Centers except that if the applicant proposes to have a vehicle larger than 2-tons pick up the storage unit or material from the storage unit, there must be adequate access and room for this vehicle. Details discussing how this will be achieved must be included in the operational statement.

Q. REVERSE VENDING MACHINES

52. Reverse Vending Machines are permitted in shopping centers provided the machines:
- a. Are established in conjunction with a commercial or business park use or community facility which is in compliance with the zoning, building, and fire codes of the City;
 - b. Are located near the entrance to the main structure and do not obstruct pedestrian or vehicular circulation;
 - c. Provide an eight-foot wide unobstructed clear walkway in front of the reverse vending machines. Consideration may be given to alternate solutions such as recessing the machines into the building frontage of the adjacent lease space;
 - d. Do not negatively impact the existing parking spaces required by the primary use. Reverse Vending Machines less than 50 square feet do not require additional parking spaces for customers;
 - e. Are constructed of durable rustproof and waterproof material;
 - f. Have a sign area of a maximum of four square feet per machine exclusive of operating instructions;
 - g. Are maintained in a clean, dry, and litter-free conditions on a daily basis;
 - h. Are clearly marked to identify the phone number and address of the operator or responsible person if the machine is inoperative or in violation of this code; and,
 - i. Are illuminated to ensure comfortable and safe operation if the machine is accessible between dusk and dawn.

PROCEDURES

- A. Applicants proposing to establish a Recycling Center in the City of Fresno will be subject to these guidelines and must obtain a special permit issued through the City of Fresno Development and Resource Management Department. An existing Recycling Center requesting any modification (physical or operational) to their existing facility will be subject to these guidelines and must modify their special permit in accordance with Section B-1 below.
- B. Application Types:
1. CUP Major Revised Exhibit (no noticing required)
 - a. Criteria
 - I. Required for modifications in size, relocations on the same property or within the same shopping center, or any other major change to the facility or its operation.
 - b. Materials
 - I. Application Form: If the property owner is not the applicant, a letter of authorization signed by the property owner is required.
 - II. Exhibits: Four full-sized copies of exhibits described below:
 1. Elevation drawings if new or modified structures are proposed. These drawings shall include the main structure, proposed barriers and screening, decorative framing, fencing, placement and design features. Depict a color and material schedule.
 2. A site plan, depicting the location of all containers and vehicles associated with the business will be required. Site plan drawings shall include all boundaries, structures and features of the subject property, including but not limited to, north arrow, scale, public utility poles and boxes, guy wires, signs, fire hydrants, dimensioning of all parking stalls, loading zone(s), existing and proposed buildings, labeling of building square footage, trash receptacles and tree wells located within the existing and proposed public rights-of-way.
 - III. Operational Statement: An Operational Statement which describes existing and proposed business activities and practices.
 - IV. Grant deed for property
 - V. A compact disc (CD) with a portable document format (PDF) version of all the documents listed above.
 - c. Fees
 - I. See Master Fee Schedule for CUP Major Revised Exhibit.
 - d. Processing

Applications shall be processed in accordance with Sections 12-405 and 12-406 of the Fresno Municipal Code and in accordance with any other standard policy or procedure for processing special permits with the following exceptions:

- I. Revised Exhibit shall only be routed when necessary. Planner shall determine at application intake whether or not an application needs to be routed and to which department/agency.
- II. Revised Exhibit shall be noticed in accordance with Section 12-406-D-2 of the Fresno Municipal Code.

2. CUP Amendment (discretionary review requiring public noticing):

e. Criteria

- II. Required if a new Recycling Center is proposed within an existing or proposed commercial development.

f. Materials

VI. Application Form: If the property owner is not the applicant, a letter of authorization signed by the property owner is required.

VII. Exhibits: Eight full-sized copies of exhibits described below:

3. Elevation drawings shall include the main structure, proposed barriers and screening, decorative framing, fencing, placement and design features. Depict a color and material schedule.
4. A site plan, depicting the location of all containers and vehicles associated with the business will be required. Site plan drawings shall include all boundaries, structures and features of the subject property, including but not limited to, north arrow, scale, public utility poles and boxes, guy wires, signs, fire hydrants, dimensioning of all parking stalls, loading zone(s), existing and proposed buildings, labeling of building square footage, trash receptacles and tree wells located within the existing and proposed public rights-of-way.

VIII. Operational Statement: An Operational Statement which describes existing and proposed business activities and practices.

IX. Grant deed for property

X. A compact disc (CD) with a portable document format (PDF) version of all the documents listed above.

g. Fees

II. See Master Fee Schedule for CUP Amendment.

h. Processing

Applications shall be processed in accordance with Sections 12-405 and 12-406 of the Fresno Municipal Code and in accordance with any other

standard policy or procedure for processing special permits with the following exceptions:

III. Amendment shall be noticed in accordance with Section 12-406-D-2 of the Fresno Municipal Code.

3. Full CUP (discretionary review requiring public noticing):

a. Criteria

I. Required if the Recycling Center is the sole or primary use on the property.

b. Materials

I. Application Form: If the property owner is not the applicant, a letter of authorization signed by the property owner is required.

II. Exhibits: Eight full-sized copies of exhibits described below:

1. Elevation drawings shall include the main structure, proposed barriers and screening, decorative framing, fencing, placement and design features. Depict a color and material schedule.

2. A site plan, depicting the location of all containers and vehicles associated with the business will be required. Site plan drawings shall include all boundaries, structures and features of the subject property, including but not limited to, north arrow, scale, public utility poles and boxes, guy wires, signs, fire hydrants, dimensioning of all parking stalls, loading zone(s), existing and proposed buildings, labeling of building square footage, trash receptacles and tree wells located within the existing and proposed public rights-of-way.

III. Operational Statement: An Operational Statement which describes existing and proposed business activities and practices.

IV. Grant deed for property

V. A compact disc (CD) with a portable document format (PDF) version of all the documents listed above.

c. Fees

I. See Master Fee Schedule for a Full CUP.

d. Processing

I. Applications shall be processed in accordance with Sections 12-405 and 12-406 of the Fresno Municipal Code and in accordance with any other standard policy or procedure for processing special permits.

C. Applicants with an approved special permit (conditional use permit or site plan review) proposing to modify an existing Recycling Center in the City of Fresno, will be subject to these guidelines. **Additions or modifications to existing facilities may be subject to some or all requirements listed in the Development Standards section**

of these Policies and Procedures, depending on the design and function of the existing facility.

- D. Submittal of a special permit (conditional use permit) application will cause a review of planning and building permit activity for the subject property to ensure compliance with the FMC and previous entitlement applications. An identified planning/building or code violation may require the property owner to make necessary corrections prior to the issuance of a special permit.
- E. Applicants must satisfy all conditions of approval (screening, landscaping, parking and striping, signing, toilet facilities, etc.) and have these conditions verified by City Staff before the Recycling Center begins operations. A letter will be issued verifying compliance with all conditions of approval.
- F. All required improvements shall be in accordance with FMC, Section 12-405-B, and constructed in accordance with the Standard Specifications and Standard Drawings of the City of Fresno, Public Works Department.
- G. Each individual project submitted to the Development and Resource Management Department will be subject to environmental review as required under the California Environmental Quality Act.

DEFINITIONS

CRV Recycling Center means a place, mobile unit, or reverse vending machine, informally known as redemption centers or buyback centers and are recycling facilities in which, in compliance with state regulations, accepts from consumers and pays or provides the refund value for all empty aluminum, glass, and plastic CRV materials. These were previously called "Recycling Stations" pursuant to Director's Classification 180.

CRV Recycling Beverage Material means an item produced, identified, and labeled by one of the following descriptive terms: "California Redemption Value," "CA Redemption Value," "CRV," "California Cash Refund," "CA Cash Refund," or any out of state material deemed by the California Department of Conservation to be available for said refund.

Commingled is specifically defined by Section 14512 of the the California Beverage Container Recycling & Litter Reduction Act, but for the purposes of this document generally means any mix of empty beverage containers and other containers of the same material type that are not necessarily CRV approved recyclable containers (i.e. milk jugs, dishwashing soap containers, etc.).

Reverse Vending Machine means a mechanical device which accepts one or more types of empty beverage containers and issues a cash refund or a redeemable credit slip with a value not less than the container's refund value.

Bulk Reverse Vending Machine means a reverse vending machine that is larger than 50 square feet.

Storage Unit means the unit in which the actual recyclable materials are stored. Usually these storage units are shipping cargo containers (known as ISO containers), or pre-manufactured structures, but may also include permanent or non-permanent structures specifically constructed for these recycling centers.

Scrap Material for purposes of these regulations, is any recyclable container, including food or drink packaging material, other beverage containers, other nonredeemable containers, out-of-state beverage containers, line breakage or rejected containers, of the same material

composition as redeemable containers covered by the State of California.

REFERENCES

1. Fresno Municipal Code:

Section 12-405-A-2 CONDITIONAL USE PERMIT.

A conditional use permit shall be granted only when it is found that:

Finding 1: All applicable provisions of this Code are complied with and the site of the proposed use is adequate in size and shape to accommodate said use, and accommodate all yards, spaces, walls, and fences, parking, loading, recycling areas, landscaping, and other required features (Section 12-405-A-2.a.).

Finding 2: The site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use (Section 12-405-A-2.b.).

Finding 3: The proposed use will not be detrimental to the public welfare or injurious to property or improvements in the area in which the property is located. The third finding shall not apply to uses which are subject to the provision of FMC, Section 12-306-N-30 (Section 12-405-A-2.c.).

Section 12-405-B: CONDITIONS.

The issuance of any special permit may be subject to such conditions as deemed necessary to be appropriate or necessary to assure compliance with the intent and purpose of this Zoning Ordinance and established general and specific plans and policies of the city to protect the public health, safety, or welfare. . . [et seq.]

Section 12-406. SPECIAL PERMITS; PROCEDURES.

This section shall govern the procedure for the issuance of the special permits set forth in Fresno Municipal Code Section 12-405. . . [et seq.]

Section 12-306-N. SPECIAL STANDARDS OF PRACTICE AND REGULATIONS

23. Water Efficient Landscaping Standards (In its entirety).
24. Landscaping (In its entirety).

2. Applicable Policies and Procedures:

Performance Standards for Parking Lot Shading, Planning and Development Department
City of Fresno Parking Manual

Anti-Graffiti Landscaping, Landscaped Buffer Development and Planting Standards,
Planning and Development Department

Amending Previously Approved Entitlements (G-003)

3. California Beverage Container Recycling & Litter Reduction Act

Review and Responsibility:

Development and Resource Management Department

Signature: _____
Jennifer K. Clark, AICP, Director

Dated: _____

Exhibit G

Draft modifications to the Solid Waste and Recycling
Facilities Ordinance

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FRESNO,
CALIFORNIA, REPEALING ARTICLE 4 OF CHAPTER 10,
AND ADDING ARTICLE 4 OF CHAPTER 10, TO THE
FRESNO MUNICIPAL CODE RELATING TO SOLID
WASTE AND RECYCLING FACILITIES

THE COUNCIL OF THE CITY OF FRESNO DOES ORDAIN AS FOLLOWS:

SECTION 1. Article 4 of Chapter 10 of the Fresno Municipal Code is repealed.

SECTION 2. Article 4 is added to Chapter 10 of the Fresno Municipal Code to read:

ARTICLE 4

SOLID WASTE AND RECYCLING FACILITIES ORDINANCE

Section	Title.
10-401.	Definitions.
10-402.	Findings.
10-403.	Intent.
10-404.	Severability.
10-405.	Rules and Regulations.
10-406.	Solid Waste and Recycling Facilities Permit.
10-407.	Issuance or Denial of a Permit.
10-408.	Environmental Violations.
10-409.	Operational Plan and Site Plan.
10-410.	Permit Fee.
10-411.	Zoning and Fire Code Requirements.
10-412.	Property Owner; Recording the Permit.
10-413.	Permit Suspension or Revocation; Grounds.
10-414.	Permit Suspension or Revocation; Procedures.
10-415.	Regulations.
10-416.	Monitoring and Reporting Requirements.
10-417.	Enforcement.
10-418.	Remedies.
10-419.	

Page 1 of 24

Date Adopted:
Date Approved
Effective Date:
City Attorney Approval: _____

Ordinance No.

10-420.	Cost and Penalty Recovery.
10-421.	Cumulative Remedies.
10-422.	Applicability

SECTION 10-401. TITLE. This article shall be known as the "City of Fresno Solid Waste and Recycling Facilities Ordinance."

SECTION 10-402. DEFINITIONS. Unless the particular provision or the context otherwise requires, the definitions and provisions contained in this section shall govern the construction, meaning, and application of words and phrases used in this article and, except to the extent that a particular word or phrase is otherwise specifically defined in this section, the definitions and provisions contained in Article 2 of Chapter 1 of this Code shall also govern the construction, meaning, and application of words and phrases used in this article, unless the particular provision or the context otherwise requires. The definition of each word or phrase shall constitute, to the extent applicable, the definition of each word or phrase which is derived from it, or from which it is a derivative, as the case may be.

(a) "City Inspectors" shall mean any person whether employed or contracted by the City to conduct inspections for purposes of determining compliance with the Code and/or to enforce provisions of the Code.

(b) "Director" shall mean the Director of any department of the City, and any of his or her agents or representatives, who has been delegated to enforce and/or administer the provisions of this article by the City Manager.

(c) "Operations" shall mean all business activities that may be defined in this section as a recycling facility or solid waste facility that are conducted by applicants and or permit holders under this article.

(d) "Permit" shall mean a recycling facility Permit issued under the authority and procedures of this article.

(e) "Recycling Facility" shall mean any facility that is used in the process of collecting, sorting, cleansing, treating, processing, reconstituting, or storing any materials and directly or indirectly returning them to the economic mainstream.

(f) "Solid Waste" shall mean all solid, semisolid, and liquid wastes, including garbage, hazardous materials, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated or chemically fixed sewage sludge, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes.

(g) "Solid Waste Facility" shall include a Solid Waste storage and transfer or processing station, a composting facility, a gasification facility, a transformation facility, a disposal facility and any other facility that handles Solid Waste.

(h) "Hazardous Waste" shall mean a Solid Waste, or combination of Solid Wastes, which because of its quantity, concentration,

or physical, chemical, or infectious characteristics may do either of the following:

(1) cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness;

(2) pose a substantial present or potential hazard to human health or environment when improperly treated, stored, transported, or disposed of, or otherwise managed.

SECTION 10-403. FINDINGS. The Council finds that Recycling and Solid Waste Facilities are especially prone to present a risk to the public's health and safety and therefore require the adoption of this ordinance based upon the following findings:

(a) In January 2003, a fire occurred at a Recycling Facility in the City that was operating under, although not in conformance with, a conditional use permit. The fire lasted for more than a month and required the services of Federal, State and private fire fighting agencies and more than two and a half million dollars to suppress. The fire had a serious health impact to the residents of the surrounding community and the City and resulted in Council declaring a local state of emergency.

(b) After the fire was suppressed, the Mayor formed the "Southwest Fire Process Improvement Task Force" (hereinafter "Task Force"). The Task Force was charged with answering two questions: (1) how the City could prevent this type of fire or similar emergency from

recurring in the City, and (2) how to respond to future similar emergencies in an effective, adequate and timely manner.

(c) In April of 2003 after finishing its investigation, the Task Force issued a report concluding that the City's current ordinances, codes, and policies relating to conditional use permits and enforcement activities were inadequate. The Task Force found that the above local ordinances and policies were in need of improvement, from the initial approval and issuance of conditional use permits to the monitoring, code enforcement/on-site inspections, and legal action to be taken against violators of conditional use permits.

(d) The Task Force report included twenty-four recommendations to address the identified areas of concern.

(e) The fourth recommendation to the Task Force report provided that: "The City shall adopt an Ordinance apart from the Zoning Ordinance, in the Health and Safety Chapter, that addresses specifically recyclable material operators within the City of Fresno. Such Ordinance shall include remedies and punishments, including criminal and financial penalties for violations."

(f) The seventh recommendation to the Task Force report provided that: "The City shall amend appropriate sections of the FMC and related Zoning Ordinances to require a monitoring, on-site inspection/reporting system for all land uses related to waste/recyclable facilities. The amendments shall include requirements on CUP's for on-site

inspections by either appropriate City staff or contracted inspectors. It is also recommended that the costs of these inspections be borne by the business operators."

(g) On April 29, 2003, Council voted to implement the results of the Task Force report.

(h) In the past three years, the City has experienced at least twelve fires at recycling facilities within the City at six different Recycling and/or Solid Waste Facilities in the City.

(i) In May of 2002, Council directed the City Manager to form an internal task force to make a recommendation for a proactive CUP enforcement program.

(j) In studying the issues regarding the formation of an internal task force for proactive enforcement, staff identified waste storage and recycling facilities as one of four sensitive land uses and businesses that most directly affect public health, safety and welfare.

SECTION 10-404. INTENT. This ordinance is adopted with the intent:

(a) To implement the fourth and seventh recommendations to the Task Force report; and

(b) To be consistent with the purpose of the California Integrated Waste Management Act (Public Resources Code § 40052) to reduce, recycle, and reuse Solid Waste generated in the City to the maximum extent feasible, and to ensure that Solid Waste landfills and Solid Waste and Recycling Facilities are environmentally safe; and

(c) To provide reasonable land use conditions and restrictions on Solid Waste and Recycling Facilities in order to prevent or mitigate potential nuisances and health and safety problems; and

(d) To be consistent with, and impose restrictions in addition to, the California Integrated Waste Management Act (Public Resources Code §§ 40000, et seq.).

SECTION 10-405. SEVERABILITY. If any section, sentence, clause or phrase of this article is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this article. Council hereby declares that it would have passed this ordinance and adopted this article and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

SECTION 10-406. RULES AND REGULATIONS. The Director may make additional rules and regulations which are not inconsistent with the provisions of this article and which may be necessary or desirable to aid in the administration or enforcement of the provisions of this article, including all necessary policies and procedures for the issuance of the Permits, administration of this article, collection of fees and bonds and/or indemnities, or proof(s) of insurance.

(a) Days of Operation. All facilities which collect California Redemption Value (CRV) materials from the public shall not be open to the public on the day of and day after residential Solid Waste pick-up for

the area in which the facility is located. If the facility is approved to receive other types of material from the public (green waste, construction and demolition debris, etc.) these other materials may be collected 7 days a week as long as CRV collection from the public is suspended on the two days a week noted above.

(b) Shopping Carts. Shopping carts are prohibited on the premises and within 25 feet of the area used to accept recyclable materials.

(c) Theft. The operator must comply with California Business and Professions Code Sections 21600-21610, which prohibit a recycler from providing payment for non-ferrous metals until three days after the date of sale, with some exceptions, and require a metal recycler to photograph sellers of nonferrous metals, and obtain a thumbprint and a copy of the seller's drivers' license or picture ID. The operator must also photograph the materials sold. These records must be retained for at least two years and be made available for the City to review.

(d) Posting Property. The operator shall post the property with the appropriate signs advising that consumption of alcoholic beverages, gambling, trespassing, or loitering will be in violation of municipal ordinances. The operator and employees are responsible for abating these activities when they occur during business hours.

(e) Site Maintenance. The facility site shall be maintained clean, sanitary, and free of litter and any other undesirable materials. The subject

site and the immediate vicinity shall be cleaned and washed and all litter surrounding the site removed as needed to maintain a safe and healthy environment. The operator shall contact Fresno Metropolitan Flood Control District (District) to ensure the washing of the site complies with all of the District's rules and regulations.

(f) Shopping Carts. The operator must comply with the Abandoned Shopping Carts Ordinance, Fresno Municipal Code Section 9-3101 et seq., as may be amended. All shopping carts found in the immediate vicinity of the Recycling Facility shall be returned to their owners by the operator. The operator must post a sign advising that it is illegal to take shopping carts or that possession of shopping carts is a misdemeanor.

SECTION 10-407. SOLID WASTE AND RECYCLING FACILITIES PERMIT. No person or business may operate a Solid Waste or Recycling Facility, as defined in this article, unless they hold a Solid Waste and Recycling Facilities Permit. The Solid Waste and Recycling Facilities Permit shall include conditions on the permit holder's Operations as provided in this article for the Permit holder's type of operation. The Permit shall not be transferrable. The Permit shall be valid for one year. The City may provide a program to renew Permits for Permit holders on an annual basis upon the payment of a fee to defray the City's costs. Prior to issuance of a Permit, the applicant must sign a written hold harmless agreement, in a form satisfactory to the City Attorney, releasing and indemnifying the City in the event of any liability, loss, costs and

damages, including but not limited to personal injury, death or property damage, arising directly or indirectly out of the operation of the applicant's Solid Waste or Recycling Facility.

SECTION 10-408. ISSUANCE OR DENIAL OF A PERMIT. The Director shall cause an investigation to be made of the facts stated in an application for a Solid Waste or Recycling Facility Permit, and shall within forty-five days, subject to the completion of the necessary background checks by local, State, and Federal agencies and completion of the review of the operational plan and site plan by the City, issue a Permit to the applicant if the Director finds that the applicant has not had a Permit revoked for good and sufficient cause within the last twelve months and has never had a Permit revoked for cause involving gross negligence or moral turpitude; that the applicant has not been convicted of a crime involving fraud, or moral turpitude within the last five years; that the statements made in the application are probably true; that the Permit fee has been paid as provided in the Master Fee Schedule; and that no fact exists which would be cause for revocation of the Permit under Section 10-414. Applications shall be processed in order of receipt. A decision to deny a Permit shall be issued in writing with the basis for the denial, and if feasible, shall propose measures to cure any defects in the application. An applicant may appeal the decision to deny a Permit under the procedures in Chapter 1, Article 4 of this Code. If no appeal is filed in a timely manner, the decision of the Director shall be final.

SECTION 10-409. ENVIRONMENTAL VIOLATIONS. Applicants and Permit holders shall be required to provide a notice of all criminal, civil and administrative convictions, judgments or penalties imposed on them for violations of local, State, and Federal laws related to unlawful storing or dumping of Hazardous Wastes or non-Hazardous Wastes or transporting, handling, generating or storing of Hazardous Wastes or materials. The Director may reject an application or suspend or revoke a Permit, if the Director finds that on the basis of the number, seriousness or recentness of the convictions, judgments or penalties, there is reason to believe that the applicant or Permit holder cannot be trusted to comply with this article and/or the Code or the applicant or Permit holder poses a threat to the public health, safety or welfare. Failure by an applicant or a Permit holder to report any convictions, judgments or penalties shall be grounds for suspension and/or revocation of the Permit.

SECTION 10-410. OPERATIONAL PLAN AND SITE PLAN. No Permit shall be issued without the applicant submitting an operational plan and a site plan for the applicant's proposed Operations that have been approved to meet the requirements of this article, any other provision of the Code, any zoning condition placed on the property in a development entitlement, and that are not in conflict with Federal and State laws for operation of a Solid Waste and/or Recycling Facility. At the request of the applicant, if an operational plan and/or site plan has already been submitted to the City for a Permit other than a Solid Waste and Recycling Facilities Permit, the City may consider the operational plan

and/or site plan on file with the City to determine if it is sufficient to meet the requirements of this Section

SECTION 10-411. PERMIT FEE. All Solid Waste and Recycling Facilities operators are required to pay a non-refundable fee to cover all of the City's costs to implement, enforce and administer the provisions of this article, including but not limited to, administrative costs to review applications and issue Permits, inspection costs, monitoring costs, and or enforcement costs. This fee will be provided in the Master Fee Schedule. The Permit holder is required to pay a non-refundable annual renewal fee upon renewal of their Permit as provided in the Master Fee Schedule.

SECTION 10-412. ZONING AND FIRE CODE REQUIREMENTS. No Permit shall be issued unless the applicant can establish compliance with the Zoning Ordinance and the Fresno Fire Code. All Permits shall include a condition requiring the Permit holder to comply with the Zoning Ordinance and the Fresno Fire Code. A violation of the Zoning Ordinance or the Fresno Fire Code is sufficient basis for suspension or revocation of the Permit.

SECTION 10-413. PROPERTY OWNER; RECORDING THE PERMIT. In the event the applicant does not hold record title interest in the property upon which the Solid Waste or Recycling Facility is intended to be operated, no Permit shall be issued until the record title owner(s) sign a copy of the application for the Permit and acknowledges that he, she or they understand the applicant's intended use of the property, that the City may record the Permit with the County Recorder's Office, and the property owner will be responsible for any public

nuisance created or maintained on the property, including a violation of this article, as authorized in the City of Fresno Public Nuisance Abatement Ordinance. Upon approval, a copy of the Permit may be recorded in the County Recorder's Office. Upon application by the property owner or other interested party, the City shall release the recording of the Permit when the Permit holder establishes to the satisfaction of the Director that a Solid Waste or Recycling Facility is no longer operating on the property. The applicant shall be charged the cost associated with recording the Permit and the release of the Permit.

SECTION 10-414. PERMIT SUSPENSION OR REVOCATION; GROUNDS. Any Permit issued under this chapter may be suspended or revoked for good cause, including, but not limited to the following:

(a) False Statement in Application. If it is determined that the Permit holder made any false statement of material fact in the application for the Permit, or other document for which the Permit approval was based.

(b) Grounds for Denial of Permit. If it is determined that any facts exist that would have been grounds for denial of the Permit.

(c) Violation of Condition of Permit. If it is determined that the Permit holder violated a condition placed on the Permit or failed to comply with an order issued under Section 10-419.

(d) Violation of the Code. If it is determined that the Permit holder violated any requirement of this Code in connection with the exercise of the Permit, including, but not limited to, violation of this article,

the City of Fresno Public Nuisance Abatement Ordinance, and/or the Zoning Ordinance of the City of Fresno.

(e) Conducting Business in an Illegal or Disorderly Manner; Endangering Public. If it is determined that the Permit holder conducts his or her business in an illegal or disorderly manner or in any manner which endangers the public health, safety or welfare.

(f) Conviction or Determination Involving Fraud or Deceit. If it is found that the Permit holder within the last five years has been found guilty of a crime involving fraud, deceit or dishonesty or has been determined in a final decision in any civil matter or administrative proceeding to have practiced or committed fraud, deceit or dishonesty. If it is found that the Permit holder has within the last five years been convicted of a crime or other offense involving moral turpitude.

(g) Insolvency. If it is determined that the Permit holder is bankrupt, financially insolvent or unstable and that, in the exercise of reasonable judgment, it appears likely that because of their financial condition, the Permit holder will provide inadequate service under his Permit.

(h) Disservice to the Public. If it is determined that the Permit holder's service to the public is so inadequate or inefficient that, in the exercise of reasonable judgment, it appears that it amounts to a disservice to the public.

(i) Frequent Police Incidents. Frequent responses by the Fresno Police Department (FPD) arising out of or relating to the operation or management of the real property owned or controlled by the permittee causing any combination of the following: animal disturbances; violent criminal acts; illegal consumption of intoxicants in public view; gaming activities; juvenile disturbances, or any of the other activities set forth in the Fresno Municipal Code Section 10-708(g). 'Frequent' means response by the Fresno Police Department is occurring more than 1.5 times the average number of such responses (3 calls for every 2) for property of a similar size and character within the same policing district. In addition to recommending the commencement of revocation proceedings, the FPD may pursue any of the other remedies set forth in FMC, Section 10-710, including assessing fines against the proprietor for the violations of the Management of Real Property Ordinance.

SECTION 10-415. PERMIT SUSPENSION OR REVOCATION; PROCEDURES. The following procedures shall be used to revoke or suspend a Solid Waste and Recycling Facilities Permit:

(a) Notification of Suspension or Revocation. Notice of suspension or revocation of any Permit shall be in writing from the Director and shall state the reasons for the suspension or revocation, shall state the effective date of revocation or suspension, and shall provide notice of the right to appeal. If the Director determines that immediate cessation of activities under the Permit is necessary to protect the public's health,

safety or welfare, the effective date shall be immediate upon notification. Notification of suspension or revocation shall either be served upon the Permittee personally, or mailed by certified mail, return receipt requested, addressed to the Permittee at the address appearing on the Permit. Notice shall be deemed to be received immediately upon personal service or within three days of service by mail. If required upon revocation, the Permit holder shall turn over his or her Permit to the City.

(b) Compliance Order. Where the cause for revocation or suspension is found to be a correctable violation of the Permit, this article, or the Code, or where the Permit, this article, or the Code does not otherwise mandate revocation or suspension, the Director may, as an alternative to revocation or suspension, issue a compliance order allowing the Permit holder an opportunity to come into compliance within a reasonable period of time subject to threat of suspension or revocation. A compliance order shall set forth a description of each violation and specify the action(s) necessary to correct each violation by the date specified. A compliance order shall not be appealable and shall be served under the procedures in subsection (a).

(c) Appeal to the City Hearing Officer. Any decision by the Director to suspend or revoke a Permit may be appealed under the procedures in Chapter 1, Article 4 of this Code. If no appeal is filed in the time prescribed, the decision of the Director shall be final.

(d) Appeal on Automatic or Summary Suspension. If a Permit is automatically suspended under procedures in this article, or suspended or revoked with an immediate effective date from notification, the Permit holder shall have the right to an appeal within four business days and shall be given, unless waived by the Permit holder, at least twenty-four hours written notice of the date, time and place of the hearing.

(e) Stay Pending Appeal. The filing of an appeal to the City Hearing Officer shall stay the effective date of the suspension or revocation until such time as the appeal is finally decided. Notwithstanding the above and Section 1-406, a suspension or revocation shall not be stayed during the appeal process if it is determined by the Director that immediate cessation of the Permit holder's business activities under his or her Permit is necessary to protect the public's health, safety or welfare. If the effective date is not or will not be stayed pending the outcome of an appeal, the Permit holder shall be notified in the notice of revocation or suspension.

(f) New Application After Revocation. If the Permit of any person is revoked, no Permit shall be granted to such person to conduct or carry on any such business within twelve months after such revocation.

(g) Cumulative Remedy. Any decision to revoke or suspend a Permit based upon a Code violation shall be a cumulative remedy to any other remedy provided by this Code, policies adopted under this Code, or by law.

(h) Monies Owed Payable Upon Revocation. In the event a Permit is revoked, all sums owed the City shall immediately become due and payable, and no fees and charges shall be refundable or apportioned by the City.

SECTION 10-416. REGULATIONS. In addition to any specific regulations provided in this section, general requirements in this article, or regulations adopted under Section 10-406, all properties where the activities listed below are conducted are subject to this article and are subject to, at minimum, one annual inspection by City Inspectors from both the fire department and the code enforcement division, and are required to comply with all applicable federal, state and local laws (including the Code and this article).

- (a) Wood Product Recyclers. (Reserved).
- (b) Scrap Metal Recyclers. (Reserved).
- (c) Construction and Demolition Recyclers. (Reserved).
- (d) Household Product Recyclers/Redemption Centers.
(Reserved).
- (e) Tire Recyclers. (Reserved).
- (f) Hazardous Waste Recyclers. (Reserved).
- (g) Solid Waste Facilities (Reserved).
- (h) Auto Wrecking and/or Dismantling Facilities. (Reserved).
- (i) Automobile Parts and Materials Recyclers. (Reserved).
- (j) Transfer Stations. (Reserved).

SEC. 10-417. MONITORING AND REPORTING REQUIREMENTS.

(a) Monitoring. The Permit holder shall establish a program to monitor its Operations to ensure compliance with the Code and this article. The monitoring program shall be described in the operational plan submitted under Section 10-410.

(b) Self-Certifications. All Permit holders shall on a quarterly basis, on the last day of March, June, September, and December, file with the City a self-certification that they have inspected their Operations and operational plans and that they are in compliance with all provisions of this article. Failure to file a self-certification and/or the filing of a self-certification with inaccurate information is a violation of this article and the Code subject to all remedies provided in this article and the Code for violations of the Code and/or this article.

(c) Reporting. All Permit holders shall report violations of the conditions of their Permits, this article or the Code, related to their Operations, to the City within five calendar days, or within twenty-four hours if the violation presents an imminent threat to the public's health and safety, specifically including, but not limited to, fires or hazardous spills.

SECTION 10-418. ENFORCEMENT.

(a) Inspections.

(1) Random inspections. As a condition of the Permit, all Permit holders under this article shall allow any City Inspector or enforcement officer on to their premises to conduct inspections at any time during the Permit holder's normal business hours. Permit

holders are required to make documents related to their Operations and their Permit available for inspections.

(2) Regular inspections. All Permit holders under this article shall allow City Inspectors to conduct regular inspections of their Operations as a condition of the Permit as provided in Section 10-416 or policies adopted under Section 10-406. If required under Section 10-416 or under policies adopted pursuant to Section 10-406, Permit holders shall also make documents related to their Operations available during inspections.

(b) Notice of Non-Compliance. If, after an inspection, the City Inspector or officer finds that the Permit holder has violated the conditions of their Permit or other requirements under this article or the Code, and it is determined to be a correctable violation, the City may issue a notice of non-compliance advising the Permit holder of the violation and how it may be remedied with a deadline for correction. The notice of non-compliance shall be served by regular mail to the address provided in the Permit holder's application. A notice of non-compliance is not an enforceable order and is not appealable, but may be used to provide proof of notice for purposes of enforcement under this article or the Code.

(c) Compliance Orders. If, after an inspection, the City Inspector or officer finds that the Permit holder has violated the conditions of their Permit or other requirements under this article or the Code, and the

violation is determined to be correctable, the City may issue an order of compliance pursuant to Section 10-414.

(d) Suspension or Revocation. If, after an inspection, the City Inspector or officer finds that the Permit holder has violated the conditions of their Permit or other requirements under this article or the Code, the City may suspend or revoke the Permit pursuant to Section 10-414.

(e) Penalties. If, after issuing an order of compliance, the Permit holder has failed to meet the schedule for achieving compliance and or the conditions provided in the order of compliance, and the Permit holder is in violation of the conditions of their Permit or other requirements under this article or the Code, the City may impose administrative civil penalties upon the Permit holder of up to twenty-five hundred dollars (\$2500) per day per violation until the Permit holder complies with the conditions in the Permit and or the requirements of this article or the Code.

(f) Automatic Suspension. (Reserved).

(g) Automatic Revocation. (Reserved).

SECTION 10-419. REMEDIES. In addition to the enforcement tools provided in Section 10-418, any violation of this article shall be a public nuisance and may be enforced or abated under the Public Nuisance Abatement Ordinance (Chapter 10, Article 6). Any contrary provisions of the above or the Code notwithstanding, the following remedies are available for violations of the conditions of a Permit or this article:

(a) Abatement. The City may abate violations of an order of compliance, conditions of a Permit and/or this article. Absent an imminent threat to the public's health and safety, the City must serve the Permit holder and the property owner with an order of abatement prior to abating the violation. An order of abatement must be served by certified mail at least eighteen days before the City abates. An order of abatement may be appealed to the City Hearing Officer under Article 4 of Chapter 1. An abatement order, if reasonably necessary, may order the cessation and/or suspension of continued Operations, may limit Operations, or may suspend limit occupancy of the operational facilities and/or property.

(b) Civil. The City Attorney may file a civil lawsuit to enforce this article.

(c) Criminal. Any violation of this article is a misdemeanor and the violator may be cited under Section 1-304.

SECTION 10-420. COST AND PENALTY RECOVERY. Any and all unrecovered costs incurred by the City or unrecovered civil penalties imposed by the City under this article may be recovered under the Cost and Penalty Recovery Ordinance (Chapter 1, Article 5). In addition to any other costs that may be collected under the Cost and Penalty Recovery Ordinance and notwithstanding any provisions of the Cost and Penalty Recovery Ordinance to the contrary, the City may recover any and all costs incurred to suppress a fire at a recycling and/or Solid Waste Facility covered by this article when the fire involves the recycling or solid waste materials or product. Fire suppression costs

may be recovered in the above circumstances regardless of whether or not: the facility is permitted, the facility is in violation of this Code, or the facility operator created, caused, committed or maintained the fire. The facility operator will not be liable for fire suppression costs as provided above if he or she can prove by a preponderance of the evidence that the cause of the fire was outside of his or her control.

SECTION 10-421. CUMULATIVE REMEDIES. Any remedy provided under this article is cumulative to any other remedy provided in equity or at law.

SECTION 10-422. APPLICABILITY. All of the provisions of this article shall be enforceable as to the new operation of a Solid Waste or Recycling Facility. Any person legally operating a Solid Waste or Recycling Facility prior to the effective date of this article shall have one hundred eighty (180) days from the effective date of this article to come into compliance with this article. After the one hundred eighty (180) day grace period, all the provisions of this article shall be immediately enforceable.

SECTION 3. This ordinance shall become effective and in full force and effect at 12:01 a.m. on the thirty-first day after its final passage.

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STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, YVONNE SPENCE, City Clerk of the City of Fresno, certify that the foregoing ordinance was adopted by the Council of the City of Fresno, at a regular meeting held on the _____ day of _____, 2014.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2014
Mayor Approval/No Return: _____, 2014
Mayor Veto: _____, 2014
Council Override Vote: _____, 2014

YVONNE SPENCE, CMC
City Clerk

BY: _____
Deputy

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

BY: _____
Mary Raterman-Doidge Date
Deputy

MRD:prn[65302prn/ord] 07-23-14