

12.63.020 Definitions.

For purposes of this chapter, certain terms are defined as follows:

“Back-haul” means generating, collecting and transporting organic waste or retail related waste to a destination owed and operated by the generator using the generator’s own employees and equipment, or as otherwise defined in 14 CCR Section 18982(a)(66).

“Collect” or “collection” means the operation of gathering together and/or transporting by means of a motor vehicle, trailer or other means, any solid waste or recyclable material.

“Commercial premises” means all occupied real property in the City including, without limitation, multiple housing multi-unit residential developments (including housing projects containing or consisting of four or more attached units, whether apartment houses, condominiums, or mixed use projects, mixed use condominiums and rental housing, and which use commercial solid waste containers), wholesale or retail establishments, restaurants, other food establishments, bars, stores, shops, offices, mechanized manufacturing facilities, repair, research and development or professional services, sports or recreational facilities, industrial facilities, and construction and demolition sites; but shall not include property occupied by governmental agencies which do not consent to their inclusion, and residential premises which receive solid waste collection services using residential solid waste containers.

“Commercial solid waste container” means any container for the temporary accumulation and collection of solid waste.

“Commercial solid waste handling services” means the collection, transportation, storage, transfer, disposal or processing of solid waste by private solid waste enterprises, and shall include, without limitation, the placement of commercial solid waste containers on public property.

“Container” means any vessel, tank, receptacle, box, ~~or~~ bin or cart used or intended to be used in the storage or collection of recyclable materials or in the process of recycling, or for the purpose of holding solid waste for storage or collection.

“Franchise fee” means the fee or assessment imposed by the City on the franchisee, which among other things, is intended to offset the City’s expenses related to the administration of the franchise agreement, the integrated waste management program, the maintenance and implementation of the City’s source reduction and recycling element, compliance with the California Integrated Waste Management Act, California Public Resources Code, Division 30, Section 40000 et seq., to compensate the City for damages to its streets, sidewalks, curbs and gutters and other infrastructure resulting from the franchisee’s

exercise of its rights under the franchise, reporting requirements and other related expenses.

“Franchisee” means any person granted a franchise by the City Council pursuant to Article XIII of the City Charter and this chapter.

“Garbage” means kitchen and table wastes, and animal or vegetable wastes that result from the storage, preparation, cooking or handling of food or edible items.

“Green waste” means any debris that is composed of organic material or plantlike matter which is a result of seasonal variations, landscape or gardening activities. This waste is to include, without limitation, grass clippings, leaves, shrubs, trees, branches, stumps, flowers, plant stalks and wood.

“Gross receipts” means all money, whether paid by cash, check, debit or credit, or other consideration collected from customers by franchisee that relates in any way to commercial solid waste handling services, whether the commercial solid waste handling services occur wholly or partially within the City, including, but not limited to, collection, removal, and/or disposal of garbage, solid waste, construction and demolition debris, green waste, industrial waste, roofing materials, trash, litter, refuse and/or rubbish, as well as fuel surcharges. Gross receipts shall also include all money received by any person other than the franchisee, where the money was paid to the person to avoid the franchisee’s obligations under this chapter and/or the franchise. Gross receipts shall not include, or if included there shall be deducted (but only to the extent they have been included), the following: (1) if any sales taxes are levied on the franchisee’s commercial solid waste handling services in the City, the amount of State sales taxes collected in connection with the commercial solid waste handling services in the City and remitted to the State pursuant to State law; (2) the amount of documented bad debt write-offs due to uncollectible accounts for commercial solid waste handling services in the City, not to exceed three percent of gross receipts; and (3) revenues collected for commercial solid waste handling services provided on behalf of the City through a written contract.

“Hazardous waste” means any substance or waste materials or mixture of wastes defined as “hazardous,” a “hazardous substance” or “hazardous waste” pursuant to California Public Resources Code Section [40141](#), the Resource Conservation and Recovery Act (“RCRA”), [42](#) U.S.C. Section [6901](#) et seq., the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”), [42](#) U.S.C. Section [9601](#) et seq., the Carpenter-Presley-Tanner Hazardous Substance Account Act (“HSAA”), codified at California Health and Safety Code Section [25300](#) et seq.; and all future amendments to any of them, or as defined by the Environmental Protection Agency, the California Legislature, the California

Integrated Waste Management Board, the Department of Toxic Substances Control or other agency of the United States Government or the State of California empowered by law to classify or designate waste as hazardous. If there is a conflict in the definitions employed by two or more agencies having jurisdiction over hazardous or solid waste, the term “hazardous substance” or “hazardous waste” shall be construed to have the broader, more encompassing definition.

“Industrial waste” means solid waste originating from mechanized manufacturing facilities, factories, refineries, construction and demolition projects, publicly operated treatment works, or solid waste placed in commercial solid waste containers excluding hazardous waste.

“Recycling” means the process of collecting, sorting, cleansing, treating, and reconstituting materials that would otherwise become solid waste, and returning them to the economic mainstream in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace.

“Recycling requirements” means the obligations imposed by or upon the City pursuant to State law, ordinance, resolution, policy, plan or program relative to recycling all, or a portion, of the solid waste stream generated within the City including, without limitation, State mandates to recycle fifty (50) percent of the solid waste generated within the City’s jurisdiction and the provision of City-approved recycling services to all customers.

“Rubbish” means and includes without limitation the following items: all waste and refuse capable of burning readily, including straw, packing materials, leather, rubber, clothing, bedding, books, rags and all other similar articles which will burn by contact with flames or ordinary temperature; ashes, crockery, china, pottery, metal wire and other similar materials which are rejected by the owner or producer thereof.

“Small Hauler” means an owner or lease of a property that intends to haul de minimis waste or construction debris that has been generated from a home or commercial project, renovation, or construction project.

“Self Hauler” means a person who hauls solid waste, organic waste or recyclable material he or she has generated to a State permitted or State certified processing facility. Self Hauler also includes a person who back-hauls waste, or as otherwise defined in 14 CCR Section 18982(a)(66)

“Solid waste” means all putrescible and nonputrescible solid and semisolid wastes, generated in or upon, related to the occupancy of, remaining in or emanating from residential, commercial, and/or industrial premises, including, but not limited to, garbage, trash, refuse, paper, rubbish, ashes, industrial waste, green waste, demolition and

construction wastes, discarded home and industrial appliances, manure, vegetable or animal solid or semisolid wastes, and other solid and semisolid wastes. This excludes liquid wastes, abandoned vehicles and hazardous, biohazardous and biomedical wastes.

“Solid waste enterprise” means any individual, firm, partnership, corporation, joint venture, limited liability company or other business entity providing commercial solid waste handling services in the City.

“SRRE” means the source reduction and recycling element of the integrated waste management document for the City prepared and updated pursuant to the California Public Resources Code. (Ord. 2023-22 § 569, 2023; Ord. 2013-11 § 58, 2013; Ord. 2007-5 § 1 (part), 2007)

12.63.080 Required Findings.

The City Council shall approve or conditionally approve an application for a franchise if, on the basis of the application, information materials, and testimony submitted, the City Council finds:

- A. That the application complies with this chapter;
- B. That the applicant or any person responsible for the management of the entity submitting the application has not within the past three years: (1) had a franchise for commercial solid waste handling services terminated by the City; and/or within the past one year received two or more Administrative Citations (2) operated a solid waste enterprise within the City without a franchise;
- C. That awarding the franchise is in accord with the objectives of this chapter;
- D. That granting of such franchise will not, under the circumstances of the particular case, materially affect adversely the health or safety of persons residing or working in the City or be materially detrimental to the public welfare or injurious to property or public improvements; and
- E. That the applicant has sufficient experience, equipment or recycling plan to safely comply with the requirements of the franchise agreement. (Ord. 2007-5 § 1 (part), 2007)

12.63.150 Exclusions.

A. Gardener's Exclusion. No provision of this chapter shall prevent a gardener, tree trimmer or person providing a similar service from collecting yard waste, as an incidental portion of providing such gardening, tree trimming or similar service.

B. Commercial Recycler Exclusion for Source-Separated Recyclables. No provisions of this chapter shall prevent a recycling business from contracting to collect source-separated recyclables that are donated or sold to that recycling business by a commercial enterprise. "Source-separated recyclables" within the meaning of this subsection means recyclables which have been separated by a commercial business on its premises from solid waste for the purpose of sale or donation, which have not been mixed with or contain more than incidental or minimal solid waste, and which do not have a negative market value inclusive of collection, transportation, and disposition costs. This exclusion does not apply if the material collected is hauled for a net fee. Any recycling business qualifying for the exclusion shall meet all other requirements to operate in the City, including, but not limited to, a business license.

C. Small Hauler Exclusion. No provision of this chapter shall apply to ~~any person a small hauler. This exclusion does not apply to any person that has obtained a building permit and is required to pay the demolition deposit under Section 15.02.085. Under no circumstances may a small hauler collect, transport or dispose of waste or construction debris that has not been generated by them and or does not legally belong to them. Small haulers shall not share, place waste or debris in a receptacle, dumpster or container of another person or business. All waste and debris must be handled and disposed in a manner compliant with all local, State and Federal laws related to solid waste diversion and construction and demolition debris. providing commercial solid waste handling services or conducting a solid waste enterprise if the total tonnage of solid waste collected, transported, stored, transferred, disposed of and/or processed by such person does not exceed three and a third (3 1/3) tons in any calendar month.~~ Any person qualifying for this exclusion shall meet all other requirements to operate in the City, including, but not limited to, a business license.

D. ~~Franchise Fee Government Entity~~ Exclusion. ~~Payment of franchise fees and environmental liability fund fees pursuant to Section 12.63.090 are waived under any contract approved by the City Council to provide commercial solid waste handling services for the City. (Ord. 2007-5 § 1 (part), 2007)~~ No provision of this chapter shall apply to any commercial solid waste handling services that meet all Federal and state laws related to solid waste diversion, construction and demolition debris and are contracted by a Federal, State, County, agency or the City.

