

**ADMINISTRATIVE RULES AND REGULATIONS
COMMERCIAL WASTE HAULING PROGRAM, CITY OF CINCINNATI**

The City of Cincinnati hereby promulgates these rules and regulations pursuant to Cincinnati Municipal Code (“CMC”) 730-27 for the effective administration and enforcement of the City's commercial waste franchise program. Every person, firm, or corporation engaged in the business of providing commercial waste collection services in the City of Cincinnati will be governed by the following rules and regulations. The commercial waste franchise program is administered by the Office of Environment & Sustainability (“OES”). Terms used herein shall have the same meanings as set forth in CMC Chapter 730.

Definitions.

All terms herein shall have the meanings as defined in CMC 730-1. The terms “Curbside Collection Service,” “Private Collection Service,” “Construction Collection Service,” and “Solid Waste Management Facility” shall have the following meanings for purposes of these rules and regulations:

- a. “Curbside Collection Service” shall mean commercial waste collection service provided for non-construction commercial waste and recyclable materials that are placed in containers (i.e., carts) at the curb or in the public right-of-way for collection, or bulk refuse not placed in containers.
- b. “Private Collection Service” shall mean commercial waste collection service provided for non-construction commercial waste and recyclable materials placed for collection in containers, such as an enclosed dumpster, in a designated area on private property.
- c. “Construction Collection Service” shall mean commercial waste collection service provided for construction and demolition debris, including clean hard fill and recyclable materials, that are placed for collection in containers, such as a roll-off box, on private property, in the public right of way under a permit, or direct-loaded into vehicles such as a dump truck.
- d. “Solid Waste management Facility” shall refer to municipal solid waste landfills, construction and demolition debris landfills, solid waste transfer facilities, construction and demolition debris processing facilities, legitimate recycling facilities, composting facilities, anaerobic digestion facilities, and scrap tire monofills/monocells.

Application.

Any person engaging in the business of providing commercial waste collection services in the City must obtain a franchise from the City to provide such services. A franchise may be obtained by responding to a request for services issued by the City, or by submitting an application to OES.

General Franchise Requirements.

All commercial waste franchisees must comply with the following requirements:

1. Control of Waste. The franchisee shall totally enclose and/or securely cover any commercial waste and recyclable materials that the franchisee transports within the City. The franchisee shall immediately, clean and remove any commercial waste that the franchisee spills on public or private property in the City.
2. Hours of Collection. During the hours of 11:00 p.m. to 7:00 a.m., franchisee shall refrain from engaging in commercial waste collection services and/or the collection of recyclable materials that produce loud noises so as to disturb the peace and quiet of the neighborhood, as set forth in CMC Section 729-85.
3. Equipment. All vehicles and waste containers used to provide commercial waste collection services and recycling services within the City shall be maintained at all times in a clean, sanitary, and neat condition, and in good repair. Graffiti on vehicles and waste containers shall be removed or covered within seven days of identification.
4. Waste Containers. Franchisees shall use waste containers (dump trucks, dumpsters, roll-offs, compactors, carts, etc.) that meet or exceed the requirements of ANSI Z245 and local building codes, and that comply with industry standards and norms.
5. Authentication. All of the franchisee's commercial waste and recyclable material collection vehicles shall bear the franchisee's name, current phone number, and identification number in letters that are at least two (2) inches tall. If provided, all commercial waste containers must display a City-issued decal.
6. Maximum Weight of Loaded Vehicles. The total gross weight of any loaded vehicle used by the franchisee on a City road shall not exceed the maximum gross weight allowed per vehicle under any applicable federal, state, or city law.
7. Prohibited Material. Franchisees shall take all reasonable measures to prevent prohibited materials, including infectious wastes, hazardous wastes, friable asbestos, or containerized or bulk liquids, from being collected, transported, or disposed of in a manner that poses a threat to human health, public safety, or the environment.
8. Delivery to Solid Waste Management Facility. If a franchisee collects, receives, transports, stores, or separates commercial waste that was generated within the City, the franchisee shall deliver such waste to a state-permitted solid waste management facility, which shall include as applicable municipal solid waste landfills, construction and demolition debris landfills, solid waste transfer facilities, construction and demolition debris processing facilities, and legitimate recycling facilities.
9. Receipts from Designated Solid Waste Management Facility. Upon request by the City, franchisee shall produce receipts or other documents demonstrating that all of the commercial waste collected by the franchisee in the City was delivered to a state-permitted solid waste management facility.

10. Waste Container Fees. A franchisee that offers waste containers to their customers may charge for such containers.
11. Recycling. Each franchisee shall offer to all of its customers recycling collection services that are at least equivalent to their commercial waste collection services. A franchisee may choose to subcontract these recycling collection services but must first obtain City approval. Recycled materials may include single stream, multi-stream, and beneficially reused construction and demolition debris. Recyclable materials are exempt from the franchise fee but are not exempt from the obligation to use legitimate recycling facilities, processing facilities, and permitted composting facilities, as applicable, and perform appropriate record keeping. Upon request of the City Manager, franchisee shall produce receipts or other documents demonstrating that all recyclable materials collected by franchisee in the City were delivered to a legitimate recycling facility, processing facility, or permitted composting facility.
12. Recycling Containers. Recycling containers shall meet the same general specifications as waste containers.

Curbside Collection Services.

The following additional requirements apply to any franchisee providing curbside collection services:

1. Collection Day. A franchisee that offers curbside collection service shall schedule weekly curbside collection provided to its customers outside the Central Business District on the same day as the City's trash collection day for each customer's service location. The franchisee may apply for an exemption to this requirement where the franchisee can demonstrate that compliance with this regulation causes undue hardship. Failure of the franchisee to timely collect a customer's commercial waste that is promptly placed at the curb for removal on the appropriate service day shall constitute a breach of the Agreement. The City shall have the right to collect from franchisee all costs associated with abating any conditions created by franchisee that result in a nuisance or other endangerment to public safety.
2. Bulk Refuse. All curbside waste collected, except for bulk refuse, must be in containers meeting applicable requirements. Bulk refuse means individual items that weigh more than 40 pounds, exceed 48 inches in length, or exceed 100 inches in overall dimension (the total length plus width plus depth), which cannot reasonably be divided or disassembled into smaller items. Bulk refuse is not a large container filled with smaller items or a large pile of small items.
3. Recycling. A franchisee offering curbside collection services shall offer recycling collection services that accept, at a minimum, the same metal, plastic, fiber and glass materials that are accepted by the City's curbside recycling program. Recycling must be offered to customers using the same container size and frequency of collection options as for waste; however, at a customer's request, franchisee may provide a different size of

recycling container or frequency of collection than it provides for waste. The franchise fee exemption shall apply to an entire container of mixed recyclables transported to and accepted by a legitimate recycling facility.

4. Yard Wastes. A franchisee offering curbside collection services may offer source separated yard waste collection services. Source separated yard wastes must be hauled to a state permitted composting facility. The franchise shall not commingle yard waste with any other waste. Yard waste hauled to and accepted by a state permitted composting facility is exempt from the franchise fee.

Private Collection Services.

The following additional requirements apply to any franchisee providing private collection services:

1. Public Right-of-Way. A franchisee offering private collection services shall not place a container in the public right-of-way.
2. Recycling. The franchise fee exemption shall apply to an entire container of source separated recyclables or mixed recyclables transported to and accepted by a legitimate recycling facility.
3. Scrap Tires. A franchisee offering private collection services may offer scrap tire collection services. If transporting more than ten scrap tires in the City, regardless of origin or destination of the load, then the franchisee must first register with Ohio EPA. Registration certificates may only be used by the employees of the franchisee listed on the registration. Scrap tire collection, storage and disposal facilities must comply with operational requirements contained in Ohio's scrap tire regulations. Disposal of scrap tires in Ohio can occur only at permitted and licensed scrap tire monofills or scrap tire monocells.
4. Yard Wastes. A franchisee offering private collection services may offer source separated yard waste collection services. Source separated yard wastes must be hauled to a state permitted composting facility. The franchise shall not commingle yard waste with any other waste. Yard waste hauled to and accepted by a state permitted composting facility is exempt from the franchise fee.
5. Food Wastes. A franchisee offering private collection services may offer source separated food waste and other biosolid waste collection services. Source separated biosolid wastes must be hauled to and accepted by a state permitted anaerobic digestion facility. The franchisee shall not commingle biosolid waste with any other waste. Biosolid waste hauled to and accepted by a state permitted anaerobic digestion facility is exempt from the Franchise Fee.

Construction Collection Services.

The following additional requirements apply to any franchisee providing construction collection services:

1. **Public Right-of-Way.** A franchisee offering construction collection services shall not place a container in the public right-of-way without first obtaining a City street dumpster permit.
2. **Recycling.** No franchise fee shall accrue for commercial waste collection services provided in connection with recyclable materials that are processed for return to commerce as a commodity for reuse in a beneficial manner. In the case of a container of source separated construction and demolition debris whose entire contents consist of recyclable materials that are returned to beneficial reuse will accrue no franchise fee. In the case of a container of non-separated construction and demolition debris whose contents only partially consist of recyclable materials returned to beneficial reuse, the franchisee must provide processing facility documentation establishing the percentage of materials that are processed for transportation and disposal to a municipal solid waste landfill for purposes of calculating the correct franchise fee. No franchise fee shall accrue for the percentage of materials that are processed for return to commerce as a commodity for reuse in a beneficial manner.

Franchise Fees.

1. **Billing.** Franchisee shall perform all necessary billing and collections associated with its commercial waste collection services. Franchisee shall not bill any customer at a higher rate than that appearing on the franchisee's request for proposal submission or completed franchise application. Franchisee may adjust billing rates and/or structure by submitting written notification and the effective date to the City no less than thirty (30) days prior to the effective date.
2. **Payment of Franchise Fees.** The franchisee is responsible for correct calculation of gross revenue and its application to customer rates. The franchise fee shall be equal to twenty (20) percent of the franchisee's gross revenues from the commercial waste collection services provided by the franchisee within the City as defined in CMC Section 730-17(c). The following examples are provided to illustrate correct and incorrect calculation of gross revenue:
 - a. Correct calculation: Franchisee charges \$100 for a roll-off and adds \$25 to the customer invoice, for a total of \$125. Franchisee will owe the City 20% of \$125, or \$25.
 - b. Incorrect calculation: Franchisee charges \$100 for a roll-off (the amount it expects to retain) and adds \$20 to the customer invoice to cover the franchise fee, for a total of \$120. Franchisee will actually owe the City \$24, or 20% of \$120, rather than \$20.
 - c. The incorrect example demonstrates the franchisee's unintentional loss of \$4 of the expected fee; the correct example illustrates recovery of the intended full amount.

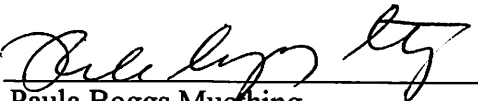
3. Franchise fee payments must be accompanied by a statement of the franchisee's gross revenues. The statement shall be submitted to the City's Finance Department, Treasury Division (The Office of the City Treasurer, Room 202, City Hall, Cincinnati, OH 45202) using the form "Commercial Waste Hauling Franchise Fees" (Attached).
4. Any amounts not properly remitted to the City due to calculation errors should be reconciled and remitted to the City in connection with each franchisee's annual independent audit.

Annual Audit.

1. Each franchisee shall file an annual report concerning the franchisee's total gross revenues for the year. The report must be submitted to the Office of Environment & Sustainability (Attn: Commercial Waste Program Manager, 801 Plum Street, Suite 130, Cincinnati, OH 45202) within one hundred twenty (120) days after the end of the franchisee's fiscal year.
2. Each franchisee shall include in their annual report total tonnage of commercial waste from within the City that was landfilled and total tonnage of material from within the City that was recycled.
3. Franchisee is also responsible for retaining a certified public accountant to perform an independent audit of the annual report and confirm that the franchisee's computations concerning gross revenues and franchise fees were performed in accordance with the requirements of CMC Chapter 730. The report of the certified public accountant shall state that its examination of the franchisee's records was performed in accordance with professional standards established by the American Institute of Certified Public Accountants or successor organization.

Violations.

Failure to comply with any part of CMC Chapter 730 is punishable as a Class D civil offense for each individual violation. The City may issue a fine of up to \$750 per occurrence. If a person has previously been found to have violated the same provision of the Cincinnati Municipal Code within one year that person may be charged as a second offender and receive a fine of up to \$1,250.

APPROVED: 
Paula Boggs Muething
City Manager

DATE: Oct 18, 2021