

Title 7

INTEGRATED WASTE MANAGEMENT

Chapters:

- 7.04 General Provisions**
- 7.08 Definitions**
- 7.12 Necessary Franchises and Permits**
- 7.16 Franchise Requirements**
- 7.20 Permit Requirements**
- 7.24 Solid Waste Collection Regulations**
- 7.28 Customer Rates**

NOTE: Footnotes are numbered throughout the text and are located at the end of this title.

GENERAL PROVISIONS

Chapter 7.04

GENERAL PROVISIONS

Sections:

- 7.04.010 Title and citation.**
- 7.04.020 Findings.**
- 7.04.030 Purpose.**
- 7.04.040 Enforcement—Penalties.**
- 7.04.050 Appeals to the council.**

7.04.010 Title and citation.

This title shall be known and may be cited as the "City of Sonora Integrated Waste Management Ordinance." (Ord. 692 § 4 (part), 1994.)

7.04.020 Findings.

Between 1989 and 1994 the county of Tuolumne has experienced insufficient revenues to adequately fund solid waste management, increased costs to meet state and federal mandates for environmental compliance and waste diversion, and illegal storage and disposal of solid waste. The County also faces the prospect of having no landfill for its residents to dispose of their solid waste. The Sonora city council finds, in order to preserve the environment and protect the health and safety and quality of life of the residents of the city, there is a need to provide for a stable, regular, efficient and adequately funded solid waste management system. The city also finds that it is necessary to regulate certain solid waste management issues to provide adequate solid waste management and recycling services as mandated by federal and state law, and to insure that those services are provided at affordable rates to the ratepayers. (Ord. 692 § 4 (part), 1994.)

GENERAL PROVISIONS

7.04.030 Purpose.

Pursuant to Division 30 of the Public Resources Code (sections 40000 et seq.), this title is adopted to provide for an integrated solid waste management system which shall preserve the public health, safety, welfare, convenience and necessity and provide for a stable revenue source with which the city and authorized service provider(s) may furnish adequate management of solid waste. (Ord. 692 § 4 (part), 1994.)

7.04.040 Enforcement—Penalties.

- A. Any person violating any of the provisions of this title shall be guilty of a misdemeanor and subject to a fine of up to one thousand dollars, imprisonment of up to six months or both. Each day a violation is committed or permitted to continue shall constitute a separate offense.
 - B. As an alternative to criminal enforcement, both the city and franchisee or permittee have the independent authority to civilly enforce any provision of this title. The city administrator may invoke these remedies, or any of them, whenever deemed appropriate.
 - C. A franchisee or permittee authorized to provide collection and transport of recyclables shall have authority to seek treble damages, to the same extent as a recycling agent, pursuant to California Public Resources Code section 41953.
 - D. Authority for the enforcement of this title shall be vested in the city administrator.
- (Ord. 692 § 4 (part), 1994.)

7.04.050 Appeals to the council.

A decision of the city administrator, expressly made subject to review under this section, shall be set for a hearing only upon a written request made to the city clerk, by an aggrieved person, not more than fifteen calendar days following the date of the decision being reviewed. The city clerk shall set the matter for hearing not

GENERAL PROVISIONS

more than sixty days following receipt of the written request and shall give written notice of the time, date and place of hearing to the appellant, applicant, permittee or franchisee as applicable and the city administrator. The entire matter shall be reviewed by the council relying solely upon evidence presented at the hearing. At the hearing the appellant shall have the burden of proof, unless provided otherwise. The council shall issue its decision within fifteen days after the close of the hearing on the appeal. The council may uphold, conditionally uphold, or revise the decision of the city administrator and shall return the matter to the city administrator for action in conformance with the council's decision. (Ord. 692 § 4 (part), 1994.)

Chapter 7.08

DEFINITIONS

Sections:

7.08.010	General rules for interpretation.
7.08.030	Buy-back recycling center.
7.08.050	Collection area.
7.08.060	Commercial customer.
7.08.070	Commercial solid waste.
7.08.080	Commercial service.
7.08.090	Customer.
7.08.100	Curb service.
7.08.110	Disposal.
7.08.120	Drop-off recycling center.
7.08.140	Franchise.
7.08.150	Franchisee.
7.08.160	Gross receipts.
7.08.170	Hazardous waste.
7.08.180	Industrial solid waste.

DEFINITIONS

7.08.190	Landfill.
7.08.200	Local enforcement agency or LEA.
7.08.210	Municipal solid waste or MSW.
7.08.220	Other service.
7.08.225	Person.
7.08.230	Permit.
7.08.240	Permittee.
7.08.260	Recycle/recycling.
7.08.270	Recyclables.
7.08.280	Recycling container.
7.08.290	Residential customer.
7.08.300	Residential service.
7.08.310	Segregated from other waste materials.
7.08.320	Solid waste.
7.08.330	Solid waste manager or city administrator.
7.08.340	Source separated.
7.08.350	Solid waste transfer or processing.
7.08.360	Waste container.
7.08.370	Yard service.

7.08.010 General rules for interpretation.

Unless the context otherwise requires, the following definitions set out in this chapter shall be used in the interpretation and construction of this title. (Ord. 692 § 4 (part), 1994.)

7.08.030 Buy-back recycling center.

“Buy-back recycling center” means a facility that pays a fee for the delivery and transfer of ownership to the facility of source separated materials, for the purpose of recycling or composting. (Ord. 692 § 4 (part), 1994.)

DEFINITIONS

7.08.050 Collection area.

“Collection area” means all those portions of the incorporated area in the city. (Ord. 692 § 4 (part), 1994.)

7.08.060 Commercial customer.

“Commercial customer” means any person who has established a commercial service account with a franchisee or permittee.

7.08.070 Commercial solid waste.

“Commercial solid waste” means municipal solid waste originating from stores, business offices, commercial warehouses, hospitals, schools, health care facilities, military installations, correctional institutions, nonprofit organizations, campgrounds, government offices or complexes of apartments, condominiums, townhomes or mobilehome parks which complex or park contains five or more units. (Ord. 692 § 4 (part), 1994.)

7.08.080 Commercial service.

“Commercial service” means commercial solid waste collection service or recyclables collection service provided by a franchisee or a permittee under this title to a commercial customer. (Ord. 692 § 4 (part), 1994.)

7.08.090 Customer.

“Customer” means any person requesting services and paying rates regulated by this title. (Ord. 692 § 4 (part), 1994.)

7.08.100 Curb service.

“Curb service” means collection of waste containers placed by the residential customer adjacent to a street. (Ord. 692 § 4 (part), 1994.)

DEFINITIONS

7.08.110 Disposal.

“Disposal” means the management of solid waste through transformation at a permitted solid waste facility or through landfill disposal. (Ord. 692 § 4 (part), 1994.)

7.08.120 Drop-off recycling center.

“Drop-off recycling center” means a location or facility which accepts delivery or transfer of ownership of source separated materials for the purpose of recycling or composting, without a monetary transaction. (Ord. 692 § 4 (part), 1994.)

7.08.140 Franchise.

“Franchise” means the authority and obligation to provide services specified in a valid franchise agreement entered into under this title. (Ord. 692 § 4 (part), 1994.)

7.08.150 Franchisee.

“Franchisee” means a person who operates under a franchise agreement with this city entered into pursuant to this title. (Ord. 692 § 4 (part), 1994.)

7.08.160 Gross receipts.

“Gross receipts” means all gross operating revenues received from the collection and transport of solid waste or recyclables within the city. (Ord. 692 § 4 (part), 1994.)

7.08.170 Hazardous waste.

“Hazardous waste” means the same as described in section 25117 of the California Health and Safety Code which at this time provides:

DEFINITIONS

- A. "Hazardous waste" means either of the following:
1. A waste, or combination of wastes, which because of its quantity, concentration or physical, chemical or infectious characteristics may either:
 - a. Cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness;
 - b. Pose a substantial present or potential hazard to human health or environment when improperly treated, stored, transported or disposed of, or otherwise managed.
 2. A waste which meets any of the criteria for the identification of a hazardous waste adopted pursuant to section 25141 of the Health and Safety Code.
- B. "Hazardous waste" includes, but is not limited to, RCRA hazardous waste.
- C. Unless expressly provided otherwise, the term "hazardous waste" shall be understood to also include extremely hazardous waste and acutely hazardous waste as defined in sections 25115 and 25110.02 of the Health and Safety Code.
- (Ord. 692 § 4 (part), 1994.)

7.08.180 Industrial solid waste.

"Industrial solid waste" means solid waste:

- A. As a by-product of the business of processing or manufacturing agricultural, animal or other products or materials;
- B. As a by-product of the business of building construction or demolition; or
- C. As ash from industrial boilers, furnaces and incinerators. (Ord. 692 § 4 (part), 1994.)

7.08.190 Landfill.

"Landfill" means a disposal site as defined by section 40122 of the Public Resources Code. (Ord. 692 § 4 (part), 1994.)

DEFINITIONS

7.08.200 Local enforcement agency or LEA.

“Local enforcement agency” or “LEA” means the county agency designated pursuant to Article 1, Chapter 2, Part 4 (commencing with section 43200) of the Public Resources Code as responsible for enforcement of state solid waste management minimum standards in the city. (Ord. 692 § 4 (part), 1994.)

7.08.210 Municipal solid waste or MSW.

“Municipal solid waste” or “MSW” means all solid waste generated at residences, commercial establishments, and institutions, including construction and demolition debris. (Ord. 692 § 4 (part), 1994.)

7.08.220 Other service.

“Other service” means collection of solid waste at any location mutually agreed to by the customer and franchisee or permittee, other than curb, yard and commercial service. (Ord. 692 § 4 (part), 1994.)

7.08.225 Person.

“Person” includes a public entity, except the city and any person engaged in activity sponsored by the city. (Ord. 692 § 4 (part), 1994.)

7.08.230 Permit.

“Permit” means the authority granted under this title for the activities described in Section 7.12.060. (Ord. 692 § 4 (part), 1994.)

DEFINITIONS

7.08.240 Permitee.

“Permitee” means a person holding a valid permit pursuant to this title. (Ord. 692 § 4 (part), 1994.)

7.08.260 Recycle/recycling.

“Recycle/recycling” means the process of collecting, sorting, cleansing, treating or reconstituting materials that would otherwise be 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” does not include transformation, as defined in section 40201 of the Public Resource Code. (Ord. 692 § 4 (part), 1994.)

7.08.270 Recyclables.

“Recyclables” means those materials that are normally part of the solid waste stream which have market value and can be segregated from other waste materials and recycled and/or composted. (Ord. 692 § 4 (part), 1994.)

7.08.280 Recycling container.

“Recycling container” means a container which is provided by, or acceptable to, the service providing franchisee or permittee for the sole purpose of containing recyclables that are source separated from the nonrecyclable portion of solid waste. (Ord. 692 § 4 (part), 1994.)

7.08.290 Residential customer.

“Residential customer” means any person who has established a residential service account with a franchisee or permittee. (Ord. 692 § 4 (part), 1994.)

DEFINITIONS

7.08.300 Residential service.

“Residential service” means municipal solid waste collection service or recyclables collection service for single-family residences, two-family residences (duplexes), three-family residences (triplexes), four-family residences (quadraplexes), mobile homes, trailers or other residential units as provided by a franchisee or permittee under this title to a residential customer. (Ord. 692 § 4 (part), 1994.)

7.08.310 Segregated from other waste materials.

“Segregated from other waste materials” means any of the following:

- A. The placement of recyclable materials in separate containers;
- B. The binding of recyclable material separately from the other waste material;
- C. The physical separation of recyclable material from other waste material.

(Ord. 692 § 4 (part), 1994.)

7.08.320 Solid waste.

“Solid waste” means:

- A. Except as provided in subsections B through D of this section, all putrescible and non-putrescible solid and semisolid and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, de-watered, treated or chemically-fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semi-solid wastes, and other discarded solid and semisolid wastes.
- B. “Solid waste” does not include hazardous waste or low-level radioactive waste regulated under Chapter 7.6 (commencing with section 25800) of Division 20 of the Health and Safety Code.
- C. “Solid waste” does not include medical waste which is regulated pursuant to the Medical Waste Management Act (Chapter 6.1

DEFINITIONS

(commencing with section 25015) of Division 20 of the Health and Safety Code). Untreated medical waste shall not be disposed of in a solid waste landfill as defined in the Public Resources Code section 46027. Medical waste which has been treated and which is deemed to be solid waste shall be regulated pursuant to Division 30 of the Public Resources Code.

- D. "Solid waste" does not include any waste material for which collection, transport or disposal is regulated by other provisions of law.

(Ord. 692 § 4 (part), 1994.)

7.08.330 Solid waste manager or city administrator.

"Solid waste manager" or "city administrator" means the city official or employee authorized by the council to provide specified administrative responsibility under this title. (Ord. 692 § 4 (part), 1994.)

7.08.340 Source separated.

"Source separated" means the segregation, by the waste generator, of materials designated for separate collection for some form of materials recovery, recycling or special handling other than being discarded as waste. (Ord. 692 § 4 (part), 1994.)

7.08.350 Solid waste transfer or processing.

"Solid waste transfer or processing" means receiving solid wastes, temporarily storing, separating, converting or otherwise processing the materials in the solid wastes, or transferring the solid wastes directly from smaller to larger vehicles for transport. "Solid waste transfer or processing" does not include any of the following:

- A. Where the principal function is to receive, store, separate, convert or otherwise process in accordance with state minimum standards, manure.

NECESSARY FRANCHISES AND PERMITS

B. Where the principal function is to receive, store, convert or otherwise process wastes which have already been separated for reuse and are not intended for disposal.

(Ord. 692 § 4 (part), 1994.)

7.08.360 Waste container.

“Waste container” means a container that conforms to specifications as otherwise provided in this code, in which solid waste is deposited. This does not include a recycling container in which recyclables are placed. (Ord. 692 § 4 (part), 1994.)

7.08.370 Yard service.

“Yard service” means collection of waste containers placed at a location mutually agreed to by the residential customer and franchisee or permittee which is not more than one hundred feet from a street. (Ord. 692 § 4 (part), 1994.)

Chapter 7.12

NECESSARY FRANCHISES AND PERMITS

Sections:

- 7.12.010 Collection area assignment.**
- 7.12.020 Franchise or permit—Required.**
- 7.12.030 Franchise—Right and obligation of franchisee in collection area.**
- 7.12.050 Exemptions.**
- 7.12.060 Permit—Issuance.**

7.12.010 Collection area assignment.

The council declares that the incorporated area of the city is the

NECESSARY FRANCHISES AND PERMITS

assigned collection area. The established collection area, once known as permit collection area, shall now be known as collection area. The boundaries of the collection area are the established city limits. (Ord. 692 § 4 (part), 1994.)

7.12.020 Franchise or permit—Required.

Unless exempt as provided in Section 7.12.050, no person shall, in the incorporated area of the city, engage in any of the following activities:

- A. Collection or transportation of solid waste in a collection area without a franchise or permit;
 - B. Collection or transportation of industrial solid waste inside a collection area without a permit;
 - C. Collection or transportation of municipal solid waste inside the collection area without a franchise;
 - D. Collection or transportation of recyclables without a permit.
- (Ord. 692 § 4 (part), 1994.)

7.12.030 Franchise—Right and obligation of franchisee in collection area.

Except for activities authorized by permit issued pursuant to Section 7.12.060 or exempt pursuant to Section 7.12.050:

- A. Within its collection area, a franchisee shall have the exclusive right and obligation to collect or transport all solid waste and recyclables generated within that area and for which service is requested by a customer, and the right to collect source separated recyclables placed by any person who is not a customer for collection by the franchisee. A franchisee, upon request of an applicant for a permit may waive its exclusive right hereunder, and the franchisee's obligation to provide the permitted service is deferred upon issuance of such permit; provided, however, the obligation is deferred only so long as a valid, unsuspended permit is outstanding and the permittee is actually providing the service.

NECESSARY FRANCHISES AND PERMITS

- B. As long as there is in force a franchise agreement for the collection of solid waste in the collection area, no further applications for franchises in that area will be accepted by the city; provided, however, applications will be accepted for a collection area if the existing franchise is suspended, or within one hundred eighty days prior to the expiration of the franchise agreement unless the franchisee has exercised any automatic renewal procedure contained within the franchise agreement, and further provided if an application is received, any competing applications must be submitted within forty-five days thereafter.

(Ord. 692 § 4 (part), 1994.)

7.12.050 Exemptions.

- A. Persons hauling solid wastes or recyclables from their residences, or solid wastes or recyclables produced in the course of their own business (including building contractors), or persons performing occasional hauling for others without compensation in excess of that which may be generated by such recyclable materials, shall not be required to obtain a franchise or permit but are required to use equipment and methods meeting the standards set forth in this title and other applicable codes, for collection and transport of such materials and are required to deliver solid wastes only to facilities identified and authorized by city.
- B. Persons collecting and transporting source separated recyclables for charitable purposes shall not be required to obtain a franchise or permit, but are required to use equipment and methods meeting the standards set forth in this title and other applicable codes, for collection and transport of such materials. However, the types and amounts of recyclables delivered to and from the city shall be reported by franchise operator annually.
- C. Nothing in this title shall inhibit, regulate or restrict any drop-off or buy-back recycling center from activities, including output from those centers, permitted by Public Resources Code section

FRANCHISE REQUIREMENTS

40000 et seq., as amended, and the "California Beverage Container Recycling and Litter Reduction Act of 1986."

D. A franchise that provides solid waste collection services shall not be required to obtain a permit to collect recyclables within their collection areas.

(Ord. 692 § 4 (part), 1994.)

7.12.060 Permit—Issuance.

A. The city administrator is authorized to issue permits as described in Section 7.12.020 pursuant to the procedure described in Section 7.12.020.

B. With respect to a permit under subsection A of Section 7.12.020, the city administrator is authorized to issue a permit to a person for providing collection and transportation of solid wastes for special circumstances, if the franchisee waives its exclusive right to the activity for which the permit is sought and a permit application is submitted pursuant to Chapter 7.20. The waiver must be in writing to the city administrator, with a copy to the council, and must describe the service being waived and whether the waiver is limited to any particular person or persons.

(Ord. 692 § 4 (part), 1994.)

Chapter 7.16

FRANCHISE REQUIREMENTS

Sections:

- 7.16.010 Franchise—Application contents.**
- 7.16.020 Franchise—Operating plan.**
- 7.16.030 Franchise—Operating plan contents.**
- 7.16.040 Franchise—Evaluation and approval—Hearing.**

FRANCHISE REQUIREMENTS

- 7.16.050 Franchise—Contents of agreement.**
- 7.16.060 Franchise—Recordkeeping, inspection and reporting.**
- 7.16.070 Franchise—Annual financial report.**
- 7.16.080 Franchise—Notification of enforcement.**
- 7.16.090 Franchise—Fee.**
- 7.16.100 Franchise—Transfer.**

7.16.010 Franchise—Application contents.

- A. Applications for a new franchise or modification of an existing franchise shall be made to the city administrator which shall include all the following information:
 - 1. Name and description of the applicant;
 - 2. Permanent home and business address and full local address of applicant;
 - 3. Facts showing that the applicant is able to render efficient service;
 - 4. Such other applicable facts or information as needed by the city administrator.
- B. The city administrator may, at his/her option, require photographing and fingerprinting of the persons making application.
- C. If an application is received for a new franchise, any competing applications must be submitted within forty-five days thereafter.
(Ord. 692 § 4 (part), 1994.)

7.16.020 Franchise—Operating plan.

Upon application for a franchise as provided for in this title, each applicant shall provide to the city administrator a franchise operating plan. An application for modification shall include only revisions to appropriate sections of the plan. (Ord. 692 § 4 (part), 1994.)

FRANCHISE REQUIREMENTS

7.16.030 Franchise—Operating plan contents.

The components of the operating plan, as specified in other parts of this title, may include any or all of the following:

- A. A detailed description of the manner in which the proposed service will be conducted, including an estimate of the various numbers of units of measure which describe the size and effect of the proposed service. Units of measure may include the number of households serviced by collection, number of users seeking service at a proposed facility, number of yards and density or tonnage of solid waste or recyclables as input and output for a proposed service. The detailed description must also contain the applicant's proposed arrangements for disposal of all solid waste collected or transported either to him/her or by him/her, or as a result of processing or handling, including solid wastes resulting from the collection and transport of recyclables, at an approved disposal site or his/her arrangements for other authorized disposal;
- B. A complete description of all trucks and equipment that the applicant owns or has under its control which it proposes to use for providing services under the requested franchise and the address or location and the zoning designations of the parcel or parcels where the trucks and operating equipment will be kept. This description of trucks and equipment must be augmented by evidence showing that the applicant owns or has under his control, in good mechanical condition, sufficient trucks and equipment to adequately conduct the business being proposed. The evidence may be provided in a manner such as an inventory of trucks and equipment which lists the year, make and model, license number, VIN or serial number, registered owner and working condition;
- C. A detailed cost projection for operating the applicable service, the profit margin estimated for that service and the cost and revenue basis for the profit margin. The plan shall be based on the projected services to all customers, at the current or anticipated service levels, on a monthly or annual basis. The cost and revenue estimates shall be based entirely on the services for

FRANCHISE REQUIREMENTS

which the application is made, and shall not include cost or revenues from any other services, except cost allocations for assets or labor shared with any other service or business may be included using generally accepted accounting principles. The revenue estimate shall include the proposed rates which will be applicable to all customers of the proposed service;

- D. A description of the recordkeeping systems to be used by the applicant to account for the types and quantities of materials to be included in the proposed service recorded separately from the types and quantities of materials included in other services which are not a part of the application;
- E. If the applicant is proposing or is obligated to provide residential or commercial recyclables collection services, the following shall additionally pertain to the plan:
 - 1. For residential services the plan must include a description of the means for source separation and collection and the estimated quantities to be collected annually of, at a minimum, the following recyclables:
 - a. Newspaper,
 - b. Cardboard,
 - c. Aluminum cans and containers,
 - d. Other metal containers including tin/steel cans,
 - e. Glass, and
 - f. Plastic.
 - 2. For commercial services the plan must include a description of the proposed means for source separation and collection and the estimated quantities to be collected annually, at minimum, of the following recyclables:
 - a. Newspaper,
 - b. Cardboard,
 - c. Office paper,
 - d. Construction and demolition debris and wood wastes.
 - 3. For commercial or residential recyclables collection services, a description of any and all actions to be taken in the event markets for each recyclables designated for collection become unavailable;

FRANCHISE REQUIREMENTS

- F. Identification of the collection area or modification of the collection area in which the applicant is requesting to operate. Such identification shall be in the form of a map depicting existing and proposed boundaries, accompanied by a written description;
- G. Presentation of all facts which the applicant believes will show that the public health, safety, welfare, convenience and necessity require the authorization of the requested activity;
- H. Any additional components required by the city administrator. (Ord. 692 § 4 (part), 1994.)

7.16.040 Franchise—Evaluation and approval—Hearing.

- A. Upon receipt of a completed application, including a franchise operating plan, the city administrator shall determine if the application and plan and proposed service conform to the requirements of this title. The city administrator shall determine whether the applicant has the necessary equipment and facilities to adequately provide the service applied for and if the applicant meets all the other requirements of this title. The city administrator shall forward the application and plan to the LEA for review and comment. Upon completion of the investigation, the city administrator shall recommend to the council that the application and plan be approved or denied for the requested franchise. If the recommendation is to approve the application or modification, a proposed franchise agreement also will be forwarded to the council for consideration during the public hearing provided for in subsection B of this section.

If the council overturns the recommendation of denial, it may approve, or approve with modifications, the application and plan and return the matter to the city administrator for negotiation of a proposed franchise agreement which will include the modifications determined by the council. A franchise shall be approved by the council only if it determines the public health, safety, welfare, convenience and necessity so require.

- B. The council shall hold a public hearing, after having given notice as provided in Government Code sections 66016 and 66018.

FRANCHISE REQUIREMENTS

Following the hearing the council may establish charges if it will further the purposes of this title.

(Ord. 692 § 4 (part), 1994.)

7.16.050 Franchise—Contents of agreement.

A franchise shall contain at least the following components:

- A. An identification of the collection area, if any, covered by the agreement;
- B. A description of the rights granted and the obligations assumed under the agreement;
- C. A requirement that the franchisee comply with the terms of the approved franchise operating plan;
- D. Adequate insurance to protect the city's interests;
- E. Adequate security to protect the city against financial losses if there is any failure or deficiency in performance by the franchisee;
- F. Provisions for the term of the agreement, renewal and termination;
- G. Hold harmless and indemnification provisions;
- H. A prohibition against assignment or transfer without the consent of the council;
- I. Provisions directing the delivery of waste by collection franchisees;
- J. Provisions allowing disposers and arrangers to select a disposal site, but if a less expensive (total cost) alternative exists, a customer rate reduction will be implemented unless consent for use of the more expensive site is granted;
- K. Franchise fees;
- L. Customer rates;
- M. Liquidated damages and other remedies for fee delinquencies and performance deficiencies;
- N. Dispute resolution and remedies;
- O. Provisions requiring operations to be consistent with the source reduction and recycling element;
- P. Provisions for buy-out. (Ord. 692 § 4 (part), 1994.)

FRANCHISE REQUIREMENTS

7.16.060 Franchise—Recordkeeping, inspection and reporting.

- A. The franchise operator shall maintain detailed books and records of all receipts and expenditures received or incurred in the operation of such business, including all fees collected for services rendered. The records shall include cost accounting components using generally accepted accounting principles reflecting the cost allocation of any assets or labor shared with services or businesses other than the service authorized by the franchise. Upon reasonable notice during normal business hours, the city, its officers and employees, authorized by the city administrator, shall be entitled to inspect, audit and copy such books and records including books and records of any business or service which shares assets or labor with the franchise operator. Items requested by franchisee to be considered confidential are subject to the public records act as it may be amended.
- B. The franchise operator providing recyclables collection services shall submit the annual recycling report described in Section 7.20.070. In addition, the report shall contain the following:
1. An estimate of the percentage of services (%P) participating in the recycling collection program and the basis for the estimate, defined as shown:
$$\%P = (\text{Services participating}/\text{total services}) \times 100;$$
 2. An estimate of the total percentage (%T) of the waste stream being diverted through the recycling collection program and the basis for the estimate, defined as shown:
$$\%T = (\text{Recyclables collected}/\text{total wastes collected}) \times 100;$$
 3. A summarized accounting of operational costs incurred in the performance of collection, processing and marketing of recyclables including the cost of recycling containers, collection methods, etc.;
 4. A summarized accounting of revenues received from the sale of recyclables;
 5. Statement of net operating profits or losses (Net) from the recycling operations, defined as follows:

FRANCHISE REQUIREMENTS

Net = Revenue from sales - operational costs.
(Ord. 692 § 4 (part), 1994.)

7.16.070 Franchise—Annual financial report.

- A. A franchisee, at its expense, shall annually provide the city administrator, at his/her option, with a copy of a reviewed financial statement or an unqualified audit within one hundred twenty days after the close of its fiscal year. The reviewed financial statement or unqualified audit shall be prepared by a certified public accountant or licensed public accountant. The accountant shall be independent of the franchisee and shall have no financial interest whatsoever in the business of the franchisee. The city finance director or designee shall specify the form and detail of either the annual reviewed financial statement or unqualified audit. In the event of failure to provide any such report, the administrator may employ a qualified accountant to prepare the report and the franchisee, in such case, shall be liable for and pay the costs and expenses incurred.
- B. The city administrator shall review the financial information and if it appears a rate modification may be in the public interest, a recommendation may be forwarded to the city pursuant to Chapter 7.28. Additionally, the city administrator may recommend any modification to the franchise agreement as provided therein.

(Ord. 692 § 4 (part), 1994.)

7.16.080 Franchise—Notification of enforcement.

- A. If the franchisee is found to be in violation of any of the provisions of this title, the city administrator shall notify the franchisee of such violation in writing. The franchisee shall respond in writing to the city administrator within five working days of receipt of the complaint and shall address the complaint to the satisfaction of the administrator. The city administrator may, from time to time, extend to the franchisee additional time necessary to rectify

PERMIT REQUIREMENTS

the complaint. This remedy shall be in addition to any other enforcement provisions contained in the franchise agreement or this title.

- B. Upon written notification by the city administrator that its obligation to provide services under Section 7.12.030(A) is no longer deferred, the franchisee shall, within seven days, commence providing the service.

(Ord. 692 § 4 (part), 1994.)

7.16.090 Franchise—Fee.

The franchisee shall pay an annual fee on or before July 1st of each year in an amount set forth by city resolution. In addition to the annual fee, the franchisee shall pay a franchise fee as provided in the franchise agreement. The franchise fee may be reviewed and modified by the council from time to time upon recommendation of the city administrator after a public hearing thereon pursuant to Section 7.16.040(B). (Ord. 692 § 4 (part), 1994.)

7.16.100 Franchise—Transfer.

A franchise is considered to be in the nature of personal services contract on behalf of the citizens of the city, and cannot be transferred or assigned without the written consent of the council. (Ord. 692 § 4 (part), 1994.)

Chapter 7.20

PERMIT REQUIREMENTS

Sections:

- 7.20.010 Permit—Application contents.**

SOLID WASTE COLLECTION REGULATIONS

7.20.010 Permit—Application contents.

Applications for a new permit or modification of an existing permit shall be in the same manner as provided in Section 7.16.010. Applications for permits within the collection area will only be considered after the city administrator receives the waiver as per Section 7.12.060(A). (Ord. 692 § 4 (part), 1994.)

Chapter 7.24

SOLID WASTE COLLECTION REGULATIONS

Sections:

- 7.24.010 Collection requirements.**
- 7.24.020 Collection equipment standards.**
- 7.24.030 Vehicle identification.**
- 7.24.050 Privacy act.**
- 7.24.090 Maintenance of storage containers.**
- 7.24.100 Headquarters and telephone listing requirements.**
- 7.24.110 Customer complaints.**
- 7.24.120 Firm name and telephone number required on all commercial containers.**
- 7.24.130 Service to be provided when requested.**
- 7.24.140 Denial of service for failure to pay bill or noncompliance.**
- 7.24.150 Billing—Required information—Method of collection.**

7.24.010 Collection requirements.

Franchisee and permittees shall conform with the approved franchise or permit operating plan, including the following conditions:

SOLID WASTE COLLECTION REGULATIONS

- A. Except as provided in subsection B of this section, the franchisee and permittee providing MSW collection shall provide not less than one regular weekly collection of solid wastes to all residential customers and, unless otherwise ordered by the health officer (LEA), not less than one regular weekly collection of solid wastes to all commercial customers.
- B. Recyclables which have been source separated and properly stored or contained may be collected less frequently than weekly, as agreed to by the franchisee or permittee and the residential or commercial customers.
- C. No franchisee or permittee shall collect solid wastes or recyclables within the residential areas earlier than six a.m. nor later than seven p.m. or on Sundays, except in emergencies or with the approval of the city administrator, which may be given under unusual circumstances and subject to appropriate conditions on a temporary or permanent basis.
- D. At a minimum, MAW collection services provided by franchisee shall be as follows:
 - 1. Curb service;
 - 2. Yard service;
 - 3. Commercial service; and
 - 4. Other service.
- E. Any service for the collection or transportation of solid wastes within a collection area must have a rate established pursuant to Chapter 7.28.

(Ord. 692 § 4 (part), 1994.)

7.24.020 Collection equipment standards.

All equipment used for the collection or transportation of solid wastes or recyclables, including wet or liquid-producing materials or materials composed of fine particles, by any person, shall be nonabsorbent, leak-resistant, durable, easily cleaned and designed for safe handling, and constructed to prevent loss of wastes or recyclables from the equipment during collection and transportation. All solid waste collections shall be made as quietly as possible and

SOLID WASTE COLLECTION REGULATIONS

noise abatement shall be a consideration of vehicle and equipment inspections and approval. All equipment shall be maintained in good condition and cleaned in a frequency and in a manner so as to prevent the propagation or attraction of flies, rodents or other vectors and the creation of nuisances. (Ord. 692 § 4 (part), 1994.)

7.24.030 Vehicle identification.

All equipment shall be clean, sanitary and clearly marked on each side with the truck number, name and telephone number of the franchisee or permittee. (Ord. 692 § 4 (part), 1994.)

7.24.050 Privacy act.

Other than as necessary to accomplish authorized load checking, franchisees and permittee collecting MSW or recyclable from residential or commercial customers shall not invade the privacy of the disposer by exploring the discarded material. Neither shall the franchisee or permittee harass or embarrass the disposer by publicly displaying items found by the franchisee or permittee in the disposer's discarded material. (Ord. 692 § 4 (part), 1994.)

7.24.090 Maintenance of storage containers.

Where the franchisee furnishes reusable storage containers for solid wastes or recyclables, the franchisee is responsible for maintaining the containers in good condition, ordinary wear and tear excepted, unless the containers were furnished under other terms, conditions or agreements in which event the person so obligated shall provide the required maintenance. (Ord. 692 § 4 (part), 1994.)

7.24.100 Headquarters and telephone listing requirements.

Franchisee shall maintain a fixed headquarters and telephone listed in the franchisee's or permittee's business name. The franchisee shall, during usual business hours of each day, except weekends

SOLID WASTE COLLECTION REGULATIONS

and holidays, have a competent adult person available to answer inquiries and receive complaints from the public. The telephone shall be on an exchange so as to be toll free to residents of the area served by the franchisee, and shall be listed in the telephone book of the area served. The franchisee shall notify the city administrator in writing within seven days after any change in business name, address or telephone number. (Ord. 692 § 4 (part), 1994.)

7.24.110 Customer complaints.

The franchisee shall establish a process for receiving and acting upon customer complaints. The franchisee or permittee shall inform customers of the procedure for filing a complaint and shall provide forms for such purpose. The franchisee shall maintain, at their headquarters, a record of all customer complaints filed, including the date and time of complaint; the name, address, telephone number and nature of such complaint; date of action and disposition of the complaint so that they will be available for review by the city administrator and/or health officer at all reasonable times. All inquiries and complaints shall be promptly answered and dealt with to the satisfaction of the city administrator and/or health officer. (Ord. 692 § 4 (part), 1994.)

7.24.120 Firm name and telephone number required on all commercial containers.

Every franchisee shall place and maintain on the outside of all owned commercial containers of one cubic yard capacity or larger, in legible letters and numerals, not less than two inches in height, the franchisee's or permittee's firm name and telephone number. Every franchisee shall at all times keep such containers and lids in good repair, painted so as to be uniform in appearance and maintained in a clean and sanitary condition. (Ord. 692 § 4 (part), 1994.)

SOLID WASTE COLLECTION REGULATIONS

7.24.130 Service to be provided when requested.

Unless deferred pursuant to Section 7.12.030(A), a franchisee shall provide solid waste collection and transport service to any customer located within the collection area if such service is requested. Upon request of any person seeking services within a collection area, the franchisee shall promptly submit an application for modification pursuant to Chapter 7.16 to establish a new service and rate. (Ord. 692 § 4 (part), 1994.)

7.24.140 Denial of service for failure to pay bill or noncompliance.

- A. The franchisee may deny service to any customer by reason of the failure of the customer to pay his/her charges as authorized by this title. After giving fifteen days' written notice to the customer to comply, the franchisee shall notify the customer, in writing, of any service refusal with written notification to the customer, the LEA and the city administrator.
- B. A franchisee may deny collection of some solid waste or recyclable if:
 - 1. The solid waste contains hazardous wastes;
 - 2. The solid waste deposited in containers or the placement of the containers does not comply with specifications as otherwise provided in the code;
 - 3. The waste containers are loaded in excess of the approved weight as provided in specifications otherwise provided in the code;
 - 4. The recyclable contains solid waste or other nonrecyclable material;
 - 5. The recyclables are not deposited in recycling container, or the placement of the container does not comply with specifications as otherwise provided in the code;
 - 6. The recycling or waste containers are not loaded properly, or are not placed for safe handling and pickup;
 - 7. The solid waste is not properly containerized as provided in specifications otherwise provided in the code;

CUSTOMER RATES

8. Any material placed for collection is not acceptable at a facility to which the material is destined.
- C. In such cases where the franchisee denies collection of solid waste or recyclable, the franchisee must leave a note, card, label or tag in a conspicuous location that describes the reasons the container could not be collected.
- (Ord. 692 § 4 (part), 1994.)

7.24.150 Billing—Required information—Method of collection.

- A. The franchisee shall send out a detailed notice on all solid waste collection rates to all customers within the applicable collection areas at least once each year.
- B. The franchisee shall send out a detailed notice on all proposed rate changes made pursuant to Chapter 7.28 to all customers within the applicable collection areas.
- C. The residential and commercial solid waste charges established by resolution of the council shall be billed and collected by the franchisee.
- (Ord. 692 § 4 (part), 1994.)

Chapter 7.28

CUSTOMER RATES

Sections:

- 7.28.010 Franchise—Charges to customers.**
7.28.020 Franchise and permits—Rate modification.

7.28.010 Franchise—Charges to customers.

The franchise operator may charge rates for services that do not

CUSTOMER RATES

exceed those approved by the council pursuant to Chapter 7.16, or as modified pursuant to Section 7.28.020. (Ord. 692 § 4 (part), 1994.)

7.28.020 Franchise and permits—Rate modification.

Rates may be modified as provided below:

- A. If any charges are modified by the council for solid waste services necessarily used by a franchisee in providing services, the city administrator may approve, in writing, an appropriate rate modification. If the proposed modification will result in an increase, each franchisee must make application in writing to the council and include updated information as provided by Section 7.16.030(C). The city administrator shall (within thirty days of receipt of all information necessary to evaluate the request) refer the matter to the council for consideration after a hearing pursuant to Section 7.16.040(B).
- B. Any franchisee may petition the council for, or the council on its own motion may initiate, a modification of the rates. A petition may not be submitted more than twice in the first year of the franchise, or the first year in which charges are established for services provided under a permit, and once per year during subsequent years, unless the modification request is based on waste disposal costs over which the franchisee or permittee has no control and that were or will be incurred as a result of some action of a public entity. The council shall hold a hearing pursuant to Section 7.16.040(B). After considering all of the evidence at the hearing, the council may modify the rates.

(Ord. 692 § 4 (part), 1994.)