

**Article 5. Franchises.**

**Section 6-17.501. Franchise Required; Exceptions.**

- (a) *Requirement.* No Person shall collect, handle, transfer, store, process, Transport or use Discarded Materials (including Recyclable Materials and C&D) in the unincorporated area of the County without first receiving a franchise to engage in such activity from the County.
- (b) *Exceptions.* The provisions of this Section shall not apply to any of the following:
  - (i) To any Solid Waste enterprise that the County has authorized, by franchise, contract, license, or permit, to provide Solid Waste handling services, so long as those services have been lawfully provided for more than three previous years. If the exception set forth in this subsection (i) is applicable, the qualifying enterprise shall comply with all of the requirements of this Chapter, including but not limited to those provisions relating to the frequency and quality of Collection service, as they may be amended from time to time. Any such enterprise shall have no right to expand its services to include, or to contract to expand its services to include, additional Single Family, Multi-Family, or Commercial Premises following receipt of the notice provided for in Public Resources Code Section 49520 unless otherwise stated therein. This exception shall expire upon the date set forth in any such notice, which shall be no sooner than as provided in Public Resources Code Section 49520.

- (ii) Any Persons Transporting Discarded Materials from their Premises in a manner that is exempt from this Chapter, as provided by Section 6-17.301.
- (iii) Any Person Transporting Discarded Materials, but not including garbage, from his own Premises to the County Landfill or other appropriate Disposal area on an occasional basis. By way of example, this may include occasional trips to Dispose of Yard Trimmings or other bulky household items too large to be placed in a Discarded Materials Container for Collection.
- (iv) The removal of Discarded Materials (including C&D Debris) by a contractor whose removal thereof is incidental to other services being performed for the Owner or Occupant, provided such removal is performed for no additional or separate fee using equipment belonging to the contractor.
- (v) The removal of any materials generated by public schools, cities, the County, or federal facilities (with the exception of those facilities subject to 42 U.S.C. section 6961(a)).

**Section 6-17.502. Franchises – Exclusivity and Non-Exclusivity.**

- (a) *Generally.* Within the Densely Populated Area, all Single-Family residences are included in an exclusive franchise area that is referred to at times in the Chapter as the Exclusive Single Family Collection Area. Within an Exclusive Single-Family Collection Area, only a Franchisee with exclusive rights or, if none exists, other enterprise that is authorized to provide Collection services under Section 6-17.501 may provide Discarded Materials Collection services to Single-Family residences. The County will not grant exclusive franchise rights to serve any other Residential (i.e., Multi-Family) and Commercial Premises in the unincorporated area, regardless of whether such Residential or Commercial Premises are located in a Densely Populated Area. Accordingly, all areas other than the Exclusive Single-Family Collection Area are considered Non-Exclusive franchise Areas, which may be served by any entity with a County franchise or other enterprise that is eligible to provide Collection services under this Chapter.
- (b) *Maps.* The Department of Planning and Public Works shall maintain a map or maps of the unincorporated are that reflect the boundaries of the Densely Populated Area and all Exclusive Single Family Collection Areas. Such map or maps shall be provided to any Person for review upon request, and may be posted on the internet other otherwise made readily available for public review.
- (c) *Alterations.* The Board of Supervisors reserves the right to adjust the boundaries of the Densely Populated Area(s) and the Exclusive Single-Family Collection Area(s) from time to time, in its sole discretion.

**Section 6-17.503. Franchise Application Process.**

Franchises shall be granted by the Board of Supervisors in the following manner. These requirements may be waived or modified by the Board of Supervisors in appropriate circumstances, in its sole discretion:

- (a) The Department of Planning and Public Works shall prepare a request for proposals and submit it to the Board of Supervisors for approval. The request for proposals shall include, at a minimum:
  - (i) A detailed specification of the scope of services to be provided;
  - (ii) A detailed cost proposal form;
  - (iii) A request for background and qualifications relevant to the type of services to be provided;
  - (iv) A request for detailed criminal history of (1) each Person, firm or entity that submits a response to the request for proposals; and (b) where the responding party is a firm or entity, of each Person who owns 10 percent or more of the shares of stock, assets, or other interest in the entity. If requested by the County, the applicant shall also submit such additional information, including consent to a background check and agreement of the applicant to pay all related costs, as may be necessary to fully investigate the potential criminal history of those Persons and entities subject to this subsection;
  - (v) Requirements for compliance with all relevant County policies, including but not limited to polices relating to non-discrimination;
  - (vi) A list of all permits or franchise authorizing similar Collection and Disposal services in other jurisdictions, together with a detailed description of the nature of the applicant's business activities and such other information as the applicant deems relevant for consideration
  - (vii) A copy of a draft franchise agreement, as approved by the County Counsel, with the terms stated in Section 6-17.504 below, and such additional terms and provisions as may be appropriate;
  - (viii) The time, date, and place for the opening of sealed proposals;
  - (ix) The criteria that will be used to evaluate proposals; and
  - (x) Any other relevant information, including but not limited to a request for a plan of operations.
- (b) Once approved by the Board of Supervisors, the request for proposals shall be published one a week for two successive weeks in a newspaper of general

circulation in the County. The first such publication shall be at least four weeks prior to the date given for the opening of sealed proposals. In addition, the Department may take any other reasonable steps to advertise the availability of the request for proposals, including internet postings, publication of notice in trade journals and publications, and similar methods.

- (c) Proposals shall be opened by the Director of Planning and Public Works or designee, in public, at the time and place designated in the notice to proposers. Proposals received after the time so specified shall not be accepted and shall be returned unopened to the Person, firm or entity submitting such late proposal.
- (d) In evaluating proposals, the Department shall convene a panel of evaluators, which shall at a minimum include the Director or designee. Utilizing criteria specified in the request for proposals, the panel shall evaluate and score the proposals, and shall upon completion of the evaluation process provide a written recommendation to the Board of Supervisors as to the responsible and qualified proposer whose proposal provides Collection service at the lowest cost. A written notice of the panel's recommendation shall be provided to all proposers. Except as provided otherwise in this section, the Board of Supervisors shall, within the time specified in the request for proposals, select as the Franchisee the responsible and qualified proposer whose proposal provides Collection service at the lowest cost.
- (e) The Board of Supervisors may reject all proposals, and may thereafter instruct the Director to take such further action as the Board may direct, including but not limited to engaging in negotiations with one or more firms, Persons or entities, or issuing a revised request for proposals in accordance with the procedures specified in this article. The Board of Supervisors may also, in its discretion, waive any minor irregularities contained in a proposal.
- (f) Notwithstanding any other provision of this section, the Board of Supervisors may, upon finding that it is in the best interests of the county and upon a vote of two-thirds of the Board, waive the competitive process required by this Section and may instruct the Director to take such further action as the Board may direct, including but not limited to engaging in negotiations with one or more firms, Persons or entities, or engaging in such other process as the Board may specify.

**Section 6-17.504. Franchise Agreements – Required Terms.**

All franchise agreements shall include the following terms, which are the basic terms on which the County is willing to enter into a franchise agreement under this Chapter:

- (a) *Grant and Acceptance of Franchise.* Each franchise agreement shall contain provisions that set forth the offer a franchise for Discarded Materials, Recyclables, C&D, or similar services, and the acceptance thereof by the Franchisee, together with all geographic and other limitations on the exercise of franchise rights.

- (b) *Term.* The duration of each franchise agreement shall be stated.
- (c) *Scope of Agreement.* Each franchise agreement shall identify the scope of the services to be provided by the Franchisee, including whether such services are to be provided on an exclusive or non-exclusive basis, the materials covered by such services (i.e., Discarded Materials, Recyclables, C&D, and other materials), the Collection area or areas of the franchisee, appropriate Disposal locations, and other similar matters relating to the Collection, Transportation, and Disposal services to be provided by the Franchisee.
- (d) *Public Education and Billing.* At a minimum, each franchise agreement shall provide for the Franchisee to prepare and distributed information to its Customers describing how to prepare material covered by the franchise for Collection, materials that are excluded from Collection, and related matters.
- (e) *Performance Standards.* Each franchise agreement shall specify the hours of Collection, the manner in which Containers, Carts, binds, Drop Boxes, or Compactors will be serviced, employee training, Franchisee responsibility for vehicle appearance, leaks, and related matters, and Hazardous Waste inspection and handling.
- (f) *Record Keeping and Reporting.* Each franchise agreement shall require the Franchisee to maintain accurate accounting, statistical, and other records relating to services provided under the franchise, report submittal requirements, and related matters.
- (g) *Franchise Fees and Administrative Charges.* Each franchise agreement shall state the amount of the franchise fee to be paid by the Franchisee as consideration for the contractual right to provide the services covered by the franchise agreement in the unincorporated area. In addition, each franchise agreement shall state the amount of the administrative fee to be paid by the Franchisee to compensate the County for its costs and expenses relating to the administration of the franchise. All franchise agreements shall also contain procedures for the adjustment of these fees from time to time.
- (h) *Indemnity, Insurance, and Bonding Requirements.* Each franchise agreement shall contain appropriate indemnity and defense provisions, insurance requirements, and performance bond requirements.
- (i) *Default.* Each franchise agreement shall identify the events that constitute a default thereunder, as well as the remedies available to the non-defaulting party.

**Section 6-17.505. Rates for Services.**

Rates and charges for Discarded Materials, Recyclables, and other services performed pursuant to this Chapter shall be as prescribed in the contracts between the County and authorized Franchisees for services provided in Exclusive Single-Family Collection Areas. In all other areas, authorized Franchisees may charge any reasonable amount for services provided to

subscribers, so long as such rates and charges do not exceed maximum rates established by the Board of Supervisors.

**Section 6-17.506. Billing Procedures and Practices.**

All subscribers of services provided by a County Franchisee will be billed directly by that Franchisee. Such bills may be paid by check, cash, or credit card. For periods of vacancy when a subscriber will not require any services from a County Franchisee, the subscriber may request a temporary discontinuation of service and related charges. Any such discontinuation will take effect after an initial vacancy period of 30 days and, unless the Franchisee agrees otherwise, will be for a minimum period of 30 days.

**Section 6-17.507. Delinquent Accounts; Liens.**

Any account with unpaid charges for one year or longer shall be considered a delinquent account. At the request of a County Franchisee, and upon the submission to the County of appropriate information demonstrating that an account is delinquent, the County will send a letter to the Owner of the property with the delinquent account and request payment within 30 days. If complete payment is not received by the County within 30 days, the County shall place a lien on the property in accordance with Government Code Section 25828, and proceed to collect any unpaid amounts in the manner set forth therein. All amounts collected by the County pursuant to this Section shall be remitted in full to the Franchisee, less any offset for amounts due the County from that Franchisee.

**Section 3. Severability.**

If any section, sub-section, sentence, clause, or phrase of this ordinance is held by a court of competent jurisdiction to be invalid, such decision shall not affect the remaining portions this Ordinance. The Board of Supervisors hereby declares that it would have passed this Ordinance, and each section, sub-section, sentence, clause, and phrase hereof, irrespective of the fact that one or more sections, sub-sections, sentences, clauses, and phrases be declared invalid.

**Section 4. Effective Date.**

This Ordinance shall take effect and be in force thirty (30) days after its passage, and prior to expiration of fifteen (15) days after its passage thereof, shall be published by title and summary only in the Daily Democrat together with the names of members of the Board of Supervisors voting for and against the same.