

**ARTICLE 2: General Regulations**

- 12-2.1 Mandatory collection service; Exceptions.
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**12-2.1 Mandatory collection service; Exceptions.**

- a.** Mandatory collection service. It is mandatory that:
- each owner or occupant of a residence subscribe with the franchisee for collection of solid waste, recyclable materials and green waste; and
  - each commercial use subscribe with the franchisee for collection of solid waste, recyclable materials and green waste.

The only exceptions are set forth in subsection b below. Subscription rates are established by city council resolution.

No person may contract with and pay anyone other than franchisee for the collection of residential or commercial solid waste or recyclable materials, or residential green waste.

**b.** Exceptions. Following are the exceptions to the mandatory subscription requirement. Exceptions must be approved in writing by the city manager, based on a written request, and renewed periodically after the period of time established in each case by the city manager. A customer is not required to subscribe for the service during the period of time for which the exception is granted. When an exception applies, the premises must be kept in a sanitary condition which does not cause a nuisance to others.

1. Single-family residential. Upon request of the owner or occupant, the city may grant an exception to the subscription requirement, rendering the owner or occupant eligible for a reduced level of service, if:
  - (a) No solid waste is being generated on the premises; or
  - (b) Green waste is composted on site. Upon the request of the owner or occupant, the city may grant an exception when green waste is composted on site. To qualify, the applicant must have proof of attendance at a composting class in the city (or another city in Contra Costa County), have the green waste container removed from the premises by franchisee, and be subject to periodic inspection by the city. If this exception is granted, the subscription rate shall be reduced by the amount specified in the franchisee's rate schedule.

~~2.~~ Multi-family residential. Upon request of the owner or occupant, the city may grant an exception for a multi-family residential building, as to green waste collection only, if green waste is removed from the premises by a gardening, landscaping or tree trimming contractor as an incidental part of a total service offered by that contractor rather than as a transportation or disposal service. The property for which the exception is granted is subject to periodic inspection by the city.

~~3.~~ Commercial. Upon request of the business owner, the city may grant an exception for a business use for one or both of the following, subject to periodic inspection by the city:

(a) as to the mandatory recycling requirement, based on evidence of insurmountable site constraints or the absence of recyclable materials generated at the business location.

(b) as to green waste collection if green waste is removed from the premises by a gardening, landscaping or tree trimming contractor as an incidental part of a total service offered by that contractor, rather than as a transportation or disposal service.

#### 12-2.2 Ownership of solid waste, green waste, recyclables; Disposal by owner.

a. Ownership. The waste generator owns the solid waste, recyclable materials and green waste until it is placed in a container for collection. Once the solid waste, recyclable materials or green waste is placed in the collection container at the curbside, it becomes the property of the franchisee. The city reserves the right to assert ownership or right to possession of solid waste, recyclable materials or green waste placed for collection, if it determines the franchisee is in breach of the franchise agreement.

b. Disposal by owner. A resident or business owner may dispose of solid waste, recyclable materials or green waste generated at their own premises with their own vehicle, in lieu of availing themselves of the services of franchisee. (*Waste Management v. Palm Springs Recycling Center, Inc.*, 1994, 7 Cal. 4<sup>th</sup>478, 28 Cal. Rptr. 2d 461.) A waste generator disposing of its own solid wastes shall dispose of solid wastes at a landfill, materials recovery facility, processing facility, or recycling center. However, a resident or business owner may not employ another to dispose of solid waste, recyclable material or green waste.

A resident or business owner who disposes of his or her own solid waste, recyclable materials or green waste under this section does not receive a reduction in the subscription rate, unless a specific exception applies under section 12-2.1b. A commercial business owner who disposes of recyclable material or green waste is encouraged to identify the city at the disposal location where material is disposed of, in order that the city receives credit toward its diversion requirement.