

Town Hall

Commercial Waste Franchise Program

March 14, 2024

11AM to 12PM

Participant Notices

Recording> ON

Q&A> ON

Microphones> OFF

Cameras> OFF

Reactions> OFF

Chat> OFF

Guidance Only>THIS TOWN HALL DOES NOT
REPLACE OR SUPERCEDE ENACTED
LEGISLATION.

Presenter: Howard Miller
Meeting Assistant: Jennifer Ballard

Agenda

- 1) City Staff Introductions
- 2) Stakeholder Q&A
- 3) Notice of Additional Program Sources of Information
- 4) Brief Commercial Waste Program History
- 5) Program Applicability to You
- 6) Primary Intentions of Program Changes
- 7) Key Program Rules Not Changing
- 8) Key Program Rules That Are Changing
- 9) Program Change FAQ's
- 10) Next Steps
- 11) Thank You

Introductions and Welcome

Environmental Manager for the
City of Cincinnati, Office Of Environment and
Sustainability

Oversee Three Focus Areas: Resilience and Climate
Adaptation, Natural Environment, and Zero Waste

Commercial Waste Franchise Program Lead

With Help and Many Thanks To: Jennifer Ballard



Howard Miller

Stakeholder Q&A

There are two primary ways to submit questions and comments to the City regarding the draft program changes:

1. During this Town Hall. Use the Teams Q&A Function.
2. During and after this Town Hall through March 21st email Howard.Miller@cincinnati-oh.gov and Jennifer.Ballard@cincinnati-oh.gov

Responses will be posted on the program's webpage:

<https://www.cincinnati-oh.gov/oes/commercial-waste-hauler-program/>

Notice of Additional Resources

Located On The Commercial Waste Franchise Program Webpage:

- *History*
- *Important Definitions*
- *Current Franchise Holders Contact List*
- *Complete Draft of Program Legislative Amendment*
- *Franchise Application and Other Forms*
- *Link to Cincinnati Municipal Code (CMC) Chapter 730*
- *Link to Program Administrative Rules and Regulations*
- *Frequently Asked Questions (FAQ)*
- *Town Hall Follow Up*

<https://www.cincinnati-oh.gov/oes/commercial-waste-hauler-program/>

Program History

*Since **January 2013**, CMC Section 730-5 has made it unlawful for any person to provide services related to the collection and disposal of commercial waste within the City of Cincinnati without first obtaining a franchise and entering a franchise agreement with the City.*

*The commercial waste hauler program was expanded on **October 1, 2020** to include **commercial construction and demolition debris**. It is unlawful to collect and dispose of commercial construction and demolition debris within the City of Cincinnati without first obtaining a franchise and entering a franchise agreement with the City. This includes construction and demolition contractors that service commercial waste.*

Current Program Applicability: Construction and Demolition Debris

What IS Commercial Construction Waste?

- ✓ Waste From All New Building Construction Sites
- ✓ Waste From Renovation of Any Commercial Property
- ✓ Demolition Debris from All Structures Except 1 to 3 Family Residential Dwellings

Current Program Applicability: Construction and Demolition Debris

What **IS NOT** Commercial Construction Waste?

- ✓ Materials Delivered to a Construction and Demolition Debris Processing Facility that are Recycled or Beneficially Reused
- ✓ Waste From Renovation of a 1 to 3 Family Dwelling
- ✓ Demolition Debris from a 1 to 3 Family Dwelling

Intent of Forthcoming Program Changes

- Decrease Administrative Burden
- Increase Program Confidence and Certainty
- Increase Program Fairness
- Increase Program Access and Inclusion
- Increase Landfill Diversion

Notable Program Rules NOT Changing

- Commercial Waste Collector's:
 - Must still apply for and enter into a franchise agreement to service commercial waste within the City of Cincinnati.
 - Must still maintain insurance and bond.
 - Must still pay franchise fee of 20% of gross revenue for commercial waste services performed within the City of Cincinnati.
 - Must still submit an annual report and environmental report.
 - Are exempt from paying the franchise fee for materials that are recycled.

Notable Program Rules That Are Changing

- Ordaining New, Amending Existing, and Repealing Several Definitions.
- Amending Bond Requirement.
- Amending Accounting Report Requirement.
- Amending Environmental Report Requirement.
- Ordaining New Franchise Fee Estimated Payment for Permit Required Construction and Demolition Projects.
- Amending Specific Collection Days and Hours.
- Amending Change in Civil Penalty to Class E.
- Amending Commercial Waste Generator to include Class B Civil Penalty.
- Continuity among CMC Chapters 722, 729, 730, 1101, and 1501.
- Several other amendments.

Notable Definition Changes

Sec. 730-1-C3. Commercial Waste.

“Commercial Waste” ~~shall mean~~ means any of the following:

- (a) All solid wastes generated by a commercial establishment; or
- (b) Construction and demolition debris generated in connection with:
 - (1) the construction, alteration, or demolition, in whole or in part, of a structure subject to regulation by the Ohio Building Code, including associated site improvements, utilities, and infrastructure; or
 - (2) the construction of a new structure subject to regulation by the Residential Code of Ohio, including associated site improvements, utilities, and infrastructure; or
 - (3) public infrastructure improvements.

“Commercial Waste” does not include:

- (a) Infectious wastes or hazardous waste; or
- (b) Recyclable materials returned to commerce via recycling, ~~delivered to a legitimate recycling facility~~.

Notable Definition Changes

Sec. 730-1-C4. Commercial Waste Collection Service.

“Commercial waste collection service” ~~shall mean~~ means the activity of collecting, loading, unloading, transporting, receiving, storing, disposing of, or separating any type of commercial waste generated within the city ~~on or after May 1, 2013~~. “Commercial waste collection service” includes all attendant services, such as providing, selling, leasing, moving, cleaning, repairing, and maintaining containers for commercial establishments in the city.

Notable Definition Changes

Sec. 730-1-C5. Commercial Waste Collector.

“Commercial waste collector” means any person who provides commercial waste collection services to another person. shall have the same definition listed in CMC § 729-1-C. “Commercial waste collector” includes persons (e.g., demolition and construction contractors) who collect, load, and dispose of commercial waste (e.g., construction and demolition debris) generated at a premises they do not own or lease regardless of whether the vehicles used for such services are for-hire or not-for-hire and regardless of whether the person collecting, loading, or disposing of the waste holds salvage rights or similar rights in the commercial waste.

Program Change FAQs

- 1) Do the definitions in the ordinance align where applicable with state definitions? Yes
- 2) Can C&D used for alternative daily cover at a landfill be considered recycled or beneficially reused? No
- 3) Is a commercial waste collector with salvage rights exempt? No
- 4) Is a commercial waste collector with for-hire or not-for-hire vehicles exempt? No
- 5) Are their collection days specified? Yes. Curbside commercial waste collection services must be conducted on the same day as the trash collection.

Program Change FAQs

- 6) Are their collection times specified? Yes. For residential zoning districts commercial waste must be collected between 7AM and 11PM.
- 7) What is the submittal requirement for the annual report? All franchise holders must submit an annual report of gross revenues, but franchise holders reporting greater than \$50,000 in gross revenues must have it examined by an independent certified public accountant.
- 8) What is the required bond amount? Twenty-percent of the franchisee's gross revenues for the quarter immediately preceding the franchise agreement. For franchises with no gross revenues in that quarter earned within the City, then the bond amount is \$5,000.
- 9) When are franchise fee payments due? For non-permit required work fee payments are due within 30-days after the end of each calendar quarter. For permit required work, estimated fee payments are due at the time of the permit application submittal.

Program Change FAQs

- 12) When is the annual report and environmental report due? Within 120-days after the end of the franchisee's fiscal year – most often being the end of the calendar year. The annual report will report and reconcile on the quarterly payments and permit required estimated payments so that double payments are not made.
- 13) Will program forms be updated? Yes, but after the adoption of the ordinance. These will help with required and non-required program submittals.
- 14) Will program administrative rules and regulations be revised? Yes, but after adoption of the ordinance. These will further clarify legislation language such as what is preponderance of evidence.
- 15) Are commercial waste generators responsible for contracting with a commercial waste collector? Yes, under CMC 729. Violation is a Class B Civil Offense with a Penalty of \$150.
- 16) What is the Class E Civil Offense Penalty for Commercial Waste Collectors? First Violation is \$1,250 (with 50% reduction for correction of violation), Subsequent Violations are \$3,000 (includes different commercial establishment, each day of a continuing violation).

Program Change FAQs

- 17) Do all companies working on a construction or demolition project need to hold franchises? No. At least one company that meets the definition of a commercial waste collection service on a construction or demolition project must have a franchise with the City. If it is just one, then it should be the primary contractor listed on the permit and subcontractors can service commercial waste under their franchise as long as the subcontractor is reported to and approved by the City.

C&D Permit Required Estimated Payment Calculation Example

Building and Wrecking Permits

Use of Franchised Commercial Waste Collectors:

When the applicant for a permit is required to designate a franchised commercial waste collector and cause an estimated franchise fee to be paid to the department of buildings and inspections pursuant to **CMC section 730-18**, the director of buildings and inspections shall not issue a wrecking or building permit until the requirements of that section are satisfied.

C&D Permit Required Estimated Payment Calculation Example

Project: Demolition of a Church

Demolition Building Use Code: A-3

Demolition Building Use Code Name: Church

Demolition Building Use Code Landfill Rate (LFR): 0.85

Haul and Tip Fee Rate (HTR): \$82.50

Structure: 50 feet Long by 30 feet Wide by 15 feet in Height

Calculate Estimated Fee from Sec. 730-18:

A) Calculate Demolition Debris (DD) Generated in Cubic Yards

$$DD=(L \times W \times H \times 0.33)/27$$

$$DD=(50 \times 30 \times 15 \times 0.33)/27$$

275 Cubic Yards of Demolition Debris Generated

C&D Permit Required Estimated Payment Calculation Example

B) Calculate Commercial Waste (CW) in Cubic Yards

$$CW = DD \times LFR$$

$$CW = (275 \times 0.85)$$

233.75 Cubic Yards of Commercial Waste Generated

C) Calculate Estimated Gross Revenue (GR) in Dollars

$$GR = CW \times HTR$$

$$GR = 233.75 \times 82.50$$

\$19,284.38 Estimated Gross Revenue

D) Calculate Estimated Franchise Fee (FF) Payment

$$FF = GR \times 0.2$$

$$FF = \$19,284.38 \times 0.2$$

\$3,856.88 Estimated Franchise Fee Payment

C&D Permit Required Estimated Payment Calculation Example

- The franchisee shall be entitled to a refund or credit when it establishes by a preponderance of the evidence that the actual gross revenues generated by its commercial waste collection services were **less** than the estimated gross revenues used to calculate its estimated fee payment.
- The franchise may request a refund or credit for an estimated franchise fee payment on forms provided by the city manager or his or her designee.
- No interest will be paid by the City on the refund or credit.
- The City will not seek to collect where the franchisee's actual gross revenues generated by its commercial waste collection services were **more** than the estimated gross revenues used to calculate its estimated fee payment.

Next Steps

- 1) Review and Respond to Stakeholder Questions and Comments.
- 2) Complete Final Review, Refinement, and Submittal of Ordinance for Council Adoption.
- 3) Complete Technical and Workflow Changes Needed for Program Operations and Permitting.
- 4) Operationalize Adopted Ordinance.



Thank You



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