

RESOLUTION NO. 18-17

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COMMERCE,
CALIFORNIA, FOR MODIFICATIONS TO THE COMMERCIAL REFUSE
MANAGEMENT SYSTEM**

WHEREAS, on April 24, 2017, staff presented a report to the City Council regarding commercial refuse management and the need to modify its commercial refuse collection system; and

WHEREAS, the industry standard is to have one or at most, several exclusive franchise haulers under contract to collect all refuse and recycling in a city following a competitive bidding process to allow for a more manageable system of collection and reporting of mandated recycling information, consistent customer service, City involvement in rate setting, and establishment of contract terms such as condition and age of equipment and containers to prevent leakage and contamination of City public right-of-ways, specific reporting requirements, and franchise payments to the City; and

WHEREAS, as reported previously, there are 25 licensed refuse haulers in addition to 29 licensed recyclers operating in Commerce with allowance to issue additional business licenses to new recyclers; and

WHEREAS, typically, refuse haulers also serve as recyclers for their customers under the same refuse collection license or franchise agreement. However, the City also allowed for the separate licensing of companies who solely provide recycling services; and

WHEREAS, the California Department of Resources Recycling and Recovery (*CalRecycle*) adopted regulations requiring commercial recycling effective July 1, 2012; and

WHEREAS, as a result, the City adopted Ordinance Number 643 which requires all businesses that generate more than 4 cubic yards of waste per week and multi-family residential with at least 5 units to establish recycling services through their City-authorized licensed refuse/recycling hauler and/or self-haul recyclables. It also allows businesses to sell or donate their recyclables; and

WHEREAS, in 2016, CalRecycle expanded the Commercial Recycling mandate to apply to more commercial properties and include organics recycling such as lawn waste and food; and

WHEREAS, the City is responsible for preparing and submitting an Annual Recycling Report to CalRecycle to demonstrate compliance with all applicable recycling regulations; and

WHEREAS, despite staff's regular and continued efforts to notify, educate, and follow-up with haulers to report their recycling services information, the commercial reporting results are not satisfactory to meet State requirements; and

WHEREAS, as a result, CalRecycle sent several notices regarding their initiation of an independent review of the City's efforts to comply and set a public hearing on November 16, 2017 to consider issuing a Compliance Order for not adequately implementing the Mandatory Commercial Recycling law. This is a direct result of the haulers not establishing recycling services with the businesses they serve and/or not reporting their recycling tonnages collected. Per State law, the responsibility for collecting this information and reporting it to the State rests with the City; and

WHEREAS, staff attended the public hearing and presented the City's efforts to date to CalRecycle; and

WHEREAS, staff is awaiting CalRecycle's further review and decision, which may include a formal Compliance Order to ensure the City follows through with changes to its collecting and reporting system. Staff will report back to Council with future updates; and

WHEREAS, Legal Counsel reviewed the City's Municipal Code, specifically Chapter 6 relating to refuse haulers and commercial recycling, and confirmed that the Code allows for enforcement of hauler reporting requirements as a condition for maintaining their business license. Legal counsel recommended staff issue notices of violation to haulers not in compliance with the reporting requirements; and

WHEREAS, on November 9, 2017, the 1st Notice of Violation was mailed certified to 42 non-reporting haulers out of 52 total licensed haulers. They were provided 10 days in which to comply by reporting the required recycling information. 26 of the 42 haulers responded. One was returned undeliverable. Staff is confirming if the business moved or is no longer in business; and

WHEREAS, on November 27, 2017, a 2nd Notice of Violation was sent to the remaining 15 non-reporting haulers and given four days to comply; and

WHEREAS, on December 7, 2017, a 3rd and final Notice of Violation was mailed certified to the remaining 8 non-reporting haulers with an additional two receiving legal counsel's separate letter in response to a letter received from two recycling haulers with an additional 7 days to comply; and

WHEREAS, following no response to the 3rd and final Notice of Violation, a Notice of Suspension and Termination was mailed certified to three haulers.

NOW, THEREFORE, THE CITY COUNCIL DOES HEREBY RESOLVE, DECLARE AND DETERMINE AS FOLLOWS:

Section 1. Authorizes staff to:

1. Move to read the proposed Refuse Management Ordinance by title only to:
 - discontinue issuing recycling hauler licenses,
 - establish a single license for haulers of refuse and/or recycling services, and
 - require all haulers to pay a hauler license fee, and

- transfer an existing and valid refuse and/or recycling hauler license to the parent company who acquired the licensed hauler for operating solely under the parent company name.
2. Approve the Ordinance for first reading, and
 3. Set a Public Hearing date of February 20, 2018.
 4. Direct staff to draft a semi-exclusive hauler agreement with a maximum of 12 haulers.

Section 2. The Mayor is authorized to execute the resolution for and on behalf of the City of Commerce.

PASSED, APPROVED AND ADOPTED this 6th day of February, 2018.

Oralia Rebollo
Mayor

ATTEST:

Lena Shumway
City Clerk