

ORDINANCE NO. 027, 2023
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING CHAPTER 12, ARTICLE II AND CHAPTER 15, ARTICLE XV OF THE CODE
OF THE CITY OF FORT COLLINS TO ALLOW FOR THE ESTABLISHMENT OF A CITY
WASTE COLLECTION PROGRAM AND GENERALLY UPDATING PROVISIONS OF
THE CODE GOVERNING WASTE COLLECTION WITHIN THE CITY

WHEREAS, on December 17, 2013, City Council adopted Resolution 2013-011 recognizing that the City's history of public education regarding recycling and solid waste reduction and waste reduction goals from 1985 through the adoption of Resolution 1999-139 and establishing the goal of diverting 50% of the community's waste stream from landfill disposal by 2010; and

WHEREAS, on October 21, 2014, City Council adopted Resolution 2014-098, establishing the City's Waste Diversion Policy with the goal of achieving "zero waste" by 2030 (with interim goals) and recognizing the City's "Road to Zero Waste" plan created to achieve this policy goal and the resulting direct economic and environmental benefits to the local and global community; and

WHEREAS, on March 16, 2021, City Council adopted Resolution 2021-031 approving and adopting the Fort Collins Our Climate Future Plan as a combined and comprehensive update to the City's Climate Action Plan, updated Energy Policy and Road to Zero Waste Plan articulating a commitment to mitigate climate change, and energy and waste reduction goals, including recycling and waste diversion as a vital strategy to reduce greenhouse gas emissions; and

WHEREAS, in 2021, the City Council directed City staff to examine ways to reduce the impacts of trash collection services in Fort Collins, including street wear, air quality, neighborhood aesthetics, noise, and other neighborhood impacts, and to identify ways to improve diversion rates for recyclable and compostable materials; and

WHEREAS, based on a study conducted by a contracted third party, having numerous heavy trash vehicles on City streets impedes the attainment of these goals and accelerates the deterioration of City streets, causing additional street maintenance costs of more than \$600,000 per year; and

WHEREAS, based on a study conducted by a contracted third party, having numerous trash vehicles on City streets impedes the attainment of greenhouse gas emission reduction goals by emitting an additional 1,200 metric tons of CO₂e per year; and

WHEREAS, at least four residential trash haulers currently provide service within the community, resulting in at least four trash trucks and four recycling trucks using residential streets to provide residential collection services each week, causing increased street wear, air pollution, noise, potential safety concerns, and other neighborhood impacts; and

WHEREAS, analysis of open market residential trash bills in Fort Collins indicates that residents currently pay 50% - 100% different prices for the same service, even from the same company in the same area of town and a contracted system would provide predictable uniform rates across the community; and

WHEREAS, additional yard trimmings collection is a key step to achieving climate and waste reduction goals and a contracted system allows for the opportunity to expand yard trimmings collection for a more affordable price than open market collection; and

WHEREAS, Colorado Revised Statutes (“C.R.S.”) § 30-15-401(7.5) authorizes the City to establish a residential waste collection program (the “Program”), through which the City can require municipal residents in single-unit residences and multi-unit residences with seven or fewer dwelling units to use or pay user charges for residential waste services; and

WHEREAS, on July 19, 2022, in Resolution 2022-079, the City Council directed City staff to design and issue a request for proposals for residential waste collection services, including trash and recycling collection services for purposes of establishing a waste collection program as authorized by C.R.S. § 30-15-401(7.5); and

WHEREAS, adoption of the Program would improve waste collection in the City including by: increased equity and lower pricing; increased composting of yard trimmings; reducing greenhouse gas emissions; saving on street maintenance; fewer trucks will drive through neighborhoods; and the Program will help ensure high level of waste collection customer service with enforcement capability; and

WHEREAS, adoption of the Program requires a series of changes to Chapter 12, Article II and Chapter 15, Article XV of the City Code; and

WHEREAS, the Code Changes include: establishing that single-family homes and multi-unit residences with seven or fewer dwelling units are within the Program and Program customers must pay the applicable rates and fees; establishing Program exclusions, including homeowners’ associations that meet certain requirements; authorizing variances for sharing service or for producing excess waste; establishing the administrative fee to be set by the City Manager; and creating a civil infraction for failure to meet Program requirements; and

WHEREAS, the Code Changes in this Ordinance include a variety of related and conforming changes to the provisions governing waste collection and waste collector licensing, including: clarifying Pay-As-You-Throw requirements; clarifying limitations on which types of fees collectors may charge customers; providing that collectors take ownership of certain kinds of waste when it is loaded into a vehicle and providing that collectors do not take ownership of hazardous waste or other waste that is not accepted at disposal facilities; amending yard trimmings collection requirements for all collectors to align with yard trimming requirements in the Program; and expanding the City Manager’s authority to examine records required to be retained by collectors.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That Section 12-16 of the Code of the City of Fort Collins is hereby amended by the addition of new definitions which read in their entirety as follows:

*Division 1
General Requirements*

Sec. 12-16. Definitions.

The following words, terms and phrases, when used in this Article shall have the meanings ascribed to them in this Section:

...

City's contracted waste collector shall mean the person licensed pursuant to Chapter 15, Article XV of this Code who enters into a contract with the City to provide collection services under the City's residential waste collection program and the City's dumpster waste collection program.

City's residential waste collection program or program shall mean the City's provision of residential waste collection services within the City through the City's contracted waste collector pursuant to §§ 12-28 through 12-33 of this Article.

City's dumpster waste collection program or dumpster program shall mean the City's provision of dumpster-based waste collection services to residential units, multi-family customers in dwellings with eight (8) or more units, and commercial customers who opt-in to the program by requesting dumpster service from the City's contracted waste collector pursuant to §§ 12-28 through 12-33 of this Article.

Commercial customers shall have the meaning set forth in § 15-411 of this Code.

...

Director shall have the meaning set forth in § 15-411 of this Code.

Dumpster shall have the meaning set forth in § 15-411 of this Code.

...

Group account shall have the meaning set forth in § 15-411 of this Code.

...

Large capacity container(s) shall have the meaning set forth in § 15-411 of this Code.

Medium capacity container(s) shall have the meaning set forth in § 15-411 of this Code.

...

Multi-family customer shall have the meaning set forth in § 15-411 of this Code.

...

Poly-cart shall have the meaning set forth in § 15-411 of this Code.

Program customer shall mean the owner or occupant of a residential unit or any person who opts-in to receive residential waste collection services.

...

Recyclable materials shall have the meaning set forth in § 15-411 of this Code.

Recycling shall have the meaning set forth in § 15-411 of this Code.

...

Residential customer shall have the meaning set forth in § 15-411 of this Code.

Residential waste collection services shall mean the collection, transportation and disposal of residential solid waste, recyclable materials and yard trimmings by the City's contracted waste collector through the City's residential waste collection ~~service~~-program.

Residential unit shall mean all single-unit residential buildings, and multi-unit residential buildings containing seven (7) dwelling units or fewer within the City, except for residential units excluded pursuant to § 12-29 and residential units for which a variance has been granted in accordance with § 12-30.

...

Small capacity container(s) shall have the meaning set forth in § 15-411 of this Code.

Solid waste shall have the meaning set forth in § 15-411 of this Code.

Solid waste collector shall have the meaning set forth in § 15-411 of this Code.

Volume capacity category of containers shall have the meaning set forth in § 15-411 of this Code.

Yard trimmings shall have the meaning set forth in § 15-411 of this Code.

Section 3. That Section 12-18 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 12-18. Collection and disposal of refuse and rubbish.

(a) The occupant and the owner of any premises wherein any refuse or rubbish is produced or accumulated shall be jointly and severally responsible to provide for collection service and removal of refuse and rubbish to the degree of service necessary to maintain the premises in a clean and orderly condition. They shall not contract or arrange for such collection and removal except with solid waste collectors licensed by the City under § 15-417 and, if applicable, as required by §§ 12-28 through 12-33 of this Article. An individual may dispose of his or her own refuse and rubbish, provided that it is properly disposed of at the Larimer County Landfill or at any other disposal site which is approved by the State, in conformity with all City and county regulations.

...

(d) When loaded into collector's vehicle, collector shall acquire title to and ownership of all non-hazardous waste that is accepted at a waste processing or disposal facility. Title to, ownership of and liability for any hazardous waste or waste that is otherwise not accepted at a processing or disposal facility shall remain with the generator of the waste and shall at no time pass to the collector.

Section 4. That Section 12-19 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 12-19. Group accounts for collection.

(a) Any person who solicits refuse collection services from a collector for residential customers through a group account shall arrange for such services in a manner that offers residential customers:

- (1) Choices from amongst small, medium and large capacity containers for solid waste that are placed for collection by the residential customer;
- (2) Charges to residential customers that are based upon the small, medium or large capacity solid waste container, in a manner consistent with § 15-412(c);
- (3) Recycling services, ~~including Poly carts required to be provided for recycling,~~ in a manner consistent with § 15-413; and
- (4) Yard trimmings collection, in a manner consistent with § 15-414.

(b) Any person who is subject to the requirements of Subsection (a) above shall provide written notice consistent with the notice required in Subsection 15-413~~(d)~~ to all residential customers served through the group account. Said notice shall be given to all such residential customers no more than thirty (30) days after notice of rates per volume capacity category of solid waste container and recyclable materials services and solid waste container options have been provided by the collector. In addition, written notices shall be sent to all new residential customers who join the group account after the date of the original notice. Said additional notices shall be given to

each new member no more than ten (10) days after the new member joins the group account. Said notice shall also be provided to all residential customers once per calendar year. A copy of the form of each such notice, a list of recipients of the notice, and a record of the date and manner of distribution shall be retained by the person providing the notice for a period of five (5) years from the date each notice was provided, and shall be made available to the City for inspection upon request during said period of time.

(c) No person who is subject to the provisions of Subsection (a) above shall in any way discourage or provide disincentives to any current or prospective residential customer served through a group account who wishes to select a volume capacity category or level of recycling service that is different from that selected by other residential customers served through such account.

Section 5. That Section 12-22(b) of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec 12-22 – Required recycling.

...

(b) *Cardboard.* No person shall place recyclable cardboard in solid waste containers for collection, nor shall any person bury or otherwise dispose of recyclable cardboard in or on private or public property within the City. All recyclable cardboard must either be stored and presented or delivered to a licensed solid waste collector for recycling in accordance with the provisions of Subsection 15-413(c) or delivered directly to a qualified recycling facility appropriate for recyclable cardboard.

Section 6. That Section 12-27 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 12-27. Violations and penalties.

Any person who violates § 12-18 of this Article, or who violates Subsection 12-22(b), or Subsection 12-22(c) as it relates to Subsection 12-22(b), commits a civil infraction and is subject to the penalty provisions of Subsection 1-15(f). Any person who violates any other provision of §§ 12-18 through 12-26 also commits a misdemeanor. All such misdemeanor violations are subject to a fine or imprisonment in accordance with § 1-15.

Section 7. That Chapter 12 of the Code of the City of Fort Collins is hereby amended by the addition of new Sections 12-28 through 12-33, which read in their entirety as follows:

*Division 2
City’s Residential Waste Collection Program*

Sec. 12-28. City’s residential waste collection program.

~~The City shall provide~~ There is established the City's residential waste collection program to provide residential waste collection services for all program customers, except for those residences excluded pursuant to § 12-29 and those residences for which a variance has been granted in accordance with § 12-30.

Sec. 12-29. Program exclusions and opting-in to the program.

- (a) All commercial customers and multi-unit residential buildings containing eight (8) dwelling units or more are excluded from the City's residential waste collection program, except that multi-unit residential buildings containing eight (8) dwelling units or more may elect to participate in the City's residential waste collection program subject to the requirements set forth in this Article.
- (b) All residential units served by a dumpster are excluded from the City residential waste collection ~~service~~ program.
- (c) Commercial customers, multi-family customers, and owners or occupants of a residential unit served by a dumpster may elect to participate in the City's dumpster program by requesting service from the City's contracted waste collector subject to the program requirements set forth in the City's waste collection contract and as contained in this Article.
- (d) Group accounts formed prior to March 17, 2023, conforming with all applicable requirements of this Article and of Chapter 15, Article XV of the City Code, are excluded from the City's residential waste collection program while under ~~the~~ an agreement with ~~the~~ a solid waste collector. Such group accounts, however, may elect to participate in the City's residential waste collection ~~service~~ program, subject to the requirements set forth in this Article. All group accounts formed on or after March 17, 2023, shall be subject to the City's residential waste collection program, unless otherwise excluded.

Sec. 12-30. Variances.

- (a) Program customers may request a variance from the program to apply to a residential unit pursuant to this Section. Program customers may request a shared service variance under Subsection (d)(1) of this Section or an excess waste variance under Subsection (d)(2) of this Section.
- (b) Upon receipt of a request for variance, the Director shall either approve the variance or disapprove the variance based on the applicable standard provided in Subsection (d) of this Section. A copy of the approved or disapproved variance shall be sent by the City to the requestor of the variance and to the City's contracted solid waste collector.
- (c) A variance granted under this Section shall be valid for twenty-four (24) months. A granted variance shall exclude the grantee's residential unit from the City's residential waste collection ~~service~~ program for the duration of the variance and accordingly, the grantee shall not be subject to any of the requirements of §12-32 for that period, including any requirement to pay

the City's contracted waste collector any charge or fee under the City's residential waste collection program.

(d) Program customers may request a variance from the program for the following situations:

(1) A shared service variance may be granted by the City in accordance with the following provisions:

a. A program customer may request from the City a variance for sharing residential waste collection services provided under the City's residential waste collection program with one or more other program customers.

b. The variance shall only be granted if the program customer provides proof, to the reasonable satisfaction of the Director, that the program customer shares residential waste collection services with one or more other residential units and that the program customers together consistently produce combined total solid waste in an amount equal to or less than the smallest volume of solid waste service offered by the City's contracted waste collector.

c. Only one (1) variance shall be granted per approved request, meaning that only one (1) program customer in a group of program customers sharing service is eligible to receive a variance. Program customers sharing service may collectively agree to how to share the financial benefit of the variance.

(2) An excess producer shall only be granted if the program customer provides proof, to the reasonable satisfaction of the Director, that the program customer consistently produces solid waste in an amount greater than the volume of the largest cart service offered by the City's contracted waste collector.

Sec. 12-31. Freedom to contract; freedom to self-haul.

Nothing in this Article shall prohibit any program customer from contracting for or hauling their own solid waste, recyclable materials, or yard trimmings, provided it is collected and disposed of in conformity with all applicable City rules and regulations.

Sec. 12-32. City contract; City administrative fee; rates.

(a) The City may enter into an agreement with a licensed collector to become the City's contracted waste collector. The City's contracted waste collector shall provide residential waste collection services under the City's residential waste collection program and the dumpster program. The contract shall establish all appropriate terms and conditions, including rates for residential waste collection services, for the contracted waste collector's provision of residential waste services to the City. The contract shall also establish all appropriate terms and conditions for the dumpster program. All rates under the contract shall be in amounts that reasonably relate to the services provided for such rates. The City Manager may approve and execute future amendments to the contract that the City Manager, in consultation with the City Attorney,

determines to be necessary and appropriate to facilitate the program, so long as such amendments do not increase costs to program customers without a commensurate service improvement, substantially modify the purposes of the contract, or increase the obligations and responsibilities of the City as set forth in the contract.

(b) There is established a City administrative fee to be imposed on each program customer and dumpster program customer in the amount not to exceed one dollar and thirty-five cents (\$1.35) per month to defray the City costs of administering the program. The administrative fee shall be remitted to the City in accordance with the terms of the City's contract with the collector. The administrative fee amount shall be determined by and adjusted as necessary by the City Manager in accordance with Chapter 7.5 of this Code, provided it does not exceed one dollar and thirty-five cents (\$1.35) per month.

(c) Each program customer shall pay to the City's contracted waste collector the applicable rate for the solid waste, recyclable materials, and yard trimmings collection service provided, in addition to the administrative fee established under Subsection (b) of this Section.

(d) If a program customer who has not received a variance under §12-30 elects to not use the services provided by the City's contracted waste collector, the program customer shall pay the City's contracted waste collector the administrative fee established under Subsection (b) of this Section and the rate for the minimum level of solid waste service, which is nine dollars and seventy-five cents (\$9.75) per month for the period from September 30, 2024, to September 29, 2025, and which shall increase by three percent (3%) annually and as otherwise provided for by the City's waste collection contract.

(e) Each dumpster program customer shall pay to the City's contracted waste collector the applicable rate ~~to the City's contracted waste collector~~ for the dumpster services, in addition to the administrative fee established under Subsection (b) of this Section. The dumpster program is only available if provided for pursuant to the contract. Pricing for such service through the dumpster program shall be as defined in the contract with the City's residential waste collector.

(f) The City's contracted waste collector shall not impose any rate, fee, charge, surcharge or any other assessment of any kind to any program customer except those expressly authorized in and pursuant to the contract. For clarity and without limitation, this Section prohibits the City's contracted waste collector from imposing any charge authorized in Article XV of Chapter 15 of this Code to program customers.

Sec. 12-33. Violations and penalties.

Any person who violates any provision of §§ 12-28 through 12-32 of this Code, whether by acting in a manner declared to be unlawful or by failing to act as required, commits a civil infraction and shall be subject to the penalty provisions of Subsection 1-15(f) of this Code.

Section 8. That Section 15-411 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 15-411. Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section:

...

City's residential waste collection program or *program* shall have the meaning set forth in § 12-16.

City's contracted waste collector shall have the meaning set forth in § 12-16.

Collector shall mean a person providing collection service for solid waste, recyclable materials, food scraps, or yard trimmings.

Commercial customers shall mean any premises utilizing collection service where a commercial, industrial or institutional enterprise is carried on, including, without limitation, retail establishments, restaurants, hospitals, schools, day care centers, office buildings, nursing homes, clubs, churches and public facilities. Customers, other than residential customers, serviced using any type of collection container, including without limitation poly-carts, dumpsters, or roll-off bins, are considered commercial customers unless the service is provided for an active construction or demolition project permitted by the City building department. Customers at residential properties who use a dumpster for solid waste collection are commercial customers.

Communal system for the collection of waste shall mean an arrangement for the collection of refuse from multiple properties or residences using collection containers shared by those properties or residences.

...

Extra-large capacity container shall mean two (2) large capacity containers or the equivalent volume thereof.

Extra-small capacity container shall mean container or solid waste service for a volume of solid waste less than that held by the small capacity container.

...

Group account shall mean a customer account for collection of refuse from multiple residential customers, regardless of the method by which such services are contracted or arranged. An account for service arranged by a single property owner for collection of solid waste from multiple locations owned by that property owner shall not constitute a group account for the purposes of this Article.

...

Poly-cart shall mean a durable, watertight, plastic, wheeled container with a tightly fitting, rodent proof lid, manufactured and used for the collection of solid waste, recyclable materials, food scraps, or yard trimmings. For multi-family or commercial customers, a dumpster or roll-

off bin with aggregate volume of multiple poly-carts shall be deemed to constitute one (1) or more poly-carts.

...

Recyclable materials shall mean materials which have been separated from solid waste and can be recovered as useful materials and are properly prepared for the purpose of recycling, provided that such materials have been designated by the City Manager as recyclable pursuant to § 15-416 of this Article.

Recycling shall mean the process of recovering useful materials from refuse, including items for reuse.

Recycling collector shall mean a person providing recyclable materials collection service.

...

Residential customer shall mean a customer at a residential property for which a communal system for the collection of waste is not employed and which does not use a dumpster for solid waste collection.

...

Solid waste shall mean all refuse, putrescible and nonputrescible waste, excluding discarded or abandoned vehicles or parts thereof, sewage, sludge, septic tank and cesspool pumpings or other sludge, discarded home or industrial appliances, hazardous wastes, materials used as fertilizers or for other productive purposes and recyclable materials or yard trimmings or food scraps which that have been source separated for collection.

...

Source separation shall mean to separate recyclable materials, food scraps or yard trimmings from solid waste at the waste source.

Volume capacity category of containers shall mean extra-small capacity containers, small capacity containers, medium capacity containers, large capacity containers, or extra-large capacity containers placed for collection of solid waste, recyclable materials, food scraps or yard trimmings.

...

Section 9. That the definition “Existing customers” contained in Section 15-411 of the Code of the City of Fort Collins is hereby deleted.

Section 10. That Section 15-412 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 15-412. License requirement.

...

(b) *Exemptions.* The following persons or entities are not required to obtain a ~~solid waste or recyclable~~ collection license:

- (1) A civic, community, benevolent or charitable nonprofit organization that collects, transports and markets materials for resource recovery solely for the purpose of raising funds for a charitable, civic or benevolent activity;
- (2) A person who transports refuse produced by such person;
- (3) A property owner or agent thereof who transports refuse left by a tenant upon such owner's property, so long as such property owner does not provide collection service for compensation for tenants on a regular or continuing basis;
- (4) A demolition or construction contractor or landscaper who produces and transports refuse in the course of such occupation, where the refuse produced is merely incidental to the particular demolition, construction or landscape work being performed by such person.

(c) *Volume-based rates for solid waste service.*

- (1) Any person licensed to operate as a solid waste collector within the City shall charge all residential customers, including, but not limited to, residential customers provided service through a group account, on the basis of the volume capacity category of the solid waste containers placed for collection by each residential customer. Solid waste collectors shall determine a rate for, and offer to residential customers, the small capacity container solid waste service, and that rate shall be used to determine the rates for all other service levels in accordance with the following:
 - a. Medium capacity container solid waste service shall be two (2) times the rate of the small capacity container solid waste service.
 - b. Large capacity container solid waste service shall be three (3) times the rate of the small capacity container solid waste service.
 - c. Extra-large capacity container solid waste service shall be six (6) times the rate of the small capacity container solid waste service.
 - d. A solid waste collector may offer extra-small capacity container solid waste service, the rate for which shall be less than the rate of the small capacity container solid waste service.
 - e. The City's contracted waste collector shall charge customers under the City's residential waste collection program the rates established in the City's contract with the City's contracted waste collector.

(2) The charge for solid waste placed for collection that exceeds the customer's service subscription level shall be proportional to the collector's standard rate for a small capacity container (for example, a customer who placed out an extra thirty-two (32) gallon bag of solid waste would be charged one-quarter ($\frac{1}{4}$) the monthly rate for the small capacity container service as the bag would be equivalent to the amount of small capacity container service volume provided per week).

a. A poly-cart in which the lid is unable to close due to the presence of solid waste is considered to contain excess solid waste and the solid waste collector must charge the customer accordingly.

b. Determining whether a customer has placed excess solid waste out for collection shall be made on an individual pick-up date basis. Solid waste collectors shall not "average" pick-up volumes (to allow for excess solid waste at one (1) time offset by a lower volume at another time).

(3) In order to further ensure that the charge for the collection of solid waste is based upon volume as required above, any solid waste collector may provide to each residential customer containers (which may include disposable bags), or labels to be attached to customer-provided disposable bags, showing the volume capacity category of such bags.

(4) A solid waste collector shall arrange for provision of service to each group account in a manner that results in an individual selection by each individual residential customer of a level of service that includes at a minimum the small, medium and large capacity containers and levels of service offered by the collector. In the case of a group account, the solid waste collector shall require a written contract that is compliant with the provisions of this Article and § 12-19.

(5) In offering or arranging for services, a collector shall provide reasonable notice of the range of volume capacity category container sizes or levels of service offered by the solid waste collector; and shall provide to each residential customer that customer's requested volume capacity category container size or level of service.

(6) It shall be unlawful for any person to knowingly attach any label to a container exceeding in volume the volume capacity category shown on, or represented by, such label, and to place said container for collection.

(7) Residential solid waste shall be collected curbside. No collector shall collect or transport solid waste, recyclables, food scraps or yard trimmings which have not been placed for collection through such system or in containers upon which such labels have been attached.

(8) The provisions of this Subsection 15-412(c) shall not be construed as prohibiting any collector from also establishing policies regarding the maximum weight of containers of solid waste and/or recyclable materials.

(d) *Fixed fees for prepaid disposable bags or labels for solid waste service.*

(1) Where prepaid disposable bags or prepaid labels for customer-provided disposable bags (rather than reusable containers) are provided by a solid waste collector to its customers for solid waste collection services, solid waste collectors may, but are not required to, charge a fixed fee for the purpose of covering the fixed operational costs of routing service trucks for such collections in addition to the volume based rates for the prepaid bags or labels under Subsection 15-412(c) above.

...

(e) *Service surcharge for solid waste service.*

(1) In addition to the volume-based rates and excess solid waste charges required pursuant to Subsection 15-412(c), the charge allowed in Subsection 15-413(a)(4) and any fixed fees permitted under Subsection 15-412(d) for collection of prepaid disposable bags or prepaid labels for customer-provided disposable bags, collectors may, but are not required to, charge a service surcharge to residential customers. A service surcharge may be imposed only to cover fluctuating operational costs of doing business outside of a collector's control (such as, for example, fuel costs or market based recycling fees paid by collectors). A service surcharge shall be permitted and charged only as set forth in this Subsection 15-412(e).

...

(4) A collector may not impose any other rate, fee, charge, surcharge, or any other assessment of any kind to any customer. Fees, charges, surcharges etc. not allowed include without limitation those for service termination or for cart pickup.

...

(h) *Communications.* All oral and written communications with customers by or on behalf of a collector, whether in person, by telephone, in written form or through any other means, must be consistent with and clearly and accurately describe all:

(1) Components of the system for solid waste service, recyclable materials service, yard trimmings service and any other collection service provided by the collector; and

(2) All applicable requirements of this Article and Article II of Chapter 12.

Section 11. That Section 15-413 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 15-413. Recycling requirement.

(a) Curbside collection—Residential.

(1) Solid waste collectors shall provide residential solid waste customers curbside collection of recyclable materials for no additional charge. Such service shall include recyclable materials collection in an amount equal to at least eighteen (18) gallons and need not be more than two (2) large capacity containers. If a customer declines recyclable materials collection, solid waste collectors may not reduce the cost of collection service.

(2) Solid waste collectors shall provide curbside recyclable materials collection services on the same day of the week as they collect solid waste from the customer, except for residential customers located within mobile home parks.

(3) If solid waste collectors offer residential customers only the choice of an eighteen (18) gallon recycle tub, the solid waste collectors must provide recyclable materials collection at least once per week. Solid waste collectors that offer residential customers medium and/or large capacity containers for recycling ~~may~~ must provide recyclable materials collection a minimum of two (2) times per month.

(4) When a residential customer has two (2) large capacity containers for recycling collection, collectors may require that all recyclable materials fit inside the provided containers or charge the customer an excess recyclable materials fee equivalent to the excess solid waste fee for recyclables placed for collection outside the recyclable materials cart.

(b) *Multi-family and commercial solid waste and recyclable materials collection.*

(1) Each solid waste collector shall provide recyclable materials collection service to multi-family customers and commercial customers as a part of solid waste collection services. Solid waste collectors must charge multi-family and commercial customers for the minimum recycling service described in Subsection 15-413(b)(2), which may be itemized separately on bills. Solid waste collectors shall not exclude the cost of minimum recycling service unless such customer is granted a variance in accordance with Subsection 15-413(b)(3).

(2) The volume of recyclable materials collection service for service for multi-family and commercial customers shall be at least one-third ($\frac{1}{3}$) of the total collection volume (including both solid waste and recyclables) based on the size of solid waste containers and the service frequency provided to such customer ("minimum recycling service"). For example, if a customer is provided with pick-up of a 4-cubic-yard trash container that is collected once per week, the collector shall also provide minimum recycling service in an amount equal to not less than a 2-cubic-yard recycling container as a part of such basic services (Two (2) cubic yards is one-third ($\frac{1}{3}$) of the total service volume (including both solid waste and recyclables) of six (6) cubic yards).

(3) The City may grant a commercial or multi-family recycling customer a variance from the recycling requirements in Subsections 15-413(b)(1) and (2) in accordance with the following provisions:

(i)a. If a collector's multi-family customer or commercial customer seeks to not participate in minimum recycling collection services offered by a collector due to space constraints, self-hauling recyclables to recycling drop-off center, utilization of a separate licensed recycling collection provider other than the solid waste collector, failure to generate recyclables, or if only available location for recycling bin is not safely serviceable by hauler, the customer must submit a written request for variance on a form provided by the City and signed by the customer. A recycling bin location that is not safely serviceable is defined as a location that is substantially less safe to service than the trash bin service area for that location. Upon receipt of such a request for variance, the Director shall either approve the variance for good cause shown, or disapprove the variance. A copy of the approved or disapproved variance shall be sent by the City to the solid waste collector servicing that customer.

...

(c) *Recyclable materials collection containers, collection vehicles and related duties.* All licensed collectors of recyclable materials and solid waste operating within the City shall have the following duties:

(1) Except for materials that customers have not properly prepared for recycling, collectors may not commingle designated recyclable materials with ~~refuse~~ **solid waste**, nor dispose of recyclable materials set out by recycling customers by any means other than at a qualified recycling facility. ~~Recyclable materials shall include all those materials designated by the City Manager pursuant to § 15-416 as materials which collectors must offer to collect for recycling.~~

(2) Any vehicle used for the collection of recyclable **materials** must be clearly and unambiguously marked as a recycling truck, whether by permanent decals or markings, or by signage or placards displayed at all times during such use.

(3) Collectors must provide a recyclable materials container to any customer at any time upon request within one (1) billing period after the request is made.

(4) The following requirements shall apply for residential customers:

a. Unless a customer expressly declines it, the collector must provide residential solid waste customers a ~~rigid recyclable materials collection receptacle~~ **poly-cart or eighteen (18) gallon tub for recyclable materials** that meets the requirements of this Subsection 15-413(c). The recyclable materials container

must be clearly marked as a recyclables container with words or symbols or both and must be provided to the customer without additional charge.

b. Collectors must offer in writing the choice of a medium capacity or large capacity recycling container to each residential recycling customer annually.

(5) The following requirements shall apply for commercial customers:

a. Solid waste collectors shall provide recycling containers to multi-family and commercial customers (in the form of containers, dumpsters, or roll-off bins as deemed appropriate for servicing the location) and with a capacity sufficient to meet one-third ($\frac{1}{3}$) of service as recycling volume requirement.

b. Regardless of the type of recyclable materials container, it must be clearly identifiable as a recycling container and include the following:

1. A conspicuous chasing arrows decal on the side(s) of the container accessed by service or pedestrian access; and

2. Signage such as stickers or weather-resistant laminated posters or imprinting into the surface of the container during manufacture, of recyclable materials accepted in local collection programs, including graphics depicting acceptable materials. Such information may be delivered by use of City-provided graphics or graphics provided by the collector and approved by the City.

(d) *Recyclable materials preparation and ownership.*

(1) The collector may establish such reasonable and industry-accepted requirements for the preparation of materials for recycling as are necessary to provide for the orderly collection of recyclable materials, including requirements for source separation.

(2) All recyclable materials placed for collection shall be owned by and be the responsibility of the customer until the materials are collected by the collector. Upon collection, the collector shall take title to and ownership of the recyclable materials. Title to, ownership of and liability for any hazardous waste or waste that is otherwise not accepted at a processing or disposal facility shall remain with the generator of the waste and shall at no time pass to the collector. No person other than the customer or the collector of recyclable materials shall take physical possession of any recyclable materials placed for collection, with the exception of City staff or their agents who make take physical possession of de minimis amounts of recyclable materials to conduct informational studies. Such materials must be recycled properly after completion of a study.

(e) *Customer notification.*

(1) Upon the initial provision of collection services to new residential customers, and on or before December 31 of each year with respect to existing residential customers, collectors shall notify in writing such customers of:

...

d. Such policies and requirements as have been established by the collector for the orderly collection of recyclable materials as authorized pursuant to Subsection 15-412(c)(8) or 15-413(d)(1);

...

(2) For group accounts, the notices required hereunder may be sent to the group representative for said account, provided that such notice shall further notify said representative of its obligation to provide all individual residential customers within the group of this same information, pursuant to Subsection 12-19(b).

~~(3) All verbal and written communications with customers by or on behalf of a collector, whether in person, by telephone, in written form or through any other means, must be consistent with and clearly and accurately describe all components of the system employed by the collector to provide and charge for variable rate solid waste collection and recycling services. The collector shall deliver to the Director a true and correct copy of each form of such notification sent on or before December 31 of each year.~~

Section 12. That Section 15-414 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 15-414. - ~~Optional service~~—Residential yard trimmings.

(a) *Residential service required.* Each solid waste collector licensed by the City shall make available to each residential customer receiving solid waste collection services, including customers receiving solid waste collection services through a group account, and shall provide to a residential customer upon request curbside collection of residential yard trimmings at least once per week from April 1 to November 30 of each year ~~upon a customer's request~~. As of September 30, 2024, each solid waste collector licensed by the City shall enroll each residential customer receiving solid waste collection services, including customers receiving solid waste collection services through a group account, in curbside collection of residential yard trimmings to be serviced at least once per week from April 1 to November 30 of each year and offer each residential customer the option to decline such service.

(b) *Rates.* Collectors shall be responsible for setting rates for collection of residential yard trimmings and such charges may be billed separately from any charges for basic services, as defined in § 15-411 to include collection of solid waste and recyclable materials, provided by the collector, and shall not be governed by the requirements of Subsection 15-412(e), provided that the City's contracted waste collector shall bill for yard trimmings services in accordance with the City's contract waste collection program for that program's customers. Beginning on September 30, 2024, collectors shall not list yards trimmings collection as a separate line item

on customers' bills and beginning on that date yard trimmings collection shall be included within the charges for basic services, unless the customer has declined yard trimmings collection service.

(c) *Disposal of yard trimmings.* Collectors may not comingle yard trimmings with solid waste or recyclable materials, nor dispose of yard trimmings at a landfill. Yard trimmings shall be disposed of by the collector at a location or facility permitted to collect ~~organic materials~~ **yard trimmings** for recycling, reuse or composting.

Section 13. That Section 15-415 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 15-415. Collection of food store food scraps.

(a) *Frequency of collection.* Collectors providing food scraps collection service to food stores shall provide collection with such frequency as is necessary to prevent overflow of containers. Service must be provided at least once per week, but no less frequently than may be required by the Larimer County Department of Health and Environment.

(b) *Collectors—Duties.* All licensed collectors of food scraps operating within the City shall have the following duties:

(1) Except as permitted by variance allowed under Subsection 12-23(a), collectors may not comingle food scraps with solid waste or recyclable material or dispose of food scraps by any means other than at a location or facility permitted by the State of Colorado to collect such material (but not to a landfill).

(2) A collector may establish such reasonable and industry-accepted requirements for the preparation of food scraps as are necessary to provide for the orderly collection of such materials, including requirements for source separation.

...

Section 14. That Section 15-417 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 15-417. - Application for license.

(a) Any person desiring to obtain a license to engage in the business of being a collector of solid waste, recyclable materials, food scraps, or yard trimmings within the City shall make written application to the Director on forms provided by the City. All applications for renewal of a license by a licensed collector must be submitted no later than November 30 in advance of the new license year. The application shall include, without limitation, the following information:

...

(3) A list of motor vehicles or fleets of human powered vehicles owned and/or operated by the applicant directly in the collection of solid waste, recyclable materials, food scraps, and/or yard trimmings, or operated or located at any time in the City during the current or pending license year, including vehicle make, color, year, U.S. Department of Transportation safety inspection identification number, cubic yard capacity, Colorado license plate number and empty tare weight where applicable.

...

Section 15. That Section 15-420(d) of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 15-420. - Plans, recordkeeping and reports.

...

(d) Each collector licensed pursuant to this Article shall maintain accurate and complete records of the service provided to each customer, the charges to such customer and payments received, the form and recipients of any notice required pursuant to this Article, and any underlying records, including any books, accounts, contracts for services, including contracts for group accounts, written records of individual level of service requests, invoices, route sheets or other records necessary to verify the accuracy and completeness of such records, and copies of all applications for and documentation pertaining to all requests for variance pursuant to Subsection 15-413 (b)(3)-~~above~~. It shall be the duty of each collector to keep and preserve all such documents and records, including any electronic information, for a period of three (3) years from the end of the calendar year of such records, except for paper records of route sheets, which may be discarded one (1) year after the end of the calendar year of such route sheets. Notwithstanding any other requirement of this Article, a collector shall allow the City Manager, or their designee, to inspect any of the records referenced in this subsection when provided with seven (7) days advance written notice.

...

Section 16. That Section 15-422 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 15-422. Identification of vehicles.

Each vehicle used by a collector to provide services within the City pursuant to a license issued under this Article shall bear an identification sticker issued by the Financial Officer in a conspicuous place upon the vehicle, which identification sticker shall be issued by the Financial Officer at the time the license is granted.

Introduced, considered favorably on first reading and ordered published this 21st day of February, 2023, and to be presented for final passage on the 7th day of March, 2023.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading this 7th day of March, 2023.

Mayor

ATTEST:

City Clerk