

AGENDA ITEM SUMMARY

December 17, 2019

City Council

STAFF

Caroline Mitchell, Environmental Planner
Bronwyn Scurlock, Legal

SUBJECT

First Reading of Ordinance No. 148, 2019, Amending Chapters 12, 15 and 20 of the Code of the City of Fort Collins to Update Environmental Codes.

EXECUTIVE SUMMARY

The purpose of this item is to update existing environmental codes for clarity, consistency with current practices, and in support of their enforcement. All changes are administrative in nature and do not change the purpose of the Code sections.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION

The City of Fort Collins created an Environmental Compliance position in 2017, tasked with increasing compliance with the City’s local environmental regulations through education and enforcement. In the nearly three years since the position was created several sections of the City Code were identified that require revision to align with existing practices, provide greater clarity and increase enforceability. The proposed Code revisions do not reflect any changes in how these ordinances have been applied. The following table is included to provide an overview of the proposed changes, why they are being proposed and which sections of the Code they affect.

Proposed change	Reason for change	Affected Code sections
Clarify “refuse container” definition	Provide administrative clarity, increase enforceability of environmental codes	12-16 definitions, 12-18(c), 12-22(c), 12-23(a)(b), 12-24, 15-411 definitions, 20-42 definitions, 20-42(b)(l)
Clarify “curbside” definition	Provide consistency with other Code sections by allowing collection carts to be placed on non-arterial streets for collection	12-18(b), 12-19(a)(b)

Proposed change	Reason for change	Affected Code sections
Add exemption for City employees/agents including law enforcement officers “tampering” with refuse containers.	Confirm current standard practice of the ability of law enforcement officers, code compliance to continue collecting evidence from refuse containers as appropriate.	12-20(a)
Remove term “unserved” from business and multi-family recycling requirement	Closes unintended potential loophole in recycling requirement; matches the ordinance intention.	15-413
Remove language requiring specific date and consultation with a variety of entities before generating designated recyclables list	Aligns with long-standing practice and infrequency of changes to the designated recyclables list.	15-416(a)
Allow 45 rather than 30 days following the close of each half year for waste haulers to report data	Match current practice and align with data availability for hauling companies.	15-420(g)
Update language of waste hauling hours of operation requirement	Match current practices; support enforceability	15-423
Update hauler licensing responsibility from Finance to Environmental Services	Match current practices; support enforceability	15-417(a)(b)(c), 15-418
Define multiple human-powered vehicles as a single motor vehicle for licensing fees	Match current practices, allow for alternative transportation methods for collections	15-418

ORDINANCE NO. 148, 2019
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING CHAPTERS 12, 15 AND 20 OF THE CODE OF THE CITY
OF FORT COLLINS TO UPDATE ENVIRONMENTAL CODES

WHEREAS, 2017 the City created an Environmental Compliance Inspector position to help increase compliance with local environmental Code provisions in City Code Chapters 12, 15 and 20 through education and enforcement; and

WHEREAS, during education and enforcement efforts over the years, several sections of the City Code were identified that require amendment to align with existing practices, provide greater clarity, and increase enforceability; and

WHEREAS, the proposed changes include modifying the definitions of refuse container, container, dumpster, poly-cart, and roll-off bin, and making them consistent throughout Chapters 12, 15, and 20; and

WHEREAS, further changes include making slight modifications to existing provisions to align with current practices; and

WHEREAS, the City Council has determined that these Code amendments are in the best interest of the City and its citizens.

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 to read as follows:

Sec. 12-16. Definitions

...

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

...

~~Refuse container shall mean a watertight receptacle of a solid and durable metal or nonabsorbent, fire-resistant plastic with a tightly fitting, insect and rodent proof cover of metal or plastic or a tightly secured plastic bag~~ either a poly-cart, dumpster or roll-off bin as defined in §15-411 of this Code or other durable, watertight container manufactured for the collection of refuse material.

...

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.

...

(b) All ~~moveable~~ refuse containers and recyclable materials that are not required to be enclosed at all times per Land Use Code Section 3.2.5 shall be kept in the storage area screened except on collection day, or within twelve (12) hours preceding the time of regularly scheduled collection from the premises, when they may be placed curbside as defined in §15-411 of this Code at the curb or upon the edge of the alley. Following collection, they shall be returned to the storage area the same day. Refuse containers and recyclable materials shall not, at any time, be placed on the sidewalk or in the street, or in such a manner as to impair or obstruct pedestrian, bicycle or vehicular traffic.

(c) If plastic bags are used as in place of refuse containers, they must be securely tied or sealed to prevent emission of odors, be of a material impenetrable by liquids and greases, and be of sufficient thickness and strength to contain the refuse enclosed without tearing or ripping under normal handling, and are subject to the same requirements of subsection 12-18(b) above.

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 solid waste collection services from a solid waste collector for residential customers through a group account shall arrange for such services in a manner that offers residential customers:

(1) Choices from amongst volume capacity categories of the refuse containers for solid waste that are placed for collection by the residential customer;

...

(3) Recycling services, including refuse containers required to be provided for recycling, in a manner consistent with § 15-413.

(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 volume capacity categories, related rates and recycling services and refuse container options have been provided by a solid waste

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. 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.

...

Section 5. That Section 12-20 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 12-20. Tampering with refuse ~~or rubbish~~ container prohibited.

(a) No person other than the collector, the owner or the agents or employees of such owner, or a person holding a license from the City for the collection and disposal of refuse and rubbish employees or agents of the City shall tamper with any refuse container or its contents or remove the contents of any refuse container, or remove a refuse container from the location where the same has been placed by the owner.

...

Section 6. That Section 12-22 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 12-22. Required recycling.

...

(d) It shall be the duty of any owner or occupant of any premises to ensure that bags or refuse containers do not contain materials required to be recycled under this Section when such bags or refuse containers are offered for solid waste collection. It shall also be the responsibility of any holder of a building permit issued by the City to dispose of mixed construction and demolition materials in accordance with this section.

Section 7. That Section 12-23 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 12-23. Collection requirement—Food store food scraps.

(a) *Food stores—Service requirement.* Commencing on December 31, 2017, food stores within the City that dispose of more than ninety-six (96) gallons of food scraps per week shall subscribe to a service for the collection of food scraps by a collector licensed to provide such services within the City or shall obtain a variance in accordance with the following provisions:

...

(3) For purposes of Subsection 12-23(a), "good cause shown" shall mean evidence presented by the food store that, to the reasonable satisfaction of the Director of the City's Environmental Services Department, demonstrates that the customer lacks sufficient space for ~~food scraps~~ refuse containers ~~for food scraps~~, donates all food scraps for human or animal consumption, self-hauls food scraps to a facility permitted by the State of Colorado to accept such material (but not to a landfill) or disposes of food scraps via garbage disposal or other similar technology that processes food scraps for disposal via waste water infrastructure, or by on-site composting.

(b) *Collection frequency.* Food stores obtaining such food scraps collection services shall require collection with such frequency as is necessary to prevent overflow of refuse containers. Service must be provided at least once per week, but no less frequently that may be required by the Larimer County Department of Health and Environment.

...

Section 8. That Section 12-24 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 12-24. Refuse containment in transit.

No person shall collect, transport or receive any refuse or rubbish within or upon any public streets in the City or anywhere in the City except in leak-proof refuse containers or vehicles so constructed that no refuse or rubbish can leak or sift through, fall out or be blown from such refuse container or vehicle. Any person collecting or transporting any refuse or rubbish shall immediately pick up all refuse and rubbish which drops, spills, leaks or is blown from the collecting or transporting the refuse container or vehicle and shall otherwise clean the place onto which any such refuse or rubbish was so dropped, spilled, blown or leaked.

Section 9. That Section 15-411 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 15-411. Definitions

...

Container shall mean ~~a refuse container as defined in § 12-16, a poly cart, disposable bags, bin-type containers, carts or bulk volume dumpsters~~ either a refuse container or a tightly secured plastic bag.

...

Dumpster shall mean a durable, watertight, metal or plastic container with a tightly fitting, rodent proof lid, one (1) cubic yard to ten (10) cubic yards in volume that is manufactured and used to collect for the collection of refuse or, recyclables materials, or food store food scraps.

...

Poly-cart shall mean a durable, watertight, plastic, wheeled container with a hinged tightly fitting, rodent proof lid, manufactured and used for the collection of refuse, recyclable materials, food store 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.

...

Refuse container shall mean either a poly-cart, dumpster or roll-off bin as defined in this Section or other durable, watertight container manufactured for the collection of refuse material

...

Roll-off bin shall mean a durable, watertight, open-top or gable-top metal container manufactured and used to collect for the collection of refuse or recycling recyclable materials that is ten (10) cubic yards or greater in capacity.

...

Section 10. 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.

...

(b) *On-site collection - Multi-family and commercial.*

...

(3) Commencing January 1, 2017, each solid waste collector licensed by the City shall provide to new and existing multi-family and commercial customers (and other customers receiving solid waste collection services through a communal system of waste collection) as a part of any solid waste collection services provided by such collector, the minimum recycling service calculated under Subsection 15-413(b)(2) in accordance with the schedule set forth in Subsection 15-413(b)(3). Each solid waste collector licensed by the City must add minimum recycling service to the solid waste collection service provided to existing multi-family and commercial customers not receiving recycling service as of December 31, 2016 ("unserved multi-family and commercial customers") in accordance with the following schedule:

...

b. by December 31, 2020 one hundred (100) percent of its ~~unserved~~ multi-family and commercial customers.

...

Section 11. That Section 15-416 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 15-416. Designation of recyclable materials, food scraps, and yard trimmings for collection.

(a) The City Manager shall, ~~on or before the 1st day of October of each year, after consultation with the Larimer County Board of Commissioners, the Natural Resources Advisory Board and representatives of the licensed collectors operating within the City,~~ determine which items (including recyclables, food scraps, and yard trimmings) shall be designated for collection based upon the following criteria:

...

Section 12. 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** ~~Financial Officer~~ 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, recyclables, 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**.

(4) A description of the system to be used to account for and charge volume-based rates as required under Subsection 15-412(c), and a plan describing the structure and operation of the recycling collection services to be offered to each customer class. The

description of the system shall include a detailed description of the means by which residential customers are notified of and offered the full range of sizes of containers provided for solid waste collection and those provided for curbside recycling and of the availability of seasonal yard trimmings collection service. In addition, the description shall provide sufficient detail to allow the ~~Director~~ ~~Financial Officer~~ to determine the means by which volume-based rates are applied to residential customers receiving waste-hauling services through any group account, such as the formula used to set volume-based rates for any group accounts, and the methods used to offer and account for the volume-based charges.

...

(b) The ~~Director~~ ~~in consultation with the~~ Financial Officer shall determine whether an application meets the requirements of this Article, and whether all taxes, fees, penalties, interest or other financial obligations to the City of the applicant or any predecessor in interest of the applicant have been met, and whether the applicant is in current compliance with the requirements of this Article. The ~~Director or~~ Financial Officer may request such additional information as he or she deems relevant to a determination of whether the requirements of this Article will be met by the applicant. The ~~Director~~ ~~Financial Officer~~ may deny any application if the ~~Director or~~ Financial Officer reasonably determines that any requirements of this Article will not be met by the operation proposed by the applicant, or if the applicant is ineligible for a license under the terms of a revocation determination by the City Manager pursuant to § 15-426.

(c) Upon a determination by the ~~Director~~ ~~Financial Officer~~ of whether a license shall issue under § 15-417, the ~~Director~~ ~~Financial Officer~~ shall give written notice to the applicant of his or her decision thereon. An applicant whose application has been denied may, within twenty (20) days after such decision is mailed, petition the City Manager for a hearing on the denial. The City Manager shall notify the applicant in writing of the time and place of the hearing. After such hearing, the City Manager shall make such order in the matter as he or she deems just and proper and shall furnish a copy of such final order to the applicant.

Section 13. That Section 15-418 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 15-418. License requirements; fees and insurance.

Upon approval of a license application, but prior to issuance, the collector shall furnish to the ~~Director~~ ~~Financial Officer~~ the following:

(1) A license fee in the sum of one hundred dollars (\$100.) for each ~~motor vehicle or~~ ~~fleet of human-powered vehicles~~ required to be identified under Subsection 15-415~~7~~(a)(3); and

...

Section 14. That Section 15-420 of the Code of the City of Fort Collins is hereby amended to read as follows:

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

...

(g) All collectors shall accurately and completely report to the City the following information, which shall be deemed to constitute public information:

...

(4) Number of tons of yard trimmings collected in the City from any customer category, including group accounts, reported by category of customer.

Such reports shall be made on forms to be provided by the City and shall be made for each full half-year of curbside collection performed by the collector. A half-year shall mean January 1 through June 30 or July 1 through December 31. All such reports shall be submitted to the City Manager no later than ~~thirty~~ **forty-five** (~~30~~**45**) days following the close of each half-year.

Section 15. That Section 15-423 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 15-423. Hours of operation.

No collector shall operate any vehicle for the purpose of collecting solid waste, recyclables, food scraps, or yard trimmings on any **non-arterial street as designated by the City's Master Street Plan** street designated by the City as "local residential" or "residential collector" between the hours of 7:00 p.m. and 7:00 a.m. (~~the "Nighttime Hours"~~).

Section 16. That Section 20-41 of the Code of the City of Fort Collins is hereby amended by the addition of a new definition "Refuse container" which reads in its entirety as follows:

Refuse container shall mean a either a poly-cart, dumpster or roll-off bin as defined in Section 15-411 of this Code or other durable, watertight container manufactured for the collection of refuse material

Section 17. That Section 20-42 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 20-42. Weeds, unmowed grasses, refuse and rubbish nuisances prohibited.

...

(b) It shall be unlawful for the owner or occupant of any property to permit refuse or rubbish to accumulate on any part of the property. All refuse shall be stored for prompt disposal on the premises in refuse containers, **or tightly secured plastic bags**, ~~and the storage area shall be kept~~

~~free of loose refuse.~~ Any refuse or rubbish which by its nature is incapable of being stored in refuse containers **or tightly secured plastic bags** may be neatly stacked or stored for prompt disposal. ~~The number and size of refuse containers shall be sufficient to accommodate the accumulation of refuse from the property.~~ **Refuse c**Containers, **and tightly secured plastic bags** shall be secured and placed where they are screened from view of the street and are not susceptible to being spilled by animals or wind or other elements.

...

(1) The property owners and the prime contractors in charge of any construction site shall maintain the construction site in such a manner that refuse and rubbish will be prevented from being carried by the elements to adjoining premises. All refuse and rubbish from construction or related activities shall be picked up at the end of each workday and placed in **refuse** containers which will prevent refuse and rubbish from being carried by the elements to adjoining premises.

...

Introduced, considered favorably on first reading, and ordered published this 17th day of December, A.D. 2019, and to be presented for final passage on the 7th day of January, A.D. 2020.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on the 7th day of January, A.D. 2020.

Mayor

ATTEST:

City Clerk