

# **AGENDA ITEM SUMMARY**

## **FORT COLLINS CITY COUNCIL**

**ITEM NUMBER: 35**  
**DATE: February 3, 2004**  
**STAFF: Susie Gordon**

### **SUBJECT**

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First Reading of Ordinance No. 025, 2004, Amending Chapter 15, Article XV of the City Code Relating to Solid Waste Collection and Recycling Services.

### **RECOMMENDATION**

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Staff recommends adoption of the Ordinance on First Reading. On November 5, 2003, the Natural Resources Advisory Board voted unanimously to recommend adoption of the Ordinance.

### **EXECUTIVE SUMMARY**

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Since it was adopted in 1996, the pay-as-you-throw (PAYT) Code provisions governing the provision of solid waste collection services have been implemented by trash haulers as a condition of their City license, with one amendment made in March 2000 to establish an audit system for the City's use.

At a Council review in 2002, staff was requested to improve the effectiveness with which the PAYT Code provisions are applied. Clarification to the language in the Code is proposed to specifically state that all single family and two-family residences in Fort Collins are subject to unit-based (PAYT) trash rates, including those participating in group accounts for trash service. The proposed changes remove any ambiguity in the existing requirement, and do not introduce a new or different approach. Specifically, the proposed changes would:

1. Require haulers to list unit-based prices for all levels of service (i.e., for one-, two-, three-can per week service) in written format when bidding services for consolidated accounts, and expressly require haulers to retain records of any contracts they are awarded (to provide trash hauling services to group accounts), including prices, for three years as part of existing recordkeeping requirements.
2. Require haulers to publicize unit-based prices to individual residents who participate in group accounts and to allow residents to choose their level of service, and to be billed according to that service level price thereafter. This would prohibit haulers from providing a single level of service for all residents in a group, unless it can be documented that every resident selected that level of service.

Staff estimates that up to 10,000 residences (approximately 19% of residences in Fort Collins) are currently participating in group accounts and are not receiving unit-based trash rates. If PAYT is

applied to these residences, staff estimates a savings of 15,000 cubic yards of municipal solid waste that would otherwise be landfilled. Staff also expects to see a 4-6% increase in recycling in these residences.

## **BACKGROUND**

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In 1995, the City of Fort Collins adopted a PAYT trash requirement for trash haulers (Section 15-412 of the Municipal Code). By requiring that haulers charge a variable rate for trash, the PAYT system provides economic incentives for single-family and two-family residences to reduce their household waste and increase efforts to recycle. The City requires trash hauling companies to apply these variable rates as a condition of their license to provide residential trash services.

The Natural Resource Department continues to work at the request of the City Council to ensure that the PAYT program is effective. One issue that has been brought to staff's attention is the difficulty of applying variable rates in situations where property management companies, homeowner associations (HOAs), neighborhood associations, or other intermediaries negotiate with trash haulers for group service and rates.

The City continues to endorse the practice of consolidated trash collection accounts because of their positive environmental benefits (less damage to roads, traffic, noise, and pollution). However, in some cases staff has found that individual customers in group accounts are not being given their choice of trash service level with unit-based rates. For example, an HOA may negotiate a contract whereby all homes receive the same 90-gallon container per week and are billed the same base rate, and the option of choosing a lower service level (e.g., 30-gallon or 60-gallon) is not available. This situation negates the economic incentive of the PAYT system and reduces its effectiveness.

Staff considered several options including the proposed amendments to the PAYT requirement:

1. No action:  
This option was ruled out as staff believes the effectiveness of PAYT can be improved, as directed by City Council.
2. Execute enforcement action based on existing Code requirements:  
Staff believes that the existing Code provisions require that individual volume-based service be made available to all single family residences, including those receiving service through a group account. However, enforcement practices to date have not forced this issue, and there were indications that one or more of the city's licensed trash haulers considered the Code provisions to be unclear in this regard. As a result, staff chose to seek clarification of the language prior to stepping up enforcement on these issues.
3. Clarify existing ordinance to remove any ambiguity about its applicability to group accounts:  
Staff feels this is the best option, as it merely clarifies existing language without affecting the overall intent of the Council in adopting the PAYT requirements while putting the trash haulers on clear and specific notice of the way the requirements apply to group accounts.

4. Consider other options besides PAYT to reach Council's adopted goals for recycling levels and waste diversion:

Staff's opinion is that the next best option for reaching the City's recycling and solid waste diversion goals would be some form of districting. Given that in 1998, the City Council chose a different course of action—specifically, to direct staff to find other ways besides districting to reach the City's goals—staff felt that this was an option of last resort. If the City Council decides not to amend the PAYT Code provisions, staff would recommend revisiting the issue of districting.

Staff conducted extensive public outreach efforts while working on the proposed amendments:

- 7/21/2003 - Letter sent to all licensed trash haulers informing them of scope of ordinance amendments and inviting their feedback at a meeting on 8/5/2003.
- 8/5/2003 - Meeting with licensed trash haulers (RAM Waste, Inc., and Waste Management, Inc. attended).
- 8/12/2003 - Meeting with Gallegos Sanitation, Inc. (special meeting scheduled as they did not attend the 8/5/2003 meeting).
- 9/19/2003 - PAYT Public Open House at the Lincoln Center.
  - "Let's Talk Trash" 3 col. X 4 in. advertisement ran in Coloradoan 9/15/2003 and 9/17/2003
  - Invitation letters were mailed to all licensed trash haulers, individuals who had expressed interest in the issue, and a list of property management companies and homeowner's associations (HOAs) received from the City's Neighborhood Resources office.
- 10/1/2003 - Reviewed PAYT options with the Natural Resources Advisory Board.
- 10/13/2003 - Completed telephone calls to all property management companies listed in the Fort Collins yellow pages to solicit their input on the issue.
- 10/14/2003 - "PAYT Update" letters were mailed to all property management companies, trash haulers, and individuals that expressed interest in the issue (including some HOAs).
- 10/14/2003 - Met in person with representatives from Faith Property Management to receive their input.
- 11/5/2003 – Reviewed current staff recommendation with the Natural Resources Advisory Board. Received unanimous support for the proposal from the Board.

Further background information and discussion will be included in staff's presentation to City Council.

Council consideration of this item was postponed from December at the request of interested trash haulers.

ORDINANCE NO. 025, 2004  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
AMENDING CHAPTER 15, ARTICLE XV  
OF THE CODE OF THE CITY OF FORT COLLINS RELATING  
TO SOLID WASTE COLLECTION AND RECYCLING SERVICES

WHEREAS, in 1964, the City first enacted licensure requirements for solid waste collection services with the adoption of Ordinance No. 42, 1964; and

WHEREAS, in the intervening years, those licensure provisions have since been modified, and repealed and reenacted, and are now set out in Chapter 15, Article XV of the Code of the City of Fort Collins; and

WHEREAS, in June 1995, the Council enacted Ordinance No. 58, 1995, requiring residential trash haulers in Fort Collins to apply variable rates ("pay-as-you-throw") and provide curbside recycling services at no extra charge, in order to encourage the reduction and diversion of solid waste in residential households; and

WHEREAS, in March 2000, the Council adopted Ordinance No. 22, 2000, updating the provisions of Chapter 15, Article XV of the Code in order to provide for more effective enforcement mechanisms, including recordkeeping and audit requirements; and

WHEREAS, since that time, staff has worked to review and monitor the effectiveness of the pay-as-you-throw system, and has determined that compliance with those requirements in group residential accounts has been very limited; and

WHEREAS, in order to clarify the application of the pay-as-you-throw system to group accounts, and to provide more specific guidance as to how group accounts must be administered in order to accomplish the pay-as-you-throw objectives embodied in the Code, staff is recommending that the Council adopt the proposed amendments to the existing Code provisions, as set forth herein.

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

Section 1. That Section 15-411 of the Code of the City of Fort Collins be 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:

. . . . .

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

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*Group account* shall mean a customer account for solid waste hauling services that provides for collection of waste 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.

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*Residential customers* shall mean residential properties for which ~~there is a curbside collection system for the collection of solid waste~~ a communal system for the collection of waste is not employed.

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Section 2. That Section 15-412(c) and (d) of the Code of the City of Fort Collins be amended to read as follows:

**Sec. 15-412. License requirement.**

• • • • •

(c) *Volume based rates.*

- (1) Any person licensed to operate as a solid waste collector within the city shall charge all ~~single-family and two-family~~ residential customers, including, but not limited to, residential customers provided service through a group account, on the basis of the volume capacity (or volume capacity category) of the containers of solid waste placed for collection by ~~the~~ each residential customer. The amount to be charged for such containers shall be determined by each solid waste collector; provided, however, that no volume capacity category shall exceed a range of variation in volume capacity of more than thirty-three (33) gallons. Said charges need not be based upon the volume of solid waste actually deposited within such containers by the residential customers. The charge for additional containers of the same volume capacity (or volume capacity category) shall not be less than the charge for the first such container.
- (2) In order to further ensure that the charge for the collection of solid waste is based upon volume as required above, any person licensed as a solid

waste collector shall, ~~with respect to single-family and two-family residential customers,~~ provide to **each residential** such customers disposable bags, or labels to be attached to nondisposable containers showing the volume capacity (or volume capacity category) of such containers, or shall establish another system for accomplishing the same purpose which is acceptable to the city. **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 from the full range of container sizes and levels of service offered by the hauler.**

- (3) **In offering or arranging for services, a solid waste collector shall provide reasonable notice of the full range of bag or container sizes or levels of service offered by the hauler, and shall provide to each residential customer that customer's requested container size or level of service.**
- (4) It shall be unlawful for any person to knowingly attach any such label to a container exceeding in volume the volume capacity (or volume capacity category) shown on, or represented by, such label, and to place said container for collection.
- (5) No solid waste collector shall collect or transport solid waste which has not been placed for collection through such system or in bags or containers upon which such labels have been attached. Upon emptying any such containers, the collector shall remove or otherwise void all such labels.
- (6) The provisions of this subsection shall not be construed as prohibiting any collector from also establishing rules and regulations regarding the maximum weight of containers of solid waste and/or recyclable materials.

(d) *Flat monthly fee.* In addition to the volume-based rates required pursuant to paragraph (c) above, solid waste collectors may, but are not required to, establish a flat monthly fee which may be charged to ~~single-family and two-family~~ residential customers for the purpose of covering the fixed operational costs of doing business of such solid waste collectors. If a solid waste collector elects to charge such flat monthly fee, said fee shall not exceed fifty percent (50%) of the aggregated customer cost (the combination of the flat monthly fee plus the monthly volume rate charged pursuant to paragraph (c) above, assuming the collection of one [1] container per week). Said flat monthly fee shall be based upon the following formula:

$$\text{Flat monthly fee} \leq .50 \times C$$

Where:

C = aggregated customer cost (flat monthly fee + 4.33 x volume rate charged per container)

In the event that a solid waste collector elects to establish a flat monthly fee, all bills for services provided by such collector to ~~single-family and two-family~~ residential customers shall clearly show both the flat monthly fee and the volume-based rate. Additionally, in the event that a solid waste collector elects to establish a flat monthly fee, such collector shall, within ten (10) calendar days after establishing such fee and on or before January 1 of each ensuing year, deliver to the City's Natural Resources Director a true and correct copy of such solid waste collector's rate schedule, **including, but not limited to, each group account rate schedule.**

Section 3. That Section 15-413(a) and (d) of the Code of the City of Fort Collins be amended to read as follows:

**Sec. 15-413. Recycling requirement.**

(a) *Curbside/on-site collection.*

(1) ~~At~~**Each** solid waste collectors licensed by the city shall make available to ~~their~~**its multifamily and commercial** customers, **and other customers receiving solid waste collection services through a communal system of waste collection**, at the customer's option, curbside collection of recyclable materials as said materials are designated from time to time by the City Manager as provided in § 15-414 of this Article. Notwithstanding the foregoing, the collection of recyclable materials from ~~multifamily and/or commercial~~ customers **pursuant to this Subsection (1)** shall not be required if the collector determines that there is not sufficient space available to allow the placement of recycling containers without encroaching on needed parking areas or on the sidewalk or street, or without impairing or impeding bicycle, pedestrian or vehicular traffic. ~~The provisions of this subparagraph (1) as they apply to single-family and two-family residential customers shall terminate and be of no further force or effect commencing October 1, 1995.~~

(2) ~~Commencing October 1, 1995, a~~**Each** solid waste collectors licensed by the city shall provide to each ~~single-family and two-family~~ residential customer in the city, as a part of any solid waste collection services provided by such solid waste collector, both the collection at curbside of solid waste, and recyclable materials as said materials are designated from time to time by the City Manager as provided in § 15-414 of this Article. No such collector shall be permitted to divide or diminish the provision of said basic service at the request of such customer or for any other reason.

. . . . .

(d) *Customer notification.* Upon the initial provision of solid waste collection services to new customers, and on or before December 31 of each year with respect to existing customers, collectors shall notify in writing such customers of the

availability of the collection of recyclable materials, the materials designated for recycling collection pursuant to § 15-414 and such rules and regulations as have been established by the collector for the orderly collection of recyclable materials as authorized pursuant to § 15-413(b)(2). **Such notice shall further include notification of the variable rate system employed by the solid waste collector, and shall be in a form reasonably acceptable to the city to ensure that customers are fully informed of the availability of recycling and level of service options. The collector shall deliver to the city's Natural Resources Director a true and correct copy of the form of each such notification sent on or before December 31 of each year.**

Section 4. That Section 15-415(a) of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 15-415. Application for license.**

(a) Any person desiring to obtain a license to engage in the business of solid waste collection shall make written application to the Financial Officer on forms provided by the city. The application shall include, without limitation, the following information:

- (1) The name and address of the applicant;
- (2) The principal place of business for the business to be conducted;
- (3) A list of vehicles owned and/or operated by the applicant directly in the collection of solid waste and/or recyclables, including vehicle make, color, year, cubic yard capacity, Colorado license plate number and empty tare weight.
- (4) A description of the system to be used to account for and charge volume-based rates, as required under § 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 bags or containers provided. In addition, the description shall provide sufficient detail to allow the Financial Officer to determine the means by which volume-based rates are applied to residential customers receiving waste hauling services through any group account, and the methods used to offer and account for the volume-based charges.**

Section 5. That Section 15-418(b) and (e) of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 15-418. Plans, recordkeeping and reports.**

. . . . .

(b) Each collector licensed pursuant to this Article shall maintain accurate and complete records of the service provided to each residential 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, written records of individual level of service requests**, invoices, route sheets or other records necessary to verify the accuracy and completeness of such records. 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.

. . . . .

(e) All collectors shall accurately and completely report to the city the following information:

- (1) Number of tons or cubic yards of solid waste collected from all ~~single-family, two-family residential, and multifamily residential~~ and commercial customers.
- (2) Number of tons of each type (as determined by the City Manager pursuant to § 15-414) of recyclables collected through the commercial and multifamily recyclables collection program.
- (3) Number of tons of each type (as determined by the City Manager pursuant to § 15-414) of household recyclables collected through the curbside recyclables collection program.
- (4) Number of tons of each type (as determined by the City Manager pursuant to § 15-414) of household recyclables collected by drop-off system.

Such reports shall be made on forms to be provided by the city and shall be made biannually 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 (30) days following the close of each half-year.

Introduced, considered favorably on first reading, and ordered published this 3rd day of February, A.D. 2004, and to be presented for final passage on the 17th day of February, A.D. 2004.

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Mayor

ATTEST:

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City Clerk

Passed and adopted on final reading this 17th day of February, A.D. 2004.

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Mayor

ATTEST:

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City Clerk