

As amended June 15, 2020

COUNCIL BILL NO. CB20-011
ORDINANCE NO. 4733

AN ORDINANCE REPEALING AND REENACTING CHAPTER 90, SOLID WASTE, OF
THE ARVADA CITY CODE

WHEREAS, pursuant to Colorado Revised Statutes §30-15-401, the City is authorized to provide residential waste services for the collection and transportation of ashes, trash, rubbish, garbage, or any other discarded materials and impose fees for such services; and

WHEREAS, City Council finds that the City's provision of residential waste services is of benefit to the community as city-wide organized waste services is cost effective, there is less need for street maintenance, and the quality of life and public safety are benefited by having fewer trucks operate within the City; and

WHEREAS, City Council is committed to providing environmental and resource conservation services to residents so that residents can carefully use and preserve resources and save money. The residential waste services will not only provide education but increase the availability of curb-side recycling in an effort to conserve resources and protect the environment; and

WHEREAS, City Council aims to conserve resources, reduce greenhouse gas emissions, reduce waste, and to protect the public health and welfare, all of which increase the quality of life for the City's residents and visitors; and

WHEREAS, the City has completed all necessary statutory requirements to provide residential waste services and impose fees for such services; and

WHEREAS, the City has done extensive public outreach and held multiple workshops to ensure that the waste hauling program reflects the needs and desires of the community; and

WHEREAS, the City has conducted a competitive bid process in accordance with Arvada's Purchasing Ordinance and has negotiated to obtain the best value and best pricing for its residents; and

WHEREAS, City Council, to ensure administrative efficiency and the continuity of service regarding the collection of residential waste and recyclables, desires that the billing, payment, and enforcement practices for such services be the same as those for the City's utility services; and

WHEREAS, the City Council finds that repealing and reenacting the City's Chapter 90, Solid Waste of the Arvada City Code is necessary to protect the rights of both private and public property owners, and the health, safety, and welfare of the public.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARVADA, COLORADO:

Section 1. Chapter 90, Solid Waste, of the Arvada City Code, is hereby repealed and reenacted to read as follows:

“CHAPTER 90 SOLID WASTE

ARTICLE I. IN GENERAL

Sec. 90-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Building materials means any material such as lumber, brick, plaster, gutters, or other substances accumulated as a result of repairs or additions to existing buildings, construction of buildings, or demolition of existing structures.

Bulky item means a waste item that is too large or too voluminous to be placed in a residential waste container, and includes, but is not limited to, furniture, or appliances, and small equipment, such as lawnmowers.

Commercial waste means any waste accumulation of dust, paper and cardboard, excelsior, rags or other accumulations, other than garbage or household trash, which are usually attendant to the operation of stores, offices, and similar businesses.

Compostable materials means discarded materials from any residential or commercial source that are collected separately for the purpose of being composted, or otherwise processed into soil amendment, fertilizer, mulch, sludge, biogas, fuel, or electricity.

Hauler means a person or entity that, for a fee or no fee, collects, transports, or disposes of waste, recycling, compostable, or construction and demolition materials for another, excluding those persons or entities described in Section 90-51(b).

Hazardous waste means waste defined as, or of a character or in a sufficient quantity to be defined as, a hazardous waste by the Resource Conservation and Recovery Act, as amended, or any state or local laws or regulations with respect thereto, or a “toxic substance” as defined in the Toxic Substance Control Act, as amended, or any regulations with respect thereto, or any reportable quantity of a “hazardous substance” as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, or any regulations with respect hereto. The term hazardous waste also includes any waste whose storage, treatment, incineration or disposal requires a special license or permit from any federal, state, or local government entity, body, or agency.

Homeowners' association means any covenant-controlled community containing two or more residential property owners, which includes a lawfully constituted and operational board or other similar entity which is empowered to enforce the community's recorded covenants and which has the power to impose assessments for its services which, if unpaid, may be made a lien on the property; this shall include special or metropolitan districts.

Recyclable materials mean discarded materials from any residential or commercial source that are collected separately for the purpose of such materials being re-processed into new or different products or packaging materials, provided that such materials have been designated as recyclable.

Residential property means any building occupied in whole or in part, for residential occupancy.

Residential waste means solid waste and other discarded goods generated from residential sources subject to collection in accordance with the city's residential waste collection services program.

Residential waste collection services means the collection and transportation of residential waste and recyclable materials by the city's designated service provider from participants in the city's residential waste collection services program.

Solid waste means any form of discarded material, junk, garbage, rubbish, trash, foreign substance, yard waste, or debris intended for landfill disposal, excluding recycling, compostable, and construction and demolition materials.

Waste and recycling containers mean, for those persons subject to the city's residential waste collection services program, a wheeled cart suitable for mechanical lifting with a lid for containment and setting out waste or recycling for collection in sizes of approximately 32 gallons, 64 gallons, and/or 96 gallons, or such other standard size container as staff deems appropriate. For all other residents, waste and recycling containers mean the proper container provided or approved by the individual's waste hauler.

Yard waste means waste accumulation of lawn, grass or shrubbery cuttings, or clippings and dry leaf rakings free of dirt, rocks, large branches and bulky or noncombustible materials.

Sec. 90-2. Construction sites and demolition sites.

All construction and demolition contractors shall provide on-site waste containers for loose debris, paper, building material wastes, scrap building materials and other trash produced by those working on the site. All such materials shall be containerized by the end of each day, and the site shall be kept in a reasonably clean and litter-free condition. The number of waste containers shall be determined by the size of the job. Dirt, mud, construction materials or other

debris deposited upon any public or private property as a result of construction or demolition shall be removed by the contractor. Construction sites shall be kept clean and orderly at all times.

Sec. 90-3. Waste removal and containers.

(a) *Waste removal.* The owner, lessee, tenant or any other person having the right to possession of all or a portion of any premises shall provide for the removal of all waste, trash, rubbish, or refuse of all kinds from the premises at regular intervals. Between collections, the waste shall be stored in covered containers constructed in such a way as to prevent the escape of the waste.

(b) *Waste container enclosures.* The owner, lessee, tenant or any other person having the right to possession of all or a portion of any premises used for other than residential purposes, shall provide adequate and accessible enclosures for the storage of trash and waste in proper containers. Said enclosures shall either be in an area fully contained within a building or be in an area fully screened from public view by masonry or solid noncombustible fencing at least six feet in height. Uses existing prior to August 12, 1980, which have not complied with this provision, shall be exempt from this provision.

(c) *Residential areas.* No waste containers shall be stored in front of a residence, whether single-family or multiple-family, or in front of the residential building line closest to an adjacent street. Such containers may be placed as close to curbside as possible without obstructing the sidewalk or street in front of a single-family dwelling or multiple-family dwelling for collection purposes, for a period not to exceed 24 consecutive hours once each week.

(d) *Use of another's waste container.* It shall be unlawful for any person to put, place or dump garbage, trash, waste or waste material of any kind in, on, under or around the garbage or waste dumpster or other trash container belonging to another except where written permission for such use is granted by the owner or lessee of the real property on which the dumpster or other trash container is located.

Sec. 90-4. Nuisances and abatement procedures for rubbish and garbage.

It is the intent of the city to require the removal of rubbish and garbage of all kinds from lots and tracts of land within the city in the manner provided by Article XI, of Chapter 18, Buildings and Building Regulations. Failure to properly remove rubbish and garbage shall be sufficient cause for the city to avail itself of the procedures described in Division 1, Article III, of Chapter 38, Environment.

Sec. 90-5. Violations and penalty.

It shall be unlawful for any person to violate a provision of this Chapter. Violators shall be subject to the penalties as contained in Section 1-5 of the Arvada City Code and may also be subject to civil remedies. A separate offense shall be deemed committed upon each day such person is in violation of this Chapter unless otherwise provided in this Chapter.

Secs. 90-6 – 90-30. Reserved.

ARTICLE II. WASTE COLLECTION SERVICES

Sec. 90-31. Waste and recyclable handling and collection requirements.

(a) All residential waste and recyclables shall be drained of liquid before being deposited for collection.

(b) No person shall place, leave, deposit or dispose of any waste or recyclables on any street, alley or other public place, or on any private property, unless the waste or recyclables are wholly contained within a proper container for collection or proper arrangements have been made with the hauler to pick up additional or bulky items. Any accumulation of waste or recyclables in violation of this chapter is declared to be a nuisance and is prohibited.

(c) Waste and recycling containers shall be kept off the street, curb, sidewalk and all other public ways, except on the scheduled day of collection, and then only for a maximum of 12 hours before and 12 hours after the scheduled time of collection.

(d) Hazardous waste as defined by federal or state law, rule or regulation is not subject to collection and must be properly disposed of by residents at an authorized facility.

Sec. 90-32. Waste and recycling responsibility.

Waste and recyclable materials shall be gathered, deposited, disposed of, and placed in the manner provided for in this chapter by the owner, tenant, lessee or occupant of the property, or the agent or contractor of any of the foregoing, and each of the foregoing persons may be held jointly and severally liable for any violation of this chapter. Recycling containers shall be used only for collection of recyclable materials.

Sec. 90-33. City residential waste and recyclable materials collection services.

(a) The city's designated residential waste collection service provider shall furnish residential waste collection services as provided in this chapter for all residents within the city, except those specifically excluded in Section 90-37 below.

(b) Waste and recycling containers shall be provided by the city, or the city's designated residential waste collection service provider.

(c) All waste and recyclable materials shall be placed in waste and recyclable containers by the owner, tenant, or occupant of each residence. Containers shall be placed in the street or alley adjacent to each residence on a schedule as established by the city. If there is no adjacent alley, containers shall be placed on the street in front of the residence.

(d) Bulky items, as defined by the city, shall be removed by private arrangement with the city's residential waste collection services provider or another licensed provider authorized to haul waste within the city, or by the resident. Neither the city, nor its designated residential waste collection service provider, or licensed operators, shall have any obligation to collect or transport any waste or recyclables not in a proper container, nor any containers not properly placed for collection unless special arrangements have been made with the hauler.

(e) It shall be unlawful for any person to set out or allow to be set out, deposited, or stored for collection, any waste or recyclable materials other than that which has accumulated

from the regular residential use of the premises upon which such waste or recyclables are set out, deposited, or stored for collection.

Sec. 90-34. Residential waste and recycling hauling.

Nothing in this chapter shall prohibit any person from contracting for or hauling one's own waste and recyclable materials, providing it is collected and disposed of in conformity with all applicable city ordinances, rules and regulations.

Sec. 90-35. Waste services fees.

(a) City council shall, by resolution, establish the fees to be imposed on all city residents receiving city utility services, regardless of whether the city's residential waste collection services are actually utilized by such resident. The fees shall be billed in conjunction with the charge for city utility services and such fees shall be due and payable at the same time and place as the charge for city utility services.

(b) The fees for waste services and the charge for city utility services are hereby declared to be parts of one debt to the city insofar as the same relate to any one resident, and the refusal or failure to pay any part of such debt for any period of service shall be sufficient cause for the city to avail itself of any or all remedies as set forth and in accordance with the provisions of Article II of Chapter 102 of the Arvada City Code; except that water service shall not be disconnected for non-payment of the residential waste collection service fee.

(c) Waste services fee types and the properties subject to those fees are set forth in the table below:

Fee Type	Residential Property Subject to Fee
Bulky Item Events; Spring and Fall Yard Waste Events; Administrative Billing Costs	All residential properties except multifamily dwelling units with eight or more units
Minimum Service Fee	All residential properties that choose not to participate in the city's residential waste collection services, except those specifically excluded in section 90-37
Residential Waste Collection Services	All residential properties that participate in the city's residential waste collection services; fees dependent on cart size chosen by residents

Table 90-36(c)

(d) All fees collected pursuant to this Chapter shall be applied to the cost of administering waste services.

Sec. 90-36. Residential properties excluded from services.

Except as otherwise provided in this chapter, the city shall not provide residential waste collection services to the following:

(a) All commercial and industrial establishments and multifamily residences containing eight or more units are excluded from the city's residential waste collection services program and waste services fees.

(b) Residential properties that are part of a homeowners' association and have an active contract with a waste and recycling hauler as of December 31, 2020 are excluded from the city's residential waste collection services program but are still subject to the bulky events, spring and fall yard waste events, and administrative billing costs fee. Homeowners' associations must maintain an active waste and recycling contract and proof of an active contract must be provided to the city if requested.

- (1) Homeowners' associations that wish to join the city's residential waste collection services program must join pursuant to the city's current waste hauling agreement.
- (2) All homeowners' associations formed after December 31, 2020 shall be subject to the city's residential waste collection program and fees.

Sec. 90-37. Waste collection services accounting and budgeting.

The finance director shall segregate waste collection services, expenses and revenues separate from the general fund expenditures and revenues and provide a general accounting for the expenditures and revenues. For each budget cycle, a projection of residential waste collection services expenditures and revenues shall be made as part of the city budget process.

Secs. 90-38 – 90-50. – Reserved.

ARTICLE III. TRASH HAULER'S LICENSES

Sec. 90-51. License required.

(a) It shall be unlawful for any person to operate solid waste, recyclable materials, or compostable materials collection within the corporate limits of the city without first obtaining a trash hauler's license for such activity.

(b) The following persons or entities are not required to obtain a license:

- (1) A civic, community, or charitable nonprofit organization that collects, transports, and markets materials for resource recovery solely for the purpose of raising funds for a charitable or civic activity;
- (2) A person who transports solid waste or recyclable materials produced by such person;
- (3) A property owner or agent thereof who transports solid waste or recyclable materials left by a tenant upon such owner's property, so long as such property owner does not provide solid waste collection service for compensation for tenants on a regular or continuing basis; and

- (4) A demolition or construction contractor or landscaper who produces and transports solid waste in the course of such occupation, where the solid waste produced is merely incidental to the particular demolitions or construction work being performed by such person.

Sec. 90-52. License application.

(a) Any person desiring to obtain a license to engage in the business of solid waste or recycling materials collection shall make written application to the City Clerk on forms provided by the city. The application must be completed in its entirety.

- (1) Each hauler licensed pursuant to this Chapter shall submit to the City Clerk as a part of the license application, a written plan describing how the recycling collection services will be provided, including the manner of separation and collection and the frequency of the collection. Any changes to the plan shall be submitted to the City Clerk prior to implementation of the change. This information may be disseminated by the city for public information purposes.

(b) The application shall be reviewed by the City Manager or his or her designee who shall conduct such additional investigation as he or she deems necessary and shall approve, approve with conditions, or deny the license.

(c) In determining whether to grant or deny a license, the City Manager shall take into consideration:

- (1) The character of the applicant or its officers or directors, especially any previous license violations or criminal convictions;
- (2) Whether licenses granted for the city are adequate to meet the reasonable needs of the community; and
- (3) If the applicant has previously done business in the city, the number of complaints received from the citizens concerning the applicant's operations.

Sec. 90-53. License administration.

(a) Every license issued by the city shall indicate the business name and address, the mailing address, and the license fee paid by the licensee.

(b) Every licensee who changes his business address shall notify the City Clerk promptly in writing.

Sec. 90-54. Administrative fees.

(a) Fees shall be as set forth and in accordance with the provisions of Division 2, Article VII of Chapter 2 of the Code. Fees shall be non-refundable and will not be pro-rated for partial years.

(b) All fees collected pursuant to this Chapter shall be applied to the cost of administering this Chapter.

Sec. 90-55. Term of license and renewal.

(a) All licenses issued hereunder shall expire on December 31 after the date of issuance, unless cancelled or revoked, and may be renewed upon submission of a completed application for renewal and payment of the required fee. The application shall include a current description of the business recycling program and any efforts the applicant has made to increase customer recycling. Licenses are non-transferable.

(b) The renewal application shall be reviewed by the City Manager or his or her designee who shall have the power to grant or deny such license renewal and to impose reasonable limitations and restrictions on any license renewed.

Sec. 90-56. License denial, cancellation, suspension, or revocation.

(a) A license may be denied, cancelled, denied renewal, suspended, or revoked for failing to properly comply with provisions in this Chapter or on the grounds that health, safety, or welfare of the community may be endangered by the continued operation of the licensee.

(b) A license may be denied, cancelled, denied renewal, suspended, or revoked by the City Manager. The licensee shall have the right to a hearing before a hearing officer appointed by the City Manager. The notice and hearing procedures will follow those procedures as set forth in Section 2-173 *et seq.* of the Arvada City Code.

(c) A license may be summarily suspended for no more than thirty days by the City Manager when required for the immediate protection of the public health, safety, and welfare. A hearing shall be scheduled as soon as may be reasonably possible.

Sec. 90-57. Recycling requirement.

(a) All haulers providing solid waste collection services to residential customers must also provide curbside recycling collection services to every residential customer served, except to multi-family buildings with eight units or more.

(b) Collection of recyclable materials may be offered by a hauler to multi-family buildings and commercial customers.

(c) All licensed haulers of recyclable materials and solid waste operating within the city shall have following duties and rights:

- (1) Except for materials which customers have not properly prepared for recycling, haulers may not dispose of recyclable materials set out by recycling customers by any means that result in the materials not being recycled or improperly disposed of.
- (2) The hauler shall establish such policies and procedures as are necessary to provide for the orderly collection of recyclable materials, including requirements regarding the preparation of materials for collection, the collection of recyclable materials and requirements for separation.
- (3) In the event that a hauler elects to perform collection of solid waste or recyclable materials through subcontractors or agents, such agency relationship shall not relieve the hauler of responsibility for compliance with the provisions of this Code and the rules promulgated hereunder.

- (4) All recyclable materials placed for collections shall be owned by and be the responsibility of the customer until the materials are collected by the hauler. The material then shall become the property and the responsibility of the hauler.
- (d) Frequency of collection.
- (1) Curbside recycling collection services shall be provided to residential customers on at least a twice-monthly basis and on the same day of collection of solid waste from the customer.
- (2) Haulers providing collection services to multi-family or commercial customers shall provide services for the collection of recyclable materials from such customers who desire such services on such frequency as is necessary to prevent overflow of the recycling containers.

Sec. 90-58. Designation of recyclable materials.

(a) The City Manager shall, periodically, after consultation with representatives of the licensed haulers operating within the city and representatives from recycling processing facilities in the region determine which items shall be designated for recycling collection. The list of designated recyclables shall be kept on file for public inspection in the City Clerk's Office.

(b) If market factors or other circumstances arise during a calendar year that severely impact a hauler's ability to comply with this Chapter, the hauler may provide such information in writing to the City Manager with a request that a particular material be removed from the list of materials designated for recycling. The hauler requesting the change shall continue to collect the recyclable materials designated by the City Manager until the City Manager notifies all licensed haulers that a particular item has been removed from the list of designated recyclable materials. A hauler may offer collection of additional recyclable materials not designated by the City Manager at any time, upon written notice to the City Manager and the City Clerk.

(c) All haulers shall be responsible for notifying their customers, no less than annually, of the items designated for recycling and how to prepare materials for recycling.

(d) The City Manager is authorized to promulgate such rules and regulations as are necessary to effectuate the implementation and enforcement of this Chapter.

Sec. 90-59. Records and reports.

(a) All haulers shall report to the city by March 31st of each year an annual recycling report for the previous year, on forms to be provided by the city. Such records shall be subject to the Colorado Open Records Act, C.R.S. §24-72-201 *et seq.*

(b) The City Manager or his or her designee shall review each licensed hauler's annual recycling report for compliance with the recycling requirements of this Chapter.

Sec. 90-60. Disposal of solid waste.

(a) All persons holding licenses pursuant to this Chapter and engaged in the business of the collection of solid waste shall dispose of all such solid waste at any disposal site which is approved by the State. No solid waste shall be disposed of at any other location either inside or outside of the city.

(b) No person shall operate any vehicle in such a manner as to deposit or litter on any public way with solid waste.

(c) All persons holding licenses pursuant to this Chapter are required to pick up solid waste properly prepared for disposal by the customer pursuant to any agreement between the hauler and the customer.

Sec. 90-61. Responsibilities of licensee.

The holder of a license under this article shall have the sole burden and responsibility of disposing of waste collected and shall hold the city harmless should any claim be made regarding the collection or disposal thereof.

Secs. 90-62 – 90-99. Reserved.

Section 2. Severability. If any section, paragraph, sentence, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance and each part or parts thereof irrespective of the fact that any part or parts be declared unconstitutional or invalid.

Section 3. Effective date. This ordinance shall take effect July 1, 2021.

INTRODUCED, READ, AND ORDERED PUBLISHED this 4th day of May, 2020.

PASSED, ADOPTED AND APPROVED this 15th day of June, 2020.

Marc Williams

Marc Williams, Mayor

ATTEST:

Kristen R. Rush, City Clerk

City Clerk



APPROVED AS TO FORM:

Rachel A. Morris, City Attorney

By: *Emily Grogg* *RM*

Publication Dates: May 7, 2020
June 25, 2020