

Ordinance NO. ____
(Series 2005)

AN ORDINANCE AMENDING CHAPTER TWELVE OF THE MUNICIPAL CODE OF THE CITY OF ASPEN, COLORADO TO ENCOURAGE RECYCLING BY BUSINESSES AND RESIDENTS

WHEREAS, The City Council of the City of Aspen finds that a significant reduction of the volume of solid waste and a corresponding increase in the volume of Recyclable Materials generated by citizens and businesses in the City would benefit the public welfare by reducing the consumption of important, non-renewable natural resources and by saving energy and reducing greenhouse gas emissions; and,

WHEREAS, increasing recycling and reducing trash volumes will extend the life of the Pitkin County landfill as long as possible, thereby protecting city residents from future large cost increases when the landfill closes and trash must be transported to distant landfills; and,

WHEREAS, The City Council's intent in enacting this ordinance is to decrease the amount of solid waste and increase waste reduction and recycling practices by the citizens of and businesses located in the City; and,

WHEREAS, the Aspen City Council desires to ensure that Aspen demonstrates leadership and excellence in environmental practices including increasing the community's recycling volumes and decreasing volumes of non-recycled trash; and,

WHEREAS, the Aspen City Council has determined that the existing rules and regulations governing solid waste are inadequate to protect non-renewable natural resources, save energy, reduce pollution, and extend the life of the landfill; and,

WHEREAS, these rules and regulations will make it much easier for residents and businesses to recycle and increase recycling success in Aspen.

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

Section 1

That Chapter 12 of the Municipal Code of the City of Aspen, Colorado is hereby amended by the addition of a new section 12.06 which section shall read as follows:

12.06.000 Waste Reduction

12.06.010 Definitions.

For purposes of this section, the following terms shall have the meanings ascribed to them:

“*Audit Card*” shall mean a card that waste Haulers give to customers who have included banned Yard Waste in their garbage or who have failed to properly sort their Recyclable Materials.

“*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, offices, nursing homes, clubs, churches and public facilities.

"*Hauler*" means any person in the business of collecting, transporting or disposing of garbage for another, for a fee, in the City.

"*Multi-family Customer*" means the occupants, taken together, of a residential building or set of residential buildings that use a collective, common system for the collection of garbage generated by the occupants.

"*Recyclable Materials*" means any materials that are designated by the city manager in the “Recyclable Materials List” which may include, but are not limited to, newspaper, office paper, cardboard, glass containers, plastic containers, steel cans, and aluminum cans,.

"*Residential Customer*" means every occupant of a residential building or set of residential buildings who receives periodic garbage collection service, and who does not use a collective, common system for the collection of garbage generated by the occupants.

“*Yard Waste*” shall mean materials generated from the maintenance of the vegetation on a property that have been designated by the city manager in the “Banned Yard Waste List” which may include, but are not limited to, grass clippings, leaves, weeds, holiday trees, and other plant materials.

12.06.020 Exemptions

The following persons are exempt from the provisions of this chapter:

- (1) Any person or agent thereof who transports to the landfill only the garbage that person generates.
- (2) Any person who transports only liquid wastes (such as restaurant grease), discarded or abandoned vehicles or parts thereof, discarded home or industrial appliances, household hazardous wastes, or hazardous materials as defined in the rules and regulations adopted by the United States Hazardous Materials Transportation Act, 49 U.S.C. Section 5101, et seq.
- (3) Any Commercial Customer contracting trash pickup with a Hauler who proves he or she transports his or her cardboard recycling to the Rio Grande Recycling Center or Pitkin County Materials Recovery Facility may apply for an annual cardboard self hauling exemption. Such exemption shall be granted upon satisfactory demonstration to the Environmental Health Director that:

- (i) Said customer is taking his or her recyclable cardboard to the Rio Grande Recycling Center or Pitkin County Materials Recovery Facility,
- (ii) Is not allowing recyclable cardboard to be placed in trash containers, and that
- (iii) Complying with the requirements of section 12.06.030 would be unduly burdensome to the applicant.

(4) Any Commercial Customer contracting trash pickup with a Hauler who proves he or she has cardboard recycling services provided by a separate Hauler may apply for an annual separate cardboard recycling service exemption. Such exemption shall be granted upon satisfactory demonstration to the Environmental Health Director that:

- (i) Said customer's cardboard is picked up by a hauler separate from said customer's trash hauler, and that
- (ii) The customer is not allowing recyclable cardboard to be placed in trash containers.

12.06.030 Hauler Requirements

(A) No person shall operate as a solid waste Hauler within the city limits without first obtaining a business license from the City. In order to receive a city business license, a solid waste Hauler must comply with the requirements of this chapter.

(B) Except for customers exempt from the provision pursuant to subsection 12.06.020, Haulers providing trash service in the City of Aspen shall include in the base rate for trash pickup service the pickup of Recyclable Materials as designated by the City Manager in the Recyclable Materials List. It shall be unlawful for Haulers to deduct any amount from a customer's rate if the recycling services are not used unless the customer has received an exemption from the Environmental Health Department.

(C) The collection of Recyclable Materials for Residential Customers shall be provided on the same day and upon the same frequency as trash pickup.

(D) Haulers shall provide collection of Recyclable Materials for Multi-family and Commercial Customers as often as necessary to prevent the overflow of the recycling containers and to permit the customer to use the recycling containers without causing an overflow.

(E) Any person licensed to operate as a solid waste Hauler within the City shall charge all Residential Customers on the basis of volume of trash collected, which shall be measured by the volume capacity of the container used by the customer. All charges shall be based upon units of volume no greater than 32 gallons. The charge for the second unit shall be

no less than the charge for the first unit of volume. The charge for each subsequent unit of volume shall be no less than the charge for the first unit of volume.

(F) In offering or arranging for services, a Hauler shall provide reasonable notice of the full range of container sizes or levels of services offered by the Hauler, and shall provide to each customer that customer's requested container size or level of service.

(G) Each Hauler shall submit an annual report to the city manager of the weight in tons or cubic yards of garbage, trash, Recyclable Materials (as determined by the City Manager in the Recyclable Materials List pursuant to 12.06.040) and Yard Waste materials collected within the limits of the City. For loads that contain garbage or Recyclable Materials originating in part from within the limits of the City, and in part from outside the limits of the City, the reported quantity may be estimated by the Hauler, and reported as an estimate. Reports shall be submitted for the year by January 31 of the succeeding year, using a form or forms provided by the Environmental Health Director. All reports shall be treated as confidential commercial documents under the provisions of the Colorado Open Records Act.

(H) Nothing in this section shall be construed as prohibiting any Hauler from providing separate pricing for special collection of bulky items, Yard Waste, contaminated recyclables, unscheduled pick up of trash, extra volumes of trash, such as bags, boxes, or bundles, or more than what was subscribed with a Hauler for trash.

(I) Except for materials that customers have not properly prepared for recycling and so are grossly contaminated (15 percent or more of trash), Haulers may not dispose of Recyclable Materials set out by recycling customers by any means other than at a recycling facility that sorts, packages, and otherwise prepares Recyclable Materials for sale. Haulers must notify customers of contaminated recyclables with an Audit Card provided by the Environmental Health Department.

(J) Upon the initial provision of solid waste collection services to new customers, ninety days prior to any opt out or auto renewal date, and on or before December 31 of the year of adoption of this ordinance with respect to existing customers, Haulers shall notify such customers of the provisions of this ordinance by a letter provided by the City of Aspen.

Haulers will also provide within the above reference letter information on the materials designated for recycling collection pursuant to 12.06.040 and such rules and regulations as established by the Hauler for the orderly collection of Recyclable Materials as authorized pursuant to 12.06.050(b). Such notice shall further include for Residential Customers the notification of the variable rate system employed by the Hauler, 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.

For group accounts, the notices required herein may be sent to the group representative for said account, provided that such notice shall further notify said representative of its

obligation to notify all individual customers or users of the service within the group of the availability of recycling services.

On or before January 31 of each year, the Hauler shall deliver to the City's Environmental Health Director a true and correct copy of the notification sent to each customer type, i.e. Residential, Multi-family or Commercial, on or before December 31 of the previous year.

(K) Haulers shall not pick up trash that contains banned Yard Waste materials. Haulers shall notify customers of the ban with an Audit Card provided by the Environmental Health Department. The Environmental Health Department, once notified by the customer, will determine when the customer has removed the contaminating materials and then contact the Hauler to approve the collection of the trash, which the Hauler may choose to pick up at the next scheduled pickup or which may incur a charge for an extra pickup.

12.06.040 Designation of Recyclable Materials and Banned Yard Waste Materials.

(A) The Recyclable Materials that haulers are required to pick up shall be set forth in the City of Aspen's "Recyclable Materials List," which shall be prepared and amended from time to time by the City Manager. The Recyclable Materials List shall be developed after consultation with the Pitkin County Landfill Director/Manager, the Environmental Health Director, representatives of the licensed Haulers operating within the City, as well as the public, and shall be available for review on the City's Environmental Health Department website.

(B) The Yard Waste material that is required to be separated from trash shall be set forth in the City of Aspen's "Banned Yard Waste List," which shall be prepared and amended from time to time by the City Manager. The Banned Yard Waste List shall be developed after consultation with the Pitkin County Landfill Manager, the City of Aspen Environmental Health Director, licensed Haulers operating within the City, as well as the public, and shall be available for review on the City's Environmental Health Department website.

12.06.050 Placement of Recyclable Materials and Yard Waste for Pickup

(A) All recyclables and Yard Waste accumulated on any premises shall be placed in a container separate from garbage, or in a suitable manner such as cardboard broken down and placed on a shelf.

(B) Recycling containers for storing and setting out Recyclable Materials may be of any color or design as long as it does not interfere with industry-accepted requirements for the preparation of materials for recycling that are necessary to provide for the orderly collection of Recyclable Materials.

12.06.060 Educational Materials

(A) The City Environmental Health Department shall provide an annual summary of waste and recycled material totals collected in Aspen, and shall report on other measures of success and aspects of the ordinance.

(B) The City will provide Audit Cards that the Haulers must use to notify their customers of contamination of Yard Waste in trash and contamination of trash in recyclables. In addition, the City will produce an educational flyer, not to exceed one sheet of paper in length. Haulers shall distribute this educational flyer at least once a year to all their customers that may be at the same time as materials sent out under section 12.06.030(j). The City will consult with the Haulers about the educational flyer prior to printing them.

12.06.070 Audits and Violations

(A) Each Hauler licensed pursuant to this Article shall maintain accurate and complete records of the services provided to all customers, the charges to such customers 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 Hauler 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.

(B) If requested, each Hauler shall make its records available for audit by the City Manager during regular business hours in order for the City to verify Hauler compliance with the provisions of this chapter. All such information shall be treated as confidential commercial documents under the provisions of the Colorado Open Records Act.

(C) Violation of any provision of this chapter by any person, firm or corporation, whether as Hauler, owner or occupant, shall be unlawful and subject to the penalty provisions in section 1.04.080 of this Code. Each violation shall constitute a separate offense.

12.06.080 Sunset Provision

This ordinance shall remain in effect until three years from the date of adoption, at which time the Aspen City Council shall amend, expand or repeal the ordinance.

Section 2

That a new section 14.08.130 of the Municipal Code of the City of Aspen, Colorado is hereby enacted to read as follows:

14.08.130 Solid Waste Collection Business License--Required

In order to obtain a business license, a solid waste Hauler must comply with the requirements of Chapter 12.06, entitled "Waste Reduction."

Section 3

This ordinance shall not become effective until sixty days after adoption by the City Council. It is not the intention of the City Council in the adoption of this ordinance to interfere with any valid contractual arrangement between Haulers and their Residential, Multi-family, or Commercial Customers. Accordingly, sub-sections 12.06.030 B, C, D, and E shall not apply in those instances in which Haulers have contracts with customers, the provisions of which are inconsistent with said subsections of this Chapter until the terms of said contracts authorize the customer or Hauler to renew or amend said contract. Evidence of a contract may be provided upon request to the City Attorney by a written contract or other evidence satisfactory to the City Attorney.

Section 4

This ordinance, when effective, shall not have any effect on existing litigation and shall not operate as an abatement of any action or proceeding then pending under or by virtue of the ordinances repealed or amended as herein prohibited, and the same shall be construed and concluded under such prior ordinances.

Section 5

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional in a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and shall not affect the validity of the remaining portions thereof.

Section 6

A public hearing on the ordinance shall be held on the ___ day of _____, 2005, in the City Council Chambers, Aspen City Hall, 130 South Galena, Aspen, Colorado.

INTRODUCED, READ, AND ORDERED PUBLISHED as provided by law by the City Council of the City of Aspen on the ___ day of _____, 2005.

Helen Kalin Klanderud, Mayor

ATTEST:

Kathryn S. Koch, City Clerk