

ORDINANCE NO. 21, Series 2020
INTRODUCED BY: COUNCILOR CHELSESA BEHANNA

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAFAYETTE,
COLORADO, AMENDING CHAPTER 100, SOLID WASTE, OF THE CODE OF
ORDINANCES OF LAFAYETTE REGARDING THE LICENSING OF SOLID WASTE,
RECYCLABLES AND/OR ORGANICS COLLECTORS AND THE RESIDENTIAL
WASTE COLLECTION SERVICES PROGRAM PARTICIPANT EXEMPTIONS**

WHEREAS, since 2015, the City of Lafayette (“City”) has operated a Residential Waste Collection Services Program (“Program”) for City residents whereby a designated collector is the sole provider for the Program participants; and

WHEREAS, the Program’s collector employs a volume based rate service for solid waste through the use of three different sized containers and also provides single stream recycling and organics collection services; and

WHEREAS, the City has established solid waste diversion goals of 45% by 2021, 50% by 2026, 65% by 2036 and 85% by 2046; and

WHEREAS, to reach such goals the City desires to require that all collectors of residential solid waste operating within the City be licensed by the City and required to provide certain base services and diversion information; and

WHEREAS in further support of its goals the City also desires that by November 2, 2023 all residential collectors provide volume based rates and single stream recycling and organics collection and that Program participant exemptions be phased out.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAFAYETTE, COLORADO, AS FOLLOWS:

Section 1. Section 100-1, Definitions, of the Code of Ordinances of the City of Lafayette, Colorado, is hereby amended as follows:

Collector means any person providing residential collection services for solid waste, and or recyclables and organics.

Director means the Director of Public Works or the director’s authorized designee.

Excluded waste means all commercial and industrial solid waste, refuse, construction debris, dead animals, institutional solid waste, hazardous waste, offal waste, stable matter, vegetable waste and special waste, highly flammable substances, liquid waste, certain pathological and biological wastes, explosives, toxic materials, radioactive materials, material that the disposal facility is not authorized to receive and/or dispose of, and other materials deemed by state, federal or local law, or in the reasonable discretion of the city, to be dangerous

Group account means a residential customer account for solid waste collection services that provides for collection of solid 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 the property owner shall not constitute a group account for the purposes of this chapter.

Residential customer means a person receiving solid waste collection services for a residential property including those receiving service through a group account, but excludes multi-family residences of eight or more units.

Single-stream recycling container means, for those persons subject to the city's residential waste collection services program, a ninety-six gallon solid waste container designated for collection of recyclables. For all other persons "single stream recycling container" means a metal or other non-absorbent container equipped with a tightly fitting metal or nonabsorbent lid.

Section 2. Section 100-1.5, License required, of the Code of Ordinances of the City of Lafayette, Colorado, is hereby enacted to read as follows:

100-1.5 License required.

(a) License required. Effective November 2, 2021, no person shall operate as a collector within the city without first obtaining a collection license as set forth in this chapter.

(b) Exemptions. The following persons are not required to obtain a collector 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 solid waste or recyclable materials produced by such person;
- (3) A property owner or agent thereof who transports solid waste, recyclable materials, yard trimmings or food scraps 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 solid waste in the course of such occupation, where the solid waste produced is merely incidental to the particular demolition, construction or landscape work being performed by such person; and
- (5) Any person who transports only liquid wastes (including, without limitation, sewage, sewage sludge, septic tank or cesspool pumpings), discarded or abandoned vehicles, or parts thereof, discharged home or industrial appliances, materials used as fertilizers or for other productive purposes, household hazardous wastes, and hazardous materials as defined in the rules and regulations adopted pursuant to the United States Hazardous Materials Transportation Act, 49 USC § 5101, et seq.

Section 3. Section 100-2, Burial of solid waste, recyclables or organics prohibited, of the Code of Ordinances of the City of Lafayette, Colorado, is retitled and amended to provide as follows:

100-2. Burial of solid waste, recyclables or organics prohibited.

It shall be unlawful for any person to bury solid waste, recyclables or organic materials anywhere within the city.

Section 4. Section 100-3, Deposit of refuse, recyclables in water reclamation/stormwater systems prohibited, of the Code of Ordinances of the City of Lafayette, Colorado, is repealed in its entirety.

Section 5. Section 100-8 (b), Premises excluded from services, of the Code of Ordinances of the City of Lafayette, Colorado, is hereby amended to read as follows:

(b) All homeowner associations in existence upon the effective date of this ordinance, which provide their residents solid waste and recycling collection services, are excluded from the city's residential solid waste, recyclable and organics collection services. Homeowner associations may, however, subject to the requirements set forth in this chapter, participate in the city's residential waste collection service program, and all homeowner associations formed after the effective date of this ordinance shall be subject to the city's residential waste collection program. All homeowner association residents originally excluded from participation in the city's residential waste services program, who have not yet chosen to participate in the city's residential waste services program will as of November 2, 2023 be assessed the current residential waste service fees issued in conjunction with the resident's city water service bill.

Section 6. Section 100-13, License requirements, of the Code of Ordinances of the City of Lafayette, Colorado, is hereby enacted to read as follows:

100-13. License requirements.

(a) Any person desiring to obtain a license to engage in the business of being a collector 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 upcoming license year. The application shall include, without limitation, the following information:

- (1) The name and address of the applicant;
- (2) The principal location of the business;
- (3) A list of motor vehicles or fleets of vehicles owned and/or operated by the applicant for the collection of solid waste, recyclables and/or organics, 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 tariff weight where applicable.

(b) The director shall determine whether the application meets all requirements set forth in this chapter and whether all taxes, fees, interest or other financial obligations owed or due the city have been met.

(c) Upon a determination by the director of whether a license shall issue, the director shall provide 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 administrator in writing for a hearing on the denial. The city administrator shall notify the applicant in writing of the time and place of the hearing. After such hearing, the city administrator 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.

(d) Upon approval of a license application, but prior to issuance, the collector shall furnish to the director the following:

(1) A license fee in an amount to be determined by resolution of city council for each motor vehicle required to be identified;

(2) Proof that the collector has obtained a general comprehensive liability/automobile insurance policy protecting the collector from all claims for damage to property or for bodily injury, including death, which may arise from operations under or in connection with this license and providing limits of coverage of not less than one million five hundred thousand dollars (\$1,500,000.) for bodily injury and property damage per occurrence or in the aggregate; and

(3) Proof that each vehicle required to be identified has been registered with the U.S. Department of Transportation.

(e) All licenses issued pursuant to this chapter shall run from the date of issuance until the 31st day of December of the year in which such license is issued. All licenses shall expire on December 31 of each year. Licenses are not transferable.

(f) Every collector that provides residential solid waste collection must in addition to weekly curb side collection of solid waste also provide all residential customers single stream recycling and organics collection services. For each residential customer, collectors shall provide curb side recycling and organics collection service at least every other week on the same day of the week as the day of collection of solid waste from the customer.

(g) Each collector shall accurately and completely account for and record, and report to the city using a form provided by the city by January 31 of each year, the following:

(1) The specific manner in which solid waste collection, recycling services and collection of organics have been delivered in compliance with this chapter, including, but not limited to, a complete list of all rate schedules used to charge for such services, as well as the frequency of collection;

(h) Each collector shall accurately and completely report to the city the following information.

(1) Number of tons of solid waste collected in the city from all residential, multi-family and commercial customers, and any other customer category, reported by category of customer. The weight of solid waste collected shall be documented and verified based on actual load weight measurements.

(2) Number of tons collected for each category of customer.

(3) Number of tons of recyclables and organics collected in the city from all customer categories, reported by category of customer.

(4) Such reports shall be made on forms to be provided by the city and shall be made for each full half-year of 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 director no later than forty-five (45) days following the close of each half-year.

(i) No collector shall operate any vehicle for the purpose of collecting solid waste, and or recyclables, and organics on any non-arterial street between the hours of 7: 00 p.m. and 7:00 a.m.

(j) The director may, after written notice of no less than ten (10) days and an opportunity for a hearing if requested by the licensee within twenty (20) days of such notice, suspend or revoke any license issued under this chapter, if the director determines that the licensee has failed to comply with any provision of this chapter, or has violated other applicable laws intended to protect public health, safety or the environment. The collector may appeal any decision to the city administrator within twenty (20) days after the director's decision is mailed, by submitting a written request to the city administrator. The city administrator shall notify the licensee of the date and time of the hearing. After such hearing, the city administrator shall affirm, deny or modify the findings of the director and provide licensee written notification of such order, which shall be appealable as provided by law.

(k) Effective November 2, 2021, all collectors offering solid waste services to residential customers shall set forth rates for service for each resident based on the volume capacity of three containers provided by the collector and placed for collection by each residential customer. The amount to be charged for such containers shall be determined by each solid waste collector; provided, however, that each collector shall determine a base service rate for a container of not less than thirty-two gallons, and that rate shall be used to determine the rates for all other service levels, which rates shall be increased on a pro rata basis by volume capacity of service levels offered as determined by the solid waste collector, provided that the maximum sized container shall not exceed ninety-six (96) gallons. Said charges shall be based upon the container size, rather than the volume of solid waste deposited within such containers by the residential customer. The charge for additional containers of the same volume capacity shall be no less than the charge for the first such container.

(1) In order to provide for residential customers additional needs and ensure that the charge for the collection of solid waste is based upon volume as required above, all solid

waste collectors shall provide each residential customer disposable bags, showing the volume capacity of such bags, or shall establish another system for accomplishing the same purpose which is acceptable to the director.

(2) In offering or arranging for services, a collector shall provide reasonable notice of the full range of bag or container sizes or levels of service offered by the collector, and shall provide to each residential customer, the container size or level of service requested by the customer.

Section 7. If any article, 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 passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 8. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof is hereby repealed to the extent of such inconsistency or conflict.

Section 9. The repeal or modification of any provision of the Code of Ordinances, City of Lafayette, Colorado, by this ordinance shall not release, extinguish, alter, modify or change in whole or in part any penalty, forfeiture or liability, either civil or criminal, which shall have been incurred under such provision. Each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions for enforcement of the penalty, forfeiture or liability, as well as for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered or made in such actions, suits, proceedings or prosecutions.

Section 10. This ordinance is deemed necessary for the protection of the health, welfare and safety of the community.

Section 11. Violations of this ordinance shall be punishable in accordance with Section 1-10 of the Code of Ordinances, City of Lafayette, Colorado.

Section _____ 12. This ordinance shall become effective upon the latter of the 10th day following enactment, or the day following final publication of the ordinance.

INTRODUCED AND PASSED ON FIRST READING THE 20TH DAY OF OCTOBER, 2020.

PASSED ON SECOND AND FINAL READING AND PUBLIC NOTICE ORDERED
THE 2ND DAY OF NOVEMBER, 2020, AS AMENDED.

CITY OF LAFAYETTE, COLORADO

Jamie Harkins, Mayor

ATTEST:

Lynnette Beck, CMC, City Clerk

APPROVED AS TO FORM:

Mary Lynn Macsalka, City Attorney