

PROPOSED
ORDINANCE NO. 21-23

ORDINANCE NO. _____

AN ORDINANCE
TO BE ENTITLED:

AN ORDINANCE AMENDING TITLE IV OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA, AMENDING HEALTH AND SANITATION SECTION 4-3-40, DEFINITIONS; SECTION 4-3-43, SOLID WASTE OR REFUSE TO BE PROPERTY OF THE CITY; SCAVENGING; SECTION 4-3-44, DETERMINATION OF SERVICE PROVIDERS; SECTION 4-3-45, BURYING OF RECYCLABLES, SOLID WASTE, REFUSE, OR HAZARDOUS MATERIALS OR SUBSTANCES; SECTION 4-3-46, STORING OR PLACEMENT OF RECYCLABLES, SOLID WASTE OR REFUSE; SECTION 4-3-47, PLACEMENT OF RECYCLABLES, SOLID WASTE OR REFUSE IN GUTTERS OR STREETS PROHIBITED, DECLARED NUISANCE; SECTION 4-3-60, COLLECTION SCHEDULE; SECTION 4-3-61, PLACEMENT FOR COLLECTION; SECTION 4-3-81, CITY-OWNED WHEELED CONTAINERS; SECTION 4-3-97, FEES AND SURCHARGES; PROVIDING FOR SEVERABILITY, REPEALING CLAUSE, AND PROVIDING AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

SECTION 1. Section 4-3-40 of the Code of the City of Pensacola, Florida, is hereby amended to read as follows:

Sec. 4-3-40 – Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Words, terms, and phrases used in this article which are not defined in this section shall have the meanings given in F.S. § 403.703, or in this article, unless the context clearly otherwise requires. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

Animal means any male, female, or altered member of the canine or feline species, or any other domesticated animal, except those classified by the state fish and game commission as wildlife.

Bulk waste means items that because of its size, shape, quality, or quantity precludes or complicates handling by normal collection, processing, or disposal methods; including, but not limited to, the following:

- (1) Discarded materials resulting from remodeling, repair, excavation, construction or demolition of structures, such as plaster, roofing materials, trees, and similar items, excluding asbestos materials and treated lumber, or other items excluded herein.
- (2) Tree stumps, tree trunks, and limbs larger than eight inches in diameter and six feet in length.
- (3) Household furnishings, such as sofas, chairs, mattresses, box springs, televisions, tables, appliances, water heaters, air conditioners, and space heaters.
- (4) Yard trash mixed with other waste.
- (5) Any other item as may be determined by the director.

Business district means all that area bound on the south by Pensacola Bay, on the west by Spring Street, on the north by Belmont Street, on the east by Tarragona Street, and includes all properties facing on the above streets.

Collection means the act of removing solid waste or refuse from the source of generation to the point of disposal.

Customer means any person subscribing to sanitation services in the city.

Director means the department of sanitation services and fleet management director.

Disposal facility means the site where solid waste or refuse is disposed of, whether by sanitary landfilling, incineration, treatment, or recovery, ~~or recycling~~ approved by the city.

Garbage means all waste accumulations of animal, fruit, or vegetable matter that attend the preparation, use, cooking, dealing in or storage of meat, fowl, fish, fruits, or vegetables, containers originally used for foodstuffs other than those containers designated as recyclable in the city recycling program, but does not include animal waste.

Owner/occupant means any person or entity who acquires responsibility or title of real property, a structure or dwelling, by occupancy, ownership, or agency.

Recyclables means materials extracted from solid waste or refuse having known recycling potential that can be processed and returned to a useful product and are designated as a recyclable material in the city recycling program.

Residential composting is the managed process of controlled decomposition of organic material such as leaves, twigs, grass clippings, and vegetative food waste that is utilized as a soil amendment.

Rubbish means all nonputrescible solid wastes ~~other than those materials designated as recyclables in the city recycling program~~, consisting of both combustible and noncombustible wastes, such as paper, cardboard, glass, crockery, excelsior, cloth, and similar material.

Scavenging means to search through solid waste or discarded materials for something of use or value.

Solid waste or refuse means material as defined in F.S. § 403.703.

Yard trash or green waste includes grass clippings, pine straw, leaves, residue from trimming limbs, shrubs, and trees, tree trunks, stumps, and bark which do not exceed six feet in length and eight inches in diameter.

SECTION 2. Section 4-3-43 of the Code of the City of Pensacola, Florida, is hereby amended to read as follows:

Sec. 4-3-43. - Solid waste or refuse to be property of city; scavenging.

- (a) Ownership of the ~~recyclables~~, solid waste or refuse material set out for collection shall be deemed discarded and ownership of same shall vest in the city. In no case will scavenging be permitted except where prior written permission is given by the director.
- (b) Disturbing, removing after placement for collection. It shall be unlawful for any person to remove, handle, or otherwise disturb the ~~recyclables~~, solid waste or refuse which has been placed curbside for collection by the sanitation services and fleet management department. This section does not apply to the owner or occupant of a residence or dwelling so placing the contents.

SECTION 3. Section 4-3-44 of the Code of the City of Pensacola, Florida, is hereby amended to read as follows:

Sec. 4-3-44. - Determination of service providers.

It shall also be unlawful for any person, firm or entity to provide ~~recyclables~~, solid waste or refuse collection and disposal service to any dwelling, structure, or real property in the city unless the director has made a written determination that the sanitation services and fleet management department is not capable of providing such service.

SECTION 4. Section 4-3-45 of the Code of the City of Pensacola, Florida, is hereby amended to read as follows:

Sec. 4-3-45. - Burying of ~~recyclables~~, solid waste, refuse, or hazardous materials or substances.

No ~~recyclables~~, solid waste or refuse shall be buried on any property within the city.

SECTION 5. Section 4-3-46 of the Code of the City of Pensacola, Florida, is hereby amended to read as follows:

Sec. 4-3-46. - Storing or placement of ~~recyclables~~, solid waste or refuse.

- (a) *Storing or placement of ~~recyclables~~, solid waste or refuse.* No person shall place ~~recyclables~~, solid waste or refuse in any street, alley, or other public place. Nor shall any person store any such ~~recyclables~~, solid waste or refuse upon any private property whether owned by the person or not, within the city. ~~Recyclables~~, ~~s~~Solid waste or refuse shall be placed in proper containers and placed for collection as required in this article.
- (b) *Disposal upon water* No person shall throw, deposit, or dispose of any ~~recyclable material~~, solid waste or refuse in or upon any stream, waterway, or body of water.
- (c) *Unauthorized accumulation.* Any unauthorized accumulation of ~~recyclables~~, solid waste or refuse not in compliance with this Code on any real property or premises is prohibited and declared a nuisance.
- (d) *Scattering of ~~recyclables~~, solid waste or refuse.* No person shall cast, place, sweep, or deposit any ~~recyclable materials~~, solid waste, refuse, or garbage in such manner that it may be carried or deposited by the elements.
- (e) *Residential composting.* Residential composting, with the intent of utilizing such as a soil amendment, shall not be deemed to be a violation of this section.

- (f) *Dead animals.* It is unlawful for any person to store dead animals in a container or place it at curbside for collection by the city. It is the responsibility of the owner of a dead animal or the person who discovers a dead animal to promptly notify a local animal control agency responsible for disposing of dead animals.

SECTION 6. Section 4-3-47 of the Code of the City of Pensacola, Florida, is hereby amended to read as follows:

Sec. 4-3-47. - Placement of ~~recyclables~~, solid waste or refuse in gutters or streets prohibited, declared nuisance.

The placement or scattering of yard trash, green waste, and/or ~~other recyclables~~, solid waste or refuse in or upon street gutters, street surfaces, or stormwater inlets is hereby declared a nuisance and a danger to water quality and shall be prohibited.

SECTION 7. Section 4-3-60 of the Code of the City of Pensacola, Florida, is hereby amended to read as follows:

Sec. 4-3-60. - Collection schedule.

~~Recyclables~~, solid waste or refuse. All ~~recyclables~~, solid waste or refuse shall be collected by the city according to a regular schedule as determined by the Mayor in consultation with the Sanitation Services Director. The collection schedule, including holiday pickup and yard trash/green waste schedules, shall be mailed to every sanitation account holder at least once each year and the schedule shall be published and available on the city's internet site at all times. City of Pensacola Sanitation Customers will receive a minimum of two pickups per week, pickups are inclusive of solid waste or refuse and/or recyclables. ~~the following schedule except d~~ During periods of disaster cleanups or peak yard trash collection seasons, ~~when~~ schedules may be altered, suspended, or delayed.:

- ~~(1) All combined household solid waste, refuse, or garbage generated in residential areas shall be collected once twice each week from the city-owned wheeled container designated for garbage.~~
- ~~(2) All recyclables shall be collected once each week from the city-owned wheeled container designated for recycling.~~
- ~~(3) Yard trash/green waste shall be collected once a week.~~
- ~~(4)~~ Bulk waste shall be collected as provided in the provisions of this article, including, but not limited to, sections 4-3-59 and 4-3-63.

- (4) ~~Corrugated cardboard moving boxes shall be collected as provided for in section 4-3-66.~~

SECTION 8. Section 4-3-61 of the Code of the City of Pensacola, Florida, is hereby amended to read as follows:

Sec. 4-3-61. - Placement for collection.

- (a) No person shall place any accumulation of ~~recyclables~~, solid waste or refuse, recovered materials, or garbage containers in any street or gutter, or other public place of travel nor upon any private or public property, except adjacent to and directly in front of said person's own property. In all cases where conditions permit, said placement shall be in the area behind the curb, but no more than two feet from the curb or the back slope or roadside.
- (b) Yard trash/green waste shall not be placed on top of and shall not cover sprinkler system heads and water meters. The city shall not be responsible for damage to sprinkler systems, sprinkler heads, water meters, utility combination boxes, or the like, and other objects including fences, gates, hedges, plants, and trees damaged due to yard trash or green waste being placed over or piled on or against such items for collection.
- (c) Wheeled containers shall not be placed out for collection prior to 6:00 p.m. of the day preceding the scheduled day of collection, and all containers shall be removed no later than 6:00 a.m. the day following collection.

SECTION 9. Section 4-3-81 of the Code of the City of Pensacola, Florida, is hereby amended to read as follows:

Sec. 4-3-81. - City-owned wheeled containers.

- (a) *Mandatory use.* Except as otherwise provided in this section, ~~all recyclables~~, garbage and rubbish shall be placed in designated ~~separate~~ wheeled containers issued to the customer by the city for the specific purpose of ~~providing separate recyclable and~~ garbage collection. The use of any other containers is unlawful.
- (b) *Prohibited materials.* It shall be unlawful to place for collection in city-owned wheeled containers any materials described in sections 4-3-62, 4-3-63, and 4-3-67.

~~(c) Separation of recyclables.~~ It shall be unlawful to place for collection in a city-owned wheeling container, designated specifically for recycling use, any materials other than those recyclable materials determined by the city to be eligible for inclusion in the city recycling program.

~~(dc)~~ *Responsibility of customer.* Wheeled containers issued to customers by the city are and shall continue to be the property of the city. It is the responsibility of the customer to which such container has been issued to keep it clean and to protect it from theft, destruction, and damage beyond repair. The customer shall notify the city customer service department prior to vacating a premises and shall place the container in a safe location where it is accessible to the city.

~~(ed)~~ *Damaged containers.* The customer shall be responsible for charges associated with replacement of any city-owned container damaged due to negligence or abuse.

~~(fe)~~ *Exceptions for disabled persons.* Service will be provided in accordance with applicable ADA guidelines.

~~(gf)~~ *Placement of containers.* When not placed curbside for collection, city-owned wheeled containers shall be placed beside a permanent structure or behind vegetation or other visual barrier. The mayor is authorized to grant an exemption from the requirements of this provision when a determination has been made that the existing circumstances render compliance not reasonably feasible. This subsection may be enforced pursuant to the provisions of section 1-1-8 or 13-3-2.

SECTION 10. Section 4-3-97 of the Code of the City of Pensacola, Florida, is hereby amended to read as follows:

Sec. 4-3-97. - Fees and surcharges.

The following fees are hereby established for ~~recycling~~, solid waste, or refuse collection services by the city as may be amended from time to time by resolution of the city council:

- (1) *New accounts, transferred accounts, and resumption of terminated service (*)*: \$20.00.
- (2) *Garbage, ~~recycling~~, and trash collection fee, per month*: \$27.44 effective October 1, 2022. Additionally, out-year automatic increases to the monthly collection rate through Oct. 1, 2026 as follows: \$1.11 effective Oct. 1, 2023; \$1.15 effective Oct. 1, 2024; \$1.77 effective Oct. 1, 2025; \$0.79 effective Oct. 1, 2026. Further adjustments, upon approval of council, will be implemented each October 1 hereafter based on the percentage difference in the cost of living as computed

under the most recent Consumer Price Index for all urban consumers or similar index published by the Bureau of Labor Statistics, U.S. Department of Labor for the period beginning April 1st of the preceding year and ending March 31st of the current year.

- (3) *Premium service:* The fee for Premium Service surcharge of \$20.00 shall be added to the collection fee established herein when participating customer enrolls in this optional service. Retrieval of ~~recycling~~ and garbage carts, dumping, and returning carts to their originating locations are services included. This service is not applicable to trash (green waste/construction and demolition).
- (4) Provided, however, the monthly fee for garbage, ~~recycling~~, and trash collection for the dwelling of an eligible household, occupied by a person 65 years of age or older, under the low-income home energy assistance program pursuant to F.S. § 409.508, 1993, as administered by the Escambia County Council on Aging or for the dwelling of a family heretofore determined by the housing and community development office of the city to be eligible for assistance under the Section 8 existing housing assistance payments program pursuant to 42 U.S.C., Section 1437(f), shall be reduced by \$1.00 per month commencing October 1, 1989, and by an additional \$1.00 per month commencing October 1, 1990, provided that sufficient monies are appropriated from the general fund to replace decreased solid waste revenues caused by such fee reductions. If insufficient monies are appropriated from the general fund to replace all of such decreased solid waste revenues, then the mayor may change the amount of the fee reduction to an amount less than the amount set forth in the preceding.
- (5) *Sanitation equipment surcharge:* \$4.12 per month effective Oct. 1, 2022, with an additional increase of \$1.00 effective Oct. 1, 2023, bringing the Sanitation Equipment Surcharge to \$5.12. A sanitation equipment surcharge shall be added as a separate line item to all city solid waste and/or refuse collection services fees. This surcharge shall be automatically adjusted upon approval of council each October 1 hereafter based on the percentage difference in the cost of living as computed under the most recent consumer Price Index for all urban consumers or similar index published by the Bureau of Labor Statistics, U.S. Department of Labor for the period beginning April 1st of the preceding year and ending March 31st of the current year.
- (6) *Vehicle fuel and lubricant pass-through surcharge:* \$1.30 per month. A sanitation services division vehicle fuel and lubricant surcharge shall be added as a separate line item to all city solid waste and/or refuse collection service fees. Said surcharge, which shall be initially set on the fiscal year 2007 sanitation services fuel and lubricant budget, shall be revised by the director of finance no less

frequently than annually based upon the budgeted fuel and lubricant costs adjusted for their actual costs for the previous or current fiscal years.

- (7) *Tire removal:* A surcharge of \$3.00 per tire shall be added to the scheduled or nonscheduled bulk waste collection fee established herein whenever tire(s) more than 12 inches in size are collected.
- (8) *Scheduled bulk waste collection:* The fee for scheduled bulk item collection shall be \$15.00 for the first three minutes and \$5.00 for each additional three minutes up to 21 minutes after which time a disposal fee will be added.
- (9) *Non-scheduled bulk waste collection:* The fee for nonscheduled bulk item collection shall be \$35.00 for the first three minutes and \$10.00 for each additional three minutes up to 21 minutes after which time a disposal fee will be added.
- (10) Deposits in an amount up to a total of the highest two months bills for service within the previous 12 months may be required of customers who, after the passage of this section, have their service cut for nonpayment or have a late payment history. The department of finance will be responsible for the judicious administration of deposits.
- (11) A late charge equal to one and one-half percent per month of the unpaid previous balance.

SECTION 11. If any word, phrase, clause, paragraph, section or provision of this ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, such finding shall not affect the other provision or applications of the ordinance which can be given effect without the invalid or unconstitutional provisions or application, and to this end the provisions of this ordinance are declared severable.

SECTION 12. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 13. This ordinance shall take effect on October 1, 2023 unless otherwise provided, pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.

Adopted : _____

Approved: _____
President of City Council

Attest:

City Clerk