

Update Solid Waste and Recycling Collection Code, add definitions and align terminology with Metro (Ordinance; amend Code Chapter 17.102)

17.102.010 Declaration of Policy.

It is the policy of the City of Portland to reduce the amount of solid waste, both generated and disposed of, by promoting aggressive waste prevention and recycling activities. The City shall promote the development of environmentally and economically sound practices regarding the collection, processing and end use of solid waste, recyclable material and compostable material. In order to attain these goals and protect public health and the environment, the City shall regulate collection of solid waste, recyclable and compostable materials within the City. In carrying out this policy, the goals of this Chapter are:

~~A. – B.~~ are unchanged

~~C.~~ To achieve a recycling goal of 75 percent by 2015 and promote highest value use of recovered materials.

~~D.~~ To reduce per capita waste generation below 2005 levels by the year 2015.

C. E. To target reductions in toxic waste, to minimize its harmful effects and to reduce greenhouse gas emissions.

D. F. To ensure the safe and sanitary collection, transportation and recovery of solid waste, recyclable and compostable materials.

E. G. To provide Portland residents and businesses the opportunity to recycle more materials through convenient on-site, curbside and depot collection programs and through the addition of recyclable materials to the curbside collection program as appropriate.

F. H. To establish and enforce solid waste, recyclable and compostable material collection standards to ensure uniform, cost effective and high-quality service delivery to all residential customers.

G. I. To establish rates for residential waste collection which are fair to the public, encourage waste reduction, and promote safe, efficient collection.

H. To establish and enforce solid waste, recyclable and compostable material collection standards, cost effective and high-quality service delivery and inform collection service options for all commercial customers.

I. J. To promote community awareness in order to achieve the highest participation possible in the solid waste and recycling collection system.

J. K. To enhance solid waste reduction and recycling in the multifamily, commercial, institutional and industrial sectors by ensuring that comprehensive recycling systems are provided at every establishment not covered by the residential franchise, and that owners of the establishments encourage extensive use of those systems by all employees.

K. L. To undertake research, studies and demonstration projects on developing more efficient, economical and effective methods of solid waste reduction, recycling and collection.

17.102.020 Definitions.

For purposes of Chapter 17.102, and rules adopted thereunder, the following terms shall be understood to have the meanings specified in this Section. Terms, words, phrases, and their derivatives used but not specifically defined in this Chapter shall have meanings commonly accepted in the community.

A. – D. are unchanged

E. **“Biodiesel”** is a domestic, renewable fuel for diesel engines derived from vegetable oils, or animal fats, designated B100, and which meets the specifications of ASTM #D6751-03a “Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels” or revised ASTM specifications.

F. **“Biodiesel Blend”** is a blend of biodiesel fuel meeting the ASTM #D6751-03a or revised ASTM specifications and ASTM #D5453 “Test Method for Determination of Total Sulfur in Light Hydrocarbons, Motor Fuels and Oils by Ultraviolet Fluorescence”, or revised ASTM specifications, comprised of biodiesel and ultra-low sulfur diesel fuels blended by a percentage of each individual component. Biodiesel Blend also includes renewable diesel blends, derived from vegetable oils or animal fats through fractional distillation, if the fuel meets a minimum carbon intensity of 56 gCO₂e/MJ as provided by the Oregon Department of Environmental Quality Clean Fuels Program.

G. E. **“Business”** means any commercial entity, including industrial and institutional, but not including multifamily complexes or commercial entities that occupy 50 percent or less of the floor area of a residence.

H. F. **“City”** means the City of Portland, Oregon, and such territory outside of this City over which the City has jurisdiction or control by virtue of any Intergovernmental Agreement or law.

I. G. **“Collect”** or **“Collection”** means to accept, accumulate, store, process, transport, market or dispose of.

J. **“Collection Vehicle”** means any vehicle used for the collection of solid waste, recycling, or compostables in Portland.

K. H. **“Commercial”** means relating to an entity that is non-residential in nature or, if residential, consists of five or more dwelling units on a single tax lot.

L. I. **“Commercial Collection”** means the collection of solid waste, recyclable and compostable materials in exchange for compensation from:

1. – 2. are unchanged

M. J. **“Compensation”** means:

- N. K.** "**Compostable Material**" and "**Compostable**" means yard debris, food scraps and food soiled paper when source separated for controlled biological decomposition. Compostable material shall not include food soiled paper containing plastic or other materials that inhibit controlled biological decomposition.
- O. L.** "**Composting**" means the series of activities, including collection, separation, and processing, by which compostable materials are recovered from or otherwise diverted from the solid waste stream for controlled biological decomposition. Composting includes composting of source separated organics but not composting of mixed waste.
- P.** "**Covered Food Scraps Generating Business**" means organizations that cook, assemble, process, serve, or sell food or do so as service providers for other enterprises.
- Q. M.** "**Customer**" when used to refer to commercial collection service, means a person that has arranged for the collection of solid waste, recyclable or compostable materials, excluding residential collection service covered by a franchise. Where several businesses share containers and service, customer refers only to the person that arranges for the service.
- R. N.** "**Customer**" when used to refer to residential collection service means any person who receives solid waste, recycling or ~~yard debris~~ compostables collection service at a residence (four-plex or smaller) in a franchise territory ~~or any non-residential customer who qualifies for collection services as provided in the franchise granted by Ordinance No. 181666.~~ The customer need not be the person billed for such service. For rental properties where the owner of the property is required to subscribe for service, the owner shall be considered the customer.
- S. O.** "**Director**" means the Director of the City's Bureau of Planning and Sustainability or their ~~his or her~~ authorized representative, designee or agent.
- T. P.** "**Food Soiled Paper**" means paper products that cannot be recycled into paper products ~~or that and~~ have been in contact with organic materials to the degree that they would not be able to be recycled into paper products. Food soiled paper includes, but is not limited to, ~~used paper table covers,~~ used napkins and paper towels. , and ~~waxy corrugated cardboard.~~ ~~Food soiled paper includes otherwise recyclable paper that has been in contact with food to the degree that it is not recyclable into paper products, but does not include unsoiled cardboard boxes, newspaper or office paper.~~
- U. Q.** "**Food Scraps**" ~~means all waste from meats, fish, and vegetables, which attends or results from the storage, preparation, cooking, handling, selling or serving of food for human consumption. Food scraps includes, but are not limited to, excess, spoiled or usable food or dairy products, meats, vegetable and meat trimmings, grains, breads and dough, incidental amounts of edible oils, and organic waste from food processing. Food scraps does not include large amounts of oils and meats which may be collected for rendering, fuel production or other reuse applications.~~

means waste from fruits, vegetables, meats, dairy products, fish, shellfish, nuts, seeds, grains, coffee grounds, and other food that results from the distribution, storage, preparation, cooking, handling, selling or serving of food for human consumption. Food waste includes but is not limited to excess, spoiled or unusable food and includes inedible parts commonly associated with food preparation such as pits, shells, bones, and peels. Food waste does not include liquids or large amounts of oils and meats which are collected for rendering, fuel production or other non-disposal applications, or any food fit for human consumption that has been set aside, stored properly and is accepted for donation by a charitable organization and any food collected to feed animals in compliance with applicable regulations.

- ~~**R.** "Food Waste Generating Business" means businesses and institutions whose waste is composed of a large amount of food scraps and food soiled paper. It includes but is not limited to restaurants, grocery stores, or food markets, hotels with catering operations, institutions with cafeterias, caterers, central kitchens or commissaries, bakeries, produce wholesalers and food processors. It does not include businesses that produce only incidental amounts of food waste in the course of doing business, such as from employee lunches.~~
- V. S.** "Franchise" means a franchise for the collection of residential solid waste, recyclable materials and compostables yard debris, granted by Ordinance No. 181666, and as amended by subsequent ordinances.
- W. T.** "Franchisee" means a business that has been granted a franchise by Ordinance No. 181666 and subsequent amending ordinances. Franchisee includes any employees or other persons authorized to act on behalf of the franchisee. Franchisee has a meaning identical to that of "grantee" as used in the franchise. A franchisee holds a single franchise for collection service in any and all of its franchise territories, including any territories transferred from other franchisees as approved by the Portland City Council, subsequent to Ordinance No. 181666, and as amended by subsequent ordinances.
- X. U.** "Franchise Territory" means an area within the City in which only a person granted a franchise by the City may collect residential solid waste, recyclable materials or compostables yard debris, from residential customers. A single franchisee may serve more than one franchise territory.
- Y. V.** "Independent Commercial Recycler" means a person who collects only recyclable and/or compostable materials from non-residential sources for the sole purpose of recycling or composting, and who does not collect solid waste.
- Z. W.** "Infraction" means a failure to comply with Portland City Code Chapter 17.102, the franchise, or the administrative rules promulgated thereunder, as applicable.
- AA. X.** "Metro" means the metropolitan service district responsible for regional solid waste management and planning within Clackamas, Multnomah and Washington Counties.

BB. Y. “**Multifamily Complex**” or “**Multifamily**” means any multidwelling building or group of buildings that contain(s) five dwelling units or more on a single tax lot, such as apartments, condominiums, mobile home parks, or houseboat moorages. Multifamily also includes certified or licensed residential care housing, such as adult foster care homes.

CC. Z. “**BPS**” means the City’s Bureau of Planning and Sustainability.

DD. AA. “**Permittee**” means any person granted a commercial collection permit under Section 17.102.210 of this Chapter.

EE. BB. “**Person**” means any individual, partnership, association, firm, trust, estate, a public or private corporation, a local government unit, a public agency, the state or any other legal entity.

FF. CC. “**Recyclable Material**” and “**Recyclable**” includes, but is not limited to, newspaper, scrap paper, ferrous scrap metal, non-ferrous scrap metal, used motor oil, corrugated cardboard and kraft paper, container glass, aluminum, tin cans, magazines, aseptic packaging, coated paper milk cartons, steel aerosol cans, plastic bottles, office paper, cooking grease, wood, rubble and other materials as may be designated by the City.

GG. DD. “**Recycling**” means the series of activities including collection, separation, and processing, by which products or other materials are recovered from or otherwise diverted from the solid waste stream for use in the following:

1. – 2. are unchanged

HH. EE. “**Residence**” means any dwelling unit that is a four-plex or smaller, regardless of whether it has subscribed for waste collection, or has waste collection, in individual cans, carts or containers. Residence includes multifamily dwellings such as apartment complexes, condominiums, mobile home parks, or houseboat moorages with four units or fewer on a single tax lot. Residence also includes dwelling units used by fraternities or sororities. Residence does not include any multifamily complex as defined in this Section, multi-dwelling building or group of buildings that contain(s) five dwelling units or more on a single tax lot, such as condominiums, mobile home parks, or houseboat moorages, nor does residence include certified or licensed residential adult foster care homes. Residence does not include any dwelling where over 50 percent of the entire building is being used for business purposes. Agreements between owners of residences purporting to provide for the collection of solid waste and recyclable on a combined basis shall not alter the status of each dwelling unit as a residence.

II. FF. “**Resident**” means any person living in a residence.

JJ. GG. “**Residential**” means of or pertaining to a residence.

KK. HH. “**Self-haul Self-Haul, Commercial**” when used in reference to solid waste, recyclables or compostables generated by a commercial entity, means the collection and transportation of material from a commercial entity where an owner or

employee of the entity hauls the material rather than hiring a permittee or independent commercial recycler to perform this function.

LL. H. “Solid Waste” has the meaning given in ORS 459.005(24) (2013), but does not include the following materials:

1. Sewage sludge, septic tank and cesspool pumpings or other sludge, and grit, screenings and other residues delivered by sewer systems to municipal treatment plants.
2. Discarded or abandoned vehicles;

MM. JJ. “Source Separate” means that the person who last used recyclable or compostable material separates the material from solid waste and keeps the recyclable or compostable material separate from solid waste.

NN. KK. “Yard Debris” means leaves, grass clippings, sod, weeds, vines, vegetative material from the yard, pumpkins, and prunings of no greater than four inches in diameter or 36 inches in length. Large branches (greater than four inches in diameter or more than 36 inches in length), dirt, stumps, metal, rocks, ashes, animal waste, food and household solid waste are not considered yard debris.

17.102.050 Clean and Efficient Fleet Practices for Franchisees and Permittees.

The Director is authorized to draft regulations to protect the public health and the environment. This can include requiring the use of a blend of biodiesel fuel in any collection vehicle with a diesel engine and requiring regular replacement of all collection vehicles used by franchisees or permittees within the City.

A. is unchanged

B. Fleet Replacement-Residential. The intention of the clean and efficient fleet practices is to phase out vehicle emissions that contribute to unhealthy air for Portland residents and to reduce climate change impacts according to the Climate Action Plan.

1. By January 1, 2016, a All residential vehicles shall have engines that are 12 years old or newer. For purposes of this Section, "residential vehicles" are vehicles used by franchisees for residential solid waste, recycling, or composting collection at least 50 percent of their hours or miles. "Collection Residential vehicles" that are intended as back-up collection vehicles and older than 12 years are allowed to be do not include back-up vehicles used less than 20 percent of a full-time vehicle's hours or miles.
2. Federal Emissions Improvement Adjustments. Due to emissions standard improvements to collection vehicles manufactured in 2010 or newer, collection vehicle restrictions will be adjusted accordingly:
 - a. As of January 1, 2023, all collection vehicles using diesel fuel shall have engines 13 years old or newer.

- b. As of January 1, 2024, all collection vehicles using diesel fuel shall have engines 14 years old or newer.
- c. As of January 1, 2025, all collection vehicles using diesel fuel shall have engines 15 years old or newer and older back up vehicles will no longer be acceptable and subject to infraction. Starting January 1, 2026 collection vehicle age restrictions will continue with a rolling 15-year timeframe for compliance.
- d. As of January 1, 2025, all collection vehicles providing service to any Portland residential or commercial customer will adhere to the Clean and Efficient Fleet Practices. At this time, exemptions to collection vehicles serving less than 50 percent of Portland customers will be lifted.

~~3.2.~~ Diesel Particulate Filter (DPF) Retrofits. Residential Collection vehicles that have been retrofitted with a functioning DPF Diesel Particulate Filter through a Metro grant funded program will be considered to have 2007 model year engines and will not be required to be replaced until January 1, 2025. December 31, 2019. Diesel Oxidation Catalyst (DOC) retrofits on collection vehicles will not be required to be replaced until January 1, 2020.

~~3.~~ Residential Fleet Replacement Plan. Franchisees shall prepare and annually update a Residential Fleet Replacement Plan (Plan) that complies with the following deadlines:

- ~~a.~~ The Plan shall provide for the replacement of all residential vehicles with engines older than the 2004 model year by December 31, 2015.
- ~~b.~~ The Plan shall provide for replacement of no more than five residential vehicles with engines older than the 2004 model year between January 1, 2015 and December 31, 2015.

~~—~~ The Plan must be approved by the Director.

~~C.~~ Fleet Replacement Commercial:

- ~~1.~~ By January 1, 2018, all commercial vehicles shall have engines that are 12 years old or newer. For purposes of this Section, "commercial vehicles" are vehicles used by permittees for commercial collection more than 50 percent of their hours or miles. "Commercial vehicles" do not include back up vehicles used less than 20 percent of a full-time vehicle's hours or miles.
- ~~2.~~ Diesel Particulate Filter Retrofits. Commercial vehicles that have been retrofitted with a Diesel Particulate Filter through a Metro grant funded program will be considered to have 2007 model year engines and will not be required to be replaced until December 31, 2019.
- ~~3.~~ Commercial Fleet Replacement Plan. Permittees that have more than five commercial vehicles with engines older than the 2006 model year shall

~~prepare a Commercial Fleet Replacement Plan (Plan). The Plan shall provide for the replacement of all commercial vehicles with engines older than the 2006 model year by December 31, 2017. The Plan must be approved by the Director.~~

17.102.080 Daytime Prohibition of Downtown Garbage Collection.

No person, whether acting as private citizen, principal, employee, agent, franchisee or permittee shall transport any refuse through streets in the district bounded by SW Oak Street, SW First Avenue, SW Yamhill Street and SW Tenth Avenue, except between the hours of 10 p.m. and 10 a.m. or when otherwise authorized by the City Engineer, a city police officer, or the Director.

17.102.100 Right of Appeal and Payment of Assessments.

A.- C. are unchanged

~~D. — Any person requesting an appeal to the Code Hearings Office in accordance with procedures set forth in Chapter 22.10 of the City Code may be assessed a fee of up to \$500 at the time of their application. Failure to submit full payment of appeal fee within the time allowed to request an appeal hearing shall result in the denial of the request for an appeal hearing.~~

~~1. — If the Code Hearings Officer decides in favor of the appellant at the Code Hearing, the submitted appeal fee shall be refunded in full to the appellant.~~

17.102.140 Residential Collection Franchise Required.

- A. No person may collect residential solid waste, recyclable or compostable materials ~~or yard debris~~, within the City without having obtained a franchise from the City, except as provided in 17.102.150 or 17.102.170 of this Chapter.
- B. Having obtained a franchise for residential solid waste, recyclable material and compostables ~~yard debris~~ collection from the City, no person shall provide or offer to provide such collection in an area within the City other than the assigned territory for which the franchise was issued.
- C. No person shall accumulate, store collect, transport, dispose of or resource recover solid waste, recyclable materials or compostables ~~yard debris~~, except in compliance with this Chapter, other city ordinances and regulations, and state laws dealing with solid waste management.
- D. Nothing in this section shall prohibit the City from withdrawing certain solid waste, recyclable materials or compostables ~~yard debris~~ collection services by amendment of this Chapter on the basis of finding that such change is appropriate.
- E. No person other than an approved residential recycler may remove recyclable materials or compostables ~~yard debris~~ that are in or next to a residential recycling or compostables ~~yard debris~~ container set out at a residence.

- F. As provided in Section 29.30.140, owners of rental housing shall not collect solid waste generated by their tenants. Owners of rental residences must arrange for collection by a franchisee.

17.102.150 Exceptions to Residential Franchise Requirement.

- A. A franchise is not required for the collection or transportation of residential solid waste, recyclable materials or yard debris by the following persons:
1. Persons transporting solid waste, recyclable materials, or compostables yard debris, collected outside the City;
 2. Organizations which have been granted non-profit tax status by the federal government or who are organized as non-profit corporations in accordance with ORS Chapter 61 (2007) and who collect residential recyclable materials or compostables yard debris without charge to the person who generates those recyclable materials or compostables yard debris;
 3. – 8. are unchanged
 9. Persons exclusively collecting recyclable materials or compostables yard debris, from non-residential sources.
- B. An organization is not required to have a franchise for the acceptance, storage or transportation of recyclable materials or compostables yard debris if those materials are accepted and stored at a depot or depots which accept recyclable material or compostables yard debris without a charge to the generator of that recyclable material or compostables yard debris.

17.102.170 Residential Recycling Services.

- A. – C. are unchanged
- D. The Director shall review the recycling collection and processing plans submitted by an applicant to determine if the plan sets out reasonable means and methods to deliver high quality recycling to City residents, and which are capable of meeting administrative rule standards for residential recycling service delivery. The Director shall notify the applicant of the decision on their his/her status as an approved residential and any recommended modifications if approval is not given. Approved residential recyclers shall use recycling containers that meet the Director's specifications.
- E. is unchanged

17.102.210 Commercial Collection Permit Required.

- A. is unchanged
- B. The Director may impose conditions upon the issuance of a permit which are necessary to implement the provisions of this Chapter or administrative rules

promulgated under Section 17.102.030. Conditions shall include but not be limited to:

1. -3. are unchanged

4. Permittees may charge a person who source separates recyclable material - and makes it available for reuse or recycling - less, but not more, for collection and disposal of solid waste and collection of recyclable material than the collection service charges a person who does not source separate recyclable material. This subsection does not affect charges for the collection of food scraps and food-soiled paper.

C. - E. are unchanged

17.102.230 Applications for Commercial Collection Permits, Issuance, Denial.

A. - I. are unchanged

J. Denial of an application may be appealed to the Code Hearings Officer as provided in accordance with procedures set forth in Chapter 22.10 of the City Code.

~~1. Any person requesting an appeal to the Code Hearings Office may be assessed a fee of up to \$500 at the time of their application. Failure to submit full payment of appeal fee within the time allowed to request an appeal hearing shall result in the denial of the request for an appeal hearing.~~

~~2. If the Code Hearings Officer decides in favor of the appellant at the Code Hearing, the submitted appeal fee shall be refunded in full to the appellant.~~

17.102.240 Revocation or Suspension of Commercial Collection Permits.

A. - B. are unchanged

C. Revocation or suspension of a permit may be appealed to the Code Hearings Officer as provided in accordance with procedures set forth in Chapter 22.10 of the City Code.

~~1. Any person requesting an appeal to the Code Hearings Office may be assessed a fee of up to \$500 at the time of their application. Failure to submit full payment of appeal fee within the time allowed to request an appeal hearing shall result in the denial of the request for an appeal hearing.~~

~~2. If the Code Hearings Officer decides in favor of the appellant at the Code Hearing, the submitted appeal fee shall be refunded in full to the appellant.~~

17.102.270 Businesses and Multifamily Complexes Required to Recycle.

A. Waste Prevention and Recycling Requirements.

1. To achieve the City's waste prevention and recycling goals as set forth in Section 17.102.010, all businesses within the City shall comply with waste prevention, recycling and composting requirements as set forth in the administrative rules established by the Director. The following recycling requirements shall be in effect:
 - a. – b. are unchanged
 - c. Covered ~~F~~food scraps generating businesses shall separate their food scraps for collection~~composting~~.
 - d. is unchanged

2. - 3. are unchanged

B. – C. are unchanged

17.102.290 Storing Solid Waste, Recycling or Compostable Containers in the Right of Way Prohibited.

A. – D. are unchanged

- E. Denial of a request for exemption for extreme economic hardship may be appealed to the Code Hearings Officer in accordance with procedures set for in Chapter 22.10.

- ~~1. Any person requesting an appeal to the Code Hearings Office may be assessed a fee of up to \$500 at the time of their application. Failure to submit full payment of appeal fee within the time allowed to request an appeal hearing shall result in the denial of the request for an appeal hearing.~~
- ~~2. If the Code Hearings Officer decides in favor of the appellant at the Code Hearing, the submitted appeal fee shall be refunded in full to the appellant.~~