

## ATTACHMENT A

### Universal Zero Waste Ordinance

#### TITLE 6 - Chapters 3 and 12 City Manager's Rules

April 22, 2019

#### Title 6, Chapter 3, Section 2: Definitions

“Single Stream recyclable materials” is defined as any or all of the following materials mixed together in one container for collection, intended by the generator to be sorted, post-collection into separate recyclable commodities at a material recovery facility. Individual programs may specify a subset of these materials as acceptable for collection:

- Mixed office paper and pads
- Sorted direct mail
- Magazines and catalogs
- Telephone books
- Corrugated cardboard
- Newspapers along with any paper that comes in the newspaper
- Paperboard
- Glass containers
- Aluminum cans, foil and metal lids
- Steel cans and empty aerosol cans
- Plastic bottles, tubs, jugs and jars (including attached plastic caps)
- Aseptic milk cartons and juice boxes
- Plastic clamshell containers
- Large, rigid plastics, including hard plastic six-pack holders

“Compostable materials” is defined as any or all of the following materials mixed together in one container for collection. Individual programs may specify a subset of these materials as acceptable for collection:

- Tree trimmings
- Leaves
- Grass clippings
- Garden and plant trimmings
- Wood chips
- Cut flowers
- Untreated lumber
- Fruit and vegetable scraps
- Meat, bones and dairy
- Coffee grounds and tea bags
- Low-grade paper (tissue paper, wax paper, non-foil wrapping paper, brightly-colored paper)
- Food-soiled paper (greasy and/or covered with food)
- Un-bagged, shredded paper (per program guidelines)
- BPI (Biodegradable Products Institute)-certified compostable products

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“Clean fiber recyclable materials” are defined as corrugated cardboard, office paper, newsprint, or any other paper product separated by the generator prior to collection and intended to be sold to end-user markets without the need for further sorting. “Multifamily customer” means the occupants, taken together, of a residential building or set of residential buildings that uses dumpsters or carts as part of a collective, common system for the collection of trash generated by the occupants.

### **Title 6, Chapter 3, Section 13: Property Owner Requirements for Recyclables and Compostables Collection.**

All property owners must maintain in effect a contract with one or more haulers providing for the removal of accumulated trash, recyclables and compostables from the property or business, beginning June 17, 2016 - one year from the date Council adopted the Universal Zero Waste requirements. Property Owners must ensure all tenants have access to this collection service; if tenants choose to subscribe to their own trash, recycling and/or composting service, this is sufficient for compliance with the requirements of this code. Property owners are encouraged to allow tenant businesses to maintain their own contracts should they choose to do so.

#### **Guidelines for Containers, Signs and Training**

Each collection container, cart or dumpster must be accompanied by a sign, label or sticker that identifies the material being collected. Signs and stickers must contain one of the following titles:

1. “Recycle,” “Recycling” or “Recyclables”
2. “Compost,” “Composting” or “Compostables” and
3. “Landfill” or “Trash”

Signs and Labels are available from the City of Boulder at 1101 Arapahoe Ave and online at <https://bouldercolorado.gov/zero-waste/zero-waste-resources>. Laminated and/or custom signs can be requested free of charge from the City of Boulder (contact [zerowaste@bouldercolorado.gov](mailto:zerowaste@bouldercolorado.gov)). Signs and stickers may be provided by the City of Boulder, the property owner, the business and/or the hauler.

Haulers must affix stickers to all hauler-owned/provided containers including labels from the approved list above, and/or an image (photographic or iconographic) depicting the waste stream.

For kitchen, break room and bathroom areas located in shared common space between tenant businesses, these containers must be provided by the property owner, manager or its designee.

On-site collection areas established by property owners or managers must be clearly labeled as defined, above; and consist of trash, recycling and composting as deemed adequate and useful for the businesses intended to use the waste collection area(s). Bin sizes and pickup frequencies will be determined through individual property owner and business owner agreement.

For kitchen, break room and bathroom areas located in shared common space between tenant businesses, these containers must be provided by the property owner, manager or its designee.

At multi-family residential developments, property owners, homeowner associations, and/or property managers must provide trash, recycling and composting collection services in all trash collection and recycling areas, service areas and loading areas. If any trash collection and recycling

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area, service area or loading area is not large enough to contain or screen all the trash, recyclable, and compostable collection containers as required per Landscaping and Screening Standards [B.R.C. 9-9-12], directional signs must be clearly posted in the trash collection, service or loading areas, depicting the locations of such services on the property. Containers and enclosures must be clearly labeled with signs and/or stickers as per this City Manager's Rule.

If trash collection and recycling areas, service areas, or loading areas do not contain walls or fencing that would allow for the affixing of signs, property owners must provide an alternate way for signs and/or stickers to be posted near waste collection containers.

Training: At move-in and at least annually thereafter, all tenants and residents must be provided with a link to the City's educational materials (<https://bouldercolorado.gov/zero-waste/zero-waste-resources>) and a map or other instructional materials demonstrating where the collection containers are located and what materials go in each container (<https://vimeo.com/221900545>).

In addition to employees and tenants of the property, training must also be conducted with any custodial/janitorial contractors; landscaping; or other service contractors responsible for collection of trash, recyclables and/or compostables from the property. Such training must be conducted annually in addition to any time there is a change to the contractor providing janitorial, landscaping or other service contractors. This requirement can be met by ensuring all custodial contractors watch the English (<https://vimeo.com/230933334>) or Spanish (<https://vimeo.com/236139025>) version of the city's training video for custodial contractors.

### **Title 6, Chapter 3, Section 14:**

#### **Business Owner Requirements for Recyclables and Compostables Collection.**

##### **Reporting Compliance**

By June 30, 2019, and annually thereafter, all restaurants and grocery stores must submit to the City Manager or her designee, a completed Proof of Compliance form ([https://bouldercolorado.formstack.com/forms/waste\\_reporting](https://bouldercolorado.formstack.com/forms/waste_reporting)). By June 30, 2020 and annually thereafter, all food-producing businesses including those that are *not* restaurants or grocery stores must submit a completed Proof of Compliance Form. No sooner than June 30, 2021, the City Manager may also require other businesses and property owners to annually complete a Proof of Compliance Form.

Failure to report within 30 days of the reporting deadline will initiate the notification and enforcement process as outlined in B.R.C. 6-3-18. The city reserves the right to initiate an enforcement action against a non-reporting business.

##### **Guidelines for Containers, Signs and Training**

Each collection container, cart or dumpster must be accompanied by a sign, label or sticker that identifies the material being collected. Signs and stickers must contain one of the following titles:

4. "Recycle," "Recycling" or "Recyclables"
5. "Compost," "Composting" or "Compostables" and
6. "Landfill" or "Trash"

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Signs and Labels are available from the City of Boulder at 1101 Arapahoe Ave and online at <https://bouldercolorado.gov/zero-waste/zero-waste-resources>. Laminated and/or custom signs can be requested free of charge from the City of Boulder (contact [zerowaste@bouldercolorado.gov](mailto:zerowaste@bouldercolorado.gov)). Signs and stickers may be provided by the City of Boulder, the property owner, the business and/or the hauler.

Public-Facing or Front-of-House (FoH) Collection Containers: Public-facing or FoH collection containers are any collection containers that are intended to be used by the public inside a restaurant or in a dining area outside a restaurant, including outside a mobile food vendor (a.k.a. food truck). Businesses with FoH collection containers must provide trash, recycling and compost containers as required by this ordinance. Such FoH containers must be visible and grouped together. In instances where it is not reasonable to place trash, recycling and compost collection containers together, if containers are more than fifteen (15) feet apart, the business must provide directional instructions to the other FoH container(s). All FoH containers must have signs, labels or stickers that contain the titles contained in this Rule (Title 6, Chapter 3, Section 14), in addition to an image (photographic or iconographic) depicting the proper waste stream intended for collection in that FoH container. If signs include descriptive language of specific materials, text must be in both English and Spanish. Signs must be affixed to or directly above the FoH container. If a particular business caters to a population that communicates primarily in a language other than English or Spanish, signs may be deemed compliant with this ordinance if they contain words in a different language, as long as they also contain pictures of materials commonly found in the businesses' recyclables, compostables and landfill-bound trash.

Employee-Facing or Back-of-House (BoH) Collection Containers: Employee-facing or BoH collection containers are any collection containers that are only used by employees in kitchens, break rooms and other non-public areas of a business. All BoH containers must have signs or stickers that contain the titles listed above, and/or an image (photographic or iconographic) depicting the proper waste stream intended for collection in that container. If signs include descriptive language of specific materials, text must be in both English and Spanish. Signs must be affixed to or directly above the container. If employees of a business communicate primarily in a language other than English or Spanish, signs may be deemed compliant with this ordinance if they contain words in a different language, as long as they also contain pictures of materials commonly found in the businesses' recyclables, compostables and landfill-bound trash.

Retail establishments that do not prepare or serve food are exempt from providing compost collection containers for the public. However, if any business or commercial property – regardless of whether it prepares or serves food – contains a break room or a bathroom intended for use by its employees, at least one compost collection container must be provided in each bathroom and/or break room unless an exemption is granted as outlined below. Hotels, guest houses, congregate care facilities, fraternities and sorority houses, and nursing homes that provide trash containers in residents' apartments or guest rooms must provide each guest room with a recycling container or alternate way to collect recyclables, but it is not necessary to provide each guest room with a compost container.

Furthermore, all employees or contractors responsible for collection of the waste materials including custodial contractors must be trained to properly manage the recyclables and compostables, if present, from each guest room so it is properly prepared for collection.

In office settings, a business or property owner may be in compliance with this ordinance even if a compost container is not provided to each employee's desk or work station, as long as a compost

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collection container is located within a reasonable and convenient distance from each employee's desk or work station. Notwithstanding, all common kitchen, dining, meal preparation and break room areas must contain adequate containers for compostables everywhere containers are supplied for trash. Furthermore, all bathrooms must be provided with at least one container for compostables unless there is no paper towel waste generated because only cloth towels or electric hand dryers are provided for customer, employees' and the public's use. As outlined in this Rule (Title 6, Chapter 3, Section 14), For kitchen, break room and bathroom areas located in shared common space between tenant businesses, these containers must be provided by the property owner, manager or its designee.

Training: Training may be conducted by the property owner's or business owner's contracted recyclable or compostable materials hauler or another third party and must include a review of the materials intended to be deposited in each container including recyclables, compostables and landfill-bound trash. This requirement can be met by ensuring all employees and tenants of the property watch the city's "[Recycling and Composting 101](https://bouldercolorado.gov/zero-waste/employee-training)" video (<https://bouldercolorado.gov/zero-waste/employee-training>) and complete the sorting quiz at the end of the video. The city reserves the right to request a copy of employees' certificate(s) of completion from the sorting quiz. The property owner or manager is required to also conduct a periodic physical inspection of the on-site collection system ensuring signs and/or stickers are firmly affixed, visible, clean and free of obstructions. Annually, a map must be provided to all tenants of the property that clearly indicates the location(s) on the property of trash, recyclables and compostables containers.

In addition to employees of the property, training must also be conducted with any janitorial contractors, landscaping or other service contractors responsible for collection of trash, recyclables and/or compostables from the property. Such training must be conducted annually in addition to any time there is a change to the contractor providing janitorial, landscaping or other service contractors. This requirement can be met by ensuring all custodial contractors watch the [English](https://vimeo.com/230933334) (<https://vimeo.com/230933334>) or [Spanish](https://vimeo.com/236139025) (<https://vimeo.com/236139025>) version of the city's training video for custodial contractors.

### **Title 6, Chapter 3, Section 16: Applicability**

To demonstrate compliance, a Proof of Compliance application (<https://bouldercolorado.formstack.com/forms/reporting>) must be completed no later than thirty days after the start of the compliance period established in section 6-3-16; within 30 days of being issued a notice of violation of any provision of this chapter; within 30 days of the deadline for compliance with the reporting requirements of this chapter; or within 60 days of operating as a business in the City of Boulder.

(a) "Property Owner Requirements for Recyclables and Compostables Collection" and "Property Owner Requirements for Accumulation of Trash Recyclables and Compostables" shall apply to all property owners within the City of Boulder beginning June 17, 2016 - one year from the date Council adopted the Universal Zero Waste Requirements.

(b) "Business Owner Requirements for Recyclables and Compostables Collection," shall apply to all businesses existing within the City of Boulder by September 17, 2016.

(c) All new businesses and property owners must comply with these sections within sixty (60) days of operating within the City of Boulder.

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### Title 6, Chapter 3, Section 17: Exemptions

In certain cases, a business or property owner may apply for an exemption from the requirements of the Universal Zero Waste Ordinance. To be granted an exemption, applicants must demonstrate all other reasonable options to bring their business or property into compliance have been considered and exhausted. Generally, exemptions expire one year from the date granted, and renewal requests will be accepted for review during the annual reporting period for that year, except as detailed below (home-based business, self-haul). To demonstrate compliance, a Proof of Compliance application (<https://bouldercolorado.formstack.com/forms/reporting>) must be completed no later than thirty days after the start of the compliance period established in section 6-3-16, "Applicability;" within 30 days of being issued a notice of violation of any provision of this chapter; within 60 days of operating as a business in Boulder; or within 30 days of the deadline for compliance with the reporting requirements of this chapter. Each application for an exemption will be considered on its own merit; a final determination will be made by the City Manager or the City Manager's designee.

The City Manager may require from businesses and/or property owners, an exemption application fee if such a fee is determined to be necessary to cover the costs of administering exemption applications.

- (1) **Home-Based Business:** A home-based business must comply with Title 9, Chapter 6-3 (e) Home Occupations and must show that the residential property owner or manager subscribes to trash, recyclables and compostables collection and the home-based business has access to use that service. Once a home-based business exemption is granted from the city, the exemption will be considered in full force and effect until such a time as the home-based business moves to a new location or otherwise ceases operations at the address for which the exemption was originally granted.
- (2) **Self-Haul: Businesses or property owners that haul their own trash, recycling and/or compost.** Applicants must provide a certified statement explaining the location to which and frequency with which the trash, recycling and/or compost are hauled. Additional documentation may be required upon request. Once a self-haul exemption is granted from the city, the exemption will be considered in full force and effect until such a time as the business or property owner subscribes to collection service for trash, recyclables and/or compostables; or moves to a location different than the address for which the exemption was originally granted.
- (3) **Shared Collection: Property owners that share collection services with one or more neighboring properties.** Applicants must provide a copy of an invoice clearly reflecting the hauling company with whom contract is held; the level of subscribed collection service and frequencies for any shared services; and the name and address of the party being billed for the shared collection services.
- (4) **Economic Hardship: Properties that are subject to a qualified tax lien sale or public auction due to property tax arrearages; buildings controlled by a court appointed receiver; and buildings acquired by a deed in lieu of foreclosure.** Documentation of the foregoing situations is required. Alternatively, a business or property owner may submit three (3) years of federal tax returns from which an annual gross income average is calculated, and an estimate of the total annual costs necessary to comply with the provisions of this Chapter, including documentation to support these annual costs, for review by city staff.

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- (5) **Compost On-Site:** Property or business owners that collect and process food waste on-site in compliance with all applicable laws pertaining to Title 6, Chapter 3, Section 6-3-6, "Compost piles permitted if not a nuisance." Applicants must provide a description and photograph(s) of the compost area. The city reserves the right to conduct an on-site inspection.
- (6) **Space Constraints: Property or business owners with space constrained properties that preclude compliance with the provisions of the Universal Zero Waste Ordinance.** Applicants must provide a description and photograph(s) of the area and the city reserves the right to an on-site inspection. Every effort should be made to find a solution before an exemption will be granted.
- (7) **Innovation: Property or business owners that reuse or repurpose a significant portion of their waste stream.** Applicants must provide a description of the innovation and photographs may be required.
- (8) **De Minimis Volume: Businesses that generate a de minimis volume of trash, recycling or compost.** Applicants must certify that they accumulate less than one-half ton (1000 lbs.) per year (or less than 64 gallons of trash collection service per month; less than 96 gallons of recyclables collection service per month; or 48 gallons of compostables collection service per month). Generally, a non-food producing business with fewer than 50 employees may qualify for an exemption from the requirement to subscribe to compost collection services; it is not typical for an office or retail establishment to qualify for a De Minimis exemption for trash or recyclables. Property and business owners are encouraged to share collection containers with adjacent properties where possible. The city reserves the right to conduct a waste audit and/or on-site inspection for any business applying for a De Minimis exemption.

### **Title 6, Chapter 3, Section 18: Violations.**

If the City Manager finds a violation of any provision of this chapter, the manager, after notice and an opportunity for hearing under the procedures prescribed by Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, may impose a civil penalty according to the following schedule:

- (a) For the first violation of the provision, \$500;
- (b) For the second violation of the same provision, \$1,000;
- (c) For the third and subsequent violations of the same provision, \$2,000; and
- (d) The city manager's authority under this section is in addition to any other authority the manager has to enforce this chapter, and election of one remedy by the manager shall not preclude resorting to any other remedy as well.
- (e) Violations of this chapter are also punishable as provided in Section 5-2-4, "General Penalties," B.R.C. 1981.

Two notifications will be issued prior to any finding of violation.

The City Manager or her designee may request – and must be granted – access to any portion of a commercial property, including kitchens and back-of-house areas, in order to inspect and verify compliance with the provisions of these chapters.

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Notice under this subsection is sufficient if notices of violation are hand delivered, emailed, mailed, or telephoned to such person, or by posting on the premises.

### **Title 6, Chapter 12:**

#### **Trash, Recyclables and Compostables Hauling**

Haulers providing trash collection service to multifamily customers shall also provide collection service of all their recyclables and compostables at no additional charge beyond that agreed for trash collection service. Residential, multi-family customers who do not have common area collection service shall be considered as regular, residential customers. Haulers offering trash collection service to commercial customers must also offer collection service for all the property's recyclables and compostables, whether offered directly or through a subcontracting relationship with another hauler. Furthermore, all Haulers must comply with and provide the Special Trash Service to all its customers with rental properties located within the Special Trash Service Zone referenced in B.R.C. 6-3-9(a) through (e).

Beginning in 2020, if a Hauler charges its customers for overflowing carts, extra trash collection or any other special services above that which has been agreed upon in advance, the Hauler must have on file a photograph showing the need for special services and must provide that photograph to the customer upon request. A Hauler's failure to provide a photograph showing the need for special services shall not be considered evidence that the Hauler did not provide the special service.

#### **Containers for Recycling or Composting Collection and On-site Collection Areas**

Haulers providing trash, recyclables and compostables collection service to commercial or multifamily property owners and managers through centralized collection areas shall provide containers for recyclable and compostable materials at no additional charge. Containers shall be of a sufficient size to accommodate the regular accumulation of recyclables and compostables from that customer, but at a minimum, containers for recyclables provided to multifamily, residential customers shall be of a capacity equal to no less than one-third of the volume of the total collection service. Containers for compostables provided to multifamily, residential customers shall have, at a minimum, a capacity equal to one-fifth of the volume of the total collection service. Each material stream must be scheduled for collection no less frequently than every other week. Containers provided by the hauler for the collection of recyclables and compostables must be co-located in the same enclosure, screened, or landscaped area as those containers for the collection of landfill-bound trash. If any trash collection and recycling area, service area or loading area is not large enough to contain or screen all the trash, recyclable, and compostable collection containers as required to serve the tenants per these collection requirements and the city's Landscaping and Screening Standards [B.R.C. 9-9-12], directional signs must be clearly posted in the trash collection, service or loading areas, depicting the locations of such services on the property.

#### **Directing Materials to the Boulder County Recycling Center.**

It shall be presumed that each property owner, property manager, residential customer, commercial customer or multifamily customer has designated both single stream and source-separated, clean fiber recyclable materials as defined by these rules to be hauled to the recyclables processing center owned by Boulder County or its successor in interest ("Boulder County Recycling Center"). As set forth below, under certain conditions this presumption shall not apply with respect to source-separated, clean fiber recyclable materials.



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In accordance with the code, the intent of this rule is to prevent high grade recyclable materials from being diverted to recyclable processing centers other than the Boulder County Recycling Center, thereby undermining the public benefit and taxpayer investment in the Boulder County Recycling Center.

This rule maximizes the different types of recyclable materials accepted – including the less profitable materials – while assuring the Boulder County Recycling Center continually assesses and adjust for market conditions. Therefore, the per-ton “hauler rebates” paid by Boulder County at its gate for source-separated, clean fiber recyclable materials, shall be structured as a revenue share, shall be posted on a monthly basis, and shall represent a tiered rebate structure so as to provide an economic incentive to encourage source separation and low levels of contamination in delivered recyclable materials.

The presumption in this rule shall apply to haulers who collect source-separated clean fiber recyclable materials that originate from business owners who have on site a dumpster for collection of office paper, corrugated cardboard or other source-separated, clean fiber recyclable materials. The only exception from this requirement applies to haulers that have in place a written contract dated June 15, 2015 or earlier, that presumes delivery of all source-separated, clean fiber recyclable materials and sets a price for the sale of such materials. In this case, the hauler shall notify the City Manager in writing of such a contract and an exemption will be granted for a period through the end of the existing contract term, from the hauler requirement to deliver to the Boulder County Recycling Center source-separated, clean fiber recyclable materials from customers who have on site a dumpster(s) for collection of said materials.

The presumption in this rule shall not apply with respect to source-separated, clean fiber recyclable materials that originate from business and/or property owners who, prior to April 17, 2016, own or lease a compactor for the purpose of processing and receiving revenue from clean fiber recyclable materials including but not limited to corrugated cardboard or high-grade office paper.

Additionally, the presumption in this rule shall not apply with respect to source-separated, clean fiber recyclable materials that originate from business and/or property owners who have on site a baler for the purpose of processing and selling directly to markets, clean fiber recyclable materials including but not limited to corrugated cardboard or high-grade office paper.

However, under no circumstances shall these exemptions affect a business or property owner’s requirements under Title 6 - Chapter 3, Title 6 - Chapter 12, or any other section of these rules.

Beginning in June 2016 and at least annually thereafter, any hauler that collects source-separated, clean fiber materials must report to the City the number of customers, type of material and associated tonnage of such material as well as the markets to which this material is delivered, whether or not this material is delivered to the Boulder County Recycling Center. Upon request by the City Manager, haulers shall produce receipts from the facilities or markets utilized.

In cases of extreme weather conditions or other extenuating circumstances when the Boulder County Recycling Center is not open and accepting recyclable materials, a hauler may deliver its customers’ recyclable materials elsewhere. If at any time, the Boulder County Recycling Center is equipped with an automated system that allows for unattended delivery of recyclable materials, this exception will no longer apply.

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The exemptions outlined in this section of the rule may be updated by the City Manager from time to time.