

TITLE 12
SOLID WASTE

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Chapter 12.04

SOLID WASTE^{1,2}

¹ **Editor's note**—Ord. No. 7-1988, § 1, amended former Ch. 10, §§ 10-1—10-14, relative to solid waste, in its entirety to read as herein set out in Ch. 10, §§ 10-1—10-14 [Ch. 12.04, §§ 12.04.010—12.04.130]. The provisions of former Ch. 10 derived from Ord. No. 17-1977, § 1 and Ord. No. 87-1979, §§ 1—5.

² **Cross references**—Health; Quality of Environment, Title 13; Disposal of animal carcasses near water resources, § 13.04.080; Control of rubbish, weeds and brush, § 13.12.010 et seq.; Littering of public or private property prohibited, § 15.04.380; Keeping of junk prohibited, § 15.04.420; Abandoned iceboxes and refrigerators regulated, § 15.04.440; Certain dumping declared nuisance, § 15.04.560(b); Refuse storage, collection and disposal in mobile home parks, § 16.04.020(f).

Sec. 12.04.010. Definitions.

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

Ashes. The term *ashes* shall mean the solid residue left when material is burned.

Garbage. The term *garbage* shall mean all wastes from the preparation and consumption of food, condemned food products and all refuse and waste from the handling, storage, preparation and sale of produce.

Trash. The term *trash* shall mean all substances, which are neither ashes nor garbage, discarded from dwellings, rooming houses, hotels, clubs, restaurants, boardinghouses, eating places, shops, stores or other places of business. (Code 1971, § 10-1; Ord. No. 7-1988, § 1)

Sec. 12.04.020. Depositing of garbage, trash and ashes.

Every owner or occupant of premises within the City shall deposit and cause to be deposited all garbage, trash and ashes which accumulate thereon in:

(1) Animal-proof, fly-tight covered containers or

(2) Dumpsters approved by the environmental health Department, in which case garbage and trash shall be secured in throw away containers or in a manner that it is not blown or scattered about or allowed to become a nuisance to the neighbors or the area. (Code 1971, § 10-2; Ord. No. 7-1988, § 1)

Sec. 12.04.030. Area around dumpsters maintained free of trash, garbage.

Every owner or occupant of premises within the City using an approved dumpster shall keep the area within ten (10) feet of that dumpster free of garbage, trash and ashes. (Code 1971, § 10-3; Ord. No. 7-1988, § 1)

Sec. 12.04.040. Separate containers required for ashes.

All ashes accumulated on any premises shall be placed in a suitable container separate from garbage and trash containers. (Code 1971, § 10-4; Ord. No. 7-1988, § 1)

Sec. 12.04.050. Containers to be maintained in sanitary condition.

All garbage, trash and ash containers shall be maintained in a clean and sanitary condition. (Code 1971, § 10-6; Ord. No. 7-1988, § 1)

Sec. 12.04.060. Placement of containers.

It shall be unlawful for the owner or occupant of any premises located in a Residential Zone District as defined in this Code to place garbage, trash or ash containers at or near the street or alley adjacent to the

premises except between the hours of 6:00 a.m. and 5:00 p.m. of the day for scheduled collection. (Code 1971, § 10-7; Ord. No. 7-1988, § 1; Ord. No. 37-1998 § 2)

Sec. 12.04.070. Disposal required.

Every owner or occupant of premises within the City shall provide his or her own means of collection and disposal of ashes, trash and garbage. (Code 1971, § 10-8; Ord. No. 7-1988, § 1)

Sec. 12.04.080. Frequency of collection.

The collection and disposal of garbage, trash and ashes within the City shall be as often as necessary to prevent a public health danger, fire danger or inhibition of right-of-way access. (Code 1971, § 10-9; Ord. No. 7-1988, § 1)

Sec. 12.04.090. Control of ashes, trash or garbage during transportation.

No person transporting ashes, trash or garbage within the City shall allow any to fall or be blown from the container or vehicle. (Code 1971, § 10-10; Ord. No. 7-1988, § 1)

Sec. 12.04.100. Notice of violations.

(a) If conditions which violate any provision of this Chapter are determined by the Environmental Health Department or City Fire Marshal to be an immediate public health danger, fire hazard or a hazard in blocking emergency access, they shall cause the immediate removal of the violation. In such case, a minimum fee of twenty-five dollars (\$25.00) shall be charged against such premises and against the owner or occupant thereof.

(b) All other conditions which violate any provision of this Chapter shall be tagged in a conspicuous place by the Environmental Health Department or their authorized agent. The tag shall specify the violation existing and shall state that such violation shall be corrected within twenty-four (24) hours of the time noted on the tag. (Code 1971, § 10-11; Ord. No. 7-1988, § 1)

Sec. 12.04.110. Removal of unlawful accumulations by City; lien for cost of removal.

If the owner or occupant of premises in the City permits ashes, trash or garbage to accumulate in violation of any provision of this Chapter, the Environmental Health Department or Fire Marshal may cause it to be removed and disposed of. In such case, the cost of the removal and disposal shall be charged against the premises and the owner or occupant in addition to any regular charge for such. Such cost may be collected by the City in any action at law, referred for collection by the City Attorney or assessed against the property. If the owners of the premises fail to pay such assessment, it shall be certified by the Director of Finance to the County Treasurer to be placed on the tax list for the current year and collected in the same manner as other taxes, together with a penalty added to defray administrative costs. The cost for removal and disposal may also be added to the monthly water service fee payable by the owner or occupant of the premises pursuant to Title 25 of this Code. If said cost is added to the monthly water service fee and remains unpaid, water service to the premises shall be disconnected pursuant to the provisions of Title 25. All the laws of the State for the assessment and collection of general taxes, including the laws for the sale of property for taxes and the redemption thereof, shall apply to and have full effect for the collection of all such assessments. (Code 1971, § 10-12; Ord. No. 7-1988, § 1)

Sec. 12.04.120. Violations deemed unlawful.

Violation of any provision of this Chapter by any person, firm or corporation, whether as owner or occupant, shall be unlawful and subject to the penalty provisions in Section 1.04.080 of this Code. (Code 1971, §10-13; Ord. No. 7-1988, §1)

Sec. 12.04.130. Exemptions from requirements of this Chapter.

The City Council hereby authorizes the City Manager to permit exceptions from the requirements of this Chapter on application when its requirements will impose practical difficulties or unnecessary hardship. (Code 1971, §10-14; Ord. No. 7-1988, §1)

Chapter 12.06

WASTE REDUCTION

Sec. 12.06.010. Definitions.

Ashes. The term *ashes* shall mean the solid residue left when material is burned.

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

Commercial Customer shall mean any premises utilizing collection service where a commercial, industrial or institutional enterprise is carried on, including, without limitation, retail establishments, restaurants, hospitals, schools, day care centers, offices, nursing homes, clubs, churches and public facilities.

Compostable material or compostables shall mean any organic material that will naturally degrade and that has been designated as compostable by City Manager regulation in the “Compostable Materials List” which may include, but is not limited to,

1) *Animal or vegetable based food scraps resulting from the preparation, cooking and serving of food;*

2) *Organic materials, including paper products and products designed to completely break down in a commercial composting facility;*

3) *Organic material that has been completely segregated from trash by the generator for the purpose of being composted or otherwise processed through natural degradation into soil amendment, fertilizer or mulch.*

Garbage The term *garbage* shall mean all wastes from the preparation and consumption of food, condemned food products and all refuse and waste from the handling, storage, preparation and sale of produce. The term *garbage* shall include *compostable material* and *compostables*.

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

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

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

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

Trash. The term *trash* shall mean all substances, which are neither ashes nor garbage, discarded from dwellings, rooming houses, hotels, clubs, restaurants, boardinghouses, eating places, shops, stores or other places of business.

Yard Waste shall mean materials generated from the maintenance of the vegetation on a property that have been designated by the City Manager in the "Banned Yard Waste List" which may include, but are not limited to, grass clippings, leaves, weeds, holiday trees and other plant materials. (Ord. No. 26, 2005, §1; Ord. No. 13-2013)

Sec. 12.06.020. Exemptions.

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

(A) Any person or agent thereof who transports to the landfill only the garbage that person generates.

(B) Any person who transports only liquid wastes (such as restaurant grease), discarded or abandoned vehicles or parts thereof, discarded home or industrial appliances, household hazardous wastes or hazardous materials as defined in the rules and regulations adopted by the United States Hazardous Materials Transportation Act, 49 U.S.C. §5101 et seq.

(Ord. No. 13-2013)

Sec. 12.06.030. Hauler requirements.

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

(B) Haulers providing trash service in the City shall include in the base rate for trash pickup service the pickup of Recyclable Materials as designated by the City Manager in the Recyclable Materials List.

(i) For residential customers the Recyclable Materials list shall include, at the minimum, glass containers, plastic containers, steel cans, aluminum cans and newspapers.

(ii) For commercial and multi-family customers the Recyclable Materials list shall include, at the minimum, glass containers, plastic containers, steel cans, aluminum, newspapers, cardboard and office paper.

(C) It shall be unlawful for Haulers to provide a separate line item for the cost of recycling services on any invoice, contract, or other document that is delivered to the customer, or to deduct any amount from a customer's rate if the recycling services are not used.

(D) The collection of recyclable materials for residential customers shall be provided on the same day and upon the same frequency as trash pickup.

(E) Haulers shall provide collection of recyclable materials for multi-family and commercial customers as often as necessary to prevent the overflow of the recycling containers and to permit the customer to use the recycling containers without causing an overflow.

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

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

(H) Each Hauler shall submit a bi-annual report to the city manager of the weight in tons of garbage, trash, Recyclable Materials (as determined by the City Manager in the Recyclable Materials List pursuant to 12.06.040), Compostables and Yard Waste materials collected within the limits of the City. For loads that contain garbage or Recyclable Materials originating in part from within the limits of the City, and in part from outside the limits of the City, the reported quantity may be estimated by the Hauler but must use the standardized formula provided by the City of Aspen which shall include the use of both the scale tickets and customer route sheets, and reported as an estimate.

Bi-annual reports shall be submitted by January 31 and July 31 using a form or forms provided by the Environmental Health Director. Included in this form shall be a standardized formula for volume estimations, a description of the approved data collection methods and a section for the hauler to describe any assumptions used in the data collection process. All reports shall be treated as confidential commercial documents under the provisions of the Colorado Open Records Act.

Haulers shall include the following with the bi-annual report when submitted:

- One (1) example of the base rate monthly charge for an average residential customer and one (1) example of the base rate cost for a commercial customer that would be considered an average customer with no special considerations.
- Schedule of pick up for customers located within the City of Aspen. This requirement may be met by providing route sheets detailing the different daily hauling routes within City limits.

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

(J) Except for materials that customers have not properly prepared for recycling and so are grossly contaminated (fifteen percent [15%] or more of trash), Haulers may not dispose of Recyclable Materials set out by recycling customers by any means other than at a recycling facility that sorts, packages and otherwise prepares Recyclable Materials for sale.

- (i) Haulers must notify customers of any grossly contaminated Recyclable Material with an Audit Card or with a phone call, email or written letter with wording provided by the Environmental Health Department.

(ii) Haulers must notify the Environmental Health Department via email or phone if grossly contaminated Recyclable Materials are deposited into the trash instead of properly recycled, due to contamination, at the same address more than once in the period of one (1) month.

(K) Haulers shall notify customers of the provisions of this Chapter by a letter reasonably acceptable by the City of Aspen:

(i) Upon the initial provision of solid waste collection services to new customers,

(ii) Ninety days prior to any deadline such as the date for existing customers to notify the hauler if they wish to opt out, and

(iii) On or before December 31 of each year for existing customers

Haulers will also provide within the above reference letter information on the materials designated for recycling collection pursuant to 12.06.040 and such rules and regulations as established by the Hauler for the orderly collection of Recyclable Materials as authorized pursuant to 12.06.050(b). Such notice shall further include for Residential Customers the notification of the variable rate system employed by the Hauler, and shall be in a form reasonably acceptable to the City to ensure that customers are fully informed of the availability of recycling and level of service options.

For group accounts, the notices required herein may be sent to the group representative for said account, provided that such notice shall further notify said representative of its obligation to notify all individual customers or users of the service within the group of the availability of recycling services.

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

(L) Haulers shall not pick up trash that contains banned Yard Waste materials. Haulers shall notify customers of the ban with an Audit Card or with a phone call, email or written letter with wording provided by the Environmental Health Department. (Ord. No. 26, 2005, §1)

(M) A hauler that exclusively hauls compostable material, no trash or recycling, that has been prepared by the generator for the purpose of separate collection and that is collected in a separate vehicle or compartment of a vehicle than that used for trash collection, is exempt from the above provisions of Section 12.06.030, except that all compost haulers shall comply with subsections (A), (G) and (H) of this Section 12.06.030.

(Ord. No. 26, 2005, §1; Ord. No. 17 – 2011; Ord. No. 13-2013)

Sec. 12.06.040. Designation of Recyclable Materials and Banned Yard Waste Materials and Compostable Materials List.

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

(B) The Yard Waste material that is required to be separated from trash shall be set forth in the City's "Banned Yard Waste List," which shall be prepared and amended from time to time by the City Manager. The Banned Yard Waste List shall be developed after consultation with the Pitkin County Landfill Manager, the Environmental Health Director and licensed Haulers operating within the City, as well as the public, and shall be available for review on the City's Environmental Health Department website. (Ord. No. 26, 2005, §1)

(C) The "Compostable Material List" shall be developed after consultation with the Pitkin County Landfill Manager, the Environmental Health Director and licensed Haulers operating within the City, as well as the public, and shall be available for review on the City's Environmental Health Department website.

(Ord. No. 26, 2005, §1; Ord. No. 17-2011; Ord. No. 13-2013)

Sec. 12.06.050. Placement of Recyclable Materials, Compost and Yard Waste for pickup.

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

(B) Recycling containers for storing and setting out Recyclable Materials may be of any color or design as long as they do not interfere with industry-accepted requirements for the preparation of materials for recycling that are necessary to provide for the orderly collection of Recyclable Materials. (Ord. No. 26, 2005, §1)

(C) Composting containers for storing and setting out Compostable Materials may be of any color or design so long as the container complies with all other requirements of the Aspen Municipal Code, including but not limited to the provisions of Chapter 12.08, Wildlife Protection.

(D) Yard Waste may be included for pick up with Compostable material in the Compostable Material bin or placed next to the Compostable Material bin in preparation for pick up by a hauler.

(E) Containers provided by a waste hauler to a customer must be clearly marked to show the type of waste or recycling permitted in the bin.

(Ord. No. 26, 2005, §1; Ord. No. 17-2011; Ord. No. 13-2013)

Sec. 12.06.060. Educational materials.

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

(B) The City will provide wording for Audit Cards and letters and talking points for phone calls that the Haulers must use to notify their customers of contamination of Yard Waste in trash and contamination of trash in recyclables. In addition, the City will produce an educational flyer, not to exceed one (1) sheet of paper in length. Haulers shall distribute this educational flyer at least once a year to all their customers, which may be at the same time as materials sent out under Subsection 12.06.030(j) above. The City will consult with the Haulers about the educational flyer prior to distributing it to the Haulers. (Ord. No. 26, 2005, §1; Ord. No. 13-2013)

Sec. 12.06.070. Audits and violations.

(A) Each Hauler licensed pursuant to this Chapter shall maintain accurate and complete records of the services provided to all customers, the charges to such customers and payments received, the form and recipients of any notice required pursuant to this Chapter, and any underlying records, including any books, accounts, contracts for services, written records of individual level of service requests, invoices, route sheets or other records necessary to verify the accuracy and completeness of such records. It shall be the duty of each

Hauler to keep and preserve all such documents and records, including any electronic information, for a period of three (3) years from the end of the calendar year of such records, except for paper records of route sheets, which may be discarded one (1) year after the end of the calendar year of such route sheets.

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

(C) Violation of any provision of this Chapter by any person, firm or corporation, whether as Hauler, owner or occupant, shall be unlawful and subject to the penalty provisions in Section 1.04.080 of this Code. Each violation shall constitute a separate offense. (Ord. No. 26, 2005, §1; Ord. No. 13-2013))

(Ord. No. 26, 2005, §1; Ord. No. 17-2008)

Chapter 12.08

WILDLIFE PROTECTION

Sec. 12.08.010. Definitions.

The definitions and terms used in this Chapter are defined as follows:

(1) *Wildlife* means any non-domestic mammal indigenous to the Roaring Fork Valley including but not limited to bear, deer, elk, raccoon, coyote, beaver, skunk, badger, bobcat, mountain lion, porcupine and fox.

(2) *Attractant* means any substance which could reasonably be expected to attract wildlife or does attract wildlife, including, but not limited to, food products, pet food, feed, compost containing fruit, grain, or salt but shall not include recyclables.

(3) *Refuse* mean any waste that could reasonably attract wildlife which includes, but shall not be limited to, kitchen organic waste, food, food packaging, toothpaste, deodorant, cosmetics, spices, seasonings and grease. Refuse does not include recyclables.

(4) *Wildlife-resistant refuse container* means a fully enclosed container that can be constructed of pliable materials, but must be reinforced to deter access by wildlife. The container must employ a sturdy lid that has a latching mechanism preventing access to its contents by wildlife. Wildlife Resistant Containers must meet the standards of testing by the Living With Wildlife Foundation and approved by the Interagency Grizzly Bear Committee (IGBC) as bear resistant for 90 minutes or otherwise be approved by a City-designated official.

(5) *Wildlife-resistant dumpster enclosure* means an enclosed structure consisting of four (4) sides and a secure door or cover, which shall have a latching device of sufficient design and strength to prevent access by wildlife. The enclosure shall not be larger than necessary to enclose the trash receptacles, shall not be attached to an historic structure, shall not be located in a public right-of-way and shall be located adjacent to the alley where an alley borders the property. Wildlife-resistant dumpster enclosures located in the Commercial Core (CC) and the Commercial (C-1) Zoning Districts are required to comply with Subsections 26.710.140.D.6 and 26.710.150.D.6, as applicable. An enclosure of less than one hundred twenty (120) square feet shall not require a building permit or Community Development review; however, plans for the dumpster are required to be reviewed and approved by a City Community Safety Officer or an Environmental Ranger prior to the commencement of construction. An enclosure of one hundred twenty (120) square feet or larger requires a building permit.

(6) *Wildlife-proof refuse container* means a fully enclosed metal container with a metal lid. The lid must have a latching mechanism, which prevents access to the contents by wildlife. Wildlife-proof refuse containers must meet the standards of testing by the Living With Wildlife Foundation and a “passing” rating by the Interagency Grizzly Bear Committee (IGBC) as bear resistant for 60 minutes or otherwise be approved by a City-designated official.

(7) *Outdoor Gathering* means an outdoor event such as a concert, conference or festival.

(8) *Enforcement officer* means any Aspen Police Officer, Community Safety Officer, Environmental Ranger or City-designated official.

(9) *Refuse container* means any trash can, dumpster or similar device used for the collection and storage of solid waste but shall not include cans intended only for containing recyclables. . (Ord. No. 13-1999, §1 (part); Ord. No. 30-1999, §1; Ord. No. 27-2005, §1; Ord. No. 5-2010)

Sec. 12.08.020. Wildlife resistant refuse containers or enclosures required.

A. No owner or person in charge of a property shall cause or allow the creation of or maintain a wildlife accessible refuse container or attractant outside on that property or the adjacent right-of-way at any time.

B. Any refuse container left outside a house, garage, or other enclosed building which is accessible by wildlife, regardless of size, that receives refuse which is edible by bears or other wildlife shall be either:

- (1) An approved wildlife-resistant refuse container; or
- (2) An approved wildlife-resistant dumpster enclosure.

(3) An approved wildlife-proof refuse container.

C. Any trash hauler who provides a refuse container to a city customer shall only provide wildlife-resistant refuse containers, wildlife-resistant dumpsters or wildlife-resistant poly carts, which meet the requirements set forth herein or is approved by a City-designated official.

Ord. No. 2-2001, §1; Ord. No. 8-2008; Ord. No. 5-2010)

Editor's note—Ord. No. 2-2001, §1, repealed former §12.08.020, pertaining to wildlife resistant refuse containers and enclosures and enacted a new §12.08.020 as herein set out. Former §12.08.020 was derived from Ord. No. 13-1999, §1.

Sec. 12.08.030. Maintenance and operation of wildlife-resistant refuse containers and dumpster enclosures.

A. Wildlife-resistant-refuse containers and dumpster enclosures must be kept closed and secure when refuse is not being deposited.

B. If a container or enclosure is damaged, allowing access by wildlife, repairs must be made within seventy-two (72) hours after written notification by a City-designated official.

C. Providers are required to display their business name on all receptacles they provide within the City.

D. Providers are required to permanently affix each individual refuse container with a unique identifying number or code.

E. Providers must maintain a database that relates the refuse container number or code to the current name and address of the client responsible for that container. The provider must make this database immediately available to any designated City of Aspen enforcement official.

(Ord. No. 13-1999, §1 (part); Ord. No. 27-2005 §1; Ord. No. 8-2008; Ord. No. 5-2010)

Sec. 12.08.040. Residential refuse disposal.

A. Any refuse container left outside a house, garage, or other enclosed building which is accessible by wildlife, regardless of size, that receives refuse which is edible by bears or other wildlife shall be either an approved wildlife-resistant refuse container or an approved wildlife-resistant dumpster enclosure or an approved wildlife-proof refuse container.

B. Residents with curbside pick-up shall place only wildlife-resistant refuse containers or an approved wildlife-proof refuse container at the curb, alley, or public right of way at or after six o'clock (6:00) A.M. on the morning of scheduled pick up. After pick up, all containers must be removed from the curb, alley or public right of way by seven o'clock (7:00) P.M. on the same day.

C. Other household waste that cannot reasonably be considered "refuse" or an "attractant" as defined in this chapter, including, but not limited to: non-edible yard maintenance waste, household items, recyclables,

and cardboard, shall not require the use of wildlife resistant or wildlife proof containers when not commingled with refuse or any other attractant.

(Ord. No. 13-1999, §1 (part); Ord. No. 5-2010)

Sec. 12.08.050. Outdoor gathering

Outdoor gatherings shall be kept free from the accumulation of refuse edible by wildlife. Refuse must be collected from the grounds at the close of each day's activities and shall be deposited in wildlife-proof containers or enclosures or be removed to an appropriate disposal site. (Ord. No.5-2010)

Sec. 12.08.060. Feeding of wildlife.

A. No person shall knowingly leave or store any refuse, food product, pet food, grain or salt in a manner which would constitute a lure attraction or enticement of wildlife.

B. Bird feeders are allowed. However, between the dates of April 15th and November 15th, all feeders must be suspended on a cable or other device so that they are inaccessible to bears and the area below the feeders must be kept free from the accumulation of seed debris.

Sec. 12.08.070. Construction site refuse disposal.

All construction sites must have a separate specifically designated container that receives refuse edible by wildlife. This container shall be a wildlife-proof refuse container. (Ord. No. 5-2010)

Sec. 12.08.080. Interference with Enforcement Officer.

No person shall interfere with, molest, hinder or impede the enforcement officers in the discharge of their duties as herein prescribed or violate any of the provisions of this Chapter. (Ord. No. 13-1999, §1 [part])

Sec. 12.08.090. Enforcement.

A. Enforcement officers may issue a warning notice or summons and complaint to any person in violation of this Chapter.

B. An enforcement officer shall have the right to inspect property concerning any wildlife concern or potential wildlife attractant. (Ord. No. 13-1999, §1 (part))

Sec. 12.08.100. Penalty assessment.

Violation of any provision of this Chapter by any person, firm or corporation shall be unlawful and subject to the penalty provisions in Section 1.04.080 of this Code. Either the owner or occupant or both may be held responsible for a violation of any provision of this Chapter. (Ord. No. 2-2001, §1)

Editor's note—Ord. No. 2-2001, §1, repealed former §12.08.100, pertaining to penalty assessment and enacted a new §12.08.100 as herein set out. Former §12.08.100 was derived from Ord. No. 13-1999, §1.

Chapter 12.10

Space Allotment for Trash and Recycling Storage

Sec.12.10.010. Definitions

The definitions and terms used in this Chapter are defined as follows:

Commercial Building. Any premises utilizing trash collection service where a commercial, industrial or institutional enterprise is carried on, including, without limitation, retail establishments, restaurants, hospitals, schools, day care centers, offices, nursing homes, clubs, churches and public facilities. The definition of a Commercial Building shall also include mixed-use buildings where residential space exists in the same building where a commercial, industrial or institutional enterprise is carried on.

Demolition. To raze, disassemble, tear down or destroy forty percent (40%) or more of an existing structure (prior to commencing development) as measured by the surface of all exterior wall and roof area above finished grade and associated assembly and components necessary for the structural integrity of such wall and roof area.

Hotel (a.k.a. Lodge). A building or parcel containing individual units used for overnight lodging by the general public on a short-term basis for a fee, with or without kitchens within individual units, with or without meals provided and which has common reservation and cleaning services, combined utilities and on-site management and reception services. Timeshare (a.k.a. fractional) units and timeshare developments are considered Hotels for the purposes of this Chapter. For hotels with flexible unit configurations, also known as “lock-off units,” each rentable division or “key” shall constitute a lodge unit for the purposes of this Chapter.

Multi-family Development or Project. A residential structure containing three (3) or more attached Dwelling Units in either an over-and-under or side-by-side configuration with common unpierced demising walls or floors/ceilings as applicable, not including hotels and lodges, but including townhomes, that may include accessory use facilities limited to an office, laundry, recreation facilities and off-street parking used by the occupants.

Terms not defined in this Section shall have the meaning ascribed to them as set forth in the City of Aspen Municipal Code Section 26.104.100 or in the International Green Building Code Chapters 10 and 11 as adopted and amended by the City of Aspen. Otherwise the common definition applies.

Sec. 12.10.020. Applicability

This Chapter shall be applicable to:

- a) All new Commercial, Multi-family and Lodge development within the City of Aspen
- b) All existing Commercial, Multi-family and Lodge development that adds two (2) or more lodge or residential units, or more than 250 square feet of commercial net leasable space.
- c) All existing Commercial, Multi-family and Lodge development that meets the definition of Demolition.

Prior to issuance of a building permit applicant shall obtain approval from the Environmental Health Department pursuant to this Chapter.

Sec. 12.10.030. Space required for trash and recycling storage for Commercial Buildings.

All Commercial development within the Applicability Section 12.10.020 must provide adequate space for trash and recycling storage by meeting the following standards.

(A) Adequate space for Commercial Buildings is defined as follows:

- a. For Commercial Buildings that will not contain nor will have the capacity to contain an establishment with a Retail Food Service License, as defined by the State of Colorado Retail Food Establishment Rules and Regulations, a minimum of twenty (20) linear feet adjacent to the alleyway must be reserved for trash and recycling facilities. The required area shall have a minimum vertical clearance of ten (10) feet and a minimum depth of ten (10) feet at ground level.
- b. For Commercial Buildings that will contain or that will have the capacity to contain an establishment with a Retail Food Service License, as defined by the State of Colorado Retail Food Establishment Rules and Regulations, a minimum of twenty (20) linear feet adjacent to the alleyway must be reserved for trash and recycling storage. The required area shall have a minimum vertical clearance of ten (10) feet and a minimum depth of fifteen (15) feet at ground level.
- c. For Commercial Buildings that contain residential dwelling units, one and a half (1.5) square feet of space for trash and recycling storage shall be added to the minimum requirement listed in 12.10.020.C subsections a and b for each additional dwelling unit over five (5) units.

(B) If the property adjoins an alleyway, the trash and recycle service area shall be along and accessed from the alleyway.

(C) For properties with no alleyway access, Special Review is required from the Environmental Health Department. Applicant may apply for Special Review pursuant Section 12.10.080.

(D) The required area shall not be used for parking or as vehicular access to a parking area.

(E) The required area may be used for utility equipment storage if approved by both the City of Aspen Utility Department and Environmental Health Department.

(F) The trash and recycling areas shall be accessible to all tenants within the building in a manner that meets the requirements of the International Building Code Chapters 10 and 11 as adopted and amended by the City of Aspen. Alleyways (vehicular rights-of-way) may not be used as pathways (pedestrian rights-of-way) to meet the requirements of the International Building Code.

(G) If a separate storage area for recyclable materials is provided it shall be located adjacent to the trash collection area and must be approved by Special Review pursuant Section 12.10.080. The storage and collection of waste and recyclables should be designed to complement each other and to operate as one (1) system.

Sec. 12.10.040. Space required for trash and recycling storage for Lodges

All Lodge development within the Applicability Section 12.10.020 must provide adequate space for trash and recycling storage by meeting the following standards.

(A) Adequate space for Lodges is defined as follows:

- a. Lodges with more than sixty (60) guest rooms that will possess or have the capacity to possess a Retail Food Service License as defined by the State of Colorado Retail Food Establishment Rules and Regulations must provide a minimum of twenty (20) linear feet adjacent to the alleyway for trash and recycling storage. The required area shall have a minimum vertical clearance of ten (10) feet and a minimum depth of twenty (20) feet at ground level.
 - b. Lodges with more than sixty (60) guest rooms that will not possess nor have the capacity to possess a Retail Food Service License as defined by the State of Colorado Retail Food Establishment Rules and Regulation must provide a minimum of twenty (20) linear feet adjacent to the alleyway for trash and recycling storage. The required area shall have a minimum vertical clearance of ten (10) feet and a minimum depth of ten (10) feet at ground level.
 - c. Lodges with sixty (60) or fewer guest rooms must provide a minimum of twenty (20) linear feet adjacent to the alleyway for trash and recycling storage. The required area shall have a minimum vertical clearance of ten (10) feet and a minimum depth of ten (10) feet at ground level.
- (B) If the property adjoins an alleyway, the trash and recycle service area shall be along and accessed from the alleyway.
 - (C) For properties with no alley access, Special Review is required from the Environmental Health Department. Applicant may apply for Special Review pursuant Section 12.10.080.
 - (D) The required area shall not be used for parking or as vehicular access to a parking area.
 - (E) The required area may be used for utility equipment storage if approved by both the City of Aspen Utility Department and Environmental Health Department.
 - (F) The trash and recycling areas shall be accessible to all tenants within the building in a manner that meets the requirements of the International Building Code Chapters 10 and 11 as adopted and amended by the City of Aspen. Alleyways (vehicular rights-of-way) may not be used as pathways (pedestrian rights-of-way) to meet the requirements of the International Building Code.
 - (G) If a separate storage area for recyclable materials is provided it shall be located adjacent to the trash collection area and must be approved by Special Review pursuant Section 12.10.080. The storage and collection of waste and recyclables should be designed to complement each other and to operate as one (1) system.

Sec. 12.10.050 . Space required for trash and recycling storage for Multi-Family Developments

All Multi-Family development within the Applicability Section 12.10.020 must provide adequate space for trash and recycling storage by meeting the following standards.

- (A) Adequate space for Multi-Family Developments is defined as follows:
 - a. Multi-Family Developments including ten (10) or fewer dwelling units shall provide a minimum of twelve (12) linear feet for trash and recycling storage. The required area shall have a minimum vertical clearance of ten (10) feet and a minimum depth of ten (10) feet at ground level.

b. Multi-Family Developments including more than ten (10) and fewer than thirty (30) dwelling units shall provide an additional one and a half (1.5) square feet for each additional dwelling unit over ten (10), in addition to the required one hundred and twenty (120) square feet described in Section 12.10.050.A subsection (a) above.

c. Multi-Family Developments that include thirty (30) or more dwelling units shall provide a minimum of one hundred fifty (150) square feet of space for trash and recycling storage plus an additional one hundred fifty (150) square feet for every increment of thirty (30) additional units over fifty nine (59). This space may be located in a central collection area or may be divided into smaller collection areas located in different locations throughout the property. If smaller, separate collection areas are planned, no single area may measure fewer than one hundred and twenty (120) square feet.

- (B) The required area shall not be used for parking or as vehicular access to a parking area.
- (C) The area may be used for utility equipment storage if approved by both the City of Aspen Utility Department and Environmental Health Department.
- (D) The trash and recycling areas shall be accessible to all tenants within the development in a manner that meets the requirements of the International Building Code Chapters 10 and 11 as adopted and amended by the City of Aspen. Alleyways (vehicular rights-of-way) may not be used as pathways (pedestrian rights-of-way) to meet the requirements of the International Building Code.
- (E) If a separate storage area for recyclable materials is provided it shall be located adjacent to the trash collection area and must be approved by Special Review pursuant Section 12.10.080. The storage and collection of waste and recyclables should be designed to complement each other and to operate as one (1) system.

Sec. 12.10.060 . Change of Use

All requests to change the designated use of a property between the development categories, as described in Section 26.470.070, are required to meet the requirements of this chapter.

Sec. 12.10.070 . Shared space and shared waste contracts

(A) If a dumpster, trash compactor, recycling bin or storage area for trash or recycling is intended to be used by occupants or tenants of two (2) or more separate Commercial Buildings, Lodges, or Multi-Family developments a recorded agreement burdening both properties must be submitted as an attachment to the permit.

This agreement must show that both properties will have adequate storage space for trash and recycling and these designated storage areas must comply with the standards set forth in this Chapter.

(B) If shared space is part of the permit approval the applicant must indicate how the requirements from the Chapter will be met if the agreement between parties or properties becomes null and void or is otherwise terminated.

Sec. 12.10.080 . Special Review

(A) The City of Aspen Environmental Health Department may reduce the required dimensions of the trash and recycling area or may approve a trash and recycling area with a different

configuration by Special Review and in accordance with the standards set forth below in Subsection 12.10.080.C

(B) An applicant may request an exemption from some or all of the provisions of this Chapter by applying for Special Review from the Environmental Health Department.

(C) Applicants are eligible for Special Review consideration if:

- a. The property does not adjoin an alleyway
- b. The applicant wishes to separate the trash and recycling areas
- c. The applicant is proposing a reduced size for the trash and recycling area
- d. The applicant feels the requirements of this Chapter cannot be met given the nature of the property.

(D) Applicants requiring or requesting Special Review shall submit a written explanation of the reasoning behind applying for Special Review. The applicant must show how trash and recycling will be properly disposed of and stored.

(E) The Environmental Health Department may reduce the required dimensions of a trash and recycling service area if:

(i) There is demonstration that, given the nature of the potential uses of the building and its total square footage, the trash and recycling area proposed will be adequate;

a. For the purposes of approvals, adequate will be defined as follows:

i. For a Commercial, Lodge or Multi-Family building the space must accommodate and provide access to the following types of bins, at the minimum:

One (1) garbage collection bin

One (1) comingled container recycling collection bin

One (1) office paper recycling collection bin

One (1) newspaper/magazine recycling collection bin

One (1) cardboard recycling collection bin or collection area where boxes can be stacked and contained in an enclosed space; and

ii. Access by both the tenants and the waste hauling companies to the trash and recycling service area is adequate; and

iii. Measures are provided for locating and enclosing trash bins and making them easily movable by trash personnel; and

iv. The proposed area meets the requirements to the greatest extent practicable given physical constraints of the property or existing improvements.

- (F) The Environmental Health Department shall consider the Special Review within thirty (30) days of the date of permit submittal. The Environmental Health Department shall issue a written decision to the applicant.

Sec. 12.10.090 . Appeal Procedures

(A) An applicant may appeal the decision of the Environmental Health Department by filing a notice of appeal on a form prescribed by the Administrative Hearing Officer as defined in and pursuant to Chapter 26.222 of the City of Aspen Municipal Code. The notice of appeal shall be filed with the Administrative Hearing Officer within fourteen (14) days of the date of the decision or determination being appealed. Failure to file such notice of appeal within the prescribed time shall constitute a waiver of any rights under this Chapter to appeal any decision or determination.

(B) The Administrative Hearing Officer authorized to hear the appeal shall consider the appeal within thirty (30) days of the date of filing the notice of appeal or as soon thereafter as is practical under the circumstances.

(C) Unless otherwise specifically stated in this Chapter, the Administrative Hearing Officer authorized to hear the appeal shall decide the appeal based solely upon the written decision and record established by the Environmental Health Department. A decision or determination shall not be reversed or modified unless there is a finding that there was a denial of due process or the administrative body has exceeded its jurisdiction or abused its discretion.

(D) The Administrative Hearing Officer may reverse, affirm or modify the decision or determination appealed from and, if the decision is modified, shall be deemed to have all the powers of the Environmental Health Department, including the power to impose reasonable conditions to be complied with by the appellant. The Administrative Hearing Officer may also elect to remand an appeal to the Environmental Health Department for further proceedings consistent with that body's jurisdiction and directions given, if any, by the Administrative Hearing Officer. The decision shall be approved by written resolution. All appeals shall be public meetings. The Administrative Hearing Officer's decision shall be submitted to both the Environmental Health Department and the applicant in writing. (Ord. 13-2013)