

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE AMENDING CHAPTER 22, SOLID WASTE, OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE TO PROVIDE SPACE FOR APPROPRIATE CONTAINERS AND THE COLLECTION OF SINGLE STREAM RECYCLABLES FROM MULTIFAMILY COMMUNITIES

WHEREAS, the City of Fayetteville and Cumberland County must comply with the Solid Waste Management Act of 1989, and, in particular, develop programs to assist in achieving the 40 percent waste reduction goal as set forth in N.C.G.S. § 130A-309.04(c); and

WHEREAS, recycling by multifamily residential communities will assist in enabling the City of Fayetteville and Cumberland County to comply with the goals and objectives of the State of North Carolina, Solid Waste Management Act of 1989; and

WHEREAS, the City of Fayetteville is authorized to enact this ordinance pursuant to N.C.G.S. § 160A-317 and its general police powers; and

WHEREAS, the City of Fayetteville authorized Sustainable Sandhills to conduct a local survey and individual interviews which revealed that the owners, managers, and associations of multifamily communities want recycling to be collected and hauled by the development's current waste hauler contractors or have the option to provide their own service; and

WHEREAS, the local survey and individual interviews revealed that the residents and managers of multifamily communities want a recycling program at their communities; and

WHEREAS, the local survey and individual interviews revealed that the residents and managers of multifamily communities are willing to pay for this service; and

WHEREAS, the local survey and individual interviews of a sample of the managers of multifamily communities within the City limits revealed that they believe the only way to obtain a recycling program is with a mandate by the City of Fayetteville.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Fayetteville that:

Section 1. Chapter 22 is amended by placing the current Sections 22-1 through 22-31 under a new Article I to be titled "In General" and reserving Sections 22-32 through 22-42 at the end of this article for future use.

Section 2. A new Article II, Multifamily Recycling, is created as follows:

Article II. Multifamily Recycling

Sec. 22-43. Purpose.

The purpose of this article is to ensure that all existing and future multifamily communities in the City of Fayetteville are provided access to convenient recycling containers, whether carts or dumpsters, so the residents of those communities can recycle the same materials that are collected by the City of Fayetteville's single-family curbside recycling program.

Sec. 22-44. Definitions.

The following definitions shall apply to standards dealing with this article:

City means the City of Fayetteville, North Carolina, a municipal corporation in the State of North Carolina.

Contractor means the person, corporation, partnership, or entity awarded the contract by the multifamily community's authorized management agent which performs cart or dumpster services and/or recyclable materials collection, hauling, and delivery.

Multifamily community means any community that is not subject to a solid waste user fee and that is not designated by the Cumberland County Tax Office as a single-family residence, including but not limited to, apartments, townhouses, condominiums, public housing communities and mobile home parks.

Multifamily recycling communities means the developer, person, firm, corporation, company, management staff, home owner's association, or other group, association, or personnel responsible for providing solid waste collection services directly or through a contract hauler and for the furnishing and maintenance of containers for solid waste, garbage, and refuse disposal for its residents.

Recyclable processor means a recycling processor selected by the contractor to accept the recyclable materials collected by contractor under this article.

Recyclables means items included in local approved recycling programs that includes, but is not limited to, newsprint and accompanying inserts; brown, clear, and green glass containers; aluminum cans, clean aluminum foil, and clean aluminum food trays; steel cans; plastic bottles and jugs; all cardboard that is not wet or waxed; magazines; office paper; residential mixed paper (office paper, junk mail, catalogs, and paper board such as cereal/food boxes); and other local recyclable processor agreed upon materials.

Recycling means the process by which recovered materials are collected, separated, processed, and reused as materials for the manufacturing of new consumer products.

Recycling collection services means the collection and delivery of recyclable materials within the municipal limits of the City of Fayetteville.

Recycling container means a receptacle, including, but not limited to, a cart or dumpster, designed for the purpose of the collection of recyclable materials, and designed with an attached lid, handles, wheels if practicable, and sufficient capacity to provide weekly collection of recyclables without overflowing or spilling.

Solid waste means accumulations consisting of any combination of garbage or refuse, business trash, wet or dry garbage, household trash, bulk items, yard waste and recyclables that are discarded and abandoned by the owner, that cannot be recycled by the local recycling processor, including solids, liquids, and semisolids, except those items excluded by federal and state statutes and acts; i.e., tires, wooden pallets, oyster shells, car batteries, etc.

Storage area means any outside area, including a padded, privacy fenced, or screened area, designated for the location of recycling carts or dumpsters for the collection and storage of solid waste or recycling prior to removal by a hauler.

Unit means the dwelling space rented, leased, or owned by a person or persons residing within the multifamily community, including but not limited to an individual apartment, motel, mobile home, townhouse, patio house, condominium, or cluster home in a multifamily community, unless otherwise specified by the city..

Sec. 22-45. Existing multifamily communities.

The following provisions are intended to specify minimum standards for existing multifamily communities in order to ensure full compliance with this article:

- (1) Multifamily recycling communities shall provide a sufficient number of recycling containers, with a total capacity to handle one week's storage of single stream recyclables intended for transport to the recyclable processor prior to collection by the contractor.
- (2) Access to the storage area shall comply with the Americans with Disabilities Act, as amended, and containers shall not be placed in a location that obstructs pedestrian or vehicular traffic patterns within the development.

- (3) Information and education shall be provided to the tenants, renters, or owners about the recycling program and the items that are recyclable by the multifamily management staff, including, but not limited to, flyers or other forms of communication and signs posted at each storage area where the recycling containers are placed. Information shall be provided to all residents at the start of the program, to all new residents, and periodically to existing residents after the start of the program.
- (4) A report of the amount of recycling materials collected at each multifamily community shall be provided to the Environmental Services Department. The report required under this subsection shall be provided by the multifamily community with the assistance of its contractor, on a form furnished by the Environmental Services Department. The report shall be provided no less than semi-annually with the first report due July 1 each year. The form must be returned to the City of Fayetteville Environmental Services Department, no later than 30 days following the end of each quarter.
- (5) Recycling storage areas shall comply with the City of Fayetteville Zoning and Unified Development ordinances as applicable.
- (6) The recycling storage areas shall be kept clean and orderly, such that no materials shall be left on the ground around the recycling containers, and shall otherwise comply with all applicable existing solid waste ordinances.
- (7) Collection shall be provided in accordance with the existing solid waste ordinances, at minimum on a weekly basis, including arrangements for collection before and/or after holidays, and times for collection of recycling materials shall not be before 8:00 a.m. or after 10:00 p.m.
- (8) The contractor's collection vehicles shall be well maintained so as not to leak hydraulic oil or other liquids from the vehicle.

Sec. 22-46. New multifamily community construction.

The following provisions are intended to indicate minimum standards in order to ensure full compliance with this article for multifamily communities constructed after the effective date of this article:

- (1) Prior to construction, every new multi-family community site plan shall provide for exterior storage for the collection of recyclables.
- (2) The exterior storage area:
 - a. Shall be co-located when possible with residential solid waste and shall be clearly designated with signs and markings for single stream recycling;

- b. Shall be located within a reasonable distance to all residents of the community;
 - c. May be located in a parking area, if the proposed use provides at least the minimum number of parking spaces required for the use after deducting the areas used for storage;
 - d. Shall otherwise comply with all applicable zoning, unified development, and solid waste ordinances then in effect;
 - e. Shall be accessible for collection vehicles and located so that the storage area will not obstruct pedestrian or vehicular traffic movement on the site or on public streets adjacent to the site; and
 - f. Shall comply with the Americans with Disabilities Act, as amended.
- (3) The failure of the developer in submitting a site plan that does not include provisions for recycling storage area(s) shall result in the plans being returned for re-work and re-submission. If the resubmitted plans still do not allot space for recycling, such omission shall constitute a violation of this article and the plans will not be approved without the provisions required by this article.

Sec. 22-47. Jurisdiction.

The provisions of this article shall apply in the municipal limits of the City of Fayetteville.

Sec. 22-48. Ownership of Materials.

Pursuant to G.S. 160A-317(b)(3), as may be amended from time to time, an owner of recovered materials as defined by G.S. 130A-290(a)(24) retains ownership of the recovered materials until the owner conveys, sells, donates, or otherwise transfers the recovered materials to a person, firm, company, corporation, or unit of local government. Nothing in this article requires an owner to convey, sell, donate, or otherwise transfer recovered materials to the city or its designee.

Sec. 22-49. Penalties.

(a) A violation of this article shall subject the violator to a civil penalty of \$100.00 per day, and each and every day's violation shall be a separate punishable offense. The civil penalty for violation of this section shall be imposed and collected in accordance with Sec. 22-31 of this chapter.

(b) This article may be enforced through any remedy provided by law for the enforcement of ordinances, including, but not limited to, the institution of an appropriate action

for injunctive relief to restrain any actual or threatened violation of this article. The action may be brought in the Superior Court of Cumberland County, or any court of competent jurisdiction.

(c) This article may also be enforced by any other remedy available under Article 9 of Chapter 130A of the North Carolina General Statutes, as amended from time to time, and such remedy is incorporated herein by reference.

Sec. 22-50. Effective date.

This article shall become effective 180 days from the date of adoption.

Section 3. It is the intention of the City Council, and it is hereby ordained that the provisions of this chapter shall become and be made part of the Code of Ordinances, City of Fayetteville, North Carolina, and the section of this chapter may be renumbered to accomplish such intention.

ADOPTED this 28th day of February, 2011. Effective this 28th day of February, 2011.

CITY OF FAYETTEVILLE



Anthony G. Chavonne

ANTHONY G. CHAVONNE, Mayor

Jennifer Penfield

Jennifer Penfield, Deputy City Clerk