

1 BY AUTHORITY

2 ORDINANCE NO. _____

COUNCIL BILL NO. CB 22-0685

3 SERIES OF 2022

COMMITTEE OF REFERENCE:

4 Land Use, Transportation & Infrastructure Committee

5 **A BILL**

6 **For an ordinance amending Chapter 48 of the Revised Municipal Code of the**
7 **City and County of Denver to repeal the fee on composting and implement a**
8 **volume-based pricing system for trash, including recycling and composting**
9 **services at no extra charge, to facilitate improved waste diversion and its**
10 **related environmental benefits.**

11 **WHEREAS**, in order to protect, preserve, and promote the health, safety, and welfare of the
12 residents of the city; to protect and preserve natural resources (land, water and air); to encourage
13 and facilitate environmentally responsible disposal practices, reduction of pollution, and
14 enhancement of the urban environment; and to provide funds necessary for the payment of the cost
15 of the administration, management, and operation of a household trash, recyclable material, and
16 compost material collection and treatment program, and other related expenses; it is necessary to fix
17 and collect fees for the city's collection of trash, recyclable material, and compost material from
18 owners or occupants of the premises for which such collection services are provided; and

19 **WHEREAS**, beginning with early recycling pilot programs in the 1990's, Denver has a long
20 history of promoting voluntary recycling and composting efforts and focusing education efforts on the
21 importance of waste diversion; and

22 **WHEREAS**, despite these education efforts, Denver's current waste diversion rate of 26% is
23 significantly below the national average of 34% and dramatically below many other peer cities; and

24 **WHEREAS**, 50% of Denver's trash is compostable and repealing the fee currently charged
25 for composting and implementing volume-based trash pricing will incentivize greater composting and
26 recycling rates; and

27 **WHEREAS**, since 2005, Denver has made notable emission reductions in areas like energy
28 and transportation, but no reductions in waste emissions; and

29 **WHEREAS**, landfill waste produces one of the most harmful greenhouse gas emissions—
30 methane—and reducing landfill waste and thus methane emissions will deliver significant climate
31 action benefits; and

32 **WHEREAS**, implementing a volume-based pricing system, including weekly recycling and
33 composting at no additional charge, is responsive to recommendations from multiple advisory bodies
34 and calls from community groups for action; and

1 **WHEREAS**, since 2011, Denver City Council has annually prioritized improvements to the
2 City's solid waste program in budget and policy goals; and

3 **WHEREAS**, Denver's commitment to social equity includes developing one of the most robust
4 affordability programs in the country to assist residents with income limitations.

5 **NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF**
6 **DENVER:**

7 **Section 1.** Chapter 48, Section 41 of the Denver Revised Municipal Code shall be
8 amended by deleting the language stricken and adding the language underlined as follows:

9
10 **"Sec. 48-41. - Definitions.**

11 The following words and phrases, when used in this article, shall have the meanings
12 respectively ascribed to them:

13 (1) *Ashes* means the solid waste products of combustion of any material.

14 (2) *Association* has the meaning set forth in the Colorado Common Interest Ownership Act,
15 *Article 33.3 of Title 38, C.R.S., as amended.*

16 (3) *Building rubbish* includes waste material from construction, remodeling and repair
17 operations on houses, buildings and other structures. Building rubbish comprises a great
18 variety of matter, such as excavated earth, stones, bricks, plaster, wallpaper, lumber,
19 shingles, laths, concrete, discarded plumbing and electrical apparatus, roofing, scraps of
20 metal, etc. Neither the term household rubbish nor the term yard rubbish includes building
21 rubbish.

22 (4) *Commercial garbage* shall have the same meaning as defined by section 48-31 of this
23 Code.

24 (5) *Compost material* means yard rubbish, household garbage, municipal facility kitchen
25 garbage, as well as paper products that are acceptable to the manager of transportation
26 and infrastructure.

27 (6) *Eligible property* means a single-family residence, an eligible residential multiunit dwelling,
28 or a municipal facility kitchen.

29 (7) *Eligible residential multiunit dwelling* means each separate residential unit contained within
30 a single structure, which single structure contains fewer than eight (8) household units,
31 occupied or unoccupied.

- 1 (8) *Garbage* includes waste from the preparation, cooking and consumption of food, market
2 refuse and waste from the handling, storage, preparation and sale of produce. Garbage
3 originates primarily in kitchens, stores, markets, restaurants, hotels and other places where
4 food is stored, cooked or consumed, and as such does not include food processing wastes
5 from canneries, slaughterhouses, packing plants or similar industries, nor large quantities
6 of condemned food products. Garbage, for purposes of this article, is not included in the
7 term household rubbish.
- 8 (9) *Household garbage* shall have the same meaning as defined by section 48-16 of this Code.
- 9 (10) *Household rubbish* means the waste, rejected, valueless or worthless matter, materials,
10 trash and debris, including useless, unused, unwanted or discarded articles, from the
11 ordinary household; the term does not include ashes, sod, dirt, garbage, yard rubbish or
12 building rubbish.
- 13 (11) *Household unit* means a place of human habitation containing cooking and sanitary
14 facilities, used for permanent, as opposed to transient, occupancy. This includes single-
15 family residences and each separate habitation in a residential multiunit dwelling building.
16 This category includes apartment buildings, condominiums, artist lofts, retirement homes,
17 and any other combination residence/workspace building. This category does not include
18 property which is specifically designed for transient occupancy, such as dormitories, motels,
19 hotels and hospitals.
- 20 (12) *Litter* shall have the same meaning as defined by section 48-92 of this Code.
- 21 ~~(13)~~ *Municipal facility kitchen garbage* means waste from the preparation, cooking and
22 consumption of food, condemned food products and all refuse and waste from the handling,
23 storage, preparation and use of produce originating in kitchens, food preparation facilities,
24 and food preparation areas located in municipal and Denver public school facilities.
- 25 ~~(14)~~ *Recyclable material* means those materials which would otherwise become municipal solid
26 waste, and which may be collected, separated, or processed and returned to the economic
27 mainstream in the form of raw materials or products.
- 28 ~~(12)(15)~~ *Refuse* shall have the same meaning as defined by section 48-92 of this Code.
- 29 ~~(13)(16)~~ *Residential multiunit dwelling building* means two (2) or more household units,
30 occupied or unoccupied, within a single structure.
- 31 ~~(14)~~ ~~*Municipal facility kitchen garbage* means waste from the preparation, cooking and~~
32 ~~consumption of food, condemned food products and all refuse and waste from the handling,~~

storage, preparation and use of produce originating in kitchens, food preparation facilities, and food preparation areas located in municipal and Denver public school facilities.

(15)(17) *Single-family residence* means a structure designed for human habitation by persons comprising a single-family household.

(16)(18) *Trash* shall mean all or any ashes, building rubbish, commercial garbage, garbage, household garbage, household rubbish, litter, refuse, yard rubbish, and waste matter as defined herein.

(17)(19) *Trash container* shall mean a container prescribed for trash disposal and recycling by rules and regulations of the manager of transportation and infrastructure.

(20) *Volume-based trash pricing* means a system wherein fees are assessed in proportion to the amount of trash generated at each eligible property. Fees are set by the size of the trash container selected by the owner or occupant of the eligible property and provided to each eligible property by the city.

(18) ~~*Yard rubbish* includes tree branches, twigs, grass, shrub clippings, weeds, leaves and other general yard and garden waste materials. Yard rubbish may include a small quantity of dirt attached to weeds, etc., but does not include sod or dirt as such.~~

(19)(21) *Waste matter* includes all solid and hazardous wastes, including liquids, as those terms are defined by the State of Colorado.

(22) *Yard rubbish* includes tree branches, twigs, grass, shrub clippings, weeds, leaves and other general yard and garden waste materials. Yard rubbish may include a small quantity of dirt attached to weeds, etc., but does not include sod or dirt as such."

Section 2. Chapter 48, Section 42 of the Revised Municipal Code shall be amended by deleting the language stricken and adding the language underlined as follows:

"Sec. 48-42. - Collections.

(a) Collections of trash, recyclable material, and compost material ~~household rubbish, yard rubbish and cold ashes~~ shall be made in accordance with the plan of the manager of transportation and infrastructure from categories of ~~dwelling units~~ eligible properties designated by regulations promulgated under authority of this article.

(b) Collections shall be affected only from those premises where ~~rubbish and cold ashes~~ trash, recyclable material, and compost material are prepared and stored in accordance with the

1 regulations promulgated under authority of this article.

2 (c) It shall be the duty of any person from whose premises ~~rubbish and cold ash~~ trash, recyclable
3 material, and compost material collections are not designated to be made pursuant to the
4 regulations promulgated under the authority hereof to prepare and store all ~~rubbish and cold~~
5 ~~ashes~~ such materials in a sanitary manner and to be responsible for the frequent private
6 collection and removal of such ~~rubbish and cold ashes~~ materials.”

7 (d) An association shall not prohibit an owner or occupant of eligible property from using the public
8 right of way for collection of trash, recyclable material, or compost material in accordance with
9 the regulations promulgated under authority of this article.

10
11 **Section 3.** Chapter 48, Section 42.5 of the Revised Municipal Code shall be amended by
12 deleting the language stricken and adding the language underlined as follows:

13
14 **“Sec. 48-42.5. - Volume-based trash pricing service fee for collections** ~~Collection of compost~~
15 ~~material; compost service fee.~~

16 ~~(a) The manager shall develop and implement a service plan for the collection of compost~~
17 ~~material from eligible property owned or occupied by persons who choose to participate.~~
18 ~~Phase 1 of this plan shall run from the date of enactment through and until December 31,~~
19 ~~2010, and its scope is limited to three thousand five hundred (3,500) households within the~~
20 ~~pilot project geographic area. Subsequent phases of this plan shall include expansion of~~
21 ~~the program as practicable.~~

22 ~~(b) Any owner or occupant of eligible property who requests such service shall be charged a~~
23 ~~compost service fee of nine dollars and seventy five cents (\$9.75) per cart per month, billed~~
24 ~~and payable in advance quarterly or annual installments. A ten dollar discount will be~~
25 ~~provided for annual installment payments made during the first annual billing cycle of each~~
26 ~~year.~~

27 (a) Any owner or occupant of eligible property shall be charged a fee for the collection of trash,
28 recyclable material, and compost material by the city in accordance with the fee schedule
29 provided in section 48-42.5(b), billed and payable quarterly. Any eligible property where the
30 owner or occupant has not selected a trash container will be charged the minimum fee.

31 (b) Owners or occupants of eligible property will be charged a fee based on the size of the
32 selected trash container. If the owner or occupant of an eligible property does not already
33 have a trash container assigned, and does not select a trash container, the eligible property

1 will be charged a minimum fee based on the small trash container. The fee structure will
2 initially be set at \$9/month for the small trash container (35-gallon), \$13/month for the
3 medium trash container (65-gallon), and \$21/month for the large trash container (95-gallon).
4 No more frequently than every year and no less frequently than every five years thereafter,
5 the manager of transportation and infrastructure may adjust the fees associated with each
6 trash container based on a cost-of-service study through an update to the rules and
7 regulations promulgated under authority of this article. The manager of transportation and
8 infrastructure may also adjust the fees on an individual basis for good cause or other
9 reasons set forth in the rules and regulations.

10 (d) Revenues collected from the volume-based trash pricing service fee shall be segregated,
11 credited, and deposited in a special revenue fund or funds, and shall not be transferred
12 therefrom to any other account of the city, except to pay for expenses attributable to the
13 city's collection and treatment of trash, recyclable material, and compost material, and other
14 special services that support the management of such materials.

15 (e) Revenues collected from the volume-based trash pricing service fee shall not be used for
16 general or other governmental or proprietary purposes of the city, except to pay for the
17 equitable share of the costs of accounting, management, and government thereof. Other
18 than as described above, these revenues shall be used solely to pay for: (i) the costs of
19 acquisition, maintenance, improvement, and replacement of the equipment, facilities, and
20 properties utilized by the city; (ii) the costs of personnel, permits, licenses, fees, supplies,
21 consumables, and other costs of operation; and (iii) education and communications for
22 proper management and reduction of trash, recyclable material, and compost material, and
23 other special services that support the management of such materials related to the city's
24 provision of trash, recyclable material, and compost material collection and treatment and
25 costs incidental thereto.

26 (f) Failure to pay a fee when due may result in a lien against the eligible property pursuant to
27 Section 48 of this Chapter."

28
29 **Section 4.** Chapter 48, Section 44.5 of the Denver Revised Municipal Code shall be
30 amended by adding the language underlined as follows:
31

1 **"Sec. 48-44.5. - Unlawful disposal of trash in certain containers.**

2 (a) It shall be unlawful for any person who is not a resident of the city to deposit any trash in
3 city-owned trash containers which are designated by the department of transportation and
4 infrastructure for residential use only.

5 (b) It shall be unlawful for any resident of Denver to deposit any trash in city-owned trash
6 containers in violation of the rules and regulations of the manager of transportation and
7 infrastructure.

8 (c) It shall be unlawful for any commercial user to deposit any trash in city-owned trash
9 containers.

10 (d) It shall be unlawful for any person to deposit any trash in privately owned trash containers
11 without the owner's permission.

12 (e) It shall be unlawful for any person to deposit any trash in city-owned containers designated
13 for recyclable material or compost material."

14
15 **Section 5.** Chapter 48, Section 45 of the Denver Revised Municipal Code shall be
16 amended by deleting the language stricken and adding the language underlined as follows:

17
18 **"Sec. 48-45. - Rules and regulations.**

19 (a) The manager of transportation and infrastructure is authorized to issue from time to time
20 such rules and regulations as are necessary to prescribe the categories of dwelling units
21 from which collections of ~~household rubbish, yard rubbish, and cold ashes, and trash,~~
22 recyclable material, compost material, and any one (1) or more thereof, shall be made, and
23 the methods of preparation and storage of ~~household rubbish, yard rubbish, and cold ashes~~
24 trash, recyclable material, and compost material.

25 (b) The manager of transportation and infrastructure and the manager of human services shall
26 issue rules and regulations necessary to administer an instant rebate program to income
27 qualified customers.

28 ~~(b)(c)~~ Such rules and regulations shall include, by way of example, but not by way of limitation,
29 prescribed containers, prescribed location for storage, and special seasonal variations in
30 preparatory and storage techniques to implement more efficient collection procedures, ~~etc.~~

31 ~~(c)(d)~~ Rules and regulations issued under the authority of this article shall be in conformance with
32 accepted standards of sanitation and shall be directed to minimize those conditions which
33 foster the propagation of rats or vermin or flies or other insects."

Section 6. Chapter 48, Section 47 of the Denver Revised Municipal Code shall be amended by deleting the language stricken and adding the language underlined as follows:

“Sec. 48-47. - Penalties.

(a) Each manager and director authorized to enforce the provisions of this article shall coordinate with the manager of transportation and infrastructure to establish policies to assist in the assessment of civil penalties for administrative citations issued for illegal dumping or unlawful disposal.

(b) Except as provided in subparagraphs (c) and (d), the penalties assessed for each administrative citation issued for illegal dumping or unlawful disposal of trash, in violation of any provision of this article, shall not exceed the following amounts regardless of the number of violations per citation:

(1) First administrative citation: one hundred and fifty dollars (\$150.00).

(2) Second administrative citation: five hundred dollars (\$500.00).

(3) Third and each subsequent administrative citation: nine hundred and ninety-nine dollars (\$999.00).

(c) Except as provided in subparagraph (d), ~~t~~The penalty for illegal dumping or unlawful disposal of trash in excess of fifty (50) pounds, thirty-two (32) gallons, or two (2) cubic feet, whichever is greater, in violation of any provision of this article, shall be assessed in at least the following amount:

(1) First administrative citation: five hundred dollars (\$500.00).

(2) Second administrative citation: seven hundred fifty dollars (\$750.00).

(3) Third and each subsequent administrative citation: nine hundred and ninety-nine dollars (\$999.00).

(4) In addition to any other fine or penalty imposed, an order to pay restitution for the cost, if any, of abating illegal dumping or unlawful disposal may be entered.

(d) The unlawful disposal of trash in containers designated for recyclable material or compost material shall be subject to a penalty of not more than nine hundred and ninety-nine dollars (\$999.00) per violation. The manager of transportation and infrastructure may issue rules and regulations establishing a fee schedule for violations of this provision.

~~(d)~~(e) The pPayment of the any penalty pursuant to this article shall not excuse the failure to

1 correct the violations nor shall it bar further enforcement action by the city.”

2
3 **Section 7.** A new Section 48 of Chapter 48 of the Denver Revised Municipal Code shall
4 be created by adding the language underlined as follows:

5
6 **“Sec. 48-48. – Disputes; Lien.**

7 Any person who disputes the amount of a charge or fee assessed under this article or
8 otherwise billed to or alleged to be owing from such person may request a revision or modification
9 of such fee or charge of the department of transportation and infrastructure following the
10 procedures set forth in DRMC section 56-106. Compliance with the provisions of DRMC section
11 56-106 shall be a jurisdictional prerequisite to any action brought under the provisions of this
12 article, and failure of compliance shall forever bar any such action. If any owner or owners of any
13 eligible property shall neglect, fail or refuse to pay the final charges or fees fixed by this article, the
14 rates, charges or fees due therefor may, by the manager of transportation and infrastructure, be
15 periodically certified to the manager of finance who shall record a notice of such lien with the clerk
16 and recorder. Such rates, charges or fees due therefore shall become, from and after the date of
17 such recording of the notice in the office of the clerk and recorder, a continuing lien upon the real
18 property so charged. The manager of finance shall assess and charge the amounts of the charges
19 or fees due against the property involved, and collect the same, plus interest thereon, in the
20 manner as are delinquent real property taxes. The lien created hereby shall be superior and prior
21 to all other liens, regardless of their dates of recordation, except liens for general taxes and special
22 assessments. In addition to the remedies set forth herein, an action or other process provided by
23 law may be maintained by the city to recover or collect any amounts, including interest, owing
24 under this provision. Provided however, that when the failure to pay such rates, charges or fees
25 due is the result of incorrect billing by the manager of transportation and infrastructure, the owner
26 shall only be billed, with the related certification and notice, if any, for not more than two (2) years
27 prior to the mailing of a corrected billing.”

28
29 **Section 8. Reporting.** The manager of transportation and infrastructure shall report in
30 writing to city council by February 1, 2025, and every two years thereafter, regarding the operation
31 of the program.

Section 8 9. Effective Date. This ordinance shall be effective on January 1, 2023, with billings to be provided on a phased-in basis.

COMMITTEE APPROVAL DATE: June 7, 2022

MAYOR-COUNCIL DATE: June 14, 2022 by Consent

PASSED BY THE COUNCIL: _____

_____ - PRESIDENT

APPROVED: _____ - MAYOR _____

ATTEST: _____ - CLERK AND RECORDER,
EX-OFFICIO CLERK OF THE
CITY AND COUNTY OF DENVER

NOTICE PUBLISHED IN THE DAILY JOURNAL: _____; _____

PREPARED BY: Lee Zarzecki, Assistant City Attorney DATE: June 16, 2022

Pursuant to section 13-9, D.R.M.C., this proposed ordinance has been reviewed by the office of the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to § 3.2.6 of the Charter.

Kristin Bronson, City Attorney for the City and County of Denver

BY: _____, Assistant City Attorney DATE: _____