

ORDINANCE NO. 2958-14

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 82 OF THE CODE OF ORDINANCES; CREATING A DEFINITION OF “CENTER STREET CORRIDOR”; AMENDING THE DEFINITIONS OF “COMMERCIAL CONTAINER”, “REFUSE CAN” AND “REFUSE CART”; AMENDING SECTION 82-2, SCHEDULE OF CIVIL PENALTIES; AMENDING SECTION 82-3 AND 82-6, REGARDING ENFORCEMENT OF VIOLATIONS; REPEALING SECTIONS 82-4 AND 82-5; AMENDING SECTION 82-32, PREPARATION OF REFUSE; AMENDING SECTION 82-33, DIRECTING PLACEMENT OF COMMERCIAL CONTAINERS; AMENDING SECTION 82-35, REFUSE CARTS; AMENDING SECTION 82-36, POINTS OF COLLECTION; AMENDING SECTION 82-37, FREQUENCY OF COLLECTION; AMENDING SECTION 82-40, PROVIDING A REMEDY FOR NONPAYMENT OF FEES; REPLACING “DIRECTOR OF PUBLIC WORKS” WITH “CITY MANAGER OR HIS DESIGNEE”; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of Winter Park, through the operation of franchise agreements with one or more providers, collects and disposes of refuse and recyclable materials within the City; and

WHEREAS, the City Commission has enacted Chapter 82 of the City’s Code of Ordinances, providing direction for the manner in which such refuse and recyclable materials shall be collected and disposed of within the City; and

WHEREAS, the City Commission has determined that it is in the best interest of the citizens of the City of Winter Park to direct that business and residences located within the Center Street Corridor, as defined herein, shall use designated commercial containers located at certain points within the Center Street Corridor; and

WHEREAS, the City Commission has determined that certain other changes to the text of Chapter 82 of the City Code of Ordinances are warranted to clarify the processes that govern the collection of refuse and recyclable materials within the City; and

WHEREAS, the City Commission has determined that Chapter 82 shall be enforced in the manner provided in Chapter 1, Article II, Code Enforcement Citations; and

WHEREAS, the City Commission has determined that the additions and amendments to Chapter 82 of the City’s Code of Ordinances serve to further the health, safety and welfare of the citizens of the City of Winter Park; and

WHEREAS, words with double underlined type shall constitute additions to the original text and ~~strike through~~ shall constitute deletions to the original text, and asterisks (* * *) indicate that text shall remain unchanged from the language existing prior to adoption of this Ordinance.

NOW THEREFORE BE IT ENACTED BY THE PEOPLE OF THE CITY OF WINTER PARK:

SECTION 1: **Recitals Adopted.** The forgoing “WHEREAS” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

SECTION 2: **Amendment of Section 82.** Chapter 82 of the Code of Ordinances shall be amended as reflected on attached Exhibit “A”.

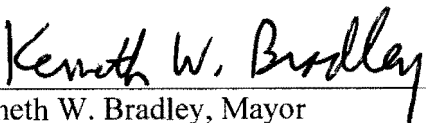
SECTION 3: **Severability.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause, or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of this Ordinance, but they shall remain in effect it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION 4: **Codification.** It is the intention of the City Commission and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the City of Winter Park, that the sections of this Ordinance may be renumbered to accomplish such intentions, and that the word Ordinance shall be changed to Section or other appropriate word.


SECTION 5: **Conflicts.** All Ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

SECTION 6: **Effective Date.** This Ordinance shall be effective immediately upon adoption on second reading.

ADOPTED at a regular meeting of the City Commission of the City of Winter Park, Florida, held in City Hall, Winter Park, on this 12th day of May, 2014.



Kenneth W. Bradley, Mayor

ATTEST:


Cynthia S. Bonham, City Clerk

EXHIBIT "A"

Sec. 82-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Building and clearing wastes means debris or wastes accumulated from land clearing, excavating, building, rebuilding, altering or demolishing buildings, structures, roads, sidewalks and curbs by an owner or contractor.

Center Street Corridor means the area which generally encompasses any establishment or place of business or residence located within the boundaries of Canton Avenue to the north, Knowles Avenue to the east, Lyman Avenue to the South and Park Avenue to the west, (as more particularly described in the Center Street Corridor Map maintained by the City of Winter Park), adjacent to Center Street or having frontage on that portion of streets intersecting Center Street, within the described area.

Commercial container means a trash, ~~or~~ garbage, or recycling receptacle of varied size (one cubic yard to six cubic yards), or a compacting unit, furnished by the city to serve business, commercial or residential customers. ~~apartments. Containers are furnished at the rates referenced in section 82-39.~~

Establishment or place of business means a business, corporation, company, incorporated or limited concern, licensed to do business in the city and occupying space in the city, whether owned, leased or rented.

Garbage means wastes from the preparation, handling, cooking and serving of food; market refuse; waste from the handling, storage and sale of produce and meats. Food containers such as cans and bottles and wrappings for food are considered garbage.

Garden trash means all accumulations of grass or shrubbery cuttings and other refuse attending the care of lawns, shrubbery, vines, trees and tree limbs. Waste or excess citrus fruit grown on the property is considered garden trash.

Hazardous waste means those elements or compounds which are contained in the list of hazardous substances adopted by the United States Environmental Protection Agency (EPA) and the list of toxic pollutants designated by Congress or the EPA or defined by any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic or dangerous waste, substance or material as now or at any time hereafter in effect, including but not limited to F.S. § 403.703(21).

Household refuse means a mixture of trash and garbage.

Industrial processing wastes means the waste products of canneries, slaughterhouses, packing plants, large quantities of condemned food products or wastes from other industrial plants or manufacturing processes.

Noncombustible refuse means refuse material that is unburnable at ordinary incinerator temperatures (800 degrees to 1800 degrees Fahrenheit). This includes metals, mineral matter, large quantities of glass or crockery, metal furniture, auto bodies or parts or other refuse not usual to housekeeping or to the operation of stores or offices.

Recyclable materials means those materials which are capable of being recycled and which would otherwise be processed or disposed of as solid waste, including but not limited to newspapers, glass bottles, metal cans (aluminum and delabeled tin), plastic containers and such other recyclable materials as the city may designate as part of its recycling program.

Recycling container means a container made of rigid plastic construction as shall be approved by the city for use for recycling collection services pursuant to the city's recycling program.

Refuse means any material the owner desires to be disposed of, whether it has salvage value or not. Refuse consists of garbage, trash, yard or garden trash or industrial wastes.

Refuse can means a galvanized metal or plastic can commonly manufactured and sold as a refuse can. Capacity shall not be less than four gallons or more than 32 gallons, and shall weigh no more than fifty (50) pounds. The can shall have a tightfitting lid and two handles by which the can may be lifted.

Refuse cart means a container between 64 and 96 60 and 95 gallons capacity, on wheels for rolling, with a nonremovable hinged lid, suited to dumping equipment provided by the city garbage collection vehicles, and contents not over 250 pounds.

Trash means accumulations of paper, excelsior, rags, wooden or paper boxes or containers, sweepings and other accumulations of a nature other than garbage which are usual to housekeeping and to the operation of stores, offices and places of business. Trash shall not include garden trash, noncombustible refuse, industrial processing wastes or building and clearing wastes.

Sec. 82-2. Schedule of civil pPenalties.

~~(a)~~ There is adopted the following schedule of civil penalties for violations under this chapter occurring within the city payment may be made at City Hall, Park Avenue, Winter Park, Florida. Penalties for violations of this Chapter shall be as provided in Chapter 1, Article II, Code Enforcement Citations. A first offense shall be a Class I violation, as provided in Section 1-24(b). Subsequent offenses shall be subject to penalties as provided in Section 1-23(b).

Violation of Section	Fine
82-7(a)	\$ 50.00
82-7(b)	50.00
82-7(c)	500.00
82-7(d)	50.00
82-7(e)	50.00
82-32(a)	25.00
82-32(b)	25.00
82-33	25.00
82-34	25.00
82-35	25.00
82-36(b)	25.00

82-36(c)	25.00
82-38	25.00
82-41	50.00

The imposition of a civil fine hereunder shall not preclude the imposition of criminal fines or penalties for prosecution of the same by the city.

~~(b) — Any person receiving a violation notice shall, within five working days, pay the civil penalty as prescribed in subsection (a) of this section or request a hearing before a judge of the county court. Any person electing to appear before the designated judge shall be deemed to have waived his right to pay the civil penalty as set forth in this section. The judge, after a hearing, shall make a determination as to whether a violation has been committed. If the commission of violation has been proven, the judge may impose a fine not to exceed \$100.00 plus court costs.~~

~~Sec. 82-3. Procedures for violations, upon noncompliance with violation notice.~~

~~Enforcement of violations shall follow the procedures set forth in Chapter 1, Article II, Code Enforcement Citations.~~

- ~~(a) — If any person summoned by a violation notice affixed on a garbage or trash container or to the residence or business where the violation has occurred does not respond to such notice within the time specified on such notice, a delinquent fee of \$10.00 per violation shall be assessed against the owner of the property where the violation occurred. In addition, a notice of summons shall be sent, by certified mail, to the owner so cited, informing such owner of the violation notice and the failure to comply therewith. Such notice shall direct the recipient to respond within ten calendar days; otherwise a summons will be issued for failure to comply in violation of this Code. Costs in the amount of \$25.00 shall be assessed incident to this notification process.~~
- ~~(b) — If a response is not made within the time period specified in the notice of summons, a summons will issue commanding an appearance before a judge of the county court and an additional service of process charge of \$10.00 per summons shall be assessed.~~
- ~~(c) — After issuance of summons, a hearing on the charge of failure to comply shall be scheduled and such charge prosecuted by the state attorney in the county court.~~
- ~~(d) — Any person who fails to respond to the original violation notice within the time period specified on such notice shall be deemed to have waived the right to contest the merits of such violation.~~

~~Sec. 82-4. Failure to obey notice; alteration or destruction of notice.~~

- (a) ~~The owner of the property who neglects to answer to the charge set forth in a violation notice affixed as stated in section 82-3 by the director of public works or his authorized deputy shall be held to have violated this chapter.~~
- (b) ~~The notice referred to in subsection (a) of this section is and shall remain the property of the city before and after the serving, delivery or affixing thereof. All persons receiving any such notice in writing, whether by personal service or by affixing the notice in the method set forth in section 82-3, shall be required to preserve such notice and to bring and present or otherwise transmit the notice when answering the charge set forth in such notice.~~
- (c) ~~No person, whether the recipient thereof or otherwise, shall willfully throw away, alter, mar, mutilate, destroy or discard the written notice of the city described in subsection (a) of this section.~~
- (d) ~~No person finding affixed to the property the written notice of the city described in subsection (a) of this section, whether or not he is the owner of the property to which the notice is affixed, shall willfully throw away, alter, mar, mutilate, destroy or discard the written notice of the city so found affixed to the property.~~

Sec. 82-5. Persons empowered to issue violation notices.

~~The director of public works and deputies authorized by him are empowered to issue violation notices for violations of this chapter.~~

Sec. 82-6. Nonpayment of fees and penalties; suspension of utility service.

- (a) Notwithstanding the above provisions providing for enforcement of violations of this Chapter, Nonpayment of fees and penalties imposed by this chapter is hereby declared to be a violation of this chapter. Fees and penalties imposed by this chapter for service to a property or for violations relating to a property may at the discretion of the city be incorporated in and added to any utility billing of the city for water, sewer or other utility service to such property.
- (b) ~~When incorporated within any water, sewer or other utility billing, nonpayment of fees and penalties imposed by this chapter~~ for a period of 25 days after the billing date shall constitute grounds for the suspension of any or all utility services, including but not limited to water, sewer, electric and refuse, until payment is made. The procedure set forth in section 102-134 shall be followed prior to suspension of any utility services.

Sec. 82-7. Refuse disposal.

- (a) *Public places.* No person shall place, throw or abandon any refuse on any traveled way, sidewalk, alley or other public place. No person shall throw or deposit any refuse in any lake, stream or other body of water.

- (b) *Private property.* No person shall place or throw any refuse on private property, whether owned by such person or not, within the city, except in proper containers for collection or under express approval granted by the City Manager or his designee~~director of public works~~.
- (c) *Special collection center.* No person shall cast, place, sweep or deposit any hazardous waste upon the premises of the special collection center located at 1441 Howell Branch Road, Winter Park, Florida, 32789, unless otherwise permitted by law.
- (d) *Unauthorized accumulation.* Any unauthorized accumulation of refuse on any premises is declared to be a nuisance and is prohibited.
- (e) *Scattering refuse.* No person shall cast, place, sweep or deposit anywhere within the city any refuse in such a manner that it may be carried or deposited by the elements upon any street, sidewalk, alley, sewer, parkway or other public place or into any occupied premises within the city.

Secs. 82-8—82-30. Reserved.

Sec. 82-31. Authority and supervision.

All refuse accumulated in the city shall be collected, conveyed and disposed of by the city under the supervision of the City Manager or his designee~~director of public works~~. The City Manager or his designee~~director~~ shall have the authority ~~under the supervision of the city manager and the city commission~~ to make such regulations pertaining to the days of collection, type and location of refuse containers and such other matters as he shall find necessary, provided that such regulations are not contrary to the provisions of this chapter.

Sec. 82-32. Preparation of refuse.

- (a) *Household refuse.* All household refuse shall have drained from it all free water before being placed in the refuse can or refuse cart. Any wet garbage matter shall be wrapped in paper before being deposited in the refuse can or refuse cart. All cans, bottles, boxes and wrappings which have contained food shall be thoroughly drained before being deposited in the refuse can or refuse cart. All trash shall have drained from it all free water before being placed in refuse cans or refuse carts. Household chemical containers such as bleach, garden sprays or any container for material of a toxic or semitoxic nature shall be thoroughly rinsed and drained before being placed in refuse cans and refuse carts. Plastic refuse bags may be utilized to dispose of refuse. Each plastic refuse bag ~~They shall not exceed 32-gallon capacity or fifty (50) pounds weight limit,~~ and may not be less than 2½ mils thickness. Paper bags specifically manufactured for the disposal of refuse may also be used, subject to the capacity and weight limit maximums for plastic refuse bags.

- (b) *Garden trash.* Tree trimmings, hedge clippings and similar material shall be cut to length not to exceed four feet. Grass trimmings shall be placed in refuse trash containers or refuse bags, which shall not exceed fifty (50) pounds in weight per container or refuse bag. Waste or excess citrus fruit shall be placed in cans or refuse bags. Not more than 16 gallons or one-half of the can or bag shall be filled with fruit due to its weight. If plastic refuse bags are utilized, the same criteria shall apply as that given under household refuse.

Sec. 82-33. Cans, carts and containers—Location.

- (a) Refuse cans, refuse carts and commercial containers shall be kept in a place that is easily accessible to City the employees, designated haulers or contractors, and that does not obstruct any public right of way. ~~of the department of public works. They shall not be kept upon city or public property or property not in the ownership or tenancy of the person by whom the refuse is accumulated, unless approved by the director of public works.~~ In between pick up, Rrefuse cans and refuse carts shall be kept at the rear of the establishment or residence or in a side yard out of sight from the street, except as provided in subsection (b) of this section.
- (b) Commercial containers for use by any establishment or place of business or residence located within the Center Street Corridor, as defined in Section 82-1, shall be kept in those locations on Center Street specified by the City Manager or his designee.

Sec. 82-34. Same—Condition.

Refuse cans shall be provided by the tenant, owner, lessee or occupant of the premises and shall be maintained in good condition. Any refuse can that does not conform to the provisions of this chapter or that may have ragged or sharp edges or any other defect liable to hamper or injure the person collecting the contents thereof shall be condemned by the department of public works and promptly replaced by the owner on notice. The City Manager or is designee ~~director of public works~~ shall have the authority to refuse collection services for failure to comply with this section.

Sec. 82-35. Refuse carts.

- (a) *Required use.* For each residential property within the city that is not served by a commercial container, ~~If the city commission determines that refuse carts are appropriate containers for residential refuse collection,~~ the city shall provide up to two refuse carts per household for household refuse and garden trash, and one recycling container for recyclable materials, at no charge to the residents to all residents. Use of the refuse carts and recycling containers is mandatory for all residents whose property is not served by a commercial container, except that ~~the city shall not~~

mandate refuse cart use to residents who became residents of the city before July 13, 1988, and such persons shall be required to use the refuse carts deemed appropriate for residential refuse collection by the city commission.

- (b) Additional carts Fees. At the request of a resident of any household that is not served by a commercial container, the city may provide additional refuse carts and recycling containers, for which the resident will incur a one-time delivery fee, as well as an additional monthly service charge per additional container. Additional refuse carts and recycling containers are the property of the city or its designated hauler or contractor. A fee shall be paid for the use of each refuse cart, based on the cost of the cart as determined at the end of the previous city fiscal year. The fee shall be payable to the city in one of the following ways:
- (1) Payable in full on or before the date of delivery to the resident; or
 - (2) Payable in ten equal monthly installments commencing on the date of delivery to the resident. Fees paid to the city shall be refunded to the resident who returns the refuse cart if the cart is in good condition. The amount refunded shall be the lesser of the sum paid to the city or the fair market value of the cart at the time of return determined by the city.
- (c) Replacement. The city will replace at its expense any refuse carts or recycling container that is are lost, damaged or worn through no fault of the resident. The city will replace at the resident's expense any refuse carts or recycling container that is are lost, damaged or worn through the fault of the resident, based on the cost of the cart or container as determined by the city at the end of the previous city fiscal year.
- (d) Collection. If the city commission determines after refuse carts have been made available to the residents that refuse carts or recycling containers they are no longer suitable for refuse collection of refuse or recyclable materials, respectively, the city may terminate refuse cart or recycling container collections, whereupon at the option of each resident the refuse carts or recycling containers shall may be returned to the city, and the fees paid shall be refunded, provided the cart is in good condition. The amount refunded shall be the lesser of the sum paid to the city or the fair market value of the cart at the time of return determined by the city.

Sec. 82-36. Points of collection.

- (a) Location. Refuse cans, refuse carts, refuse bags containing household refuse and garden trash, and recycling containers containing recyclable materials, shall be placed at the curb for collection, unless the City Manager or his designee director of public works has arranged collection at the rear or side of the property being served because the residents thereof are not physically able to place the items at the curb.
- (b) Placement and removal times. Unless excepted as provided in subsection (a) of this section, residents shall place all refuse cans, refuse carts, and refuse bags, and recycling containers to be collected at the curb in front of the property being served no earlier than 4:00 p.m. the evening before the day of collection and shall remove all empty refuse cans, and carts, and containers from the curb and return them to a

location at the side or rear of the property being served no later than 9:00 p.m. of the day of collection.

- (c) *Responsibility for compliance.* The residents of the property being served by city collection shall be jointly and severally responsible for placing refuse cans, refuse carts, refuse bags, ~~and garden trash,~~ and recycling containers at the proper location at the proper time for collection and, after collection, removing all empty refuse cans, ~~and carts,~~ and containers from the curb and returning them to the proper locations stated in subsection (b) of this section by the time stated therein. The owners of the property being served shall be presumed to be residents of the property and, therefore, responsible for compliance with this section, unless, within five days after notification of a violation of this section, the owners have provided the City Manager or his designee ~~director of public works~~ with the names and addresses of the persons other than the owners who were the actual residents of the property being served by city collection at the time of the violation.

Sec. 82-37. Frequency of collection; use and maintenance of container, tops.

- (a) *Residential.* Refuse accumulated by residences shall be collected at such times as shall be established by the city. In all cases where garbage is deposited in refuse carts, the top shall be kept closed at all times except when the container is being filled. The customer is responsible for notifying the city if the top of the refuse cart is damaged or inoperable. ~~department of public works shall be notified when the top is damaged or inoperable.~~ (b) *Commercial.* Hotels, apartments, restaurants and such other establishments or businesses shall be served on the basis of need. Terms of collection shall be established by written agreement between the owner of each establishment or place of business or residence utilizing a commercial container and the City's designated contractor, except those establishments or places of business or residences located within the Center Street Corridor. ~~A written agreement between the owner of the establishment or business and the department of public works on the quantity and number of collections per week shall be made prior to commencing service.~~ Where necessary to protect the public health, the City Manager or his designee ~~director of public works~~ shall have the authority to require more frequent collections than those required by the above-described written agreement. It is the responsibility of the user to keep the area around the container clean and free from loose trash or garbage. The City manager or his designee ~~director~~ shall notify the county health department of any violations. In all cases where garbage is deposited in a container, the container top shall be kept closed at all times except when the container is being filled. The customer is responsible for notifying the city if the top of the container is damaged or inoperable. ~~The department of public works shall be notified when the top is damaged or inoperable.~~

- (c) Any establishment or place of business or residence located within the Center Street Corridor, as defined in Section 82-1, shall dispose of refuse only in the commercial containers located on Center Street.
- (de) *Special collections.* Upon request, the department of public works will make unscheduled collections of garden trash that is not in containers or bundled and an extraordinary quantity (more than three cubic yards) of refuse in containers or bundled. Placing such types or quantities of refuse at the curb shall constitute a request for a special collection. For commercial concerns, a special collection beyond the quantity and frequency to which was agreed in accordance with subsection (b) of this section shall be made on the request of the owner of the establishment or business or when the City Manager or his designee ~~director~~ determines that a special collection is necessary to protect the public health.

Sec. 82-38. Removal of recyclable materials.

It shall be unlawful for any person, except city personnel or the city's duly authorized agent, to collect or otherwise remove any recyclable material which has been specifically placed for collection in recycling containers as part of the city's recycling program. It is not the intent of this section to prohibit any nonprofit organization from soliciting recyclable materials for the purpose of resource recovery and recycling in pursuit of the goals of such nonprofit organization.

Sec. 82-39. Schedule of collection fees.

Fees prescribed in this article are payable to the city monthly. Fees due and payable for collection and disposal of refuse and for the availability of service shall be as established by the city.

Sec. 82-40. Nonpayment of fees.

- (a) Fees prescribed in this article are payable to the city monthly, ~~quarterly, in advance.~~ Nonpayment of fees is hereby declared a violation of this chapter. There is imposed a penalty of ten percent for each refuse fee which remains unpaid for a period of 60 days after the fee is due and payable, and without further notice such penalty may be added to the next billing.
- (b) The penalties and remedies contained in this section shall be cumulative and shall be in addition to any and all other penalties and remedies contained in this Code for the violation thereof.

Sec. 82-41. Removal of special refuse.

The removal, transport and disposal of industrial processing wastes, noncombustible refuse and building and clearing wastes must be accomplished by the owner, occupant, operator or contractor performing such work, as the case may be. Spent oils or grease accumulating at

garages, filling stations or similar establishments shall be removed by the owner, occupant or operator.

Sec. 82-42. Liens for nonpayment of fees—Generally.

All fees and penalties for nonpayment, together with lawful interest thereon, provided for in this article shall be a lien upon the property for which the service is provided. If the fees shall remain unpaid 60 days after the fees are due and payable, an administrative fee of ~~\$10.00~~ shall be imposed, and the lien, including the administrative fee, shall be recorded in the records of the county. The city shall have the power and authority to enforce the liens by foreclosure in accordance with law.

Sec. 82-43. Same—Release; effect of issuance of certificate.

Liens created under section 82-42 shall, upon the request of the user or the owner of the property affected and upon payment of all delinquent fees, including lawful interest thereon, and all penalties imposed, be released by a certificate signed by the Ceity Manager or the city finance director and bearing the seal of the city. The issuance of such certificate shall constitute prima facie evidence of existence or nonexistence of any such delinquent fees, and shall, in the absence of fraud perpetrated by the party requesting the certificate, be binding upon the city as to the existence or nonexistence of any lien created under this article.