

“MUNICIPAL SOLID WASTE COLLECTION BYLAW 2011 NO. 7128”

Consolidated Version

2018-DEC-17

Includes Amendments: 7128.01, 7128.02, 7128.03, 7128.04, 7128.05, 7128.06, 7128.07, 7128.08, 7128.09, 7128.10

CITY OF NANAIMO

BYLAW NO. 7128

A BYLAW TO PROVIDE FOR THE COLLECTION AND DISPOSAL OF
GARBAGE, FOOD WASTE, RECYCLABLES AND OTHER SOLID WASTE

WHEREAS a Council may, in accordance with the *Community Charter*, exercise its authority in relation to the use of waste disposal and recycling services, and impose fees and charges thereto:

THEREFORE the Council of the City of Nanaimo, in open meeting assembled, ENACTS AS FOLLOWS:

1. Title

This Bylaw may be cited as the "MUNICIPAL SOLID WASTE COLLECTION BYLAW 2011 NO. 7128".

2. Definitions

In this Bylaw, unless the context otherwise requires:

| | |
|--|--|
| "ADD-A-DAY SYSTEM" | means the scheduling system in which the day for collection advances by one week day following any holiday recognized by the City. There shall be no collection on Saturday, Sunday or holidays recognized by the City; |
| "ALTERNATE COLLECTION SERVICE" | means a Garbage and/or Food Waste and/or Recyclable Materials collection service operating under a valid City business licence and that is not operated by or on behalf of the City; |
| "APPROVED DISPOSAL SITE" | means a site authorized by the City of Nanaimo, licensed by the Regional District of Nanaimo and/or the Ministry of Environment, Lands and Parks, for the deposit, disposal or processing of Garbage and/or organic materials including residential Food Waste and/or Recyclable Materials or other Solid Waste; |
| "AUTOMATED COLLECTION SERVICE" (7129.09) | means the solid waste collection service provided to homes where wheeled carts are collected by an automated truck with a mechanical arm. |
| "BASIC SERVICE" | means the Garbage, Food Waste and Recyclable Materials collection services established under section 4 of this Bylaw; |

| | |
|--|--|
| “BASIC SERVICE USER” | means a person who uses the Municipal Solid Waste Collection System under section 4(1); |
| “BIOMEDICAL WASTE” | means any waste that contains or may contain pathogenic agents that may cause disease in humans exposed to the waste and/or is generated by <ul style="list-style-type: none">(a) human health care facilities,(b) medical research and teaching establishments,(c) clinical testing or research laboratories, and(d) facilities involved in the production or testing of vaccines; |
| “BRANCHES AND LOGS” (7129.09) | means any part of a tree or large plant other than the leaves. |
| “CITY” | means the City of Nanaimo; |
| “COLLECTION” | means the removal of Garbage, Food Waste, Recyclable Materials, or any combination of these select materials by the City or its Contractor under this Bylaw; |
| “COLLECTION ROUTE” | means a route or routes established from time to time by the Director of Engineering and Public Works for scheduled Collection under the Municipal Solid Waste Collection System. |
| “COMINGLED ORGANIC WASTE” (7129.09) | means a mixture of both food waste and yard waste (excluding branches). |
| “COMMERCIAL PREMISES” | means a building or part of a building occupied for the purpose of carrying on a profession, trade or business; |
| “COMMERCIAL WASTE” | means all refuse and waste and accumulation of waste and abandoned material resulting from the operation of a trade or business, including paper boxes and packing cases, wrapping material, wrappings and all materials of like nature, other than Garbage; |
| “CONTRACTOR” | means a person or persons under contract to the City to provide a service; |
| “DAY CARE FACILITY” | means a facility defined in the City of Nanaimo zoning bylaw as a day care facility; |
| “DIRECTOR OF FINANCE” | means the person duly appointed the Director of Finance of the City or their appointed designate; |
| “DIRECTOR OF ENGINEERING AND PUBLIC WORKS” | means the person duly appointed the Director of Engineering and Public Works of the City or their appointed designate; |

- “DWELLING UNIT” means
- (a) a single family dwelling,
 - (b) in relation to a duplex, triplex or fourplex, each self-contained residential suite, or
 - (c) a secondary suite;
- “FOOD WASTE” means compostable food waste, and other material acceptable at the Composting Facility, generated within the Service Area including, without limitation:
- (a) fruits and vegetables
 - (b) cooked and raw foods
 - (c) meat, fish, shellfish, poultry and bones thereof
 - (d) dairy products
 - (e) bread, pasta and baked goods
 - (f) tea bags, coffee grounds and filters
 - (g) soiled paper plates and cups
 - (h) soiled paper towels and napkins
 - (i) soiled waxed paper
 - (j) food soiled cardboard and paper
 - (k) egg shells
 - (l) Food Waste excludes Yard and Garden Waste
- “GARBAGE” means discarded matter and includes refuse, waste, noxious, offensive and unwholesome materials, but does not include residential Food Waste, Recyclable Materials, Commercial Waste or unacceptable waste as set out in section 10(1) of this Bylaw;
- “GROUP HOME” means a dwelling owned by an incorporated non-profit society in good standing that has the care of persons as one of its objectives, and in which reside:
- (a) not more than five persons needing care, and
 - (b) not more than two adults who are paid to provide such care;
- “HAZARDOUS WASTE” means any gaseous, liquid or solid waste that, because of its inherent nature and quality, requires special collection and/or disposal techniques to avoid creating health or environmental hazards, nuisances or environmental pollution, and includes:
- (a) paint
 - (b) oil
 - (c) gypsum
 - (d) toxic waste
 - (e) poisonous waste
 - (f) corrosive waste
 - (g) ignitable waste
 - (h) explosive waste
 - (i) other hazardous waste as defined by the Hazardous Waste Regulation of the *Environmental Management Act*

| | |
|---|---|
| “MUNICIPAL SOLID WASTE COLLECTION SYSTEM” | means the garbage, recycling and food waste collection system established under section 3 of this Bylaw; |
| “PATHOLOGICAL WASTE” | means: (a) any part of the human body, including tissues and bodily fluids, but excluding fluids, extracted teeth, hair, nail clippings and like parts, that are not infectious, (b) any part of the carcass of an animal infected with a communicable disease or suspected by a veterinary practitioner to be infected with a communicable disease, or (c) non-anatomical waste infected with communicable disease; |
| “RECYCLABLE MATERIALS” | includes all recyclable: (a) newsprint, (b) corrugated cardboard, (c) mixed waste paper, (d) metal food and beverage containers, (e) plastic household containers, or (f) other material that is collected from time to time by the City or its Contractor as a recyclable product; |
| “RESIDENTIAL GARBAGE” | means Garbage generated by the occupants of a Dwelling Unit; |
| “RESIDENTIAL RECYCLABLE MATERIALS” | means Recyclable Materials generated by the occupants of a Dwelling Unit; |
| “ROOMING HOUSE” | means a residential building in which more than five (5) persons occupy sleeping units and typically share common areas, including kitchens and baths, as defined by Zoning Bylaw 4500 |
| “SECONDARY SUITE” | means a self-contained suite which is clearly subordinate to the principal dwelling as defined in the City of Nanaimo zoning bylaw as a Secondary Suite; |
| “SOLID WASTE” | means domestic waste generated by a household which may include biodegradable waste including food waste, recyclable waste materials and other waste materials requiring disposal at landfill or specialized disposal and/or handling facilities; |
| “STREET” | means a highway; |
| “TRADE OR INDUSTRIAL WASTE” | means Commercial Waste or other Solid Waste resulting from the operation of industrial, commercial or institutional premises; |

| | |
|---|---|
| “UNSERVICEABLE PROPERTY” | means a property determined to be unserviceable property in accordance with subsection 5(3) of this bylaw. |
| “WEEKLY SERVICE” | means a scheduled collection service provided on a weekly schedule using the add-a-day system; |
| “WHEELED CART(S)” (7129.09, 7129.10) | means a set of three City-owned carts provided to homes receiving automated collection services. The carts are on wheels and have attached lids. A cart set includes carts designated for Commingled Organic Waste (green), Residential Recyclable Material (blue) and Residential Garbage (black)” |
| “YARD AND GARDEN WASTE” | means vegetation removed from gardens, lawns, shrubs and trees and includes pruning’s from shrubs and trees; |

PART 1 – BASIC SERVICE, ALTERNATE SERVICE AND EXTENDED SERVICE

3. Municipal Solid Waste Collection System Established

- (1) A Municipal Solid Waste Collection System is established to:
 - (a) collect, remove and dispose of Residential Garbage,
 - (b) collect, process and market Residential Recyclable Materials, and,
 - (c) collect, remove and dispose of Comingled Organic Waste (7129.09, 7128.10)

4. Basic Service (7129.09, 7129.10)

- (1) Basic Service for each Dwelling Unit receiving the automated collection service, scheduled according to the Add-a-Day System, shall be as follows;
 - (a) Collection on a weekly basis of Comingled Organic Waste from one (1) wheeled Comingled Organic Waste Cart; and
 - (b) Collection of Recyclable Material from one (1) (or more) Wheeled Recycling Cart, every second scheduled Comingled Organic Waste collection day (alternating with Garbage collection); and
 - (c) Collection of Garbage from one (1) Wheeled Garbage Cart, every second scheduled Comingled Organic Waste collection day (alternating with Recyclable Materials collection).”

5. Basic Service Mandatory

- (1) Subject to subsection (2), participation in the Municipal Solid Waste Collection System is mandatory;
- (2) Except as provided for in sections 6, 7 and 8, Municipal Solid Waste Collection System shall not be provided to:
 - (a) a multiple family dwelling consisting of more than four (4) Dwelling Units;

- (b) Commercial Premises (7128.10)
- (c) industrial and institutional operations;
- (d) an Unserviceable Property.

(3) The following property shall be considered Unserviceable Property:

- (a) any property or Dwelling Unit where the Director of Engineering and Public Works determines that access from a street is inadequate for the Municipal Solid Waste Collection System, by reason of grade, road configuration, physical condition or narrowness of the public street or lane or other access route“, conflict with other regulations, public safety or operational constraints; (7128.10)
- (b) any property or Dwelling Unit which the Director of Engineering and Public Works determines is unsafe to service by reason of the presence of any person, animal, natural or other hazard on or in the vicinity of the property or Dwelling Unit;
- (c) any property or Dwelling Unit which the Director of Engineering and Public Works considers by its lack of proximity to other Dwelling Units being provided a Basic Service would result in excessively high costs or time being allocated to service;
- (d) Any property or Dwelling Unit on Protection Island.

6. ~~Commercial Premises (7128.10)~~

7. Rooming Houses and Licensed Group Homes and Licensed Daycare Facilities

- (1) Owners or operators of a Group Home, Daycare Facility or Rooming House may apply in writing to the Director of Engineering and Public Works to receive Basic Service under the Municipal Solid Waste Collection System.
- (2) To be eligible for service, applicants under subsection (1) must satisfy the Director of Engineering and Public Works that the amount of Garbage, Food Waste and Recyclable Materials generated per scheduled collection and the resulting service required by the applicant, does not exceed the equivalent of Basic Service for up to four (4) Dwelling Units.
- (3) Fees for service to the premises, shall be based on the number of equivalent Dwelling Units approved by the City.
- (4) Applicants not approved for service under this section, or who cannot consistently stay within the limits prescribed under subsection (2), must arrange alternate collection service under section 8 of this bylaw.

8. Alternate Collection Service

- (1) An owner of premises listed in section 5(2) shall;
 - (a) arrange Alternate Collection Service(s) that collects and disposes of Garbage and other Solid Waste at approved facilities and Approved Disposal sites; and

- (b) ensure that all Garbage and other Solid Waste is collected on a regular basis to prevent the development of noxious odours and the accumulation of Solid Waste.
- (2) An owner of a dwelling or premises served by the Municipal Solid Waste Collection System may apply, in writing, to the Director of Engineering and Public Works for permission to have his or her property excluded from the Municipal Solid Waste Collection System and alternatively serviced by an Alternate Collection Service company.
- (3) The Director of Engineering and Public Works may approve an application, made under subsection (2) where the applicant demonstrates that the Municipal Solid Waste Collection System cannot provide service adequate to deal with the type or volume of Solid Waste generated by the applicant and the applicant has exhibited a proven effort and due diligence in their efforts to participate in diverting waste through the available services provided.
- (4) If an application under subsection (2) is approved under subsection (3), the applicant shall notify the Director of Engineering and Public Works in writing of;
 - (a) the date Alternate Collection Service will start, and
 - (b) the name of the Alternate Collection Service provider to be used.

9. Additional Waste (7129.09, 7128.10)

- (1) Additional Waste for users receiving Automated Collection Services
 - (1) A Basic Service User who requires additional garbage collected must request an upsized garbage cart from the City. Fees will apply as set out in schedule A.
 - (2) The upsized garbage cart will be 120 litres larger than the standard cart; single family dwellings may increase their garbage cart size from 120 to 240 litres. Homes with secondary suites may increase their garbage cart size from 240 litres to 360 litres.
 - (3) A Basic Service User who requires additional recycling collected must request an upsized recycling cart (or an additional cart) from the City. An Administrative Fee may apply, as set out in schedule A.
 - (4) The upsized recycling cart will be 120 litres larger than the standard cart. Single family dwellings may increase their recycling cart size from 240 to 360 litres, or request an additional cart. Homes with secondary suites may request an additional recycling cart of either 240 or 360 litre capacity.
 - (5) There is no permitted upsize to the comingled organic waste cart.
 - (6) A resident may opt to change the size of their carts once every 12 months.”

PART 2 - TERMS AND CONDITIONS OF SERVICE

10. (1) Unacceptable Waste- Automated collection (7128.10)

No person shall dispose of any of the following prohibited materials through the Automated Municipal Solid Waste Collection System

- (a) dangerous, highly offensive, explosive or hazardous waste;
 - (b) Biomedical Waste;
 - (c) Pathological Waste;
 - (d) Trade or Industrial Waste;
 - (e) raw sewage or septic tank sludge;
 - (f) dead animals;
 - (g) oversized items of any kind exceeding two (2) feet in any dimension;
 - (h) demolition or construction waste;
 - (i) wood or wood refuse
 - (j) rocks;
 - (k) ashes;
 - (l) engine oil;
 - (m) oil filters;
 - (n) automotive or marine-type batteries;
 - (o) any material or item contained within any Government mandated Product Stewardship Program, Regional Government diversion initiative or Solid Waste materials ban at any Regional Government Waste Disposal Facility;
 - (p) solid or semi-solid grease
 - (q) Branches and Logs
 - (r) Sod and soil
 - (s) Large amounts of animal feces, waste, or related pet litter products
- (2) Any item listed in subsection (1) and put out for collection by the Municipal Solid Waste Collection System, will not be collected.

11. Owner/Occupant Responsibilities (7129.09)

- (1) Every owner or occupier of a Dwelling Unit or Commercial or other premises served by the Automated Collection Service shall;
- (a) ensure that Solid Waste from their premises is properly disposed of at a facility designated and licensed for that purpose or in accordance with the Municipal Solid Waste Collection System;
 - (b) place all Garbage in a wheeled garbage cart;
 - (c) place all comingled organic waste in a wheeled comingled organic waste cart;
 - (d) place all recyclable waste in a wheeled recyclable waste cart;
 - (e) ensure that all wheeled carts set out for collection, do not contain more than 35 kilograms (75 pounds) of material;
 - (f) set out for collection by 8:00 a.m. on the appropriate scheduled collection day, all wheeled carts;
 - (g) place all wheeled carts as close as possible to the edge of the Street adjoining their Dwelling Unit in a location clearly visible to collection workers, but not placed so as to obstruct vehicles or pedestrians; The Director may designate an alternate collection point for the use of specific Dwelling Units. (7128.10)
 - (h) on collection day place their two (2) wheeled carts to be collected at least one (1) meter apart and one (1) meter away from obstacles to the side of the cart and at least three (3) metres away from overhanging obstacles above the carts.

- (i) on collection day point their carts so the lid opens up into the street;
- (j) on the same day, following collection, remove all empty wheeled carts from the street and keep all wheeled carts, when not set out for collection, on the property from which the waste originates;
- (k) maintain all wheeled carts in a safe, sanitary and usable condition;
- (l) ensure no liquid is deposited or runs into in any wheeled cart;
- (m) provide a ready means of access to all wheeled carts at all reasonable times, and
- (n) ensure the means of access is unobstructed and of sufficient size and kind to permit wheeled carts to be seen and collected by collection staff and, if required, carried through the means of access to the street to ensure adequate collection;
- (o) on the same day, following collection, ensure clean up and removal from the boulevard of any remaining Solid Waste or debris that was not collected or escaped from any container put out for collection.
- (p) ensure that they report to the City any damaged, broken, lost or stolen wheeled cart so that the City may repair or replace it.
- (q) mark their wheeled cart in any way other than by recording their address on the inside of the lid of the wheeled carts.

12. Waste Container Use Restrictions (7128.09, 7128.10)

- (1) No person shall use any wheeled carts for any purpose other than to deposit or dispose of Solid Waste covered under the basic service.
- (2) No person shall damage a wheeled cart.

13. Scavenging Prohibited (7128.09)

- (1) No person, except the occupant of the Dwelling Unit from which the materials originate, shall remove any material from a Food Waste Container, Recycling Container, Garbage Container, wheeled cart or from the area next to the container, before the contents of a container have been collected by the City or its contractor.

14. Container inspection and investigation (7128.09, 7128.10)

- (1) The Director of Engineering and Public Works may inspect any Wheeled Carts and any contents therein.
- (2) All Wheeled Carts must be available for inspection at all reasonable hours or on request.
- (3) The Director of Engineering and Public Works may determine that a Wheeled Cart is no longer suitable for use because it is broken, hazardous or unsanitary.
- (4) The owner or occupier of the Dwelling Unit shall be responsible for reporting any damaged, lost or stolen Wheeled Cart to the City who will repair or replace it unless it is found that the cart was willfully damaged, destroyed or disposed of.

15. Right of entry

- (1) The Director of Engineering and Public Works, or any RCMP officer or any Bylaw Officer have authority to enter onto a property, at all reasonable times, to determine whether the provisions of this Bylaw are being complied with.

16. Competing service (7128.09)

- (1) No person shall operate within the City any system for the collection and disposal of Food Waste and/or Garbage and/or Recyclable Materials and/or comingled organic waste that interferes with the Municipal Solid Waste Collection System, unless the person has been authorized by the City to operate such a system.
- (2) Subsection (1) does not authorize a person to provide Food Waste, Garbage, Recyclable Materials or comingled organic waste collection or disposal services to a Basic Service User.

PART 3 – FEES AND PENALTIES

17. Fees for Municipal Solid Waste Collection System

- (1) The fees for the Municipal Solid Waste Collection System are as set out in Schedule “A” of this bylaw and are hereby imposed upon owners of all properties participating in the Municipal Solid Waste Collection System.
- (2) Fees imposed under this bylaw may be billed from time to time to a maximum of 12 times per year.
- (3) Fees for the Municipal Solid Waste Collection System shall be levied from the earlier of;
 - (a) the date of a City occupancy permit; or
 - (b) the date of actual occupancy of a premises.
- (4) A fee imposed under this bylaw which remains unpaid on the 31st day of December in any year shall be deemed to be taxes in arrears on the land or real property on which the charge is imposed and may be recovered as provided for in the *Community Charter*.

18. Fees Discontinued

- (1) Fees for the Municipal Solid Waste Collection System will only be discontinued if:
 - (a) the premises are permanently vacated;
 - (b) the premises are temporarily rendered uninhabitable because of fire or other similar disaster; or
 - (c) because of extended temporary vacancy, the owner of the premises has obtained a water disconnect permit from the City, in which case charges will resume when water service is reconnected.

19. Errors

- (1) “An owner or occupier of a Dwelling Unit or other premises shall bring any alleged error in any charge to the attention of the Director of Finance within one year of the end of the period for which such fees were imposed. (7128.10)

- (2) No complaint of error shall be considered by the City and no adjustment for any error shall be made after a period of one year has elapsed from the end of the billing period in respect of which the charges were imposed.
- (3) At the end of the period referred to in subsection (2), all charges shall be deemed to have been properly and correctly made.
- (4) Despite subsections (2) and (3), the Director of Finance may authorize an adjustment for a period of up to ten years to correct an error made by the City.

20. Offences and Penalties

- (1) A person who contravenes, violates or fails to comply with any provision of this bylaw, or who suffers or permits any act or thing to be done in contravention or violation of this bylaw, or who fails to do anything required by this bylaw, commits an offence and shall be liable, upon conviction, to a fine of not more than \$10,000.00 and not less than the fines prescribed in Schedule "B" of this Bylaw, the cost of prosecution and any other penalty or order imposed pursuant to the *Community Charter* or the *Offence Act*, as amended from time to time. Each day that an offence against this bylaw continues or exists shall be deemed to be a separate and distinct offence.

21. Schedules

- (1) The schedules in this bylaw form a part of this bylaw and are enforceable in the same manner as this bylaw.
- (2) Council authorizes that Schedules "A" and "B" may be omitted and established by resolution where the schedule may be more conveniently contained in a resolution.

PART 4 – GENERAL

22. Severability

If any portion of this bylaw is declared invalid by a court of competent jurisdiction, the invalid portion must be severed and the remainder of the bylaw is deemed valid.

23. Effective Date

This Bylaw shall come into force on 2011-OCT-01.

24. Repeal

"MUNICIPAL SOLID WASTE (ROUTES E & F) COLLECTION BYLAW 2010 NO. 7112 and "GARBAGE AND RECYCLABLES COLLECTION BYLAW 2009 NO. 7089" and all amendments thereto are hereby repealed.

SCHEDULE "A"

RATES AND CHARGES

1. A fee of \$0.46575 per Dwelling Unit (or equivalent) per day (\$170.00 per year) is imposed on every owner of a Dwelling Unit receiving this service.
2. An additional fee of \$0.27397 per Dwelling Unit (or equivalent) per day (\$100.00 per year) is imposed for the use of an upsized garbage cart, exchanged for the standard cart for that Dwelling Unit (or equivalent).
3. All fees shall be due and payable when levied.
4. All fees shall be subject to a five percent discount if fees for the current billing period are paid in full, along with any outstanding arrears, on or before the close of business on the date indicated on the statement of user rates.
5. An administration fee of \$25 is imposed for cart exchanges for 1 or more carts exchanged at the same time, or for requests for additional recycling carts.

Bylaw 7128
(7128.10)

SCHEDULE "B"
FINE SCHEDULE

The following fines are prescribed for the purposes of this Bylaw:

| OFFENCE | SECTION | FINE |
|---|----------|-------|
| Disposal of prohibited material through the Municipal Solid Waste Collection System | 10(1) | \$100 |
| Fail to properly dispose of Solid Waste | 11(2)(a) | \$100 |
| Container weighs more than 35 kilograms (75 pounds) | 11(2)(e) | \$100 |
| Fail to remove a Wheeled Cart | 11(2)(j) | \$100 |
| Fail to clean up Solid Waste | 11(1)(o) | \$100 |
| Improper use of a Wheeled Cart | 12(4) | \$100 |
| Scavenge from a Wheeled Cart | 13(1) | \$100 |
| Interfere with Municipal Solid Waste Collection System | 16 | \$100 |