



# **COMMERCIAL/MULTI-FAMILY RECYCLING ORDINANCE**

## **REPORT AND RECOMMENDATIONS Phase 1**

**SOLID WASTE SERVICES DEPARTMENT**

**October 21, 2010**

## EXECUTIVE SUMMARY

Based on negotiations with numerous stakeholders lead by the Solid Waste Advisory Commission's (SWAC) Recycling Ordinance Reform Subcommittee, the Solid Waste Services Department (SWS) submits the following recommendations for Council approval.

In addition to renaming the current 1998 Commercial Multi-family Recycling Ordinance (CMFRO) to the Universal Recycling Ordinance, SWS Staff, with support from the SWAC, recommend amending the current CMFRO to include all commercial and multi-family properties within four years beginning October 1, 2012. However, because of various complexities which evolved during discussions, the staff and SWAC are proposing recommendations in two phases.

Phase 1 includes all multi-family properties (including condominiums) and commercial non-residential office and institutional properties such as day cares, religious buildings, medical facilities, and private educational facilities. Recommendations for Phase 1 are included in this report and, on the low end, will impact approximately 4,614 properties:

- 2,436 multi-family properties
  - 509 properties – 100 units and more – beginning October 1, 2012
  - 92 properties – 75 to 100 units – beginning October 1, 2012
  - 126 properties – 50 to 74 units – beginning October 1, 2013
  - 339 properties – 26 to 49 units – beginning October 1, 2014
  - 1,370 properties - 25 units and less – dependent upon City's ability to provide single stream recycling collection services.
- 2,178 commercial offices
  - 164 properties: 100,000 square feet and more – beginning October 1, 2012
  - 60 properties: 99,999 to 75,000 square feet – beginning October 1, 2013
  - 97 properties: 50,000 to 74,999 square feet – beginning October 1, 2014
  - 136 properties: 26,000 to 49,999 square feet – beginning October 1, 2015
  - 1,721 properties: fewer than 25,999 square feet – dependent upon the City's ability to provide single stream recycling collection services.

Phase 2 includes the food service industry (restaurants, grocers, catering, etc), retail, and manufacturing/industrial. Phase 2 discussions will resume in the fall of 2010 and will include composting food waste. Staff anticipates returning to Council in summer 2011 with recommendations.

Recommendations included in this report address Phase 1 properties and include amending the CMFRO to establish the following minimum materials to be recycled:

- For multi-family properties, minimum materials would include paper, plastic container grades 1 (PETE) and 2 (HDPE), corrugated cardboard, aluminum cans, and glass.
- For commercial non-residential, minimum materials would include paper, plastic container grades 1 (PETE) and 2 (HDPE), corrugated cardboard, and aluminum cans.

Additionally, within one year after the City of Austin determines it is able to provide processing of single stream recyclables to private service providers, properties required to comply with the terms of the ordinance would also be required to increase the type of minimum materials required to be recycled to include plastic grades 3 – 7, paperboard, tin, and steel.

For properties that are able to achieve higher diversion rates for recycling materials that are not listed among the minimum materials, the Department should be given the authority to establish an alternative compliance option which would allow a property to substitute one of the required materials with another recyclable material based on approval by the Director.

Properties will also be required to either self haul or use a service provider that is registered with the City. If a property opts to self-haul, the property owner is responsible for reporting their volumes semi-annually. If a property opts to contract with a registered service provider, the service provider is required to report volumes recycled by that property semi-annually.

Recommendations also include support for funding, suggestions to amend City Code Chapter 25-2 (Land Development) to improve waste management planning and encourage more recycling planning, support for market development of recyclable materials, continuing relationships with organizations that support recycling initiatives, suggestions to administer the ordinance including providing online report submission, and a recommendation to review the ordinance and related rules every two years.

## **PREFACE**

### **HISTORY**

In 1998, after approximately ten years of negotiations, the City adopted amendments to City Code Chapter 15 requiring commercial properties with 100 or more employees and multi-family properties with 100 or more dwelling units to provide on-site recycling services for their tenants. This ordinance became known as the Commercial Multi-Family Recycling Ordinance (CMFRO). To implement and monitor compliance, the Solid Waste Services (SWS) Department created the Waste Reduction Assistance Program which responded to complaint calls and assisted commercial and multi-family properties in taking appropriate steps to implement recycling programs. However, recognizing a desire by the community to expand recycling requirements, in 2007, the Solid Waste Advisory Commission (SWAC) established the Recycling Ordinance Task Force to review and make recommendations that would expand the CMFRO. The Task Force's Recommendations were forwarded to the City Council with recommendations from staff that additional stakeholders should be included in the discussions. As of May 2010, 292 commercial non-residential properties and 453 multi-family properties have reported diverting a total 515,644 tons of which 481,342 tons are generated by commercial non-residential properties and 34,302 tons are generated by multi-family properties.

In 2009, the Austin City Council adopted the first Zero Waste Plan for a Texas municipality, setting a goal to achieve a 90% reduction in per capita solid waste disposal by 2040. Recognizing that achieving Zero Waste would require participation by all residents and business owners in Austin, the City Council adopted the plan and directed staff to prioritize review of City Code Chapter 15 (Resolution 20090115-50).

Council took an additional step in August 2009 and directed the SWAC to work with staff and stakeholders to review and recommend amendments to the ordinance (Resolution 20090820-041). SWAC formed the Recycling Ordinance Reform Subcommittee which included Commissioners Maydelle Fason, J.D. Porter, and Rick Cofer (Chair).<sup>1</sup> With staff support, the Subcommittee invited over 150 stakeholders to participate in the process.

### **BACKGROUND**

From September 2009 to May 2010, the Subcommittee conducted a total of 14 meetings. Their first five (5) meetings focused on laying a foundation of best practices, successes, and challenges. All stakeholders were invited to provide presentations specific to their industry and were specifically encouraged to suggest preferred recommendations to the ordinance. The latter nine (9) meetings were conducted as round table meetings to encourage open discussion between the Subcommittee and all stakeholders. Because of the varied challenges commercial non-residential properties presented, the Subcommittee is considering the issue in two phases:

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<sup>1</sup> From September 1, 2010 to April 30, 2010, the Subcommittee was composed of three commissioners. However, at the end of April 2010, Commissioner JD Porter resigned prior to the Subcommittee's final vote. At their final meeting regarding Phase 1 recommendations, the Subcommittee was composed of only two Commissioners, the minimum required for a quorum.

- **Phase 1:** Applies to Multi-family, Commercial Non-residential Office Use, and Institutions, such as non-profits, religious buildings, medical facilities, private educational facilities and day cares
- **Phase 2:** Applies to Food Service (Restaurants, Caterers, Grocers, etc.), Retail, Hotel/Motel, Event Facilities, Industrial, and Manufacturing

On July 21, 2010 and October 20, 2011, the SWAC considered the Subcommittee's recommendations and staff's analysis regarding Phase 1 properties. This report serves as Staff's formal report to the City Council. Phase 2 discussions will resume by January 2011.

## **EXPANDING APPLICABILITY**

According to data gathered from the Travis County Appraisal District (TCAD) and Williamson County Appraisal District (WCAD), approximately 10,211 properties located in the City of Austin will be affected by amendments to Chapter 15-6. Due to methods in identifying certain properties such as condominiums and undeveloped properties, the following projections should be considered low end estimates:

- 4,614 properties in Phase 1
  - 2,436 multi-family properties (Phase 1)
    - 509 properties – 100 units and more
    - 92 properties – 75 to 100 units
    - 126 properties – 50 to 74 units
    - 339 properties – 26 to 49 units
    - 1,370 properties - 25 units and less
  - 2,178 commercial offices (Phase 1)
    - 164 properties: 100,000 square feet and more
    - 60 properties: 99,999 to 75,000 square feet
    - 97 properties: 50,000 to 74,999 square feet
    - 136 properties: 26,000 to 49,999 square feet
    - 1,721 properties: fewer than 25,999 square feet
- 5,597 properties in Phase 2
  - 4,324 are commercial retail/restaurant/other
    - 145 properties: 100,000 square feet and more
    - 85 properties: 99,999 to 75,000 square feet
    - 133 properties: 50,000 to 74,999 square feet
    - 238 properties: 26,000 to 49,999 square feet
    - 3,723 properties: fewer than 25,999 square feet
  - 1,273 are industrial properties
    - 109 properties: 100,000 square feet and more
    - 59 properties: 99,999 to 75,000 square feet
    - 106 properties: 50,000 to 74,999 square feet
    - 160 properties: 26,000 to 49,999 square feet
    - 839 properties: fewer than 25,999 square feet

## RECOMMENDATIONS

### **MULTI-FAMILY RESIDENTIAL (APARTMENTS, CONDOMINIUMS, MIXED USE, DORMITORIES)**

According to Travis County Appraisal District, there are approximately 2,436 multi-family properties in Austin, not including condominiums<sup>2</sup>:

- 509 properties – 100 units and more
- 92 properties – 75 to 100 units
- 126 properties – 50 to 74 units
- 339 properties – 26 to 49 units
- 1,370 properties - 25 units and less

Of the 509 apartment complexes with 100 units or more, 453 apartment complexes are compliant with the current CMFRO and submit regular volume reports.

**Applicability.** Multi-family residential properties include apartments, condominiums, dormitories, and mixed use properties with residential use.

**Implementation Timeline.** Applicable properties must implement recycling programs within the following time frame:

- Beginning October 1, 2012: 75 units and more;
- Beginning October 1, 2013: 50 – 74 units; and
- Beginning October 1, 2014: 26 – 49 units and more.

Multi-family properties with 25 units and less are not required to provide on-site recycling services until the City of Austin determines it is able to provide single stream recycling collection and processing services to properties with 25 units and less.<sup>3</sup>

The Austin Apartment Association proposed that the City assess a fee to each tenant on their utility bills and reimburse or rebate the fee to the property owners. Because the City is legally unable to assess a fee without providing service, City staff members were unable to find an amenable solution. However, the City will propose a fee structure within the Solid Waste Master Plan to encourage recycling participation among tenants of multi-family properties.

**Minimum Materials.** In accordance with the recommended phase-in time frame, multi-family residential properties are required to provide on-site recycling services of the following material categories to their tenants:

- Paper (including newspaper, mixed paper, office paper);

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<sup>2</sup> The numbers reflected do not account for condominium complexes. TCAD and WCAD identify each condominium unit as a separate piece of property. Therefore, the number of condominium complexes is not included in the data identified. Staff is working on gathering condominium complex data as well.

<sup>3</sup> SWS currently provides service to properties with up to 4 dwelling units. This recommendation does not require multi-family properties of 25 units and less to use City services for recycling. This recommendation only stipulates that the ordinance will not apply to properties with 25 units and less until the City is able to provide single stream recycling service to those properties. The Commission also wished to clarify that such service should be made available by the City as soon as possible.

- Plastic containers (grades #1 PETE and #2 HDPE);
- Aluminum cans;
- Corrugated Cardboard;
- Glass

Additionally, within one year after the City is able to provide single stream recycling processing to service providers, an entity required to comply with the terms of this ordinance will also be required to increase the type of minimum materials to be accepted to include plastic grades 3 – 7, paperboard, tin, and steel. The Department shall also establish rules that provide for an alternative compliance option that allows a property owner/manager to request approval by the Director to substitute one of the required materials for another recyclable material.

**Minimum Container Requirement.** To ensure proper and adequate storage of recyclables, the Department will meet with stakeholders to develop rules that set minimum standards to properly contain recyclable materials. For its starting point, the Department shall use the 2007 Task Force Recommendation of providing a minimum of two 96 gallon carts or 1 cubic yard(s) per thirty (30) dwelling units. No change to the ordinance is required.

**Proper Signage and Education.** In addition to minimum requirements stipulated by the current CMFRO, multi-family property owners/managers are required to post adequate signage to identify appropriate receptacle use. Signage for recycling and garbage receptacles must meet the following minimum requirements:

- Be posted in English and Spanish
- For recycling receptacles:
  - Be clearly labeled as “Recycling”;
  - Identify the materials that should be deposited in the receptacle; and
  - Marked with the universal recycling “chasing arrows” symbol.
- For garbage receptacles, be clearly labeled “Landfill Trash”

**Universal Symbols and Signage.** The Department will meet with stakeholders to collaboratively develop and agree upon a universal recycling logo/symbol for Austin. Once approved and agreed upon by all stakeholders, all recycling and garbage containers shall be clearly marked with this new uniform symbol or signage. Staff shall designate funding to ensure design, production, and availability at no cost to the service provider or property owner.

**Service Described and Change of Service.** Property owners must either self-haul or contract with a service provider who is registered with the City of Austin. If a person changes service providers, the person is required to submit an updated plan form indicating their new service provider semi-annually.

**Reporting.** Semi-annual volume reports are required of applicable properties. If a person self-hauls, then the owner/manager is required to self-report volumes. If a person contracts with a private hauler, then the hauler is required to report volumes on behalf of their customer.

## **NON-RESIDENTIAL, COMMERCIAL OFFICES/INSTITUTIONAL PROPERTIES<sup>4</sup>**

According to Travis County Appraisal District, there are 2,178 commercial offices in Austin:

- 164 properties: 100,000 square feet and more;
- 60 properties: 99,999 to 75,000 square feet;
- 97 properties: 50,000 to 74,999 square feet;
- 136 properties: 26,000 to 49,999 square feet
- 1,721 properties: fewer than 25,999 square feet

**Applicability.** The following recommendations apply to commercial non-residential offices and institutions, such as office buildings, non-profits, religious buildings, medical facilities, private educational facilities and day cares.<sup>5</sup>

**Implementation Timeline.** Applicable properties must implement recycling programs within the following time frame:

- Beginning October 1, 2012: 100,000 square feet and more;
- Beginning October 1, 2013: 99,999 to 75,000 square feet;
- Beginning October 1, 2014: 50,000 to 74,999 square feet;
- Beginning October 1, 2015: 26,000 to 49,999 square feet

Non-residential, commercial office and institutional properties of 25,999 square feet or less are not required to provide on-site recycling services until the City of Austin determines it is able to provide said properties with single stream recycling collection and processing services.<sup>6</sup>

**Minimum Materials.** In accordance with the recommended time frame, applicable commercial non-residential properties are required to provide on-site recycling services of the following material categories to their tenants:

- Paper (including newspaper, mixed paper, office paper);
- Plastic containers (grades #1 PETE and #2 HDPE);
- Aluminum cans; and
- Corrugated Cardboard

Additionally, within one year after the City determines it is able to provide single stream recycling processing to service providers, an entity required to comply with the terms of this ordinance will also be required to increase the type of minimum materials to be accepted to include plastic grades 3 – 7, paperboard, tin, and steel. Additionally, the Department shall establish rules that provide for an alternative compliance option that

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<sup>4</sup> For clarification, square footage applies to the property's floor area, not solely the property's foot print.

<sup>5</sup> Until Phase 2 recommendations are submitted and approved, for mixed use properties where office use is combined with other uses that will not be addressed until Phase 2, recycling shall be provided for the office use of the building. For example, if a property has retail and/or restaurant use on the first floor of a building and the remaining building is commercial office use, then recycling must be provided for at least the office use.

<sup>6</sup> There are currently 2,100 commercial properties that are SWS customers. Of those properties 200 opt to receive single stream recycling services. The recommendations would effectively require current SWS commercial customers to recycle upon the effective date of the ordinance, regardless of size of the property.



allows a property owner/manager to request approval by the Director to substitute one of the required materials for another recyclable material.

**Minimum Container Requirement.** To ensure proper and adequate storage of recyclables, the Department will meet with stakeholders to develop rules, if appropriate, that set minimum standards to properly contain recyclable materials.

**Proper Signage and Education.** In addition to minimum requirements stipulated by the current CMFRO, applicable properties are required to post adequate signage to identify appropriate receptacle use. Signage for recycling and garbage receptacles must meet the following minimum requirements:

- Be posted in English and Spanish
- For recycling receptacles:
  - Be clearly labeled as “Recycling”;
  - Identify the materials that should be deposited in the receptacle; and
  - Marked with the universal recycling “chasing arrows” symbol.
- For garbage receptacles, be clearly labeled “Landfill Trash”

**Universal Symbols and Signage.** The Department will meet with stakeholders to collaboratively develop and agree upon a universal recycling logo/symbol for Austin. Once approved and agreed upon by all stakeholders, all recycling and garbage containers shall be clearly marked with this new uniform symbol or signage. Staff shall designate funding to ensure design, production, and availability at no cost to the service provider or property owner.

**Service Described and Change of Service.** Property owners must either self-haul or contract with a service provider who is registered with the City of Austin. If a person changes service providers, the person is required to submit an updated plan form indicating their new service provider semi-annually.

**Reporting.** Semi-annual volume reports are required of applicable properties. If a person self-hauls, then the owner/manager is required to self-report volumes. If a person contracts with a private hauler, then the hauler is required to report volumes on behalf of their customer.

## **SERVICE PROVIDERS**

Service providers include recycling and composting haulers that do business within the City of Austin as well as recycling and composting processors that are located in Austin's city limits.<sup>7</sup>

To ensure consistency throughout the CMFRO and provide citizens and customers with reliable access to service provider information and resources, the City shall create and make available to the public a list of registered service providers.<sup>8</sup>

**Registration of Recycling and Composting Haulers.** Recycling and composting haulers must register with the City by providing:

- Physical Address of Operation
- Proof of Insurance – annual commercial fleet policy
- Driver's licenses for drivers, CDL if applicable
- Proof that they are using the correct vehicle to transport materials, consistent with standards established by Chapter 15-6, Article 3 Private Solid Waste Collection Service

The City shall waive or not assess any associated fees for registration.

**Reporting Requirement of Recycling and Composting Haulers.** The Department will meet with stakeholders to develop rules and appropriate forms to comply with the reporting requirements. Staff will evaluate using a third party accounting firm to process data received from reports submitted by haulers.

**Registration of Processors.** Recycling and composting processors in the Austin city limits will register annually with the City and submit to a random site inspection of their property to ensure that the property is complying with all elements of the City Code, especially with regards to development and nuisance issues.

**Reporting Requirement of Processing Facilities.** All Material Recovery Facilities (MRFs) located within the City of Austin, including existing facilities, shall be required to annually report tonnage received by material, tonnage disposed, and diversion rate.<sup>9</sup> The Department will meet with stakeholders to develop rules and appropriate forms to comply with the reporting requirements.

**Universal Symbols and Signage.** The Department will meet with stakeholders to collaboratively develop and agree upon a universal recycling logo/symbol for Austin. Once approved and agreed upon by all stakeholders, all recycling and garbage containers shall be clearly marked with this new uniform symbol or signage. Staff shall

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<sup>7</sup> For purposes of clarification, Austin's city limits do not include Austin's extraterritorial jurisdiction (ETJ). Austin's ETJ is the unincorporated land within 5 miles of Austin's boundary that is not within the city limits or ETJ of another city. It is the territory where Austin alone is authorized to annex land. In the ETJ, no City taxes are collected in the area, and no services are provided other than land development review specific to subdivision or platting. (See "What is the ETJ" at <http://www.ci.austin.tx.us/annexation/faq.htm#t3>)

<sup>8</sup> By providing a list of registered service providers, the City will not and is not endorsing any particular service provider.

<sup>9</sup> For the definition of a MRF, staff shall utilize TCEQ language regarding the characteristics of a recycling facility.

designate funding to ensure design, production, and availability at no cost to the service provider or property owner.

**Proper Handling of Recyclables.** Clarify that proper handling of recyclables involves transporting materials to a material recovery facility that is recognized by the State of Texas. This standard would apply to service providers and self-haulers.

## PROPOSED AMENDMENTS TO THE LAND DEVELOPMENT CODE<sup>10</sup>

The Design Commission and Planning Commission should consider and initiate the following amendments to the Land Development Code, Design Criteria Manual, Environmental Criteria Manual, and any other appropriate code, rule, or manual:

- A. **Impervious Cover.** Allow existing properties with 99 dwelling units and less and commercial non-residential properties with 100,000 square feet or less to exceed impervious cover limitations by no more than 100 square feet if: (1) that impervious cover pad is dedicated to provide a solid space for locating recycling containers or dumpsters, (2) the applicant demonstrates that there is no feasible alternative, and (3) the Director of Planning and Development Review Department (PDRD) approves the exception. An applicant would be able to either exceed impervious cover or eliminate one parking space, or both.
- B. **Parking.** Allow existing properties with 99 dwelling units and less and commercial non-residential properties with 100,000 square feet or less, could carve out 1 parking space for recycling purposes and shall not have to make up the parking space loss, if: (1) that parking space is dedicated to provide a solid space for locating recycling containers or dumpsters, (2) the applicant demonstrates that there is no feasible alternative, and (3) the Director of PDRD approves the exception. An applicant would be able to either exceed impervious cover or eliminate one parking space, or both.
- C. **Designing Space for Recycling.**<sup>11</sup> Require any new commercial, institutional, or multi-family builds or rehabs, as appropriate, to indicate at the planning and permit stage:
  - 1. Waste and recycling area(s) on-site and within close proximity of one another. Require equivalent space planning and design for recycling as is currently provided for garbage.
  - 2. Waste and recycling area(s) for each floor. For properties that do not have internal common areas, the property must provide adequate access and sufficient capacity for recycling and garbage services.

Additionally, for both existing and new properties, the Design Commission and Planning Commission should consider appropriate rules or code amendments to address issues of screening, location, and accessibility to recycling and landfill trash containers by both the customer and the service provider.

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<sup>10</sup> For clarification, square footage applies to the property's floor area, not solely the property's footprint.

<sup>11</sup> In general, the intent is to provide equal and easy access to recycling as currently provided for garbage.

## RECOMMENDATIONS REGARDING ADMINISTRATION AND FUNDING.

The following recommendations are also provided regarding administration of the CMFRO and do not require amendments to the ordinance:

- **Provide Adequate Funding and Resources.** Encourage and support City funding for education and pilot programs, specifically for public education campaigns, development of universal symbols and signage, improvements to the Waste Reduction Assistance Program and WasteSmart, increasing staff levels to monitor compliance, and developing a pilot program to partner with multi-family properties to provide totes to each residential unit to make separation inside units easier.
- **Data.** Provide online report submission as well as a centralized database for property owners/managers to monitor their diversion rates.
- **Transportation/Parking Enforcement Administrative Rules.** Exempt or provide more leeway to service providers who provide recycling collection services, ensuring that the service provider has enough time to provide recycling services to their customers in a timely manner.
- **Market Development.** Make recruitment of recycling oriented businesses and employment a priority for the Economic Growth and Redevelopment Services Office.
- **Design Standards.** SWS shall to work with Austin Energy, PDRD, and other stakeholders to develop design standards for recycling enclosures and interior spaces in new and renovated buildings.
- **Relationship with Existing Contracted Partners.** The City should continue to develop its relationship with entities such as Ecology Action if they continue to responsibly further green objectives, even if adoption and implementation of the Recycling Ordinance amendments result in the need for revision and/or re-envisioning of the performance measures applicable to such entities.
- **Future Review.** Review the ordinance and rules every two years.