

ORDINANCE NO.

AN ORDINANCE AMENDING CITY CODE CHAPTER 15-6 (*SOLID WASTE SERVICE*) REGARDING REGULATION OF RECYCLING AND COMPOSTING.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. Section 15-6-1 (*Definitions*) is amended to read as follows:

§ 15-6-1 DEFINITIONS.

In this chapter:

- (1) CODE COMPLIANCE means the Department of Code Compliance.
- (2) CODE COMPLIANCE DIRECTOR means the director of the Department of Code Compliance.
- (3) COLLECTION SERVICE means scheduled collection and disposition of solid waste and recyclables, or compostable materials.
- (4) COMPOSTABLE MATERIAL means organic material recovered, collected, or otherwise diverted from the non-hazardous solid waste stream, a substantial portion of which will decompose in a managed compost operation.
- (5) COMPOSTING FACILITIES means an offsite facility holding all required local, state, and federal authorizations where the organic component of municipal solid waste is decomposed under controlled conditions for purposes of beneficial reuse.
- (6) [(4)] CONTAINER means a permanent collection receptacle made to collect and contain solid waste.
- (7) [(5)] DEPARTMENT means the Austin Resource Recovery Department.
- (8) [(6)] DIRECTOR means the director of the Austin Resource Recovery Department.
- (9) [(7)] FACTORY DEMONSTRATION VEHICLE means a vehicle that meets the requirements of Section [15-6-72](#) and that a dealer provides to a licensee, as a prospective buyer, to operate and use for a period not to exceed 14 days.
- (10) HAULER – has the same meaning as SERVICE PROVIDER.

- (11) [(8)] HAZARDOUS WASTE means any solid waste identified or listed as a hazardous waste by the administrator of the United States Environmental Protection Agency in accordance with the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 United States Code, §§ 6901 et seq.
- (12) [(9)] LIQUID WASTE has the same meaning as the definition contained in 30 Tex. Admin. Code § 330.3.
- (13) [(10)] MEDICAL WASTE has the same meaning as the definition contained in 30 Tex. Admin. Code § 330.3.
- (14) [(11)] PRIVATE SOLID WASTE COLLECTION SERVICE means the business of collecting, removing, or transporting solid waste from any premises within the city by a person for a fee.
- (15) [(12)] RECYCLABLE MATERIAL means ~~[shall mean]~~ non-hazardous material, including compostable material, that has been recovered or diverted from disposal in Municipal Solid Waste (MSW) facilities [the nonhazardous solid waste stream] for purpose of reuse, recycling or reclamation and a substantial portion of which is consistently used in the manufacture of products, which may otherwise be produced using raw or virgin materials.
- (16) [(13)] RECYCLING means ~~[shall mean]~~ a process by which materials that have served their intended use or are scrapped, discarded, used, surplus, or obsolete are collected, separated, composted [sorted], or processed, and returned to use in the form of raw materials in the production of [or prepared into marketable commodities for manufacturing into] new products. The definition of recycling does not include waste-to-energy processes, placement in a disposal facility, or use as daily cover in a disposal facility.
- (17) SERVICE PROVIDER means a person who is compensated for the removal or transportation of solid waste, compostable material, or recyclable material, for a fee, from any location within the City of Austin. Services that are subject to State or Federal requirements related to the transportation of medical or hazardous waste, including oil, liquids, or grease are excluded.
- (18) [(14)] SOLID WASTE means rubbish, refuse, and other discarded materials.
- (19) [(15)] SOLID WASTE SERVICE means collection or ~~[and]~~ disposal of solid waste, collection or ~~[and]~~ processing of recyclable material, litter abatement, street cleaning, or ~~[and]~~ household hazardous waste disposal.

1 (20) WASTE-TO-ENERGY (WTE) means a process of generating energy
2 directly from materials through a process that yields fuel or heat. WTE is
3 not diversion, nor is it supported by the Department's Master Plan but it is
4 considered an alternative disposal technology that must include the life-cycle
5 effects on the environment.

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7 **PART 2.** Subsection (A) of Section 15-6-82 (*Right of Entry*) is amended to read as
8 follows:

9 (A) ~~[A department inspector]~~ City staff authorized by the director or the code
10 compliance director may enter [the] a premises [of a business, building, or
11 multi-family residential complex, or other location that is required to provide
12 on-site recycling under this article] to inspect for compliance with this
13 article.

14 **PART 3.** Section 15-6-91 (*Required Service Providers*) is repealed and replaced to read
15 as follows:

16 **§ 15-6-91 AFFECTED PREMISES.**

17 (A) An owner of a premises of which all or part is used for multi-family
18 residential use shall ensure that tenants and employees have access to on-site
19 recycling services described under this article, for that portion of the
20 premises that is multi-family residential, effective:

- 21 (1) immediately for premises with more than 75 dwelling units;
22 (2) October 1, 2013 for premises with more than 50 dwelling units;
23 (3) October 1, 2014 for premises with 25 or more dwelling units;
24 (4) October 1, 2015 for premises with 10 or more dwelling units; and
25 (5) October 1, 2016 for premises with 5 or more dwelling units.

26 (B) An owner of a premises of which all or part is used for office, medical
27 office, medical facilities, religious assembly, or private educational facilities
28 shall ensure that tenants and employees have access to on-site recycling
29 services described under this article, for that portion of the premises that has
30 one or more of the uses described in this Subsection (B), effective:

- 31 (1) immediately for premises with more than 100,000 square feet of the
32 non-residential uses described in this Subsection (B); and
33 (2) October 1, 2013 for premises with more than 75,000 square feet of the
34 non-residential uses described in this Subsection (B).

- 1 (C) The requirements in Subsection (D) of this section are in addition to the
2 requirements in Subsections (A) and (B) of this section.
- 3 (D) An owner of a premises of which all or part is used for non-residential use,
4 including but not limited to those uses described in Subsection (B) of this
5 section, shall ensure that tenants and employees have access to on-site
6 recycling services described under this article effective:
- 7 (1) October 1, 2014 for premises with more than 50,000 square feet of
8 any type of non-residential use;
- 9 (2) October 1, 2015 for premises with more than 25,000 square feet of
10 any type of non-residential use;
- 11 (3) October 1, 2016 for premises with more than 5,000 square feet of
12 any type of non-residential use; and
- 13 (4) October 1, 2017 for all non-residential premises regardless of size.
- 14 (E) In addition to complying with the other requirements described in this
15 section, the owner of a premises of which all or a portion has use attributable
16 to a food enterprise that requires a food permit under Section 10-3-61
17 (*Permit Required*) of this Code to operate shall ensure that employees at the
18 food enterprise have access to on-site recycling of compostable materials
19 effective:
- 20 (1) October 1, 2016 where the square footage in a certificate of
21 occupancy, food enterprise permit, or similar document issued by a
22 government entity for the food enterprise exceeds 5,000 square feet;
23 and
- 24 (2) October 1, 2017 for all food enterprises regardless of size.
- 25 (F) For purposes of determining the effective date under this section the director
26 may verify the square footage attributable to a specific use by consulting
27 appraisal district or other public records or by requesting a valid certificate
28 of occupancy or approved site plan documenting the types of uses.

29 **PART 4.** Section 15-6-92 (*Service Described*) is repealed and replaced to read as
30 follows:

31 **§ 15-6-92 RECYCLING REQUIREMENTS FOR AFFECTED PREMISES.**

- 32 (A) On-site recycling services required under this article must:
- 33 (1) collect at least the following materials: paper (including mixed paper
34 and office paper), plastics PETE (#1) and HDPE (#2) bottles and

containers, aluminum cans, corrugated cardboard, and glass bottles and jars;

(2) collect compostable materials, if a premises with a food enterprise is subject to Subsection (E) of Section 15-6-91 (*Affected Premises*);

(3) provide receptacles, collection, capacity, and storage areas that comply with applicable administrative rules; and

(4) remove the recyclable or compostable materials by either:

(a) transporting the recyclable and compostable materials to a materials recovery or composting facility authorized by law; or

(b) contracting with a City-licensed recycling service provider to transport the recyclable and compostable materials to a materials recovery or composting facility authorized by law.

(B) The director may add to the list of recyclable materials required under Subsection (A)(1) of Section 15-6-92 (*Recycling Requirements for Affected Premises*) by providing notice on the City's website at least 365 continuous days before adding the additional materials.

(C) The department shall adopt rules that establish a process in which the owner of an affected premises can request:

(1) a waiver of certain requirements in this article;

(2) approval to comply with this article by achieving the City's Zero Waste Goal through alternative means;

(3) approval to substitute another recyclable material in place of a required recyclable material listed in Subsection (A)(1) above;

(4) approval to comply with this article by sharing solid waste, recycling, or composting services; or

(5) approval of a deduction of square footage under Subsection (E) of Section 15-6-91 (*Affected Premises*) if the food enterprise serves only pre-packaged food.

(D) In accordance with the requirements of the Good Faith Donor Act set forth in Chapter 76 of the Texas Civil Practice and Remedies Code, the department shall by rule encourage owners of affected premises to follow the hierarchy of beneficial use of scrap food which, beginning with the most beneficial, is:

(1) feeding hungry people;

- (2) feeding animals;
- (3) providing for industrial uses; and
- (4) composting.

PART 5. Subsections (A), (C), (D), and (E) of Section 15-6-93 (*Education*) are amended to read as follows:

- (A) An owner ~~[or other person required to provide recycling service to a]~~ of an affected premises must provide recycling information and instructions in accordance with rules adopted by the director to:
 - (1) all ~~[premises]~~ tenants and employees of the premises annually;
 - (2) a new employee or tenant no later than the ~~[seventh]~~ thirtieth day after the tenant occupies, or the employee begins work at, the premises; and
 - (3) all employees or tenants not later than the 30th day after a substantive change in the recycling service offered at the premises.
- (C) ~~[Effective October 1, 2012, all]~~ All information and documentation, including signage, required to be provided to persons or posted as public information under this article must be written in English and Spanish and include universal symbols as adopted by the director.
- (D) ~~[Effective October 1, 2012, each]~~ Each container designated or used for collection and disposal of materials to a state-recognized landfill must be prominently marked “Landfill Trash” in English and Spanish ~~[language]~~ and in compliance with the rules adopted by the director.
- (E) ~~[Effective October 1, 2012, each]~~ Each container designated or used for collection or transport of recyclable or compostable materials ~~[to a state-recognized materials recovery facility]~~ shall be affixed with a sign that includes:
 - (1) the universal chasing arrows recycling symbol;
 - (2) the type of materials accepted written in English and Spanish ~~[language]~~; and
 - (3) the term “Recycling~~[-]~~” or “Compostables”, as appropriate.

PART 6. Section 15-6-101 (*Recycling Plan*) is amended to read as follows:

- (A) ~~[A person required to provide recycling service under this article]~~ An owner of an affected premises shall ~~[file]~~ submit a recycling plan ~~[with]~~ to the

department by February 1 of each year starting with the year in which requirements of this article apply to the premises.

(B) ~~[A person shall file]~~ An owner of an affected premises shall submit a recycling plan for a new business, building, or multi-family residential complex not later than the ~~[14th]~~ 30th day after receiving a certificate of occupancy or beginning operations ~~[and not later than the 180th day]~~ or following any change ~~[in]~~ that reduces recycling service or ~~[recycling provider for the premises for which compliance with this article is required]~~ the types of materials collected.

(C) A plan must:

- (1) be on a form prescribed by the director;
- (2) list the materials to be recycled; ~~[and]~~
- (3) state ~~[whether the person will provide the service by self-hauling or by contract with a recycling service provider.]~~ the service capacities for landfill trash, recyclables, and compostable materials;[-]
- (4) state the collection method and service providers for landfill trash, recyclables, and compostable materials; and
- (5) include information or documentation as required by the director to verify compliance with this article.

(D) The director may exempt a property from submitting a Recycling Plan if the property contracts with the City for solid waste and recycling services or if exempting the property is consistent with the City's Zero Waste Goal set out in Resolution No. 20090115-050 and the Department's Master Plan adopted in Resolution No. 20111215-047, as those resolutions may be amended from time to time.

PART 7. Section 15-6-102 (*Biannual Volume Report*) is repealed and replaced to read as follows:

§ 15-6-102 BIENNIAL QUANTITY REPORT.

- (A) An owner of an affected premises who removes landfill trash or recyclable or compostable materials shall submit a report to the department on a form prescribed by the director.
- (B) The person shall submit the report semi-annually on or before the last business day in January or July of each calendar year.

- 1 (C) The report shall contain the amount in tons of landfill trash or recyclable or
2 compostable materials that the person hauled during the reporting period as
3 well as any other information required by the department.

4 **PART 8.** Section 15-6-103 (*Notice of Contract Termination*) is amended to read as
5 follows:

6 A person who provides recycling service under this article by contract with a
7 recycling service provider shall notify the department in writing not later than the [14th]
8 30th day after the person terminates the contract.

9 **PART 9.** Section 15-6-104 (*Notice of Change of Provider*) is amended to read as
10 follows:

- 11 (A) [~~A person required to provide recycling service~~] An owner of an affected
12 premises shall notify the department in writing if the person:

- 13 (1) discontinues self-hauling and contracts with a recycling service
14 provider; or
15 (2) terminates a contract with a provider licensed under Article 3 (*Private*
16 *Solid Waste Collection Service*) [~~and enters a contract with a service~~
17 ~~provider that is not licensed under Article 3 (*Private Solid Waste*~~
18 ~~*Collection Service*); or~~].
19 [(3) ~~terminates a contract with a service provider that is not licensed under~~
20 ~~Article 3 (*Private Solid Waste Collection Service*) and enters a~~
21 ~~contract with a service provider that is licensed under Article 3~~
22 ~~(*Private Solid Waste Collection Service*).~~]

- 23 (B) A person shall [~~file~~] submit the notice required by this section with the
24 department in accordance with rules adopted by the director and
25 concurrently with their required reporting under Section 15-6-102 (*Biannual*
26 [~~Volume~~] Quantity Report).

27 **PART 10.** This ordinance takes effect on _____, 2013.
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PASSED AND APPROVED

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§

_____, 2013

Lee Leffingwell
Mayor

APPROVED: _____

Karen M. Kennard
City Attorney

ATTEST: _____

Shirley A. Gentry
City Clerk