



To: Mayor and City Council

From: Bob Gedert, Director, Austin Resource Recovery Department
Carl Smart, Director, Austin Code Department

CC: Marc A. Ott, City Manager
Michael McDonald, Deputy City Manager
Robert D. Goode, Assistant City Manager

Date: August 27, 2014

Subject: August 28th Council Agenda Items relating to the Hauler Licensing Program

The purpose of this memo is to provide City Council with information and staff recommendation regarding items #2 and #3 on the August 28th Council Agenda, revising the Hauler Licensing Program.

Background

On June 28, 2012, City Council adopted an ordinance amending City Code Chapter 15-6, relating to private solid waste collection service; reporting of solid waste, recyclables, and organic materials; vehicle and container licensing; and education. (Council Resolution 20120628-012). The purpose of the ordinance is to ensure solid waste collection service's collection vehicles and containers meet sanitary and safety standards before the City issues a license to conduct business in the City and to require solid waste collection services to report the tons of solid waste, recyclables, and organic materials hauled. Also, under the ordinance, the Department of Code Compliance (now Austin Code Department) will manage licensing, enforcement, and an education program.

Through several waste hauler meetings and the Zero Waste Advisory Commission, Administrative Rules were developed to implement the ordinance. Through this process, certain ordinance revisions were recommended, as well as the adoption of implementation rules. Austin Code Department (ACD) led the discussions and will be responsible for the implementation of the ordinance.

At the May 14, 2014 and August 13, 2014 ZWAC meetings, staff presented proposed changes to the definition of a "private solid waste collection service" and changes to City Code Sections 15-6-11, 15-6-13, 15-6-41, 15-6-54, and 15-6-56.

Ordinance and Rules Revisions

Presented to Council for adoption are the Ordinance and Rules revisions to Chapter 15-6, sections 41, 54, and 56 relating to regulatory requirements for private collection service companies ("waste haulers").

The draft ordinance, as presented to Council for adoption as Council Item #2, clarifies the definition of a "private solid waste collection service" and clarifies that (1) City employees, (2) City's agents, and (3) individuals who remove or transport solid waste generated from his or her residence in vehicles with

one ton or less carrying capacity are not subject to the waste haulers program. The draft ordinance amends Section 15-6-54 to eliminate the requirement to put decals on each collection container. Verification will be accomplished through an auditing process. This change will reduce the number of decals that must be printed. The draft ordinance also amends Subsections 15-6-56 (D), (E), and (F) to require licensed private collection service providers to pay license fees based on container use during a month rather than on a daily basis.

The draft rules, presented as Council item #3, address documentation requirements, vehicles and equipment, display of business information, reporting requirements, notification of change of address or ownership, licensing, temporary decals, fees, appeal, and citations without prior warning.

ZWAC Recommendation

Through discussions on May 14, 2014 and August 13, 2014, the Zero Waste Advisory Commission (ZWAC) recommended adoption of the proposed revisions to the definition of “private collection service” and City Code Sections 15-6-41, 54, and 56.

At the May 14, 2014, meeting, with private hauler input, ZWAC recommended changes to staff’s proposed changes to City Code Sections 15-6-11 and 15-6-13. ZWAC recommended the following changes to Section 15-6-11:

- (C) Except as provided in Subsection 15-6-13(A), owners or occupants of residential properties with three or fewer dwelling units must use City of Austin collection services, but may use a private hauler for services not universally provided by the City, which may be defined by rule.
- (E) Owners or occupants of residential properties with four or more dwelling units who do not use the City of Austin’s collection services must use a licensed private collection service. The City of Austin shall not directly provide non-cart-based services to properties of four or more dwelling units unless subcontracted through a private hauler.
- (F) Owners or occupants of commercial properties who do not use the City of Austin’s collection services must use a licensed private collection service. The City of Austin shall not directly provide non-cart-based services to properties of four or more dwelling units unless subcontracted through a private hauler.

Staff proposed the language that is not underlined, and the waste industry and ZWAC recommended the language that is underlined. The purpose of staff’s proposed language is to clarify and ensure that residential (three or fewer dwelling units) property owners and occupants use ARR’s services and to require properties that do not use ARR’s services to use licensed waste haulers. ZWAC’s recommendations are not an adoption of status quo, but rather restrict and limit city service. The current City Code does not prohibit the City from providing non-cart-based services, and many services provided by ARR are not cart-based.

Staff Recommendation

Staff does not recommend to Council the changes recommended by ZWAC as it is a delegation of the City’s police powers regarding solid waste collection and a *significant change* in authorized city service. In addition, Staff is not in agreement with the additional language presented by waste haulers and recommended by ZWAC, as there is no consensus on the added language proposed.

If adopted, ZWAC's recommendation will likely prevent the City from providing existing core services to residential properties and restrict implementation of new diversion services. Current ARR services that will directly be affected by the ZWAC proposed code revision include; the Clean Austin program that is offered in areas of the city with a higher need for bulk collection service, large brush pickup, storm relief services, the services provided to city facilities, special event services, small commercial business service, as well as the planned service of residential food waste collection.

Staff recommends that City Council adopt the draft ordinance on this week's agenda, as presented by staff, because it will allow Austin Code Department to proceed with implementation of the waste hauler registration program, as a distinctly separate program than the issues related to ARR program services.

Staff also recommends that City Council defer any action on City Code Sections 15-6-11 and 15-6-13, (ZWAC Recommendation but not posted by staff), until after staff presents its diversion program implementation strategies to ZWAC in January, as part of the business planning process for the formation of the FY16 department budget. Included in this business planning process is the restructuring of the planned roll-out of organics collection, the expansion of the Clean Austin program, and the implementation of new diversion programs.

ARR's focus is providing excellent customer service while implementing new diversion programs that address the Zero Waste target goal. Restricting ARR services through these code amendments is not appropriate at this time.

Staff will work with a broad group of stakeholders, including the waste industry, business owners, composting service providers, apartment complex owners, residential property owners, and ZWAC to present appropriate service recommendations to Council that are consistent with the ARR implementation of the planned diversion programs.

If there are any concerns regarding these issues, please contact Carl Smart (ACD) at 974-1970 or Bob Gedert (ARR) at 512-974-1926.