



Subject: Universal Recycling Ordinance Phase 2 – Administrative Rules Development
#13 Stakeholder Group Meeting – Review of Draft Amendments to Universal Recycling Ordinance and Administrative Rules

Date: February 12, 2014 2 p.m. – 4 p.m.

Location: Austin City Hall, Room 1029; 301 W. 2nd St; Austin, TX 78701

Introduction

Austin Resource Recovery held a stakeholder meeting intended for stakeholders to discuss the Universal Recycling Ordinance and Administrative Rules. The purpose of this meeting was to review the recommended draft amendments based on stakeholder input of the Universal Recycling Ordinance and Administrative Rules.

Stakeholders were provided with information on Austin Resource Recovery's Strategic Initiatives' planning and business outreach teams. Stakeholders then introduced themselves. Staff informed stakeholders on the Universal Recycling Ordinance stakeholder process. Staff walked meeting participants through the meeting agenda and transitioned to the review component of the discussion.

URO Phase 2 Information Exchange and Facilitated Discussion

Administrative Rules Draft Amendments

- **Background and Scope (Section 8.1)**
 - Stakeholder: Would like the language to be noted if there are new notes to the Administrative Rules
- **Applicability (Section 8.2)**
 - Stakeholder: Are mobile food trucks excluded?
 - Staff: Mobile food establishments have been included in 2017, the second year of phase in schedule.
 - Stakeholder: Section 8.2.3.2.1 needs revision to correct section number "8.2.3.1.2".
- **General Principles (Section 8.3)**
 - Stakeholder: Should the diversion rate be 95%?
 - Staff: No, Council approved the policy of 90% diversion rate, not 95%. If there were any changes to be made to this it would have to go to Council as a policy change.
 - Stakeholder: 8.3.3 I see that voluntary participation is struck out? You've deleted that participation is voluntary. The question is the property owner vs. responsible party. I think you need to go back and look at this. What you are trying to do is say that the responsible party is not responsible if they do not comply. That should be consistent.
 - Staff: That was not the intent.
- **General Requirements (Section 8.4)**
 - Staff: Responsible party definition was based on the Health Department definition. The idea is to be broader in who is implementing the ordinance.
 - Stakeholder: If you have retail, with 10 tenants, would each tenant have to turn in Recycling Plan?
 - Staff: The property owner could on behalf of the entire property, but anyone in that chain of custody could turn in a Plan as well.
 - Stakeholder: I am a small multifamily property owner, eight-plex, with City curbside recycling services with 64 gallon bins. Only attended one stakeholder meeting but has an issue with smaller properties being affected by



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the URO. Under the City services, our individual tenants contract with the City, including the garbage and recycling. In this sense, the tenants would be the responsible party. It seems a little ambiguous in this context that is a little strained for small residential properties.

- Staff: Idea of the definition is to make it broader. The important thing is that someone is reporting.
- Staff: Currently the code is written so that if property receives City service then it is exempt from Recycling Plan. If you are receiving City service, the reporting is included. If you shift to private service, you would have to switch to submitting Recycling Plan and data. Though the reporting might occur through your private hauler.
- Stakeholder: The City is not planning to take over the smaller properties.
- Staff: Not a decision for the City to make, a decision for Council to make.
- Stakeholder: Where did the 5000sq.ft. or more come into play?
- Staff: This was part of the original discussions when establishing the phase-in dates for different properties. It was looking at a reasonable timeframe, giving the properties with the smallest square footage the most time to comply with the ordinance.
- Stakeholder: Question if you have talked to any of the farms, are they aware they have been cited here?
- Staff: We have had stakeholders that have said that they work with farms.
- Staff: There are venues, Sustainable Food Policy Board, and others.

• **Performance Measures (Section 8.5)**

- Staff: Properties can either go percentage based or capacity based.
- Stakeholder: When I was reading it, I was thinking what if you have a 30-yard compactor, then you would need the same type of equipment for recycling?
- Staff: The intent is that for Oct. 2014, the capacity standards are 50/50. If you have a compactor, we would be looking at the weekly capacity of that compactor. So if you had a 20-yard compactor, then you would have 80-yards of material for trash. So if that was trash, we would be looking at 80-yards of material for recycling. It can be in any type of container; however the property can meet that weekly capacity.
- Stakeholder: If we are baling, then we don't have a container. How would that work with capacity?
- Staff: We would be looking at volume equivalents; however you are diverting the material.
- Stakeholder: That is where you are getting too deep into somebody's business. They are going to work with their hauler that is going to set them up with the equipment that they need.
- Staff: It is a fundamental part of the URO.
- Staff: It was driven on stakeholder input in the first phase that said that they do not have enough space.
- Stakeholder: That came from, I think, that staff was still meeting their 50/50. It was for people that wanted to get credit for all that they are diverting.

Section 8.5.2

- Stakeholder: Part of complying with the audits are having a third-party audit, could the third-party audit be with a service provider or a zero waste consultant?
- Staff: Both of the examples of private hauler or someone in the industry would meet the intent of the third-party audit.
- Staff: If you are able to prove the diversion rate, where there was discussion about not having to comply with certain portions of the ordinance, then it gives you the 75%, 85% options.



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- Stakeholder: The dates we are looking at is 75% by 2017, basically this was our discussion based on the composting.
- Staff: Yes, that was the intent of this option.
- **Section 8.5.4**
- Staff: This is the idea of reduction and reuse credits.

- **Recycling Plan (Section 8.6)**
 - Staff: We have organics diversion as part of the plan.
 - Stakeholder: Could be solid waste?
 - Staff: In a different place I think we were discussing Annual Diversion Report.
 - Staff: We want it to make more sense for the stakeholder community.
 - Stakeholder: I would prefer that the diversion part be included in it.
 - Stakeholder: In regard to 8.6.4, this would be where I could insert my other comments. 8.6.4.1 is what says that if you are getting recycling services from the City then you don't have to submit a Recycling Plan. Then 8.6.4.2 then it says that you are required to comply with all the other pieces of the ordinance. There are a number of those pieces that do not work for small, multifamily properties. This exclusion is inconsistent with the ordinance itself. 15-6-101 subparagraph D is not consistent with the Rules. The Rules seems to say that it's automatic. I would like small multifamily properties to continue with City services, we have steep driveways and we don't have the staff to comply with other features of the ordinance. I would like there to be a statement that City services are acceptable. I would like for the City to guarantee that they will continue to make those services in the future, because it will be a mess for our tenants to contract with different haulers. I'm not sure if we could find anyone to do that. For example, the ordinance says that containers and compactors are available, and there is stuff on signage and multiple languages. I would like it to be in the Rules that the signage on the City carts is sufficient, and that the education in the City utility bill is sufficient and we don't have to have any additional materials. It's not at all clear from these Rules. I suspect that the City is providing services to multifamily properties as large as 15-20 units, maybe a staff could tell us what the number is now? I would like that to be exclusive in the ordinance. If City is not willing to guarantee that, then small properties could not comply with the ordinance.
 - Staff: The Ordinance provides our framework, and gives the Director the authority. This is articulated in the Rules.
 - Stakeholder: The Ordinance states I have to go through a process.
 - Staff: I think that is an interpretation. The Rules are clearer.
 - Stakeholder: I would like that to be clearer.
 - Staff: It is a good point.
 - Stakeholder: And we would not be required to compactors?
 - Staff: It is optional; you do not have to have compactors.
 - Stakeholder: 8.8.1 "Shall" accept compactors?
 - Stakeholder: Would an "or" make you feel better?
 - Stakeholder: How about shall ensure "any" diversion container?
 - Stakeholder: I guess, I would like a global statement that these properties are not required to go beyond what the City provides.



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- Staff: I think that is our intent.
- Stakeholder: 8.8.8.2 is what raises my antennas.
- Staff: Did you get an answer on the name of the plan?
- Stakeholder: I think that the diversion plan does broaden it; I think that it makes more sense than just recycling. You have in here feeding animals with food and that's reuse. To call it a Recycling Plan does not cover what you are trying to do now.
- Stakeholder: It should be an annual Zero Waste Plan.
- Staff: What about the people that are directly impacted? What might your constituents think?
- Stakeholder: I think that the Diversion might make sense.
- Stakeholder: We don't have an issue with Diversion or Recycling.
- Stakeholder: Your apartments have party rooms.
- Stakeholder: Yes.
- Stakeholder: If they choose to give it to people to haul.
- Stakeholder: We divert and I would like to get credit for that.
- Staff: Internally we've had discussion about whether if it's a Plan or Report. Do you have any comment on that?
- Stakeholder: I think a Plan is more engaging instead of just reporting the numbers.
- Staff: That was the previous intent. When people heard the term plan, they have been thinking of a site plan.
- Stakeholder: What are the options?
- Staff: The current staff recommendation is Annual Diversion Report.
- Staff: What I am hearing from you is that it doesn't matter what it is called as long as you know what you have to do.
- Stakeholder: Yes.
- Stakeholder: You've got other things called reports coming from the haulers.
- Staff: Consensus, Diversion Plan.
- **Recyclable & Organic Materials (Section 8.7)**
 - Stakeholder: 8.7.1 There is an example of a requirement that appears to apply to small multifamily properties but shouldn't if they have City services. 8.6.4.2 Says that we are submitting waivers and unless we do we have to have 5 streams. This is an example of language that puts a burden on small multifamily properties. Staff: Can we talk a little bit more offline? I think you bring up really good point about people that receive City service. And we need to be clearer about what is responsible and what you are not responsible for.
- **Exterior Collection Areas, Points, and Containers (Section 8.8)**
 - Stakeholder: I would like that to come out, the waivers, which are of some concern.
 - Staff: Staff just went to a multifamily property today that has 11 trash dumpsters around the property. That has one recycling container in the back corner. We want to work with properties to see what we can do. If you have another recommendation of how we can do that. We needed to put some line in the sand.
 - Stakeholder: As long as it's there, why do you care?
 - Stakeholder: No one will get a citation unless they are not making good faith efforts.
 - Stakeholder: With Code Compliance, they go out there with their book.



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- Staff: If you make that request as part of the report, then it gives you an out.
- Stakeholder: If you're building a new complex, that's easier.
- Stakeholder: Will code say that you have to have the number in there to be in compliance? What if there is some subjectivity to it? There are many different configurations. It would be good to have good faith without the hard and fast numbers.
- Staff: Well, what is reasonable? We are thinking in multifamily situation? How far are they going to be willing to walk?
- Staff: This was a long drawn out conversations with the Commissioners.
- Stakeholder: Putting this in Rules is not going to be hard and fast.
- Staff: With the Code official, there are plenty of steps before Code goes out. We will specifically identify what
- Stakeholder: Engraining subjectivity in the inspectors.
- Section 8.8.3.5.1**
- Stakeholder: In the change to compostables to organics I think there is an unintended consequence. We have inventories of signs that say, "compostables," and changing it would be re-decating hundreds of containers.
- Stakeholder: We would prefer organics on requirements on properties instead of composting be the requirement. We happen to do composting. We like to put a sign on our containers that says compostables. We don't want to have to go out and change the labels.
- Stakeholder: Could it be an and/or?
- Staff: Yes.
- Staff: We have slightly modified that.
- Staff: I would recommend that we have exterior dumpster and containers.
- Stakeholder: I have concerns about 95-gallon cart are not going to fit with the 18-inch cart.
- Staff: Let's go back and look at what the industry standard is.
- Stakeholder: Is a baler a container? It could easily be in the group of containers.
- Staff: No, because it is not publicly facing.
- Staff: Another change in this section was the language. Spanish is substitutable for an alternate language.
- Stakeholder: 8.8.3.2 about the signs and labels, there should be something on there that the signs are weatherproof. Anyone could be slapping a sign on there.
- Staff: There is a section that discusses weatherproof or durable signs.
- Staff: We are providing the 18-inch signs right now and we have downloadable material as well.
- Stakeholder: I would think telling people to have an intact sign would tell people enough.
- Stakeholder: It might be helpful to have that it was provided by the City.
- Stakeholder: If the City has downloadable stuff then that can be available to properties.
- Section 8.8.4**
- Staff: Notifying of waivers.
- Section 8.8.6**
- Staff: We will be defining vector in the Rules.
- Stakeholder: Who is responsible for someone taking the effort? If someone was to go and steal the trash? The property owner does not want that but how could we prevent that?
- Stakeholder: There is an issue of theft of recyclables. People cannot go through your trash. There is another ordinance that talks about that.



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- Staff: The intent is to have the containers meet industry standards.
- Stakeholder: The City doesn't want people going through their carts picking out aluminum cans.
- Stakeholder: In the off chance that something gets stolen we cannot be responsible of it. I would like to strike stolen from the Rules.
- Staff: We will take that to the Law Department.
- Stakeholder: You wouldn't it to have people to have a locked bar because that is an extra service cost. They are trying to conserve their capacity. You don't want to have a blanket requirement that they all need to be locked.

- **Interior Collection Areas, Points, and Containers (Section 8.9)**
 - Staff: If there are containers in indoor common areas, they should be paired. If you have landfill trash container, it should be paired with recycling.
 - Stakeholder: Is organics an issue with your containers again?
 - Staff: These are our recommendations.

- **Promotion and Education (Section 8.10)**
 - Stakeholder: This is another section that would be problematic; hopefully City signage that is provided is sufficient. If something more is required I'd like to know what it is.
 - Staff: We will look at that.

- **Self-Haul Semi-Annual Quantity Report (Section 8.11)**
 - Staff: There are no changes to that section.
 - Stakeholder: Diversion Plan is due January 1 and semi-annual is July 31.
 - Staff: Diversion Plan is February 1.
 - Staff: The dates combine with the Hauler Ordinance. Is your recommendation that the Self-Hauler reports on the Annual Diversion Plan?
 - Stakeholder: Well the self-haulers could be me taking composting to the compost facility? Does this apply to big or small business? Filing a report twice a year?
 - Stakeholder: If you are hauling your own items, no.
 - Stakeholder: When this started this was that property owners were required to do haulers report and annual report. We were able to work things out that the property owners no longer have to report haulers information.
 - Staff: I think we can simplify that and work something out.

- **Waiver Process (Section 8.12)**
 - Staff: The idea in this section is to consolidate.
 - Staff: The expectation is that diverting organic materials. What can stakeholders say about that?
 - Stakeholder: We did a pilot program, it was not good for us, it was very expensive, it was a mess. I know Adam's team can handle it, but it needs to be affordable for us. I brought it up every time, if it is in the same place as it was. It cost \$7,000-\$10,000 more a year?
 - Staff: Should it be in relationship to a cost to recycling and organics?



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- Stakeholder: I don't know how it worked out; there are a lot of situations that have cost increase. All AISD is on three stream now; we've added lots of capacity. It's getting cheaper, but we do net-zero in a lot of cases. There are some instances that are going to be more expensive.
- Staff: We've talked about the distance from normal routes.
- Staff: Are there any specific cost drivers? Frequency and quantity? The goal is that we are trying to identify a waiver if the organics community could not do what?
- Stakeholder: There are a number of factors, lack of effective collection, the price being prohibitive, and the third one is the health and safety issues that can come in that make it unfeasible to do it.
- Staff: Help me better understand the price prohibitive nature. I need to identify criteria. What would criteria be?
- Stakeholder: If you waive everybody that complains about the price...
- Stakeholder: A percentage, organics isn't an issue for us, but we've talked about it with recycling is the best would be a net-zero. But as a percentage of your cost, it might be 102% of what it was year-over-year, is it a percentage increase year over year? And what that percentage is?
- Stakeholder: Our bottom line is small, and any increase is something that has to be minimal.
- Staff: Is it related to the total bill? If it is total bill plus 10%?
- Stakeholder: 10% is ok.
- Staff: What about 15%?
- Stakeholder: No.
- Staff: For some businesses, the organics piece is a large percentage of what they produce. The other caveat is that compost is the largest methane gas generator in the landfill.
- Stakeholder: We don't fill up a slosh bucket in a day, if you are looking to say that a certain percentage of your waste. If you can demonstrate that it's not 25% or 10%, then they don't have to be required. The fast food audit proved that it was not what they thought. The policymakers spoke when they didn't know what they are talking about.
- Staff: I think a percentage of the waste stream we could talk about.
- Staff: Strategic Plan and Master Plan, which is what they base their knowledge off of.
- Stakeholder: First of all, you've all heard me in several meetings that organics should be pulled out and addressed in a separate section. I think that while we all understand the intent as we've gotten deeper into the weeds that it has become self-evident that it is such a specialized issue that it has more into it. I think our elected officials would understand that.
- Stakeholder: I want to second that motion.
- Stakeholder: How much is too much? Would you pay 10% on any additional product? This should be based on some sort of index, a cost of living index. That's a way to run the businesses and the restaurants out of town in a minute. Does that mean that the haulers need to figure out a way to make it easier for the restaurants? There are intricacies to this, such as health, etc.
- Stakeholder: Do the customers say that you should pay extra?
- Stakeholder: They thought we should do it, but not pay extra.
- Stakeholder: You need to look at profit margins.
- Stakeholder: I would like to do another pilot program that would be with another provider.



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- Stakeholder: We do organics pick-up, we have about 100 customers, I understand the pricing. However, there are a lot of restaurants that do it, and they like it, their patrons like it. Hopdoddys is adding new restaurants and they're growing. As an industry we have to handle that weight. We got into the hauling business because no one else wanted to do it. It's been a learning process, but we've done it for about 3 years now. And they are saving money. So I understand the concern but I would challenge it, if you don't want to do it, I would say it. But if you do, then I would say let's talk about it.
- Stakeholder: How many restaurants are in Austin? About 1,250. Are there trucks available for that?
- Stakeholder: Absolutely.
- Stakeholder: If a service is being rendered, it's being paid for. If we are going to do the original intention to this, I think the best idea is looking at the expansion of the industry, rather than looking at slicing the potential market. Let's see if we can get to the critical mass. We've got five school districts in Central Texas that have three stream. Let's see what the market could do before we say anything.
- Stakeholders: Percentage of food scraps, 25% organics, food service license.
- Stakeholder: If it was a small issue, we need to look at the landfill.
- Staff: If there is a move to change the organics, then that would need to go to Council. In terms of a waiver process, if we do not have a competitive service, cost competitive, then we need a waiver process, we need to identify criteria. What I heard so far, effective collection, frequency, space limitations, cost prohibitive, percent increase in total collection cost, and 10% increase and no more that depends on data collection.
- Stakeholder: Price is not anecdote, it is universal. This is the same for recycling, we've talked about how much is percentage increase it is becoming a net-zero or savings for us. I would submit that doing something like this would make sense for recycling. If you can say that here is a proposal with no organics diversion, and if there is a 10% differential or more, I realize that it is a different animal and I don't want to be ambitious. It is giving you all incentive.
- Stakeholder: Those incentives exist to provide our services.
- Stakeholder: We estimated that if we have to go three stream, then it would be 30,000 a site, before getting into the 10%. If you are franchise owner, they own almost 40 sites, that is a hell of a hit. We haven't even talked about 10% of this deal. If some can live with 10%, then that's ok, but you have to look at the whole picture. Pulling composting out and dealing with it as a separate issue then that could be one option. Our goal is to be in compliance, but it's much easier with certain recyclable materials. If my guys have trimming of trees, can they put that stuff into the food?
- Staff: Yes.
- Stakeholder: I don't know if they can even do that but I wanted to ask.
- Staff: Five years ago when the ordinance was just beginning to be developed, it wasn't until the ordinance and a lot of discussion with City staff and stakeholders. Within a year of passage of the ordinance you saw at least 2 single-stream MRFs pull up. What we have been told, is that they need proof to their investors that they need demand. Once you place the ordinance and you create the demand then the services will follow and the market will follow. It's not ideal, but it's what's we've seen.
- Stakeholder: I thought Stakeholder was saying, that once it becomes effective. We've got some stuff going, but when kick-off time comes we've got stuff to worry about.
- Staff: We're hearing that. By 2016, it's 5000sq.ft. and above and less than 5000sq.ft. is 2017.



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- Stakeholder: First of all, I fully concur with your theory of the market responding to it. I think everyone in the room would respond to that. It would be if it is cost acceptable. I don't know if we've put a finger on how to judge that. What I would be trying to get my head around is that I think we might be looking at higher cost of nonorganic materials. It's really difficult to plan. You need to help us understand how to address timeline and allow for market response, and let the costs be recognized and absorbed.
- Stakeholder: We are working on one right now.
- Staff: We are working on a Commercial and Multifamily Rebate to provide a rebate to properties that is not currently affected by the ordinance.
- Stakeholder: What is disturbing is not having things concrete, but I think it would be of value to have the organics left unstated until we have information until we can see that we can move forward. We are moving in the right direction for recyclable materials, I think there is not enough information to move forward with the organics side of it until we are sure.
- Stakeholder: To address Stakeholder's concern, and I know Staff doesn't like wording of this nature, as part of the waiver process, could we consider undue financial hardship?
- Staff: We need to look at criteria of undue financial hardship. What I've heard is the percent increase, or percent decrease in net profit. It terms of how do we quantify and make sure that we are fair. Consistently applied.
- Stakeholder: You've set out some goals in the ordinance, why do you care if I make my 75% with recyclables?
- Staff: That is the intent.
- Stakeholder: If you can meet goal by the timeframe, then you are keeping 75% of the stream that is not going into the landfill now. I like the idea of making the organics phase three and seeing how it works with collection. The recycling thing is going to be mandated on restaurants, it is dealing with a lot. We are going to do it with a smile on our face. But to throw the compostable problem in, there is going to be insect issues, locked containers and security problems. Space issue is another thing.
- Stakeholder: I thought 75% performance based applies to food.
- Staff: Yes that is the intent.
- Stakeholder: There are a lot of cities that are doing organics successfully, San Francisco, Oregon, Washington, etc.
- Staff: Texas has a lot of situations that do not compare to West Coast. One option is looking at changing in phase in. I will have my staff look at cost comparisons and rebate structures.
- Stakeholder: I want to acknowledge staff and am happy -- I respect the work that has gone into it. The definition for hotels is still not evident; it does not add any clarity to that. Out of everything called out, hotel/motel.

- **Compliance and Enforcement (Section 8.13)**

- 8.13.7.4 has been relocated from section 8.4.4 in the adopted rules.

- **Ordinance Draft Amendments**

- Right of Entry (15-6-82)



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- No discussion.
- Affected Premises (15-6-91)
 - No discussion.
- Recycling requirements for Affected Properties (15-6-92)
 - No discussion.
- Education (15-6-93)
 - Stakeholder: We would like “compostables” signage to be consistent with the Rules.
- Recycling Plan (15-6-101)
 - No discussion.
- Biannual Quantity Report (15-6-102)
 - No discussion.
- Notice of Contract Termination (15-6-103)
 - No discussion.
- Notice of Change of Provider (15-6-104)
 - No discussion.
- Registration of Recycling and Composting Haulers and Recycling Providers (15-6-105)
 - No discussion.

Conclusion

Staff wrapped up the meeting by letting stakeholders know the schedule of additional meetings. Staff will post meeting minutes on-line and notify stakeholders of upcoming meetings. Stakeholders were encouraged to visit the project website and to contact staff with any questions or comments.



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Additional board notes:

Organics Waiver Discussion:

- Potential Issues:
 - Frequency and space
 - Health and safety
 - 1250+ restaurants in Austin
 - Cost Prohibitive
- Options:
 - Change place in ordinance to phase three, implement additional pilots
 - Prove the percentage stream of organics is minimal (<25%)
 - Demonstrate that it is cost prohibitive for affected food establishment
 - Collection schedule and timeframe
 - Percent increase to total collection cost (10%?), Investigate Cost-of-Living Index
 - Staff to look at data