



Subject: Universal Recycling Ordinance Phase 2 – Administrative Rules Development
#12 Stakeholder Group Meeting – Other

Date: December 11, 2013 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 all URO Stakeholders to discuss the Universal Recycling Ordinance (URO). The purpose of this meeting was to present a summary of all issues documented and discuss recommended amendments received from stakeholders. The goal was make sure that staff is on the right track to begin editing the rules.

Stakeholders were provided with a handout of the primary emerging themes from the previous stakeholder meetings. Stakeholders then introduced themselves. Staff walked meeting participants through the meeting agenda.

Part One – Staff presented Meeting Goals and Stakeholder Process Overview

Staff presented the meeting goals:

- to present a summary of all issues documented
- discuss recommended amendments received from stakeholders, and
- make sure that staff is on the right track to begin editing the rules.

Stakeholders were asked for their input on Universal Recycling Ordinance related challenges or opportunities on sections of the Administrative Rules (see meeting backup presentation for reference).

Part Two – URO Phase 2 Facilitated Discussion on Key Findings

Participating Stakeholders shared their input on the following proposed solutions and amendments to the URO Administrative Rules:

Responsible Party (Section 8.2)

- Stakeholder – I have one client who is responsible for subleasing the property; the consultant then holds the responsibility; I would prefer less definition to keep the responsible party broad.
- Stakeholder – Master lease owner would be the tenant.
- Stakeholder – What is a business facilitator? Facilitator is not the best word.
- Staff – What is ultimate expectation of the property owner?
- Stakeholder – What is this designation? Where does that take place? It is a notary that has to be filed with the City or does it have to be on the plan? Property owner sign off that they are the designee? Back to the problem with the original ordinance. Whoever you are holding responsible; seems like the person that is responsible is the person that does the plan. Person could be a property owner or a tenant. Could be part property owner but not full property owner. Plan relates to one address. That is who you hold accountable.
- Stakeholder – New situations arise, sometimes they would be captured under umbrella plan; seems like we would want amendment to be as broad as possible that could be changed more readily under administrative process.
- Staff – You're saying to keep it broad.





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- Stakeholder – Property owner on this ordinance is the ultimate deal; why not put property owner and business; that would solve property owner and/or designee; that would take care of tenants if you change that language there then that would solve a lot of problems. Business designee vs. property owner.
- Staff – Part of the team that's enforcing this that is helping people comply with the ordinance, the challenge I have with a broad definition is that there are multiple parties that are then affected, and then who is ultimately responsible. One option is that if it comes to a citation that we then cite everyone in the chain.
- Stakeholder – Well who is it in the Health Department?
- Staff – Property owner and/or business owner; there are challenges trying to track down a property owner; but when there is a building onsite we typically go after the business owner. If you take them to court then the business owner is more likely to show up.
- Staff – So are you defining that in the rules?
- Staff – It is not that definitive. It is property owner or operator. The person in charge. It's not as definitive as people think its need to be. The judge is ultimately responsible for determining that.
- Stakeholder – How about holding the person responsible that generated the waste?
- Staff – How do we know who generated the waste? Very difficult in a multitenant situation.
- Stakeholder – Important to make the decision for who is responsible for submitting the plan and those requirements. All properties must have recycling when people don't need to recycle. Reporting functions is the important portion.
- Staff – One of the things I want to discuss is who is implementing the recycling program. It is done at a property management level in many cases. Maybe it is just an oversimplification and we should just have latitude to have the authority cite who is easiest to deliver the citation to, and/or anyone in the chain of custody of the property
- Staff – A judge will do the same thing. They will decide.
- Stakeholder – Who will sign off on the plan? Whoever that is, will be responsible.
- Staff – We do not care who signs the plan as long as it's accurate and is submitted on time.
- Staff – We are comparing those plans to an affected list of those properties. We know who owns the properties and Health has a list for food permits.
- Staff – Austin Energy has the information. It's all triple-net, they have that list.
- Stakeholder – Currently, the Downtown Refuse Contract District is for the billed party is the electric meter. Staff – I may or may not have any relationship with the waste and recycling services that are applied to that site. I think there is a multipronged approach.
- Stakeholder – Who is the responsible party? If is it the choice of the property owner, if it is the responsible party that signs the plan.
- Staff – That is how we do this as the Health Department on the form.
- Staff – If there is someone else that has not submitted the permit, then where do you go?
- Staff – The utility is a good start, the property owner, you may have to get the police involved and that is who you would file against.
- Staff – Language that is connecting back to the responsible party on the plan.
- Stakeholder – I'm worried that it may be misconstrued that the hauler might be considered the responsible party.
- Staff – Broader would address what you are discussing.





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- Stakeholder – If you have one recycling plan per address, then they file the plan, who is to say that they are doing what they are really doing? The City does not have enough staff to go out and see if they are doing what they say they are doing. There are a lot of unknowns from the property standpoint that they are recycling properly.
- Staff – We are looking for at least one recycling plan by property. We would like the recycling plan to be reflective of the property as a whole. The goal is to look at the community as a whole. At this point, there is not a requirement for participation for recycling; the property is then incentivized to have their tenants or employees use that program.
- Stakeholder – Ultimately it is the City's request; instead of the City putting the responsibility on the business, why doesn't the City do their own recycling program and then you would have that.
- Staff – Is that sustainable?
- Stakeholder – Probably not.
- Stakeholder – We are going to do this, and we know we are going to do it. The fallacy is that we are trying to write too many details. One size doesn't fit everything. Use Health Department if you want to, staff should insert some sort of alternative compliance, then staff does the following to protect the City.

Extent of Access Provided (Section 8.3)

- Stakeholder – You make it consistent; whoever is the responsible party to then hold them accountable for access, plan, etc. Shifting to property owner to responsible party, which makes a whole lot more sense.
- Stakeholder – You are going to run a fowl making someone responsible other than the property owner, the City only really has legal authority to name the responsible party the property owner.
- Staff – We will work with the Legal Department to figure out the legal bounds.
- Staff – Is it to tenants and employees? Or does it extend further to customers?
- Stakeholder – What is access?
- Staff – The reason that we are bringing this up is that some industry types had concerns; currently what we have is a set of rules that has access that is provided in the back and front.
- Stakeholder – Your comment is not consistent with the hotel/motel meeting that we had. You mentioned that it is not required for guests and customers and only in the back.
- Staff – In the current set of rules there is inconsistency, there is discrepancy in the current set of rules and ordinance. What makes sense? Which way do we go?
- Stakeholder – Putting a recycling and composting bin inside of every hotel room? Are you going to put recycling and composting in the middle of the W hotel or restaurant?
- Stakeholder – Where do you draw the line? If you put customers on there then that is a big deal.
- Stakeholder – The URO is general for a reason.
- Stakeholder – Common area recycling, in multitenant properties the owner will have to provide common area recycling containers? 25ft?
- Staff – So, I hear support for making rules consistent with the ordinance. Tenants and employees only and not customers. Is there any interest/support for phasing that in over time?
- Stakeholder – I would support that. I think the bigger interest is supporting zero waste, and having customers recycling would be included in that.
- Stakeholder – 70% of my customers leave their premise, they take their food with them to go.





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- Stakeholder – We've found through a lot of these meetings that a lot of these businesses are going above and beyond; we may look at that in the future as we assess.
- Staff – Service capacity may be leaving it open and that customers are not required, they may need to insert bins for their customers to reach that service capacity requirement.

Reduction and Reuse (Recyclable Materials)

- Staff – Section 8.7 intent is a responsible party can report on a recycling plan items that are being diverted by other means. Responsible parties could report on other activities that they are doing, including reduction, reuse, donation, salvage.
- Staff – Is that clear?
- Stakeholder – If I had 10 tons of waste, and I reuse 5 tons and recycle 5 tons, then I would get credit for all of that?
- Staff – Yes.
- Stakeholder – You may be able to get to packaging.
- Stakeholder – Extra credit should not be the terminology, they should just get credit for what they are doing.
- Stakeholder – If you're diversion rate is up near 80%, if you're baling plastic that is above the current requirements, is this credit? Can you go above and beyond in baling plastic?
- Staff – Specific section is 8.7.1.2, if you are at 80% or 90% then you should not feel constrained to recycle a little extra material.
- Stakeholder – Questions on the audit process and reporting?
- Stakeholder – Compost becomes so heavy, if we had the hierarchy in place then we could get rid of a lot of that weight of what is leftover.
- Stakeholder – You might want to put EPA in front. I would go back to keeping it simple. If this is Zero Waste ordinance, you don't really care what doesn't go if it doesn't go, if it gets me to 70% then you really don't care. You are trying to micromanage and tell me what to recycle. The concept is Zero Waste, is it not recycle paper ordinance, make it easy for people to reduce what they are putting in the landfill. Then they have to be accountable to you. Easier to educate and achieve if you keep it simple.

Baled and Backhauled Materials (Section 8.5)

- Staff – 8.7 is intended to capture those things, they are required to report that on the Recycling Plan if you want to report that.
- Staff – A correction here is that the language should be clarified in 8.7
- Stakeholder – Why does the ordinance have to speak to baled or backhauled? Single-stream is another term for recycling? If it is really someone who doesn't understand recycling?
- Staff – I think it is the level of dumpster service, and for reporting.
- Staff – This would be an amendment to the rules not the ordinance.
- Stakeholder – Organics is a type of recycling, baling is recycling, single-stream is a type of recycling. Someone put it in there but it doesn't make any sense.
- Staff – The intent is that we give credit to people that are recycling.
- Stakeholder – What about businesses that divert everything? 95% of what they take in goes out the door? So they are grandfathered in?





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- Staff – They have a proportion that goes to the landfill, but that is a direct cost for them.
- Stakeholder – On the backhaul, our plan would be to report how many bales they send us? Where does it get diverted from?
- Staff – I don't know if we can be prescriptive for unique situations. I go back to intent, what is being diverted from the landfill. I think you could have a defensible argument.

Recycle Plans – Multiple Locations (Section 8.5)

- Staff – The question is how to do that effectively. This is what we want to do because we want to make the recycling plans as simple as possible. I think a plan form that allows you to insert multiple addresses, that may limit our ability, but we are trying to find a simple solution that would work. I'm not sure if it's a rules propagated solution, we have a contractor, Emerge Technology, which will work for our plan needs and makes it simple for businesses.
- Stakeholder – I would leave it as flexible as possible. Staff – Our commitment is to make this as easy as possible to minimize the impact to the business community.
- Stakeholder – As far as the form goes, I think this is a good thing because a lot of these other ordinances, the ECAD and commercial irrigation ordinance, you fill one form out and all of this information goes to one property.
- Staff – intent of plan form is to only fill out the information once, all online to eliminate physical paper.
- Staff – staff is committed to ensure that functionality is made part of the recycling plan form. Including flexibility and multiple locations.

Exterior Containers (Section 8.8)

- Stakeholder – Concerns me that existing properties are allowed to have constraints that are not allowed for 25ft requirement.
- Stakeholder – It could be an access thing, our truck may not be able to get to it
- Staff – In 8.8.9 we have a waiver process in the recycling plan form and work with the alumni to address the challenges with properties with site plan limitations, obstructions, etc.
- Staff – And this would not replace that opportunity, it would just be an addition to the waiver.
- Stakeholder – Stand-alone recycling containers? We don't have trash containers next to our stand-alone recycling containers?
- Staff – That meets the ordinance.
- Staff – The tenants in multifamily, convenience is more important to them because they are taking out the recycling and trash. If access is not as convenient, I would suggest that the complex provide additional education or signs, for a conditional waiver.
- Stakeholder – What if PDRD doesn't give up impervious cover? Even for an ordinance? Some owner could say they need more concrete than they need? Who is going to monitor that?
- Staff – We have been working with Watershed Protection. There would be a limitation to the amount of impervious cover that the owner could take away.
- Stakeholder – What about right-of-way access for pads?
- Staff – This is permitting issue, so you would be requesting a waiver, we are working on that separately. You can request a waiver until something is worked out with PDRD.
- Stakeholder – I have tenants that don't have room for a trash dumpster much less recycling dumpster.





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- Staff – There are haulers in the room that could help you answer that.

Interior Collection and Containers (Section 8.9)

- Stakeholder – Most of the properties I was thinking about are more walkable, lifestyle centers and it's more of the collection points for the exterior of the tenant. Not the interior containers. How many am I required to put onsite? Who is liable by the parcel owner? I don't know how many that equates to.
- Staff – Would it be OK if we talk with you about this after the meeting? If there is some specific language in the rules, then we can discuss it.
- Stakeholder – Why wouldn't 8.82 be worded similarly to 8.92 to whenever vs. shall be mandated format?
- Staff – Intent is clarifying the difference between exterior containers and what needed to happen in common areas and we are trying to stay out of operations of businesses but we want to give some guidance and best practices.
- Staff – We are requiring exterior and interior rules that would be the same.
- Stakeholder – Is there ordinance language associated with that concept?
- Staff – There are property types associated with that inside the building. We are trying to make sure that the rules are consistent.
- Stakeholder – The rules have to relate specifically to the ordinance, is there ordinance language on interior containers?
- Staff – I think it flows from onsite recycling required.

Data Source to Identify Responsible Party

- *No discussion from stakeholders*

Organics Diversion (8.8)

What is a reasonable minimum standard?

- Stakeholder – Waste permit holders, which is so different from a multi-family property. I would recommend food service permit holders out of these owners. They are so unlike anything else.
- Stakeholder – We have been running a pilot composting program and it is an industrial semi-conductor site, we have composting from our employees. Getting employees to put out food scraps costs me a bunch of money because I have janitors and have to pay them and will be ending it soon.
- Stakeholder – We have service ware that is not compostable. Employees will not pay for it. Food permit holders do have the ability to do it. But everyone else won't have a lot to contribute.
- Stakeholder – Only food permit holders are required to do it.
- Stakeholder – In all other context we've said property owner. This is one context where it is business owner. It could be addressed separate from the URO.
- Stakeholder – Wasn't that the original intention of Phase I and Phase II? We've broke off Phase II to discuss organics because it was so different.
- Staff – Phase I was properties that we understood. Office and residential we understood. We punted on retail and industrial and food service which have more complicated waste streams and separated them out.
- Stakeholder – The problem is that it is stating that they have to do it. We have some food waste, but we do not have enough to compost; Stakeholder – I agree to take this whole piece of it out of this ordinance. The Health Department





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already has that list of people. It could be another ordinance that could be just for organics recycling. The main piece of recycling is from the building owner itself that is the diversion that you are trying to go for.

- Stakeholder – If you look at 15.6.91 Section E, the owner of a premises, they must follow certain mandates that they have no control over. Am I correct in my interpretation of it? The context changes dramatically related to food because it is not the property owner, it's the business. It's not adding up for me and makes it difficult for the property owner.
- Staff – We will need to look closer at E because I don't think the intent was for that specific wording and how that intersects with that property owner. The idea is having a Zero Waste ordinance that has the sections underneath it that plug in. If I remember correctly the Policy team would develop a separate section.
- Stakeholder – I think the Council would support a well-laid out plan.
- Staff – One reason to leave it in this ordinance you can take credit for all types of diversion and not just recycling.
- Stakeholder – Property owner and business owner dynamic is an issue for me and a lot of people that we represent.

Weekly Service Capacity

- Stakeholder – How are you going to make percent of organics? Percentage of overall weight would be the best.
- Stakeholder – Is 50% volume, tonnage, type of materials?
- Staff – It is a capacity requirement. Stakeholder – If you get 16 yards of trash, then you will need to have 16 yards of recycling? What if they cannot reach 50% recycling?
- Staff – There is a waiver and exemption piece to address those.
- Stakeholder – It goes back to how much space they have, we are looking at our customers and cannot fit this with one-size-fits-all.
- Staff – We are looking at meeting the intent of the ordinance and hopefully there is a way to phase that product line or redesign the product.
- Stakeholder – It also concerns me about that the City does not have the staff to enforce these things, it eventually will get to the point where people will realize that they are not being checked and then they will not follow the ordinance.
- Stakeholder – Reuse and reduction should count. You have to make it flexible as possible.

Food Hierarchy

- *No discussion from stakeholders*

Conclusions and Next Steps

- Meeting potentially cancelled for URO Phase 2 Committee Meeting on December 17
- Staff asked stakeholders what might be the best way to promote the food hierarchy
- Staff will work with Legal, looking at example from Health, draft document for Administrative Rules changes
- Staff will tentatively host meeting in January to review drafted document

