

ORDINANCE NO.

AN ORDINANCE AMENDING CITY CODE CHAPTER 15-6 RELATING TO SOLID WASTE, RECYCLING, AND COMPOSTING REGULATIONS.

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

PART 1. Section 15-6-1 (*Definitions*) of the City Code is amended add definitions for manager, premises, and responsible party 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) **CONTAINER** means a permanent collection receptacle made to collect and contain solid waste.
- (7) **DEPARTMENT** means the Austin Resource Recovery Department.
- (8) **DIRECTOR** means the director of the Austin Resource Recovery Department.
- (9) **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.

- 1 (10) HAULER has the same meaning as SERVICE PROVIDER.
- 2 (11) HAZARDOUS WASTE means any solid waste identified or listed as a
3 hazardous waste by the administrator of the United States Environmental
4 Protection Agency in accordance with the federal Solid Waste Disposal Act,
5 as amended by the Resource Conservation and Recovery Act, 42 United
6 States Code, §§ 6901 et seq.
- 7 (12) LIQUID WASTE has the same meaning as the definition contained in 30
8 Tex. Admin. Code § 330.3.
- 9 (13) MANAGER means a person who handles the day-to-day operations of a
10 premises on behalf of an owner.
- 11 (14) [~~13~~] MEDICAL WASTE has the same meaning as the definition
12 contained in 30 Tex. Admin. Code § 330.3.
- 13 (15) PREMISES means real property and any improvements on the real property.
- 14 (16) [~~14~~] PRIVATE SOLID WASTE COLLECTION SERVICE means the
15 business of collecting, removing, or transporting solid waste from any
16 premises within the city by a person for a fee.
- 17 (17) [~~15~~] RECYCLABLE [~~R5~~RECYCLABLE] MATERIAL means non-
18 hazardous material, including compostable material, that has been recovered
19 or diverted from disposal in Municipal Solid Waste (MSW) facilities for
20 purpose of reuse, recycling or reclamation and a substantial portion of which
21 is consistently used in the manufacture of products, which may otherwise be
22 produced using raw or virgin materials.
- 23 (18) [~~16~~] RECYCLING means a process by which materials that have served
24 their intended use or are scrapped, discarded, used, surplus, or obsolete are
25 collected, separated, composted, or processed, and returned to use in the
26 form of raw materials in the production of new products. The definition of
27 recycling does not include waste-to-energy processes, placement in a
28 disposal facility, or use as daily cover in a disposal facility.
- 29 (19) RESPONSIBLE PARTY means: (i) the owner of a premises or an employee
30 of the owner or (ii) the manager of a premises or an employee of the
31 manager.
- 32 (20) [~~17~~] SERVICE PROVIDER means a person who is compensated for the
33 removal or transportation of solid waste, compostable material, or recyclable
34 material, for a fee, from any location within the City of Austin. Services that

1 are subject to State or Federal requirements related to the transportation of
2 medical or hazardous waste, including oil, liquids, or grease are excluded.

3 (21) [(18)] SOLID WASTE means rubbish, refuse, and other discarded
4 materials.

5 (22) [(19)] SOLID WASTE SERVICE means collection or disposal of solid
6 waste, collection or processing of recyclable material, litter abatement, street
7 cleaning, or household hazardous waste disposal.

8 (23) [(20)] WASTE-TO-ENERGY (WTE) means a process of generating
9 energy directly from materials through a process that yields fuel or heat.
10 WTE is not diversion, nor is it supported by the Department's Master Plan
11 but it is considered an alternative disposal technology that must include the
12 life-cycle effects on the environment.

13 **PART 2.** Section 15-6-81 (*Applicability*) of the City Code is renumbered as Section 15-
14 6-80 and a new Section 15-6-81 is added to read as follows:

15 **§ 15-6-81 RESPONSIBLE PARTY GENERAL RULE; EXCEPTION.**

- 16 (A) With the exception of Subsection (B), a responsible party shall comply with
17 any duty that is imposed on the responsible party in this Article 5.
- 18 (B) A tenant or lessee on a premises who contracts or arranges with a hauler for
19 solid waste service or who self-hauls is deemed the responsible party with
20 respect to that portion of the premises over which the tenant or lessee has
21 care, custody, control, or possession.

22 **PART 3.** Subsection (C) of Section 15-6-82 (*Right of Entry*) of the City Code is
23 amended as follows:

- 24 (C) An inspector shall make a reasonable effort to locate the responsible party
25 [~~owner or other person having control of the building~~] and request entry to
26 the premises.

27 **PART 4.** Section 15-6-91 (*Affected Premises*) of the City Code is amended as follows:

28 **§ 15-6-91 AFFECTED PREMISES.**

- 29 (A) The responsible party for [~~An owner of~~] a premises of which all or part is
30 used for multi-family residential use shall ensure that tenants and employees
31 have access to on-site recycling services described under this article, for that
32 portion of the premises that is multi-family residential, effective:

- 1 (1) immediately for premises with [~~more than~~] 75 or more dwelling units;
- 2 (2) October 1, 2013 for premises with [~~more than~~] 50 or more but less
- 3 than 75 dwelling units;
- 4 (3) October 1, 2014 for premises with 25 or more but less than 50
- 5 dwelling units;
- 6 (4) October 1, 2015 for premises with 10 or more but less than 25
- 7 dwelling units; and
- 8 (5) October 1, 2016 for premises with 5 or more but less than 10 dwelling
- 9 units.

10 (B) The responsible party for [~~An owner of~~] a premises of which all or part is
11 used for office, medical office, medical facilities, religious assembly, or
12 private educational facilities shall ensure that tenants and employees have
13 access to on-site recycling services described under this article, for that
14 portion of the premises that has one or more of the uses described in this
15 Subsection (B), effective:

- 16 (1) immediately for premises with more than 100,000 square feet of the
- 17 non-residential uses described in this Subsection (B); and
- 18 (2) October 1, 2013 for premises with more than 75,000 square feet and
- 19 up to 100,000 square feet of the non-residential uses described in this
- 20 Subsection (B).

21 (C) The requirements in Subsection (D) of this section are in addition to the
22 requirements in Subsections (A) and (B) of this section.

23 (D) The responsible party for [~~An owner of~~] a premises of which all or part is
24 used for non-residential use, including but not limited to those uses
25 described in Subsection (B) of this section and also including hotels and
26 lodging, grocery stores, and commercial businesses, shall ensure that tenants
27 and employees have access to on-site recycling services described under this
28 article effective:

- 29 (1) October 1, 2014 for premises with more than 50,000 square feet of
- 30 any type of non-residential use;
- 31 (2) October 1, 2015 for premises with more than 25,000 square feet and
- 32 up to 50,000 square feet of any type of non-residential use;

- 1 (3) October 1, 2016 for premises with more than 5,000 square feet and up
2 to 25,000 square feet of any type of non-residential use; and
3 (4) October 1, 2017 for all non-residential premises that are not described
4 in (D)(1) – (3) of this subsection [~~regardless of size~~].

5 (E) In addition to complying with the other requirements described in this
6 section, the responsible party for [~~owner of~~] a premises of which all or a
7 portion has use attributable to a food enterprise that requires a food permit
8 under Section [10-3-61](#) (*Permit Required*) of this Code to operate shall ensure
9 that employees at the food enterprise have access to on-site diversion of
10 organic [~~recycling of compostable~~] materials effective:

- 11 (1) October 1, 2016 where the square footage in a certificate of
12 occupancy, food enterprise permit, or similar document issued by a
13 government entity for the food enterprise is [~~exceeds~~] 15,000 [~~5,000~~]
14 square feet or more; [~~and~~]
15 (2) October 1, 2017 where the square footage in a certificate of
16 occupancy, food enterprise permit, or similar document issued by a
17 government entity for the food enterprise is between 5,000 square feet
18 to 14,999 square feet;
19 (3) October 1, 2018 where the square footage in a certificate of
20 occupancy, food enterprise permit, or similar document issued by a
21 government entity for the food enterprise is between 1,000 square feet
22 to 4,999 square feet;
23 (4) October 1, 2019 for all food enterprises that hold a food enterprise
24 permit and that are not described in (E)(1) – (3) of this subsection.

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 (G) A responsible party for an affected premises to which an effective date in
30 Subsections (A) – (E) of this section applies and who begins operations after
31 an applicable effective date shall comply with this ordinance on the date the
32 affected premises is issued a certificate of occupancy.

1 **PART 5.** Section 15-6-92 (*Recycling Requirements for Affected Premises*) is amended as
2 follows:

3 **§ 15-6-92 DIVERSION [~~RECYCLING~~] REQUIREMENTS FOR AFFECTED**
4 **PREMISES.**

5 (A) On-site recycling and organic material diversion services required under this
6 article shall [~~must~~]:

7 (1) collect at least the following materials: paper (including mixed paper
8 and office paper), plastics PETE (#1) and HDPE (#2) bottles and
9 containers, aluminum cans, corrugated cardboard, and glass bottles
10 and jars;

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

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

16 (4) remove the recyclable or organic [~~compostable~~] materials by either:

17 (a) transporting the recyclable and organic [~~compostable~~] materials
18 to a materials recovery or composting facility authorized by
19 law; [~~or~~]

20 (b) contracting with a City-licensed recycling service provider to
21 transport the recyclable and compostable materials to a
22 materials recovery or composting facility authorized by law; or
23 [-]

24 (c) transporting recyclable or organic material, as permitted and
25 required by City Code, to a material recovery facility, food
26 bank, processor, material broker, urban farm, urban ranch, rural
27 farm, rural ranch, community garden, or a facility that
28 prioritizes the hierarchy of beneficial use as set out in
29 Subsection (D) of this section.

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

- 1 (C) The department shall adopt rules that establish a process in which the
2 responsible party for [~~owner of~~] an affected premises can request:
- 3 (1) a waiver of certain requirements in this article;
 - 4 (2) approval to comply with this article by achieving the City's Zero
5 Waste Goal through alternative means;
 - 6 (3) approval to substitute another recyclable material in place of a
7 required recyclable material listed in Subsection (A)(1) above;
 - 8 (4) approval to comply with this article by sharing solid waste, recycling,
9 or organic materials diversion [~~composting~~] services; [~~or~~]
 - 10 (5) approval of a deduction of square footage under Subsection (E) of
11 Section 15-6-91 (*Affected Premises*) if the food enterprise serves only
12 pre-packaged food; or[-]
 - 13 (6) approval for performing recycling or organic materials diversion on-
14 site.
- 15 (D) In accordance with the requirements of the Good Faith Donor Act set forth
16 in Chapter 76 of the Texas Civil Practice and Remedies Code, the
17 department shall by rule encourage the responsible party for [~~owners of~~]
18 affected premises to follow the hierarchy of beneficial use of scrap food
19 which, beginning with the most beneficial, is:
- 20 (1) feeding hungry people;
 - 21 (2) feeding animals;
 - 22 (3) providing for industrial uses; and
 - 23 (4) composting.

24 **PART 6.** Section 15-6-93 (*Education*) of the City Code is amended as follows:

25 **§ 15-6-93 EDUCATION.**

- 26 (A) The responsible party for [~~An owner of~~] an affected premises shall [~~must~~]
27 provide recycling information and instructions in accordance with rules
28 adopted by the director to:
- 29 (1) all tenants and employees of the premises annually;

- 1 (2) a new employee or tenant no later than the thirtieth day after the
2 tenant occupies or the employee begins work at the premises; and
3 (3) all employees or tenants not later than the 30th day after a substantive
4 change in the recycling service offered at the premises.

5 (B) The responsible party [~~An owner or other person required to provide~~
6 ~~recycling service to a premises~~] shall [must] provide recycling information
7 and instructions in accordance with rules adopted by the director to:

- 8 (1) each business, tenant, or organization located at the premises
9 annually;
10 (2) a business, tenant, or organization newly located to the premises not
11 later than the 30th day after any change in occupancy; and
12 (3) all occupancies at the premises not later than the 30th day after a
13 change in the recycling service offered.

14 (C) All information and documentation, including signage, required to be
15 provided to persons or posted as public information under this article shall
16 [must] be written in English and Spanish and include universal symbols as
17 adopted by the director.

18 (D) Each container designated or used for collection and disposal of materials to
19 a state-recognized landfill shall [must] be prominently marked “Landfill
20 Trash” in English and Spanish and in compliance with the rules adopted by
21 the director.

22 (E) Each container designated or used for collection or transport of recyclable or
23 organic [~~compostable~~] materials shall be affixed with a sign that includes:

- 24 (1) the universal chasing arrows recycling symbol;
25 (2) the type of materials accepted written in English and Spanish; and
26 (3) the term “Recycling” or “Compostables” or “Organics”, as appropriate.

27 **PART 7.** Section 15-6-101 (*Recycling Plan*) of the City Code is amended as follows:

28 **§ 15-6-101 ANNUAL DIVERSION [RECYCLING] PLAN.**

29 (A) The responsible party for [~~An owner of~~] an affected premises shall submit a
30 recycling plan to the department by February 1 of each year starting with the
31 year in which requirements of this article apply to the premises.

- 1 (B) The responsible party for [An owner of] an affected premises shall submit a
2 recycling plan for a new business, building, or multi-family residential
3 complex not later than the 30th day after receiving a certificate of occupancy
4 or beginning operations or following any change that reduces recycling
5 service or the types of materials collected.
- 6 (C) A plan must:
- 7 (1) be on a form prescribed by the director;
 - 8 (2) list the materials to be diverted [~~recycled~~];
 - 9 (3) state the service capacities for landfill trash, recyclables, and organic
10 [~~compostable~~] materials;
 - 11 (4) state the collection method and service providers for landfill trash,
12 recyclables, and organic [~~compostable~~] materials; and
 - 13 (5) include information or documentation as required by the director to
14 verify compliance with this article.
- 15 (D) The director may exempt a property from submitting a Recycling Plan if the
16 property contracts with the City for solid waste and recycling services or if
17 exempting the property is consistent with the City's Zero Waste Goal set out
18 in Resolution No. 20090115-050 and the Department's Master Plan adopted
19 in Resolution No. 20111215-047, as those resolutions may be amended from
20 time to time.

21 **PART 8.** Section 15-6-102 (*Biannual Quantity Report*) is repealed and replaced with
22 language that reads as follows:

23 **§ 15-6-102 RESERVED.**

24 **PART 9.** Section 15-6-103 (*Notice of Contract Termination*) is amended as follows:

25 **§ 15-6-103 NOTICE OF CONTRACT TERMINATION.**

26 A person who provides recycling or organic diversion service under this article by
27 contract with a recycling service provider shall notify the department in writing not later
28 than the 30th day after the person terminates the contract.

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

2 **§ 15-6-104 NOTICE OF CHANGE OF PROVIDER.**

3 (A) The responsible party for [An owner of] an affected premises shall notify the
4 department in writing if the person:

5 (1) discontinues self-hauling and contracts with a recycling or organic
6 materials diversion service provider; or

7 (2) terminates a contract with a provider licensed under [Article 3](#) (*Private*
8 *Solid Waste Collection Service*).

9 (B) A responsible party [person] shall submit the notice required by this section
10 [with] to the department in accordance with rules adopted by the director
11 [and concurrently with their required reporting under Section [15-6-102](#)
12 (*Biannual Quantity Report*)].

13 **PART 11.** Section 15-6-105 (*Registration of Recycling and Composting Haulers and*
14 *Recycling Providers*) of the City Code is amended as follows:

15 **§ 15-6-105 REGISTRATION OF RECYCLING AND ORGANIC MATERIAL**
16 **[COMPOSTING] HAULERS AND RECYCLING PROVIDERS.**

17 (A) A person who owns, operates, or provides a recycling and organic material
18 [composting] hauler or recycling processor business or service located
19 within the territorial jurisdiction of the City or to any premises within the
20 territorial jurisdiction of the City shall submit to the director in compliance
21 with applicable rules adopted for such registration the following:

22 (1) physical address of operation;

23 (2) proof of insurance - annual commercial fleet policy;

24 (3) drivers' licenses for company drivers, including commercial drivers'
25 licenses, if applicable;

26 (4) proof that the recycling hauler or recycling processor is using the
27 correct vehicle to transport recyclable materials consistent with
28 Section [15-6-42](#) (*Vehicles and Equipment*); and

29 (5) other documentation as specified in applicable rules for such
30 registration adopted by the director.

1 (B) A person who owns, operates, or provides a recycling processor business
2 agrees as a condition of such registration to submit to a random site
3 inspection of their property or premises upon request by the director to
4 ensure that the processor's operations are being conducted in compliance
5 with all applicable City Codes and regulations relating to land development,
6 health and safety, recycling, and nuisance abatement.

7 **PART 12.** Article 8 (*Enforcement and Penalties*) of Chapter 15-6 (*Solid Waste Service*)
8 of the City Code is amended by adding a new Section 15-6-133 that reads as follows:

9 **§ 15-6-133 ENFORCEMENT AGAINST EMPLOYEES.**

10 In accordance with Sections 250.003 and 250.004 of the Texas Local Government
11 Code, an individual who is an employee of the owner of real property for which a citation
12 for a violation of a municipal rule or ordinance is issued, or a company that manages the
13 property on behalf of the property owner, is not personally liable for criminal or civil
14 penalties resulting from the violation if, not later than the fifth calendar day after the date
15 the citation is issued, the individual provides the property owner's name, current street
16 address, and telephone number to the enforcement official who issues the citation or to
17 the official's superior.

18 **PART 13.** This ordinance takes effect on _____, 2014.

19
20 **PASSED AND APPROVED**

21
22 § _____
23 § _____
24 _____, 2014 § _____

25 Lee Leffingwell
26 Mayor

27
28
29 **APPROVED:** _____
30 Karen M. Kennard
31 City Attorney

ATTEST: _____
Jannette S. Goodall
City Clerk