



Mandatory Commercial Recycling Stakeholder Engagement and Ordinance Development Project

for the Cities of San Carlos and San Mateo
FINAL REPORT

April 2010

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Executive Summary

In early 2009, two RethinkWaste Member Agencies, San Carlos and San Mateo, volunteered to participate in a pilot project to educate and engage stakeholders, staff, and elected officials in considering implementing a mandatory commercial recycling policy. This stakeholder engagement and ordinance development process is described in this report. A primary goal of this pilot project has been to provide RethinkWaste's Member Agencies with an understanding of the issues faced, the lessons learned, input gathered from stakeholders, and how to move forward with adopting mandatory commercial recycling ordinances in their jurisdictions.

Rationale for Mandatory Commercial Recycling

RethinkWaste has identified five key reasons why Member Agencies should consider adopting mandatory commercial recycling ordinances:

1. **To reduce garbage and conserve natural resources:** Mandating recycling is expected to increase diversion of solid waste from landfill disposal. In the RethinkWaste service area, the commercial sector contributes approximately two-thirds of the garbage collected annually by the franchised collection services provider, of which only 25 percent is currently diverted to recycling or composting. Studies commissioned by RethinkWaste in 2008 revealed that over 40 percent of garbage generated by businesses is recyclable or compostable, and that businesses recycling bins are only 60 percent full on average, indicating significant opportunities for improvement.
2. **To potentially reduce costs:** Businesses in Member Agencies can save money by taking advantage of commercial recycling service offered at no additional cost and discounted compostable materials collection service (discounts range from 25 percent to 50 percent compared to the cost of garbage service). As an additional cost savings, the revenue generated from the sale of recyclable material collected by the franchised collection company is used to offset disposal-related costs, which helps stabilize or reduce garbage rates. In the long term, reducing the amount of garbage disposed can extend the life of the Ox Mountain Landfill and defer the time when local solid waste will need to be transported greater distances that will result in raising disposal costs.
3. **To reduce greenhouse gas emissions:** Recycling and composting results in fewer greenhouse gas emissions than landfill disposal, including substantially reducing emissions of methane, a greenhouse gas that is over 23 times more potent of a greenhouse gas than carbon dioxide.
4. **To comply with pending State regulations:** The AB32 Scoping Plan, developed by the California Air Resources Board (CARB) to comply with the California Global Warming Solutions Act of 2006, calls for mandatory commercial recycling to help achieve a 25 percent reduction in greenhouse gas emissions. CARB is expected to adopt regulations mandating such programs beginning in 2011 that will be enforced by CalRecycle (formerly the California Integrated Waste Management Board). The proposed regulations issued in December 2009 provide for the same fines for non-compliance as mandated by AB 939 (i.e., \$10,000 per day).
5. **To leverage upcoming public education and outreach campaigns:** Member Agencies that choose to implement mandatory commercial recycling policies in the near term will be in a position to

leverage other upcoming commercial recycling-related promotional activities to educate businesses about the new policy. Campaigns expected to launch in 2010 include Recology San Mateo County's Recycling Blitz, RethinkWaste's commercial recycling communications and outreach plan, and Recology San Mateo County's promotions around new collection services that start in January 2011.

In adopting mandatory commercial recycling ordinances, Member Agencies will join several jurisdictions across the country that have passed or are considering ordinances that require the commercial sector to separate materials for recycling as a way to achieve greater conservation of resources. A report commissioned by SBWMA details the mandatory commercial recycling ordinances of some leading West Coast jurisdictions, including Seattle, Portland, Sacramento, San Francisco, and San Diego.¹ In California, other notable communities with such recycling requirements include the City of Fresno and San Luis Obispo County.

Project Overview

The pilot project in the Cities of San Mateo and San Carlos consisted of three main activities: (1) engaging stakeholders to educate them about the rationale for mandatory commercial recycling and to obtain their input on recommended components of an ordinance; (2) reviewing ordinances developed by other communities to learn about best practices and approaches; and (3) preparing ordinances customized to the needs of each community and the concerns of stakeholders. This work has culminated in the development of draft mandatory commercial recycling ordinances for both Member Agencies. The City of San Carlos City Council voted 4-1 on April 12, 2010 approving its Multi-Family Dwelling and Commercial Recycling Mandatory Ordinance. The second reading of the San Carlos ordinance is scheduled for April 26, 2010. Consideration of the ordinance in the City of San Mateo is anticipated to commence in June 2010 with review by its Public Works Commission.

Stakeholder Engagement

The stakeholder engagement process focused on reaching out to the commercial and multi-family sectors and to local business-oriented groups. The education and outreach consisted of Phase I in July-September 2009 and Phase II in January-February 2010. Phase I involved introducing the topic of mandatory commercial recycling to stakeholders through making telephone calls to businesses, convening public meetings, and conducting a telephone survey. Phase II entailed convening additional meetings with stakeholders to present and obtain feedback on the recommended elements of the draft ordinance. Overall, 35 meetings were held, with attendance totaling over 300 stakeholders. In addition, approximately 300 businesses were contacted during the telephone survey, thousands of emails and flyers were distributed to promote the meetings, advertisements were placed in local newspapers, and content was contributed for articles published in local newspapers.

The stakeholder engagement meetings provided an understanding of the perspectives and concerns of stakeholders and their level of interest in this topic. Attendees were apprised of how an ordinance might affect their organizations, the environment, and their communities. While opinions about details varied,

¹ "Description of Jurisdictions with Required Commercial Recycling Ordinances," Steven Sherman Enterprises, Inc., December 2008.

most attendees who voiced an opinion expressed support for the mandatory commercial recycling approach.

Ordinance Development

In developing the ordinances, the following key questions were explored:

- Who should be affected?
- Should there be exemptions?
- What materials should be covered?
- Should the requirements be phased in over time?
- How will the ordinance be enforced?

Several key lessons learned from the ordinance development process may be of value to other Member Agencies, including:

- Making decisions about the scope of a mandatory commercial recycling ordinance requires careful consideration of the characteristics of each community and the concerns of all affected parties.
- Ensuring consistency between definitions specific to the ordinance and existing definitions in city code and franchise agreements is both challenging and essential. The development of a mandatory commercial recycling ordinance provides communities with the opportunity to review and revise outdated existing codes related to solid waste and recycling.
- Engaging city staff in the development of the ordinance results in a more customized stakeholder engagement process and ordinance recommendations tailored to that community's needs and priorities.

1. Introduction

Early in 2009, two RethinkWaste Member Agencies, the Cities of San Carlos and San Mateo, volunteered to participate in a pilot project to educate and engage stakeholders, staff, and elected officials in considering implementing a mandatory commercial recycling policy. The pilot project consisted of three main activities: (1) engaging stakeholders to educate them about the rationale for mandatory commercial recycling and to obtain their input on recommended components of an ordinance; (2) reviewing ordinances developed by other communities to learn about best practices and approaches; and (3) preparing ordinances customized to the needs of each community and the concerns of stakeholders. This work has culminated in the development of draft and final mandatory commercial recycling ordinances for both Member Agencies.

This stakeholder engagement and ordinance development process is described in this report. A primary goal of this pilot project has been to provide RethinkWaste's Member Agencies with an understanding of the issues faced, the lessons learned, input gathered from stakeholders, and how to move forward with adopting a mandatory commercial recycling ordinance in their jurisdictions.

2. Background: Why Mandatory Commercial Recycling?

RethinkWaste has identified five key reasons why Member Agencies should consider adopting mandatory commercial recycling ordinances:

1. **To reduce garbage and conserve natural resources:** Mandating commercial recycling is expected to increase recycling and composting, conserve natural resources, and reduce solid waste going to the landfill from the commercial sector. In the RethinkWaste service area, the commercial sector contributes approximately two-thirds of the garbage collected annually by the franchised collection services provider, of which only 25 percent is currently diverted to recycling or composting. Studies commissioned by RethinkWaste in 2008 revealed that over 40 percent of garbage generated by businesses is recyclable or compostable, and that businesses recycling bins are only 60 percent full ²
2. **To potentially stabilize or reduce solid waste costs:** Increasing recycling will potentially save commercial customers money on garbage collection service in both the short and long term. In the short term, businesses in Member Agencies can save money by taking advantage commercial recycling service provided at no additional cost and discounted compostable materials collection service (discounts range from 25 percent to 50 percent compared to the cost of garbage service). The Cities of San Carlos and San Mateo, in particular, provide businesses a 25 percent discount for compostable materials collection service. Thus, businesses that increase recycling and composting to downsize their garbage service can potentially save money. As an additional cost savings, the revenue generated from the sale of recyclable material collected by the franchised collection company is used to offset disposal-related costs, which helps stabilize or reduce garbage rates for all customers. In the long term, reducing the amount of garbage disposed can defer higher future garbage costs associated with the limitation of landfill space in San Mateo County.

On December 31, 2009, annual tonnage limits on disposing waste from both outside San Mateo County and in total at the local Ox Mountain Landfill expired. Without the tonnage limits, Republic Services, the landfill owner, can increase the pace at which garbage is disposed in the landfill, so the facility may approach capacity sooner than previously expected. As capacity at the Ox Mountain Landfill becomes scarcer, disposal rates for many customers (e.g., self-haul customers) will likely rise. However, RethinkWaste's Member Agencies are shielded from these potential rate changes through 2019 due to an existing contract with Republic Services that limits annual disposal rate increases to a Consumer Price Index (CPI). Starting in 2020, however, RethinkWaste Member Agencies will likely face substantially higher disposal rates at the Ox Mountain Landfill. Increased recycling and composting will help extend the life of the Ox Mountain Landfill, deferring the time when solid waste must be transported to a more distant disposal site, which will raise garbage rates for all customers.

3. **To reduce greenhouse gases:** Recycling and composting solid waste results in significantly fewer greenhouse gas emissions than landfill disposal. Recycling reduces the need for virgin materials and the carbon emissions associated with the extraction, processing, and transportation of virgin materials. Composting food scraps and other organic materials substantially reduces landfill emissions of methane, a greenhouse gas that is 23 times more potent of a greenhouse gas than

² "Characterization of SBWMA Commercial Wastes." ESA, March 2008.

carbon dioxide. While some greenhouse gas emissions are associated with the collection, transportation, and processing of recyclables and compost, recycling and composting will ultimately result in a net reduction of emissions. The emissions resulting from recycling are less than those associated with the alternatives, such as using virgin feedstock instead of recycled materials and generating methane through the anaerobic decomposition of food scraps, yard debris, paper, and other organic materials in landfills. Mandatory commercial recycling is expected to increase diversion, resulting in a decrease in emissions compared to current practices.

4. **To comply with pending State regulations:** The California Global Warming Solutions Act’s Scoping Plan, developed by the California Air Resources Board (CARB), calls for mandatory commercial recycling to help achieve a 25 percent reduction in greenhouse gas emissions Statewide. Accordingly, CARB is scheduled to consider adopting regulations in the fall of 2010 mandating such programs beginning in 2011 that will be enforced by the California Department of Resources Recycling and Recovery (CalRecycle—formerly the California Integrated Waste Management Board).
5. **To leverage upcoming public education campaigns:** In July 2010, Recology San Mateo County (RSMC) will implement its Recycling Blitz commercial recycling outreach campaign per the Member Agencies’ Franchise Agreements with RSMC. In addition, RethinkWaste will launch its commercial recycling communications and outreach in June/July 2010 to supplement Recycling Blitz activities and to continue promoting the current franchised commercial recycling and compostables collection service available to businesses now. In January 2011, the new RSMC collection services will be rolled out to all commercial and residential customers with increasing promotional efforts launched during the second half of 2010 to educate customers about the new services. Member Agencies that choose to implement mandatory commercial recycling policies in the near term will be in a position to leverage these commercial recycling-related promotional activities to educate the commercial sector about the new policy.

In adopting mandatory commercial recycling ordinances, Member Agencies will join several jurisdictions across the country that have passed or are considering ordinances that require the commercial sector to separate materials for recycling as a way to achieve greater conservation of resources. A report commissioned by RethinkWaste details the mandatory commercial recycling ordinances of some West Coast jurisdictions, including Seattle, Portland, Sacramento, San Francisco, and San Diego.³ In California, other notable communities with such recycling requirements include the City of Fresno and San Luis Obispo County.

Mandatory commercial recycling is not without its detractors. Some oppose the idea of mandates in principle. Others oppose requiring recycling on pragmatic grounds because they believe that public support for and participation in recycling could decline as a result of mandates. Still others are concerned about the difficulty of and potentially negative consequences of enforcement, raising the controversial specter of “garbage police” issuing recycling fines. After considering both sides of the issue, RethinkWaste determined that the overall case for mandatory commercial recycling outweighed the potential drawbacks. With both the benefits and concerns in mind, RethinkWaste developed a strategy in early 2009 to introduce mandatory commercial recycling to its Member Agencies.

³ “Description of Jurisdictions with Required Commercial Recycling Ordinances,” Steven Sherman Enterprises, Inc., December 2008.

3. Stakeholder Engagement

Stakeholders in the Cities of San Carlos and San Mateo were engaged during two separate phases. In Phase I (July-September 2009), stakeholder engagement focused on educating stakeholders about the rationale for an ordinance, discussing key issues and choices, and soliciting comments and questions. Phase II (January-February 2010) was conducted after drafting a proposed mandatory commercial recycling ordinance based on stakeholder input gathered in Phase I. Phase II focused on providing an overview of the proposed ordinance and on obtaining feedback on the ordinance. This section describes the stakeholder engagement activities, input and perspectives provided by stakeholders, and lessons learned from the stakeholder engagement process.

Stakeholder Engagement Activities

The stakeholder engagement process focused on reaching out to the commercial and multi-family sectors and to local business-oriented groups. Accordingly, RethinkWaste, with assistance from its consultants, contacted trade associations as well as individual businesses and invited them to meetings to discuss mandatory commercial recycling and a potential ordinance. RethinkWaste also commissioned a telephone survey to hear from businesses that potentially were less likely to attend a meeting.

Overall, 35 meetings were held, with attendance totaling over 300 stakeholders. In addition, approximately 300 businesses were contacted during the telephone survey, thousands of emails and flyers were distributed to promote the meetings, advertisements were placed in local newspapers, and content was contributed to articles published in local newspapers.

For the City of San Carlos, associations and organizations contacted included the following:

- The Harbor Industrial Association
- Property Managers Association
- Rotary Club
- SAMCEDA (San Mateo County Economic Development Association)
- San Carlos Chamber of Commerce (800 members contacted by email)
- San Carlos Green Committee (600 members contacted by email)
- San Carlos Kiwanis Club
- San Carlos Lions Club

For the City of San Mateo, organizations contacted included the following:

- Downtown San Mateo Association (500 members contacted by email)
- Economic Development & Business Assistance (1,000 emails sent)
- Good Morning San Mateo
- SAMCEDA (San Mateo County Economic Development Association)
- The San Mateo Chamber of Commerce (800 members contacted by email)
- San Mateo Lions Club
- Sunrise Rotary Club

As described above, the stakeholder engagement process consisted of two phases. The first phase (Phase I) was conducted from July to September 2009 and involved introducing the topic of mandatory commercial recycling through making telephone calls to stakeholders, convening public meetings, and conducting a telephone survey. The primary goals of Phase I of the process were as follows:

- Educate stakeholders about the rationale for considering a mandatory commercial recycling ordinance.
- Present and discuss likely key issues and choices.
- Solicit comments and questions from stakeholders.
- Identify areas of support or opposition.

Phase I also involved discussions with city staff to introduce the topic of mandatory commercial recycling and discuss the rationale for the policy. An extensive report on Phase I can be found in Attachment 1.

The feedback received from Phase I was used to formulate the recommended components of the draft mandatory commercial recycling ordinances.

Phase II of stakeholder engagement took place in January and February 2010. This phase entailed convening additional meetings with stakeholders to present and obtain feedback on the recommended elements of the draft ordinance. The goals of this phase were the following:

- Provide an overview of the proposed mandatory commercial recycling ordinance.
- Obtain feedback on the core elements of the ordinance and gain an understanding of the attendees' level of support, questions, and concerns.

The PowerPoint presentations used at these meetings can be found in Attachment 2. Tables 1 and 2, below, summarize the stakeholder engagement for San Carlos and San Mateo, respectively, detailing the outreach methods, number of meetings held, number of attendees at the meetings, and number of businesses reached through the telephone survey.

Table 1. Overview of Stakeholder Engagement for the City of San Carlos

	OUTREACH: FLYERS, CALLS, AND CONTACTS	NUMBER OF MEETINGS	NUMBER OF ATTENDEES	NUMBER SURVEYED BY TELEPHONE
Phase I	<ul style="list-style-type: none"> ▪ 21 phone calls to associations and stakeholder groups ▪ 800 flyers distributed; approximately 1,600 emails sent 	11	149	185 contacted; 32 completed
Phase II	<ul style="list-style-type: none"> ▪ 1,300 flyers distributed ▪ Information on 5 websites ▪ Press release to 5 papers ▪ Full page ad and article in <i>Daily Journal</i> ▪ Approximately 1,500 emails sent 	3	36	N/A

Table 2. Overview of Stakeholder Engagement for the City of San Mateo

	OUTREACH: FLYERS, CALLS, AND CONTACTS	NUMBER OF MEETINGS	NUMBER OF ATTENDEES	NUMBER SURVEYED BY TELEPHONE
Phase I	<ul style="list-style-type: none"> ▪ 27 phone calls to associations and stakeholder groups ▪ 600 flyers distributed; 700 emails sent 	18	124	114 surveyed; 25 completed
Phase II	<ul style="list-style-type: none"> ▪ 580 flyers distributed ▪ Information on 6 websites ▪ Press release to 5 papers ▪ Ads and articles in 2 papers ▪ Approximately 8,300 emails sent 	3	38	N/A

Stakeholder Perspectives

The stakeholder engagement meetings provided an understanding of the perspectives and concerns of stakeholders and their level of interest in this topic. The key findings on stakeholder perspectives are as follows:

- **Stakeholders generally expressed support for a mandatory commercial recycling approach.** No attendee opposed the ordinance. Participants appeared keen to learn about the details of the program and how it might affect them. In general, stakeholders were strongly in favor of recycling and sought to understand how a mandatory program would work in practice.
- **The overall level of concern about mandatory commercial recycling among businesses appears to be relatively low at present,** based on the attendance levels as well as by the comments made at the meetings.
- **Stakeholders expressed a variety of opinions about the key recommendations in the proposed ordinance:**
 - *Phase-in period:* Opinions on the recommended four year phase-in period were mixed. Some spoke in favor of an incremental approach; others wanted a shorter phase-in period or no phase-in at all.
 - *Exemptions for small garbage generators:* Some businesses supported the idea of exempting generators with fewer than two cubic yards of garbage a week. Others thought that everyone should be treated the same and there should be no such exemptions.
 - *Requirements:* Stakeholders were generally receptive to the recommendations that generators be required to subscribe to recycling service, provide adequate recycling containers, separate recyclables from garbage, and educate employees on recycling. Stakeholders preferred these recommendations to an approach that places a larger administrative burden on businesses, such as requiring record keeping and reporting.
 - *Enforcement:* In general, attendees expressed concern that enforcement could be costly, and some asked about the impact of enforcement on city budgets. Attendees wanted to know how enforcement would be funded and how fines would be used.
 - *Emphasis on education and outreach:* Businesses appreciated and supported the focus on education rather than enforcement as a means of achieving compliance with the mandatory ordinance.

Lessons Learned

RethinkWaste also learned important lessons about the process of stakeholder engagement from the meetings held in San Carlos and San Mateo, as follows:

- **Attendance at the stakeholder engagement meetings varied.** Some meetings were well attended and others more sparsely attended. Overall, attendance was somewhat lower than desired, despite the extensive outreach efforts (see Tables 1 and 2, above).
- **Holding meetings at a trade association or other business locations has significant advantages, but large public forums also work well for different reasons.** One advantage of holding meetings in a business-based location was that stakeholders appreciated that their city Member Agencies and RethinkWaste took the time to come to them in their business setting, rather than the other way around. Second, going to businesses—especially trade associations—gave the cities and RethinkWaste the opportunity to speak to stakeholders who otherwise might not have attended a public meeting or become involved. The primary disadvantage of presenting at trade association meetings was that mandatory commercial recycling was frequently one of many agenda items, so attendees did not always have the time to prepare or focus on the issue. Meetings held in a large public forum, as were used in Phase II, provided time to focus on mandatory commercial recycling, allowed many different stakeholders to participate, and demonstrated the transparency and openness of the process.
- **Other important lessons about the process of stakeholder engagement related to working with city staff and business groups, the engagement schedule, and messages presented at meetings.**
 - Actively engaging city staff during the planning process ensures that key local stakeholders are involved and the city has input on the stakeholder process from the start. Support from city personnel to publicize and attend the meetings is important.
 - Early in the process, develop a list of businesses and trade associations that should be engaged as part of the process. This list should include both general organizations, such as the local chamber of commerce, and more specialized entities, such as waste haulers and green business groups.
 - Begin planning for and scheduling the meetings at least six weeks prior to the anticipated dates.
 - Meet with trade association staff both over the phone and in person to find out what venue and times would work best for their members and to encourage their participation.
 - Embrace all help from local associations in securing meeting locations and publicizing the stakeholder meetings.
 - Confirm when local associations send out their newsletters to ensure that information about the meetings is included.
 - Ensure that the messages presented at each meeting are focused and consistent.

4. Ordinance Development

The work in the Cities of San Carlos and San Mateo culminated in developing customized mandatory commercial recycling ordinances for each jurisdiction. (The final San Carlos ordinance can be found in Attachments 3). On April 12, 2010, the City of San Carlos City Council approved its ordinance, with a second reading scheduled for April 26, 2010. In addition, the City of San Mateo is anticipated to bring its ordinance to the Public Works Commission for consideration in June 2010. The development of the draft ordinances followed a six-step process, described below:

1. An outline defining the key principles and elements to be included in the ordinance(s) was developed. This outline was based on a review of ordinances elsewhere, stakeholder input, and the needs and interests of each jurisdiction.
2. The outline of key principles and elements was expanded to include a description of the options associated with each key component of the ordinance. The benefits and drawbacks associated with each option were identified and the experience of other jurisdictions was referenced, when available. The memo outlining options and their advantages and disadvantages can be found in Attachment 4, *Menu of Options*.
3. The summary memo of options provided the basis for internal discussions and decision making about the elements to be included in the first draft of the ordinance. Discussions were informed by stakeholder input, lessons learned from other jurisdictions, data on tonnages currently disposed and recycled in San Carlos and San Mateo, the profile of in each City's business community, and judgments about which options were more politically feasible and appropriate for the two communities. The preferred options are detailed in Attachment 5, *Recommendations for Ordinance Components*.
4. The recommendations were incorporated into preliminary draft ordinance(s), that were prepared after reviewing ordinances adopted by other California communities and a mandatory commercial recycling ordinance template prepared by CalRecycle. By starting with these existing ordinances, the process was streamlined and benefiting from the lessons learned by and investments of the other jurisdictions.
5. The preliminary draft ordinances were revised to ensure consistency with the related municipal codes already in place in each city. This effort primarily focused on creating definitions that applied to both the mandatory commercial recycling ordinance and related existing municipal codes. The goal was to provide each jurisdiction with a strong draft that was ready for each city's legal counsel review.
6. The revised drafts were shared, reviewed and revised with staff and legal counsel from each jurisdiction.

Key Issues

In drafting the ordinance, important decisions needed to be made on several aspects of mandatory commercial recycling. The key issues that were addressed through stakeholder engagement and development of the ordinance included the following:

- **Who should be affected?** Options include all businesses, only businesses with large amounts of garbage, organizers of public and private events, governments and institutions, multi-family complexes, and property managers.
- **Should there be exemptions?** On what basis should exemptions be granted? Who should decide and approve these exemptions?
- **What materials should be covered?** Options included all recyclables, selected recyclables, and compostables.
- **What requirements should be imposed on generators,** in terms of containers and signage, subscription to recycling services, and education for employees or tenants?
- **How will the ordinance be enforced?** Who will enforce it? What, if any, fines should be imposed, on whom, and when?
- **Should the requirements be phased in?** How long should the phase-in period be? Should the phase-in schedule vary by type of generator or material?

Lessons Learned

Several key lessons were learned from this project that can benefit other RethinkWaste Member Agencies:

- **Making decisions about the scope of a mandatory commercial recycling ordinance requires careful consideration of the characteristics of each community and the concerns of all affected parties,** including businesses, trade associations, chambers of commerce, property managers, solid waste and recycling haulers, and city government. The stakeholder engagement process was carried out to ensure that different perspectives were considered with the ultimate goal of drafting an ordinance that: 1) stakeholders will support; 2) can be cost effectively implemented by the city, 3) will lead to greater diversion and will potentially save businesses money on garbage service, and 4) will result in reducing greenhouse gas emissions.
- **A challenge associated with drafting the ordinances was ensuring consistency in definitions.** The ordinances must be clear, enforceable, and able to stand on their own, but the definitions and provisions must also be compatible with existing city code and franchise agreements.
- **Developing a mandatory commercial recycling ordinance provides communities with the opportunity to review and revise existing sections of their municipal code related to solid waste and recycling.** Existing municipal code sections in San Carlos and San Mateo are in some cases not up to

date with current best practices and State policies (e.g., food scraps composting). This project provided the communities with an opportunity to update definitions and policies found in other sections of their municipal code as needed and appropriate.

- **It is important to keep city staff engaged throughout the ordinance process.** As in most city governments, staff in San Carlos and San Mateo face many demands on their time and must be responsive to competing priorities as they arise. However, involving staff from the start ensures that each jurisdiction's unique issues and perspectives are fully considered and that staff will be able to move forward efficiently with implementation once the ordinance is adopted.

5. Attachments

This report contains the following attachments:

1. Phase I Report: Pilot Stakeholder Engagement and Scoping Process
2. Phase II PowerPoint Presentations to Stakeholders
 - 2-A – City of San Carlos
 - 2-B – City of San Mateo
3. City of San Carlos Mandatory Commercial and Multi-Family Residential Recycling Ordinance
4. Menu of Options
5. Recommendations for Ordinance Components

Attachment 1: Phase I Report: Pilot Stakeholder Engagement and Scoping Process

*Development of Mandatory Commercial Recycling Ordinances
for the Cities of San Carlos and San Mateo*

Phase I Report:

Pilot Stakeholder Engagement and Scoping Process

Submitted to the

South Bayside Waste Management Authority



October 2009

Prepared by

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1. Introduction

The South Bayside Waste Management Authority (SBWMA) is assisting its Member Agencies to scope and evaluate mandatory commercial recycling ordinances. In the summer of 2009, the SBWMA initiated a pilot project for two Member Agencies, the Cities of San Carlos and San Mateo, to conduct stakeholder outreach to introduce the concept of mandatory commercial recycling and obtain feedback from key stakeholders.

This report explains the rationale for exploring development of mandatory commercial recycling ordinances, provides an overview of the community profiles of the two cities participating in the pilot project, and presents findings of the Phase I stakeholder engagement process. In addition, the report includes the results of a survey of local businesses and an explanation of the next steps that will be pursued in developing mandatory commercial recycling ordinances for the two participating cities.

This project is designed to provide a potential framework for the SBWMA's Member Agencies to use to develop mandatory commercial recycling ordinances, in part to address the policy actions taken by the California Air Resources Board in its recently-developed AB32 Scoping Plan. A key goal of this effort is to assist the SBWMA's Member Agencies with developing tools and policies to meet their waste diversion and resource conservation goals.

2. Background

The SBWMA is assisting its Member Agencies to scope and evaluate mandatory commercial recycling ordinances. The primary rationale for developing these ordinances is outlined below and subsequently described in greater detail.

- **Commercial Sector Solid Waste Generation:** Approximately two-thirds of the solid waste generated annually in the SBWMA service area is attributable to the commercial sector.
- **State Policy:** Regulations that are being developed pursuant to the State of California's Global Warming Solutions Act will soon mandate commercial recycling to reduce greenhouse gas emissions linked to global climate change.
- **Local Governments with Mandatory Commercial Recycling Ordinances:** Various local governments, including San Francisco, Sacramento, San Luis Obispo, and San Diego, and others have implemented mandatory recycling ordinances to achieve greater conservation of resources.
- **Roll-Out of New Collection Services:** The roll-out of new collection services provides an opportunity to leverage the associated public education campaign to increase the commercial sector's participation in recycling and to raise the sector's landfill diversion rate.

The key benefit of a Required Recycling Ordinance is the high probability of achieving significant new diversion. While businesses are motivated by numerous direct (e.g., reduced disposal costs) and indirect benefits (e.g., positive image) to divert waste, it is apparent that additional stimulus, in the form of policy measures to augment existing recycling education and incentives, are needed to encourage and sustain significant new diversion from the commercial sector.

Commercial Sector Solid Waste Generation

Commercial waste represents, by far, the largest diversion opportunity for the SBWMA's Member Agencies. The commercial sector annually contributes approximately 65% of the solid waste tons – equal to 146,000 tons in 2008 collected by Allied Waste of San Mateo County (Allied) the franchised hauler.¹ Allied currently recycles approximately 22% of all commercial sector materials collected in the SBWMA service area.

State Policy

The California Global Warming Solutions Act of 2006 (AB32) requires reducing carbon dioxide, methane, and other gaseous emissions linked to global climate change. In December 2008, the California Air Resources Board adopted the AB32 Scoping Plan that defines the framework for the State to use to implement measures to reduce greenhouse gas emissions. The Scoping Plan contains the specific guidelines that will be used by the State to develop regulations to implement a mandatory commercial recycling measure. The measure must achieve reductions of at least 5 million metric tons of carbon dioxide equivalents state-wide. While other details about the regulations are yet to emerge formally, mandatory commercial recycling likely will become commonplace throughout the State through both the early efforts of local governments to adopt their own ordinances and through the imposition of State requirements.

Local Governments with Mandatory Commercial Recycling Ordinances

Several jurisdictions across the country have passed or are considering adopting ordinances that require the commercial sector to separate materials for recycling in order to conserve more resources. Appendix A contains a report prepared for the SBWMA that provides details on the mandatory commercial recycling ordinances of Seattle, Portland, Sacramento, San Francisco, and San Diego.

In early 2009, the SBWMA's Recycling and Facilities Management Subcommittee was presented information on jurisdictions that have adopted or are considering adopting mandatory commercial recycling ordinances. The subcommittee recommended to the SBWMA Board that the Board solicit interest and a commitment from one to two jurisdictions to investigate implementing a required recycling ordinance. In April 2009, two Member Agencies (i.e., the Cities of San Carlos and San Mateo) volunteered to participate in this project to explore developing these ordinances.

Roll-Out of New Collection Services

The timing of enacting mandatory commercial recycling ordinances should take into consideration Recology's "Recycling Blitz," which will start in mid-2010. Increasing commercial sector recycling during the first year of the new franchise agreements will raise the bar for Recology's landfill diversion performance incentives. A comprehensive public education and outreach campaign for the roll-out of the new collection services will begin with promotion of the Recycling Blitz in mid-2010. This education

¹ SBWMA 2008-Q4 Jurisdiction Tonnage Report.

campaign can be leveraged to include Member Agencies' policy initiatives to encourage commercial sector recycling.

3. City Profiles

City of San Carlos

The City of San Carlos has a population of approximately 28,000.² In 2008, there were 2,551 multi-family dwellings.³ Multi-family dwellings with five or more units are generally considered, along with businesses and public and private institutions, to be part of the commercial sector based on the type of solid waste collection service typically provided.

In 2006, the largest private employer was Nektar Therapeutics, a bio-pharmaceutical company with over 700 employees.. The largest public employer was SamTrans, which also employed over 700 people. Other large private employers include Loma Cleaning Services, L3 Communications, and Kelly-Moore Paints.

The city's institutional sector includes a planned 18-acre medical campus, various schools, two museums, a library, a dozen churches, a youth center, an adult community center, and more than a dozen parks.⁴

In 2008, San Carlos businesses disposed of over 11,000 tons of franchised commercial solid waste, recycled approximately 2,500 tons, and composted close to 500 tons. A significant proportion of the waste disposed contains recyclable or compostable paper, bottles and cans, and food scraps; a 2008 study prepared for the SBWMA showed that nearly 40% of the commercial waste stream collected by Allied consists of recyclable or compostable materials.

The City of San Carlos has approximately 1,150 franchised commercial accounts.⁵ One aspect of developing a mandatory commercial recycling ordinance is deciding which businesses are affected by the new regulations and when they go into effect. One standard criterion that may be used is size of waste generator, as expressed in cubic yards of trash collection service received per week. In this context, the following data for San Carlos businesses is presented. Commercial accounts with 1 cubic yard or more per week of trash collection service represent 79% of total franchised accounts and 98% of the total amount of franchised trash collection service volume. Those with 2 cubic yards or more per week of trash collection service represent 66% of total franchised commercial accounts and 96% of the total amount of franchised trash collection service volume. Those with 4 cubic yards or more per week

² U.S. Census Bureau, Census 2000.

³ San Carlos Department of Finance.

⁴ San Carlos Chamber of Commerce.

⁵ SBWMA June 2009 data.

of trash collection service represent 43% of total franchised commercial accounts and 87% of the total amount of franchised trash collection service volume.

The City of San Carlos will ultimately need to decide which accounts by size are subject to the mandatory ordinance. These data show that, if the ordinance was applied only to accounts with 4 cubic yards or greater, well over 80% of the commercial waste stream would be subject to the mandate, but less than half of the commercial accounts would be affected.

City of San Mateo

The City of San Mateo has a population of approximately 93,000.⁶ Of the approximately 37,000 occupied households at the time, 54% were owners and 46% were renters. Approximately 58,000 jobs were located in the city, as of 2000.

Among cities in the county, San Mateo has the highest proportion of finance, insurance, and real estate businesses, according to the City's website. The labor force consisted of 68% white-collar workers (clerical, managerial, sales, professional, and technical) and 32% blue-collar workers (predominantly service workers and craftspeople). The top four sectors for employment in 2000 were professional and related services (20%); retail trade (17%); finance, insurance, and real estate (10%); and transportation (8%).⁷ San Mateo also has an extensive retail sector, with several satellite shopping areas, a downtown shopping area, and two major shopping centers located within the city limits. The city's institutional sector includes two hospitals; nineteen elementary, middle, and high schools; one community college; over fifty churches and other religious organizations; four libraries; eighteen parks; and various museums.⁸

In 2008, San Mateo businesses disposed nearly 34,000 tons of solid waste, recycled nearly 8,000 tons, and composted nearly 3,000 tons. A significant proportion of the disposed waste contains recyclable or compostable paper, bottles and cans, and food scraps; a 2008 study prepared for SBWMA showed that nearly 40% of the commercial waste stream collected by Allied consists of recyclable or compostable materials.

The City of San Mateo has approximately 2,300 franchised commercial customers.⁹ Commercial accounts with 1 cubic yard or more per week of trash collection service represent 86% of total franchise accounts and 99% of the total amount of franchised trash collection service volume. Those with 2 cubic yards or more per week of trash collection service represent 72% of total franchise accounts and 97% of the total amount of franchised trash collection service volume. Those with 4 cubic yards or more per

⁶ U.S. Census Bureau, Census 2000.

⁷ Association of Bay Area Governments 2000 projections.

⁸ San Mateo Chamber of Commerce website.

⁹ SBWMA June 2009 data.

week of trash collection service represent 50% of the total accounts and 92% of the total waste, by volume.

Like San Carlos and the other Member Agencies, the City of San Mateo will need to decide which accounts by size should be subject to the mandatory ordinance. These statistics show that, if the ordinance is only applied to larger accounts (those with 4 cubic yards or greater), over 90% of the waste stream would be subject to mandatory recycling, but only half of all commercial accounts would be affected.

3. Phase I - Stakeholder Engagement Process

The Phase I stakeholder engagement process was conducted during June, July, and August 2009. The purpose was to develop an understanding of key questions, concerns, and interests, while helping to educate stakeholders about potential opportunities and issues associated with mandatory commercial recycling. SBWMA collaborated separately with the Cities of San Mateo and San Carlos in this effort. Following is a description of goals, approaches, and tasks associated with this process.

Goals

The primary goals of the stakeholder engagement process were to:

- Educate stakeholders about the context for consideration of a mandatory commercial recycling ordinance.
- Present and discuss likely key issues and choices.
- Solicit comments and questions from stakeholders.
- Identify areas of support or opposition.
- Distill themes based on interactions with stakeholders.

Approach

The key elements of the approach included:

- Convene introductory meetings with agency staff.
- Develop a preliminary list of stakeholders.
- Solicit input from stakeholders regarding additional stakeholders to include.
- Identify key topics for discussion.
- Determine appropriate communication strategies and venues for engagement with various stakeholders.
- Make presentations at stakeholders' meetings.
- Conduct a telephone and email survey of businesses.

Introductory Meetings with Agency and City Staff

It was essential to meet with City staff to develop communication channels and to identify key organizations or businesses that should be brought into this process. SBWMA and City staff (e.g., recycling coordinator, economic development director, and assistant city manager) helped to establish goals for the process, develop a common understanding for the level of effort in engaging stakeholders, and identify stakeholders and how to reach them. Stakeholders - business associations, property management companies, individual businesses, and environmental and civic groups - were selected based on their perceived involvement within the city, access to a reasonably large number of businesses within the city, degree to which they would be affected by a mandatory commercial recycling ordinance, and ability to assist with communicating about this process to other stakeholders.

Meetings with and Presentations to Associations

Several associations were contacted to educate their members and to gain a better understanding of what questions businesses and the community will be asking and what their concerns are with regard to mandatory commercial recycling. These associations included clubs such as the Kiwanis, Lions, and Rotary; the Downtown Associations; and Chambers of Commerce. The tables in Section 3, Stakeholder Engagement Results, provide a list of the associations and groups that received presentations. The presentations, typically given at their regularly scheduled morning or lunch meetings, lasted between 15 and 60 minutes, including the discussion and question and answer periods. A sample of the PowerPoint presentation is provided in Appendix C.

Meetings with Community Organizations

In addition to making presentations to stakeholder groups from the Cities of San Carlos and San Mateo, several less formal discussions occurred with leaders of organizations with large memberships throughout the peninsula. Discussions with those in leadership positions with Sustainable San Mateo County, the San Mateo County Economic Development Association (SAMCEDA), and property manager groups helped to provide diverse perspectives. Please see the tables found in Section 3, Stakeholder Engagement Results, for further details.

Surveys and Discussion with Individual Businesses

As described in greater detail in Section 4, Survey Results, a survey of businesses was conducted in the two participating cities. The survey yielded information and data that could not be obtained easily from the meetings and presentations, in part because the survey was confidential while the meetings were not and in part because the surveys yielded a set of responses to specific questions that could be easily categorized and quantified. Separate from the survey and similar to a modified focus group approach, contact was made with businesses in various sub-sectors (e.g., large office complex, auto repair shop, mall, small retail business) and in-depth discussions were arranged in order to obtain additional perspectives about mandating commercial.

Summary

In summary, several avenues were used to identify and interact with a range of stakeholders. This process, while not exhaustive, allowed the project team to explain the context of the potential policy initiative, to identify stakeholder concerns and interests, and to begin working toward the development of a collaborative solution.

4. Stakeholder Engagement Results

This section summarizes the meetings that were held as part of the Phase I stakeholder process, including information on meeting or presentation date, location, stakeholder group, and number of attendees.

Frequently, stakeholder processes do not succeed in engaging all key stakeholders due to a variety of constraints including schedules and stakeholder availability and interest. This process likely was no exception. The subsequent phases of this project will provide additional opportunities for outreach, education, and discussion to garner input from businesses, stakeholder groups, and individuals that were unintentionally omitted or underrepresented in the Phase I engagement process.

City of San Carlos

During the stakeholder engagement process in San Carlos, 11 meetings and 4 interviews were held, reaching over 140 individuals. Table 1 lists businesses, civic groups, and organizations that were considered key stakeholders in the City of San Carlos and included in this process. Some organizations either did not respond to multiple telephone calls or emails, did not fit well with the selection criteria, or did not have a chapter in San Carlos, and thus were not pursued further. In addition, a total of 185 businesses were contacted by telephone to complete a telephone survey, with 32 respondents (17% completion rate).

The meetings and presentations proved to be a useful way to educate businesses about the background and potential issues related to mandatory commercial recycling. For a city the size of San Carlos, attendance was perceived to be strong, and most attendees showed a high level of interest in the topic. However, a standard presentation setting in which there were large numbers of attendees or a short period of time (i.e., 30 minutes or less) meant that most attendees listened but did not speak or otherwise provide feedback. Attendee questions centered on exclusions, exemptions, enforcement, costs of compliance, and types of compliance assistance. Comments ranged from highly supportive to cautious or wary about a mandate for commercial recycling participation until more details are known.

Table 1. City of San Carlos Stakeholder Outreach – Summary of Meetings

City of San Carlos				
Meetings Held				
Date	Group	Location	Attendees	#
4/7/09	City of San Carlos	City of San Carlos Offices	Brian Moura, Assistant City Manager	1
4/14/09	San Carlos Chamber of Commerce, Green Committee	San Carlos Chamber of Commerce	Sheryl Pomerenk, Mark Green, Ann Iverson, Tammy Del Bene, Terry Pebbles, Pat Potter, others	8
5/7/09	City of San Carlos	City of San Carlos Offices	Mark Sawicki, Economic Dev. & Housing Mgr., Community Dev. Dept.	1
6/4/09	Harbor Industrial Committee	Coyote Point	San Carlos and Belmont public sector senior staff, real estate owners, managers, brokers; various other businesses	20
6/17/09	San Carlos Chamber of Commerce	San Carlos Chamber of Commerce	Sheryl Pomerenk – Executive Director	1
7/21/09	City of San Carlos Code Enforcement	Interview by telephone	Chris Valley, Building Official / Code Enforcement	1
7/21/09	Sustainable San Mateo County	SSMC Offices	Kari Binley – Executive Director, Ruth Peterson – Board Member, Jeannene Minnix – former Board Member	3
7/24/09	SAMCEDA	SAMCEDA Offices	Dan Cruely, Executive Director	1
7/28/09	Allied Waste Meeting	Allied Waste Offices	Allied Waste staff	8
7/29/09	SF-BOMA	Telephone and email discussions	Ken Cleaveland, Executive Director	1
8/1/09	Multi Family Unit Owners	Telephone	Contacted three using multi-family list that was provided by Allied Waste	3
8/7/09	Rotary Club	Piacere Restaurant, San Carlos	San Carlos real estate owners, managers, brokers; various other businesses	20
8/11/09	Property Manager of multiple large properties	Telephone	Katie Yao	1
8/26/09	Chamber of Commerce Board of Directors and Pulse of Business	San Carlos Library	Sheryl Pomerenk, Chamber members, haulers, SBWMA representatives, Brian Moura	45
9/2/09	City of San Carlos Economic Development Advisory Committee	City of San Carlos Offices	Connie Barton-Barba, Laura Battaglia, Robert Farkas, Mark Green, Mark Luckenbach, Mark Lochenmeyer, Scot Marsters, Harold Schutte, Gary Wiessinger, guests	14
9/14/09	San Carlos Kiwanis	Vic's Restaurant in San Carlos	Hon. Susan Greenberg and Kiwanis members	15

City of San Mateo

During the stakeholder engagement process in the City of San Mateo, 11 meetings and 6 interviews were held, reaching over 110 individuals. Table 2 lists businesses, civic groups, and organizations that were considered key stakeholders in the City of San Mateo and included in this process. Some organizations either did not respond to multiple telephone calls or emails, did not fit well with the selection criteria, or did not have a chapter in the city, and thus were not pursued further. In addition, 114 businesses were contacted by telephone to complete a telephone survey, with 25 respondents (21% completion rate).

The meetings and presentations proved to be a useful way to introduce businesses and other key stakeholders to the rationale for and issues associated with mandatory curbside recycling. The meetings ranged from one-on-one discussions with the executive directors of targeted associations to sessions with up to 20 attendees representing various business and stakeholder interests. While most attendees showed strong interest in the topic, there were instances in which attendees brought up issues not related to mandatory recycling.

As with the stakeholder process in the City of San Carlos, most of the attendees of the meetings in San Mateo listened rather than commented. Attendees appeared to be present to learn about what is involved in a mandatory commercial recycling ordinance. Attendees' questions and comments typically addressed exclusions, degree of enforcement, and need for help with compliance. Their comments ranged from generally supportive to doubtful that a requirement was the best path to raise the rate of recycling.

Table 2. City of San Mateo Stakeholder Outreach – Summary of Meetings

City of San Mateo				
Meetings Held				
Date	Group	Location	Attendees	#
5/19/09	City of San Mateo	City of San Mateo Offices	Roxanne Murray – Recycling Project Coordinator, Ronald Munekawa – Chief of Planning, Susanna Chan – Deputy Director, Dept. of Public Works.	3
6/10/09	City of San Mateo Business Resource Center	City of San Mateo Offices	Laura Snideman – Economic Development Manager, Marcus Clarke – Business Liaison Specialist	2
6/10/09	San Mateo Chamber of Commerce	San Mateo Chamber Offices	Linda Asbury – Executive Director	1
6/10/09	Downtown San Mateo Association	Downtown Association Offices	Kelly Mitter – Executive Director	1
6/23/09	San Mateo Chamber of Commerce	San Mateo Chamber Offices	Board of Directors/Public Policy Development Committee	15
7/21/09	Sustainable San Mateo County	SSMC Offices	Kari Binley – Executive Director, Ruth Peterson – Board Member, Jeannene Minnix – former Board Member	4
7/24/09	SAMCEDA	1301 Shoreway Rd. Belmont	Dan Cruey	1
7/28/09	Allied Waste Meeting	Allied Waste Offices	Allied Waste staff	8
7/29/09	BOMA	Phone Call	Ken Cleaveland	1
8/1/09	Multi Family Unit Owners	Phone Call	Called the Multi-Family List that was provided by Allied Waste	17
8/1/09	Autometrics	Phone Call	Christine Cesena	1
8/1/09	Allegra Print & Imaging	Phone Call	Jennifer Points	1
8/7/09	Sunrise Rotary Club	Poplar Creek Golf Course, San Mateo	Paul Schaffer and real estate owners, managers, brokers; various other businesses	20
8/7/09	Sales Force	Phone Call	Linda Jansen	1
8/11/09	Property Manager of multiple large properties	Phone Call	Katie Yao	1
8/11/09	Bridgepoint Mall	Phone Call	Rebecca de Felice-Burt	1
9/1/09	Downtown San Mateo Association	Business Resource Center	Board of Directors	20
9/3/09	San Mateo Chamber of Commerce – Good Morning San Mateo	City of San Mateo Conference Room	Linda Asbury, Chamber Members, haulers, SBWMA, City Staff and businesses	20

5. Survey Results

To solicit feedback and comments from a large number of businesses relatively quickly, the project team conducted a telephone survey in each city as part of the stakeholder engagement process. The executive summaries from each survey are presented below. More detailed results can be found in Appendix B.

City of San Carlos

The project team conducted a telephone survey of commercial entities in the City of San Carlos regarding a potential mandatory commercial recycling ordinance. The phone survey was supplemented by an electronic mailing of the survey by the San Carlos Chamber of Commerce to its members. The survey was conducted from July 23 to August 7. During this time, 185 businesses were contacted, and 32 surveys were completed.

The major findings are listed below:

- 83% of respondents either agreed (29%) or strongly agreed (54%) with the following statement: “I believe the City should require businesses and apartment buildings to recycle.”
- 61% of respondents either agreed (38%) or strongly agreed (23%) with the following statement: “I believe the City should require businesses and apartment buildings to recycle and impose penalties on businesses that don’t recycle.” A total of 16% were neutral and 23% disagreed.
- Respondents were asked which businesses, if any, should be exempt from mandatory commercial recycling. Respondents were asked to choose all that apply; the figures below are not discrete and independent, and totals may not add up to 100%.
 - 24% of respondents stated that “no businesses should be exempt.”
 - 20% stated “businesses with small amounts of trash.”
 - 16% stated “businesses that prove they have inadequate space for recycling.”
 - 12% stated “small businesses.”
- 75% of respondents held the opinion that “helping businesses by providing recycling technical assistance” should be a high priority for the City if a mandatory recycling ordinance were to be put in place.
- Over 90% of all respondents stated they already recycle and usually recycle cardboard (97%), mixed paper (91%), and cans and bottles (90%).

City of San Mateo

The project team also conducted a telephone survey of commercial entities in the City of San Mateo regarding a potential mandatory commercial recycling ordinance. It was supplemented by an electronic mailing of the survey by the San Mateo Chamber of Commerce to its members. This survey was conducted from July 23 to August 7. During this time, 114 businesses were contacted and 25 surveys were completed.

The major findings are listed below:

- 67% of respondents either agreed (50%) or strongly agreed (17%) with the following statement: “I believe the City should require businesses and apartment buildings to recycle.”
- 27% of respondents either agreed (18%) or strongly agreed (9%) with the following statement: “I believe the City should require businesses and apartment buildings to recycle and impose penalties on businesses that don’t recycle.” Most respondents were either neutral (27%), disagreed (36%), or strongly disagreed (9%) with this statement.
- Respondents were asked which businesses, if any, should be exempt from mandatory commercial recycling. Respondents were asked to choose all that apply, so percentages below may exceed 100%.
 - 50% of respondents stated that “no businesses should be exempt.”
 - 25% stated “businesses with small amounts of trash.”
 - 25% stated “small businesses.”
 - 5% stated “businesses that prove they have inadequate space for recycling.”
 - 5% stated “shopping malls.”
- 81% of respondents stated that “helping businesses by providing recycling technical assistance” should be a high priority for the City if a mandatory commercial recycling ordinance were to be put in place.
- Over 90% of respondents already have a recycling program and usually recycle cardboard (95%), mixed paper (75%), and cans and bottles (55%).

6. Distillation of Themes

The following themes were distilled from participants' responses, comments, and questions in the stakeholder engagement process. The quotations below are not necessarily direct quotes from participants, but rather represent a distillation of common themes conveyed.

- **“Require recycling, but be very gentle.”** While a considerable majority of stakeholders appeared supportive of establishing a commercial recycling requirement, several stakeholders expressed opposition or concerns, especially about enforcement.
- **“We recycle; everybody should.”** Most stakeholders said that they already recycle cardboard, office paper, bottles, and cans, and that all businesses should be able to recycle at least those materials.
- **“Local is good.”** If commercial sector recycling were to be mandated, stakeholders agreed that developing local mandatory recycling ordinances would be preferable over potentially prescriptive state regulations.
- **“Allow for exclusions.”** While many stakeholders indicated that a mandatory commercial recycling ordinance should apply to all commercial sub-sectors (e.g., business, multi-family dwelling, institutional), a substantial number of stakeholders support allowing exclusions, notably for small businesses, those that generate small amounts of trash, or those with inadequate space for recycling receptacles or storage.
- **“Help us to comply.”** Stakeholders stated that they will need more education and technical assistance to minimize challenges in achieving compliance.
- **“Emphasize incentives, not penalties.”** Stakeholders emphasized that incentives (cost savings in particular) should be used to foster compliance far more than the threat of penalties for non-compliance, although they see that enforcement may be necessary in limited instances.
- **“Light enforcement is OK; don’t be heavy-handed.”** Stakeholders were mixed on what constitutes an appropriate level and type of enforcement of the ordinance. Most saw the need for at least some enforcement, but there was a wide range of opinion on the details. An approach that imposes stiff or widespread fines was strongly discouraged by stakeholders.
- **“Reference existing construction and demolition (C&D) ordinances.”** Stakeholders appeared to be supportive of, or at least acknowledged that they had adjusted to, construction and demolition debris ordinances. They said that any further recycling mandates should make reference to these requirements.
- **“We need the hauler to do more.”** Stakeholders wanted their garbage and recycling collection service provider to offer more and better service, especially to make recycling easier and more convenient. Comments on this theme ranged across a wide variety of topics and were sometimes beyond the scope of the topic of mandatory recycling.

- **“Food service establishments should compost more often.”** While food service establishments may have been underrepresented at stakeholder meetings, the stakeholders who had an opinion about the collection of food scraps generally believed that this material could and should be kept separate from the trash generated by food service establishments for composting or other beneficial use.
- **“Climate change is real.”** Stakeholders generally agreed with statements conveying that climate change is real; that it is caused by people; and that waste reduction, composting, and recycling can help to reduce greenhouse gas emissions linked to climate change.
- **“Going green strengthens our businesses.”** Several stakeholders highlighted their efforts to be conscientious about the environment and community needs. Some said that recycling requirements and ensuing results could become a source of community pride.

7. Possible Lessons for SBWMA Member Agencies

The Cities of San Carlos and San Mateo were the first SBWMA Member Agencies to participate in a stakeholder engagement process as the first step in evaluating a potential commercial sector recycling requirement. Lessons learned from the Phase I stakeholder engagement process include:

- Mandatory recycling ordinances will need to be customized to meet the needs and interests of local governments and their key stakeholders. Local governments will probably not take a uniform policy approach for two reasons. First, it appears likely that the State of California will require individual local governments to adopt their own mandatory recycling requirements. As such, each SBWMA Member Agency would be expected to determine its own response to the State’s impending mandatory recycling rules. Second, it appears that the State will provide local agencies latitude in determining the scope and implementation of these ordinances. Consequently, there likely will be multiple pathways for local government to comply with the State’s pending regulations.
- Stakeholders appreciated the opportunity to learn and to voice their questions, opinions, and concerns about a potential mandatory commercial recycling ordinance. Stakeholders who are members of business or volunteer associations especially liked having this topic addressed at their regularly-scheduled morning coffee, breakfast, or lunch meetings.
- Local Chambers of Commerce proved to be a strong asset in helping to raise the profile of the stakeholder engagement process.
- Stakeholder engagement processes ideally combine several means of communication, including face-to-face meetings and presentations, a survey conducted by telephone and electronically, and supplemental interviews.
- An effective stakeholder engagement process, if chosen for this policy measure, could last between two and six months. This timeframe is based on the twin goals of providing

opportunities for stakeholder input (within the context of constrained budgets) and the need to reach an endpoint within a reasonable amount of time.

- A non-formal stakeholder process, such as has been pursued thus far, offers opportunities to emphasize education, brainstorming, and interactive dialogue between participants and presenters and among participants themselves. A more formal stakeholder engagement process, such as a study session or public hearing sponsored by a city council, could be pursued either at the same time or after the completion of the non-formal stakeholder engagement process.
- The State of California's rule-making process for mandatory commercial recycling is required to be completed by the end of 2010. SBWMA Member Agencies have a window of opportunity before the end of 2010 to enact their own ordinances in advance of the State's process. Also in terms of timing, Member Agencies should consider the effects that such a local ordinance could have if implementation is tied to the commencement date of the new franchise agreement's collection (January 2011).

8. Next Steps

As follow-up to the initial stakeholder engagement on developing mandatory commercial recycling ordinances, the five steps outlined below are proposed to help move the process toward city council consideration.

a. Communications with SBWMA Member Agencies

The SBWMA should meet with staff from each city to develop a plan and schedule to engage the agency's elected officials. This step could take the form of a council study session, public hearing, or other forum.

b. Development of a Presentation

Related to Step 1 is preparing a presentation for use at public meetings in order to provide::

1. Background information on the project
2. Lessons learned from other jurisdictions that have adopted similar ordinances
3. A summary of the Phase I stakeholder engagement process
4. Identification of key components of a potential Member Agency mandatory commercial recycling ordinance

c. Development of Mandatory Recycling Ordinance Options and Recommendations for Member Agency Consideration and Use

The third step entails developing a menu of options and preliminary recommendations for key components of a potential mandatory commercial recycling ordinance for the two participating Member Agencies. Ultimately this step could lead to a template to be used as a starting point by the Member Agencies when crafting their own ordinances.

d. Stakeholder Engagement—Phase II

Once preliminary recommendations are developed for enacting a commercial recycling ordinance, a stakeholder engagement process that involves local elected officials would take place. It is envisioned that the SBWMA will develop these recommendations in consultation with staff from the Cities of San Carlos and San Mateo who have been involved in the process to date. The Phase II stakeholder engagement should focus on presenting and obtaining feedback on these initial recommendations.

e. Tracking of State of California Mandatory Commercial Recycling Rule-Making Process

The SBWMA plans to track and participate in the State of California’s mandatory commercial recycling rule-making process (informal, 2009; formal, 2010), pursuant to the California Air Resources Board’s AB32 Global Warming Solutions Act Scoping Plan, and report key emerging developments and milestones to SBWMA Member Agencies.

SBWMA Member Agencies might qualify for a “grandfathering in” of their individual mandatory commercial recycling ordinances, if enacted in advance of final State rule-making, which is expected to be completed by year-end 2010.

9. Summary

This report has presented the outcomes of the stakeholder engagement process associated with consideration of mandatory recycling ordinances for the Cities of San Carlos and San Mateo. The results of the process show both support for and some questions about mandatory recycling as well as a preference for incentives and education to facilitate compliance.

This report also documented lessons learned from the stakeholder process itself, as a guide to other SBWMA Member Agencies considering mandatory recycling ordinances. Generally speaking, stakeholders appreciated the opportunity to learn about and provide input on the establishment of the ordinance. Many stakeholders appreciated the less formal methods employed in this outreach, especially the efforts to attend regular meetings of various business associations rather than having businesses attend a formal hearing or council presentation. This approach reached many but not all stakeholders and requires significant expenditure of time to be successful.

The next steps in the process are to engage SBWMA agencies, develop and present materials, conduct additional outreach, and engage in the State’s rulemaking process. Through these actions, SBWMA and its Member Agencies can move forward to implement local mandatory commercial recycling ordinances proactively and with robust stakeholder engagement as an essential part of the process.

Appendix A

Description of Jurisdictions with Required Commercial Recycling Ordinances

Prepared by

Steven Sherman

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Descriptions of Jurisdictions with Required Commercial Recycling Ordinances

List of Communities

This is a partial list of communities that have passed, or are near to passing, mandatory commercial recycling ordinances. This list was developed during the course of the review of some of the leading communities that have implemented such ordinances.

- Sacramento Regional Waste Management Authority
- City of San Diego
- City of Portland, Oregon (pending)
- City and County of San Francisco (pending)
- City of Seattle, Washington
- City and County of Honolulu, Hawaii
- Central Vermont Solid Waste Management District, Vermont
- Addison County Solid Waste Management District, Vermont
- Gainesville, Florida
- Philadelphia, Pennsylvania
- New York, New York
- City of Fresno
- Passaic County, New Jersey

Detailed Information about Leading Communities

Detailed information is presented below about the ordinances and programs of five leading communities, namely Sacramento Regional Waste Management Authority (City of Sacramento, unincorporated Sacramento County), City of San Diego, City of Portland, City and County of San Francisco, and City of Seattle.

Sacramento Regional Solid Waste Authority

Contact Information

Patrick Quinn, Program Manager

Planning and External Relations

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(916) 875-7082

quinnpa@saccounty.net

<http://www.sacgreenteam.com/default.htm>

<http://www.sacramentoswa.com/business.html>

Dennis Green, Director

Hazardous Materials Division

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greend@saccounty.net

<http://www.emd.saccounty.net/>

Justification for Ordinance

The primary justification for passage of the ordinance was a shortfall in diversion from commercial recycling accounts relative to the level of diversion achieved by the residential sector.

Program Phase-in Details and Current Status

The Sacramento Regional Solid Waste Authority's (SWA) Board of Directors adopted a Business Recycling Ordinance at its March 8, 2007 meeting which requires businesses that subscribe to garbage service of 4 cubic yards (CY) or greater per week to have a recycling program. The ordinance became effective on April 8, 2007. Participating jurisdictions include the City of Sacramento and the unincorporated area of Sacramento County.

The mandatory commercial recycling program is fully implemented. This process took approximately 18 months. The program is managed by the SWA, a joint powers authority of Sacramento County and the City of Sacramento. Inspection and enforcement services are performed by Sacramento County's Environmental Management Department (EMD).

Multi-family complexes with five or more units per parcel are required to participate in a recycling program.

According to the program manager, there are 16 or 17 franchised commercial haulers, of which three or four run packer truck routes. Most of the haulers offer debris box service only, primarily for construction and demolition materials.

The phase-in of the program followed four steps:

Step 1: SWA recycling specialists built a comprehensive database of commercial generators using customer data obtained from the franchised haulers;

Step 2: the data that were obtained from haulers were cleaned up and updated by SWA staff through telephone and site visit confirmations of service levels, contact information, and related details;

Step 3: starting with the largest generators, three full-time staff notified businesses of the new mandatory recycling requirements and offered to provide free technical assistance and employee training to establish recycling systems at each business;

Step 4: businesses that did not comply with the ordinance were subject to inspections by EMD staff, as well as possibly fines.

The mandatory program currently includes the following materials for food and beverage service establishments:

- Aluminum/steel containers
- Glass bottles and containers
- Plastics
- Cardboard

For all other businesses, the required materials include:

- Paper
- Plastics
- Aluminum cans
- Scrap metal
- Wood pallets

Businesses that generate less than 4 CY of trash per week at the point of collection are exempt. This means that if the combined trash service at a facility with multiple generators, but a single point of collection, is 4 CY or greater per week, all of the businesses in that complex are required to recycle.

Allied has exclusive franchise agreements for commercial collection services in the incorporated cities of Elk Grove, Rancho Cordova, and Citrus Heights. Each of these cities is in the process of implementing a mandatory commercial recycling program modeled after the SWA's program.

Effects on Diversion

The SWA's October 2008 staff report attributes a 21% increase in commercial recycling tonnage (from July 1, 2007 to June 30, 2008, relative to the prior year) to the mandatory recycling requirement and the related outreach and technical assistance.

Effects on Participation

A 38% increase in commercial recycling accounts was reported by franchised haulers (from July 1, 2007 to June 30, 2008, relative to the prior year). SWA's staff attributes this increase to the mandatory recycling requirement and the related outreach and technical assistance.

Additional Tonnage Potential

No projections are being made due to the current extreme volatility of materials markets, and to the negative impact that hugely lower prices for recycled commodities have had on haulers, brokers, and processors.

Funding Mechanism and Responsible Agency

The SWA collects an 8% fee from franchised haulers, based on their solid waste revenue, to pay for administration and enforcement of the mandatory program. In fiscal year 2007-2008, funding for the program was approximately \$350,000. The fiscal year 2008-2009 budget is \$400,000. SWA staff anticipate that this amount will not need to be expended fully because of cost efficiencies which result from the way the program is structured, administered, and staffed, and as well as from the fact that broad acceptance of the recycling mandates by the business community is leading to widespread compliance.

The SWA has entered into a Memorandum of Understanding with the EMD to carry out the inspection and enforcement aspects of the mandatory recycling program. Among other pre-existing activities, this agency conducts health inspections, hazardous materials management, water well inspections, and related activities.

The EMD is compensated on a time and materials basis by the SWA for services rendered. The entire team of 35 EMD health inspectors received recycling training so that they could more effectively observe and inspect recycling compliance during health inspections and other routine site visits.

Three of these inspectors are specialists who were hired, due to passage of the mandatory recycling ordinance, to cover the additional workload of inspecting businesses that had not previously been subject to health and environmental inspection. These specialists also provide recycling training and technical support to the other inspectors, and make the final determinations as to whether fines will be issued to businesses that are not in compliance with the ordinance.

Role of Hauler(s) in Notification and Enforcement

Haulers and authorized recyclers are required to report quarterly to the SWA about their activities, tonnages collected, and revenues. They are not, however, responsible for identifying non-compliant businesses.

The franchised haulers tend routinely to report non-franchised haulers to the County for enforcement of the franchise requirement. Most franchise violations reported are associated with large accounts that employ trash management companies and service brokers, such as Oak Leaf.

Enforcement Approach

Fines are levied under Administrative Civil Procedure, Title V, with the EMD acting as the Local Enforcement Agent. These fines can be as high as \$1,000 per day of non-compliance with the ordinance, once 90 days of notice has been given. To date, 30 to 40 “show cause” letters have been issued, which have resulted in five facilities actually having to pay fines. These facilities paid an average of \$1,000 each, about 10% of their original fine, under settlement agreements.

The SWA and EMD emphasize outreach, education, and technical assistance over enforcement and fines. These agencies give non-conforming businesses ample time to respond, apply for exemptions, receive recycling technical assistance, and comply with the ordinance.

Enforcement Steps

- 1) The site is inspected by EMD staff during routine health inspections. Non-compliant businesses also come to the attention of the EMD when they are flagged for follow-up action based on recycling performance data that are supplied by haulers. If a business is not in compliance, it is given 60 days to comply.
- 2) If the non-compliant business does not provide proof of compliance within 60 days, EMD staff re-inspects the facility.
- 3) If the business is still not recycling, it is given 30 additional days to comply and a final notice.
- 4) If the business is still not in compliance after the final 30-day grace period, then a civil administrative procedure is initiated to collect the fine.

Exemptions

Exemptions may be granted by EMD staff, after a site inspection, for the following conditions:

- 1) There is inadequate space for recycling bins on site;
- 2) No recyclable materials are being generated by the business;
- 3) There is no hauler available to provide collection service, and self-hauling is not an option;
- 4) For an individual generator located in a multi-tenant commercial property where the total trash service is less than 4 CY/week;
- 5) If compliance with the recycling requirement results in violation of another code (such as a mandatory fire lane, required parking space, or adequate setback).

Threshold for Contamination

There is currently no threshold for allowable contamination (trash in recycling containers or recyclables in trash) established by the SWA and enforced by the EMD. What is deemed by haulers to be “excessive” contamination is self-enforced by haulers through their refusal of contaminated loads of recyclables and their imposition of extra collection charges. Given the potential extra cost to customers, the contamination of recyclable loads has not been particularly prevalent, according to the haulers.

EMD inspectors do, however, have the latitude to find that a business is not in compliance with the ordinance if the business has recycling service but does not appear to be using it, as evidenced by an empty recycling bin and the presence of recyclable materials in the trash. There is not a set level of recyclable material allowed in the trash; rather, the inspector is authorized to make a determination of non-compliance based on interviews with the business owner or manager and franchised hauler (or authorized recycler), and on direct observation.

Outreach Methods

Extensive outreach has been conducted through the Sacramento area Chambers of Commerce and flyers have been distributed in public locations and through routine health inspection visits. Local mass media (e.g., Sacramento Bee, local television stations) have also given a boost to the program through reporting about it. In addition, 20,000 business information booklets were printed; the booklet includes a guide to recycling service providers. Furthermore, the SWA and EMD websites were updated to include online instructions and other relevant information.

City of San Diego

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Justification for Ordinance

The primary justification for implementing a mandatory recycling program was low overall diversion through recycling, at about 52%. The mandatory recycling program covers all sectors (commercial, C&D, and residential), and was justified as a way to demonstrate a sense of fairness to the business community.

Program Phase-in Details and Current Status

The ordinance was approved by the City Council in November, 2007. The mandatory recycling program is in the second stage of a three-stage phase-in:

Phase #1: by April 14, 2008, businesses over 20,000 square feet;

Phase #2: by Jan 1, 2009, businesses over 10,000 square feet;

Phase #3: by Jan 1, 2010, all businesses with more than 6 CY/week of combined service.

Businesses with 6 CY/week or less of combined trash and recycling service were exempted from the ordinance in order to minimize opposition from the small business community. The City is planning to reduce or eliminate the threshold service level over time to increase diversion and participation.

The process for program planning and rollout was described by City staff as follows:

- 1) While the idea of mandatory recycling for San Diego businesses was first circulated in 1994, the current effort to pass an ordinance was initiated in November, 2005 by City recycling staff. In late 2006, the Mayor's Office was convinced of the need to implement mandatory recycling and was recruited to assist in the process of getting the ordinance approved.
- 2) Individual stakeholder groups were then invited to meet with the mayor and City staff in the Mayor's Office over a nine- to ten-month period to discuss each group's issues and concerns.
- 3) Following the stakeholder meetings, five community meetings were held, open to the public and all stakeholders, with the understanding that there would be a two- to three-month firm deadline for resolving any outstanding issues or concerns prior to the presentation of a draft ordinance to the City Council for approval. The meetings were led by Stephen Grealy (the Program Manager) and a Mayor's aide, with an average attendance of around 80 people. No

significant opposition to the ordinance was presented at these meetings due to extensive media coverage of the issue and the resolution of concerns at the earlier stakeholder meetings with the Mayor.

- 4) The mandatory program was approved unanimously by the City Council, in November, 2007, with only one member of the public (a supporter of the ordinance) requesting to speak.

For commercial accounts and multi-family complexes, the following materials must be separated for recycling:

- Plastic bottles and jars
- Paper
- Newspaper
- Metal containers
- Cardboard
- Glass containers

For commercial accounts, additional materials must be recycled where markets exist (e.g., scrap metal, wood pallets, plant material and food waste), as determined by the program director.

Effects on Diversion

The City estimates that a 2.5 % increase in diversion will result from the implementation of the mandatory recycling ordinance. In addition, the City's C&D recycling ordinance is projected to increase diversion by 4-6%. The City anticipates increased diversion of 85,000-100,000 tons per year from commercial recycling alone, including multifamily complexes which are serviced by commercial haulers, as a result of mandatory recycling.

Effects on Participation

No projections were available at this time.

Additional Tonnage Potential

No projections are being made due to the current extreme volatility of materials markets, and to the negative impact that hugely lower prices for recycled commodities have had on haulers, brokers, and processors.

Funding Mechanism and Responsible Agency

The City has staffed its recycling specialist function primarily with unpaid student interns to minimize costs. This approach has led to high turnover and low levels of professional experience. The City is currently in the process of hiring one full-time professional recycling specialist.

Current staffing for the commercial recycling program alone is approximately 1.5 FTE, not counting unpaid interns, at a cost to the City of about \$80,000 per year including benefits. At full rollout, the City

is anticipating needing 1.0 FTE code enforcement officers, 2.0 FTE recycling specialists, and 0.5 FTE program administrators, at a total cost to the City of about \$300,000 per year including benefits.

Enforcement of the mandatory recycling ordinance is carried out by City code enforcement officers. There are currently nine code officers working full time, and solid waste code enforcement takes the equivalent of 10% of one officer's time.

Role of Hauler(s) in Notification and Enforcement

There are currently twelve franchised haulers operating under eight franchises. Haulers must provide detailed reports to the City annually, including detailed service level information for all accounts. These reports are due to the City by August 18 every year, for hauler data collected through June 30 of that year.

City staff use the data contained in these reports to update the City's customer service database and to contact businesses that do not appear to be exempt or operating in compliance.

Enforcement Approach and Steps

There is a \$1,000 fine for non-compliance, but no fines have been issued so far. Businesses have responded well to the offer of free technical assistance and training, and have complied with the terms of the ordinance. This is most likely the result of the way the program was planned and rolled out, with the City securing buy-in from the business community through extensive outreach and stakeholder involvement.

Several dozen businesses have received recycling technical assistance and training, despite the fact the staffing level requested by the program director has yet to be approved by the City Council and the work is mostly been done using unpaid student interns.

Enforcement Steps

- 1) Recycling specialists, using hauler-supplied data incorporated into an updated customer management database, contact non-complying businesses by telephone, starting with the largest generators (> 75 CY per week, then > 50 CY per week, then 6 CY per week or greater). Businesses are notified that they have 30 days to comply with the ordinance and are offered free technical assistance and employee training to start recycling.
- 2) Any businesses that have not complied within 30 days are given a short unofficial grace period (at least several weeks) and then receive a site visit and inspection from a recycling specialist. If they are determined to be out of compliance still, they are given 30 more days to comply, are again offered free technical assistance, and are told that a second site visit and inspection will result in a \$130 re-inspection fee.
- 3) After another unofficial grace period lasting weeks or months after the official 30 days, businesses that have not contacted the City to report compliance are re-inspected by a code

enforcement officer, and a \$130 re-inspection fee is charged. If the business still is found not to be in compliance, civil proceedings are initiated to levy a \$1,000 fine.

Exemptions

Businesses that generate 6 CY per week or less of combined trash and recycling service are automatically exempt.

Businesses that claim they are unable to recycle due to lack of space have to pay a \$130 inspection fee to have a recycling specialist come to their site and verify the need for an exemption. If the space limitation is found to be valid, the business is given one year to resolve the problem through re-modeling, re-assigning parking space, and other means. During this time, the code enforcement office will work with the business and the planning department to secure the necessary permits, and resolve potential conflict with other planning and safety codes.

While the City does not offer grants or low-interest loans to cover any remodeling costs, no businesses have been granted exemptions on this basis to date because in all cases the recycling specialists have been able to recommend workable solutions to limited space during the inspection visit.

Threshold for Contamination

There is no established threshold for allowable contamination (trash in recycling containers or recyclables in trash). The contamination level is self-enforced by the haulers through their refusal to collect loads of recyclables that they deem to be overly contaminated and through the subsequent imposition of extra collection fees.

Outreach Methods

The development and implementation of the ordinance relied upon a very public process that engaged major stakeholder groups, including environmental organizations, building owners and managers, restaurants, haulers, and trade associations, and was well covered in the local media.

New business owners are informed of the ordinance through the licensing and permitting process, and also by their contracted hauler.

City of Portland

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Justification for Ordinance

The primary justification for the mandatory recycling ordinance currently under consideration is the low commercial recycling diversion rate relative to the results achieved by the residential sector. This situation is, in part, the result of an open competition system whereby haulers are only required to hold a City permit and there are no franchise agreements.

Program Phase-in Details and Current Status

Soft materials markets, caused by the current worldwide recession, are forcing the City to slow down and re-think implementation of mandatory commercial recycling. Many people in the business community believe that flooding the local secondary materials market with additional recyclable materials at this juncture may depress prices further and could result in the landfilling of a lot of these materials, according to City staff.

The ordinance, as currently proposed, specifies the following conditions:

- 1) Businesses must set out for recycling a minimum of 50% of their waste. Materials to be recycled include:
 - a. Cardboard
 - b. Glass bottles and jars
 - c. Newspapers and magazines
 - d. Mixed paper (including junk mail, juice/beverage boxes and cartons)
 - e. Plastic bottles and tubs
 - f. Scrap metal
 - g. Tin and aluminum cans
 - h. Yard trimmings
- 2) Glass must be separated from all recyclable paper materials (this includes businesses and multi-family complexes).
- 3) Multi-family complexes must recycle all materials available in the program, and food-generating businesses would also be responsible for separating food scraps and soiled paper for composting.

Effects on Diversion

Although the City’s commercial diversion goal is 75% (current diversion is around 63%), the implementation of the mandatory commercial recycling ordinance and expansion of commercial organics collection are currently on hold.

Effects on Participation

No projections are available.

Additional Tonnage Potential

Metro’s transfer station system is at capacity in terms of commercial organics volume. The City is waiting for a closer regional composting site to come on line before expanding its commercial food waste collection program.

Funding Mechanism and Responsible Agency

OSD will be employing recycling specialists to implement the mandatory commercial recycling program, as an add-on to its existing technical assistance program, but does not know what the exact staffing level will be, due to current market uncertainties.

Role of Hauler(s) in Notification and Enforcement

The City does not franchise commercial recycling service, but all haulers are required to obtain permits. Under the terms of the City’s commercial recycling program, haulers can report to the City about other haulers who are not compliant, and this approach is often used as a competitive tool among haulers.

As part of the permit program, all haulers are required to cooperate with OSD in providing service level data about their customers, and in identifying the origin of trash loads found to contain significant amount of recyclables during routine spot checks at the Metro transfer station.

Enforcement Steps

One guiding principle adopted by stakeholder groups that were convened by the City is that enforcement is a measure of last resort. OSD employs a “light assistance” model, which emphasizes technical assistance and outreach over inspections and fines.

Exemptions

There are no exemptions specified in the ordinance. The City provides on a case-by-case basis free recycling technical support to businesses that believe that they can meet the recycling requirement.

Enforcement Approach and Steps

The program has not been implemented.

Threshold for Contamination

There is no established threshold for allowable contamination (trash in recycling containers or recyclables in trash). The contamination level is self-enforced by the haulers through their refusal to collect loads of recyclables that they deem to be overly contaminated and through the subsequent imposition of extra collection fees.

Outreach Methods

The planning process for the implementation of mandatory commercial recycling has been well publicized in the local media, with extensive opportunity for input from the public and major stakeholders. Feedback from the commercial sector during this process indicates a concern about rapidly and severely softening materials markets and the possibility that increased recycling diversion will lead to the landfilling of source-separated recyclable materials. This feedback and these concerns are the key factors that have prompted the City to put implementation of the ordinance on hold.

If and when the mandatory commercial recycling program is implemented, OSD is considering tying into the business licensing process to notify new generators about the commercial recycling requirement.

City and County of San Francisco

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Justification for Ordinance

The City and County of San Francisco (“City”) has a goal of 75% diversion from landfill by 2010 and zero waste to landfills or incinerators by 2020. This policy goal includes urging greater consumer responsibility, including mandatory participation in diversion programs.

The growth in the rate of landfill diversion has leveled off in recent years. From 2005 to 2006, the increase in diversion was less than 1%. The City maintains that “continued voluntary diversion participation alone will not likely enable the City to meet its 75% diversion goal by 2010.”

As indicated in the legislative digest of the proposed ordinance, “current law does not require people or businesses to recycle, or prohibit them from disposing of recyclable or compostable materials along with their garbage.” In addition, while owners of residential properties must contract for garbage collection, owners or managers of multifamily or commercial properties that generate garbage are not currently required to contract for collection service for recyclables, compostables, and trash.

As precedent, the City’s draft ordinance cites the effectiveness of its mandatory construction and demolition debris recovery ordinance, effective July 1, 2006, which helped to divert more than 26,000 additional tons from landfill disposal in its first year of implementation.

Program Phase-in Details and Current Status

The City is in the process of preparing a mandatory recycling ordinance. The draft ordinance discussed herein is dated October 28, 2008. Unlike some other jurisdictions with mandatory recycling ordinances, both recyclable and compostable materials are covered. Moreover, the draft ordinance includes great flexibility in narrowing or expanding the list of covered materials, by focusing on “any material that...{is} accepted in San Francisco’s recycling [or compostables] collection program.”

All businesses, institutions, multi-family dwellings, and residents would be covered by the ordinance. The effective date of the ordinance would be January 1, 2009. Everyone would be required to source-separate refuse into recyclables, compostables, and trash.

Restrictions would be placed on the self-haul of recyclables or compostables, including those mixed with trash, to a landfill or transfer station for the purpose of having those materials landfilled. Stipulations would also be placed upon the self-haul of materials to a so-called “dirty MRF” or other materials processing facilities.

Owners or managers of multi-family or commercial properties would be required to provide source-separated collection of recyclables, compostables, and trash to their tenants, employees, contractors, and customers of the properties. They would be required to supply appropriate containers of appropriate number and size, with appropriate signage, in appropriate locations, to make source separation of refuse convenient. Design criteria would be established and subject to modification by the Department of the Environment through regulation. In addition, they would be required to “provide information and/or training for new tenants, employees and contractors, including custodians, on how to source separate recyclables, compostables and trash, and [to] re-educate existing tenants, employees and contractors at least once a year.”

Meanwhile, new construction or expansion of multi-family or commercial properties could be subject to the City’s Department of Building Inspection requirements regarding the provision of adequate space for recyclables and compostables.

The draft ordinance includes language which states that, on a specified date, the City’s Planning Department determined that the actions contemplated in the proposed ordinance are categorically exempt under the California Environmental Quality Act.

Effects on Diversion

The City does not have a quantitative estimate of the effect that its proposed mandatory recycling ordinance will have on diversion.

Effects on Participation

The City does not have a quantitative estimate of the effect that its proposed mandatory recycling ordinance will have on participation.

Additional Tonnage Potential

Approximately two-thirds of what San Francisco sends to landfills is compostable (36%) or recyclable (31%), and this breakdown essentially applies to all sectors (residential, commercial, and City government). Hence, a large amount of recyclable or compostable material is still disposed yet potentially recoverable, despite years of voluntary, convenient, nation-leading, award-winning programs and outreach, recycling equipment grants, and rate incentives.

Funding Mechanism and Responsible Agency

No detailed information was available about the incremental effect that a mandatory recycling ordinance would have on allocations for education, outreach, technical assistance, and enforcement. The City already has an extensive and well-funded program for education, outreach, and technical assistance. It is assumed that the budgets for these areas would not change appreciably in response to the passage of a mandatory recycling ordinance.

Responsibility for the implementation of the ordinance would be held by the San Francisco Department of the Environment (education, outreach, technical assistance) and the San Francisco Department of

Public Works (enforcement). Other City departments, including Public Health, Building Inspection, Planning, and others, would be expected to provide necessary administrative support.

Role of Hauler(s) in Notification and Enforcement

All haulers would be required to designate appropriate collection containers that they provide to customers for the source separation of recyclables, compostables, and trash. Were they to find incorrectly-placed materials in a collection container, haulers would be required to leave a tag on a misused collection container to identify the incorrectly-placed materials. Additional, sequential steps to be taken by haulers are described in the section below. Haulers would provide to the San Francisco Department of Environment a list of the businesses that have received tags, letters, and/or withheld collection service.

Enforcement Approach

The sequence of enforcement is proposed as follows:

- 1) Hauler leaves tag identifying incorrectly-placed materials in collection container;
- 2) Hauler leaves second tag on the container to identify incorrectly-placed materials, and sends a written notice to the subscriber of the collection service;
- 3) Hauler has option to leave additional tags and follow procedures stated in (1) or (2) above.
- 4) If hauler continues to find incorrect materials in a collection container (whether recyclables, compostables, or trash), the hauler may refuse to empty the container, subject to California Code of Regulations Title 14, Section 17331, or as determined by the Director of Public Health or his or her designee. If the container is not emptied, the hauler must leave another tag and send a written notice to the subscriber of the collection service. This notice would identify the incorrect materials and describe what action must be taken for the materials to be collected. Haulers could not refuse, however, to empty containers from multifamily or commercial properties with multiple tenants and joint account collection service.
- 5) Haulers would provide to the San Francisco Department of Environment a list of the businesses that have received tags, letters, and/or withheld collection service.
- 6) The City's Director of Public Works, or his or her designee, would be allowed to issue administrative citations for violations of the ordinance, or for any rule or regulation adopted pursuant to the ordinance.
- 7) The amount of proposed fines (issued via administrative penalties) has changed from one draft of the ordinance to the next. Generally, the administrative citations to enforce the ordinance could not exceed \$1,000. The October 28, 2008 draft indicates that the fine for any violation at a business that generates less than 1 CY/week of refuse may not initially exceed \$100. It also states that multi-family properties and multi-tenant commercial properties shall not be subject to fines or penalties before July 1, 2011. Hence, small businesses, multi-family properties, and

multi-tenant commercial properties generally would not be subject to significant penalties for non-compliance.

- 8) The proposed ordinance allows for the Director of the San Francisco Department of Environment, after public notice and a public hearing, to adopt changes or additions to regulations to implement the ordinance.

According to San Francisco Department of Environment staff, the City will initially emphasize outreach, education, and technical assistance over enforcement and fines.

Enforcement Steps

See Enforcement Approach above.

Exemptions

Exemptions may be granted by the San Francisco Department of the Environment in cases in which the property does not have adequate storage space for containers for recyclables, compostables, and trash. The applicant for the exemption would be required to use a form specified by the San Francisco Department of the Environment and sign an affidavit under penalty of perjury. The property would be subject to on-site verification regarding space limitations.

Threshold for Contamination

No allowable threshold for contamination (materials not in correct container) is established by the draft ordinance. The City will reserve the right to loosen or tighten the informal (in-practice) level of acceptable contamination, as processing and end product market conditions warrant, and in accordance with its overall objectives of maximizing diversion.

Outreach Methods

Extensive education, outreach, technical assistance, grants, and rate incentives has been and will continue to be conducted by or arranged through the San Francisco Department of the Environment. The City has won numerous awards for its commercial recycling and organics collection programs.

According to City staff, the City will use the specter of fines to encourage participation and diversion, and will use the working assumption that it is the prospect of being fined rather than the amount of the fine that will help to deliver the desired results. Mandatory source separation is thus viewed by key City staff as an “important and useful tool in our outreach strategy.”

City of Seattle

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Justification for Ordinance

Justification for the ordinance included resource conservation, landfill diversion, reduction in the cost of doing business, and overall environmental leadership. The City adopted a waste reduction and recycling goal of 60% in 1989. The City achieved a 44% recycling rate of the total City waste stream in 1995. However, the City's level of recycling declined continuously since then, down to a level of 38% in 2001, with the greatest decline coming from commercial sector recycling.

The ordinance applies to residential, multi-family, commercial, and self-haul customers; as such, all sectors share in the responsibility to reduce, reuse, recycle, and compost.

As a precedent, yard trimmings have been prohibited from residential garbage containers for about 20 years (since 1989).

Program Phase-in Details and Current Status

Mandatory commercial recycling was enacted by City of Seattle Ordinance #121372. It was passed unanimously by the City Council on December 15, 2003. The ordinance went into effect on January 1, 2005, with the penalty phase beginning one year later. The ordinance is being implemented in accordance with Administrative Rule #SPU-DR-01-04.

The ordinance specifies which materials are prohibited from commercial trash. The list includes significant amounts of recyclable paper, recyclable corrugated cardboard, and yard trimmings. (The residential sector has an expanded list, and includes glass or plastic bottles and jars, and aluminum or tin cans.) Food scraps are not included, although the City is contemplating such an expansion of the materials list. "Significant amounts" is defined by the ordinance as "more than 10% by volume based on visual inspection."

The phase-in of the program followed this timeline:

- 1) 2004: promotional campaign by the Seattle Public Utilities through direct mail and automated telephone line;
- 2) 2005: educational "tagging" (notification regarding incorrectly placed materials);
- 3) 2006: enforcement "with consequences" began on January 1, 2006.

Effects on Diversion

A 3% annual increase in commercial diversion of the included materials has been observed, according to local government sources. The City went from a 38% diversion rate to nearly a 48% diversion rate in three years since the passage of the mandatory recycling ordinance.

Effects on Participation

After passage of the ordinance, approximately 3,000 businesses and 600 apartment buildings began to subscribe for recycling service. (Seattle has approximately 10,000 businesses and 6,000 multi-family buildings.) It was not determined how many businesses and apartment buildings were participating in recycling prior to passage of the ordinance.

No major adverse reaction by the business community to the ordinance has been observed, according to local government sources. Some hesitation or tentativeness about the ordinance has been observed in the small business and hospitality industry.

The City's policy is to offer free recycling service to multi-family buildings. In addition, the City's recycling and disposal stations accept recyclables for free and accept yard trimmings for a fee that is lower than the fee for garbage. Furthermore, businesses can receive the City's bi-weekly curbside recycling service for free. All of these policies (not tied directly to the mandatory recycling ordinance) help to stimulate participation.

It was reported that 80% of businesses support mandatory recycling.

Additional Tonnage Potential

No projections are being made due to the extreme volatility of materials markets, and to the negative impact that hugely lower prices for recycled commodities have had on haulers, brokers, and processors.

Funding Mechanism and Responsible Agency

One new full-time commercial business inspector has been added by the SPU to help implement the ordinance. No specific information was obtained regarding changes in the budget that can be attributed directly to the mandatory recycling ordinance's implementation. The City already had an extensive education, outreach, and technical assistance program prior to the implementation of the mandatory recycling ordinance.

Role of Hauler(s) in Notification and Enforcement

SPU inspectors, SPU contractors, or transfer station workers perform visual inspections of refuse containers or self-hauled loads to determine whether they have a significant amount of recyclables.

Enforcement Approach and Steps

After one year of notification of non-compliance, more assertive enforcement began. During the educational "tagging" phase, notices were placed on refuse containers and given to self-haulers who disposed of "significant amounts" of designated recyclables.

Enforcement for business and apartment owners and managers: Two warning notices are mailed by City inspectors prior to the imposition of a \$50 surcharge for each set-out that is in violation of the ordinance. The surcharge is added to the garbage bill.

The City reserves the option of not collecting refuse from a business that has been fined for non-compliance with the ordinance.

As of the end of 2006, it was reported that approximately 300 warning tags had been issued to multi-family buildings, including 29 second warnings. In addition, approximately 30 second warnings were issued to businesses. As of the end of 2007, a total of 18 fines for multi-family buildings were reported. No fines were reported for businesses.

Exemptions

Commercial and multi-family customers that lack adequate space for recycling can be exempted from the ordinance. This exemption is determined through an inspection process by the SPU.

According to the City, the City “is not expecting janitors or housekeeping staffs to pull out paper and cardboard that tenants, employees and/or guests (e.g., hotels) throw away.” The City, however, does expect businesses “to provide tenants, employees and/or guests with recycling containers, and to give them instructions on the means of recycling.”

The Administrative Rule specifies that “a hotel, inn or similar facility will not be held responsible for recyclables deposited in individual room garbage containers by its guests if the facility has a method and system for guests to recycle paper and cardboard.”

Threshold for Contamination

The threshold for non-compliance with the ordinance is a finding of 10% by volume of the targeted materials in refuse containers or self-hauled loads.

Outreach Methods

The City contracts with Resource Venture, a program of the Greater Seattle Chamber of Commerce, to provide free waste reduction and recycling technical assistance to Seattle businesses. Resource Venture is managed by Cascadia Consulting Group, an environmental management consulting firm that focuses on waste management, natural resource conservation, and climate change issues. Outreach includes the provision of free, self-adhesive recycling container labels, in multiple languages, that list what materials can and cannot be recycled and how to prepare them for recycling. Additional outreach materials, including an employee education guide, are also available.

Appendix B

- City of San Carlos Survey Report
- City of San Mateo Survey Report



Survey Results:

Potential Mandatory Commercial Recycling Ordinance, City of San Carlos

Prepared for the SBWMA and the City of San Carlos

September 2009

by

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Executive Summary

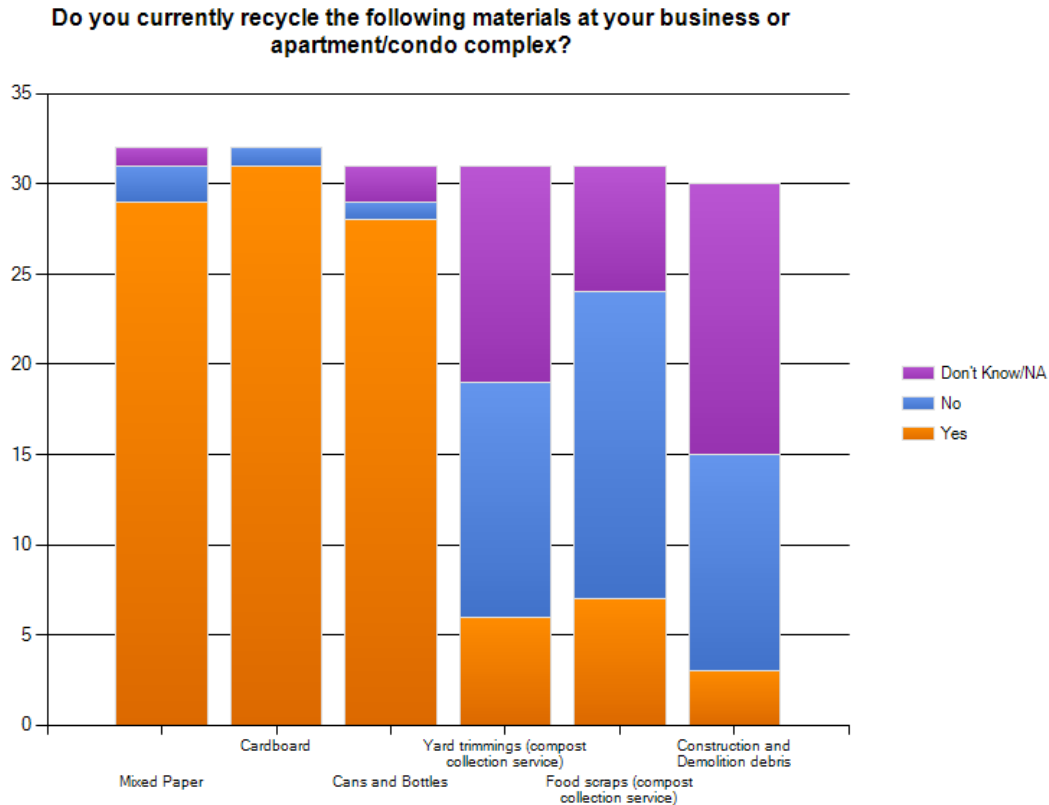
Cascadia Consulting Group, Inc. conducted a telephone survey of commercial entities in the City of San Carlos regarding a potential mandatory commercial recycling ordinance. It was supplemented by an electronic mailing of the survey by the San Carlos Chamber of Commerce to its members. The survey was conducted from July 23 to August 7. During this time, 185 businesses were contacted and 32 surveys were completed.

The major findings are listed below:

- 83% of respondents either agreed (29%) or strongly agreed (54%) with the following statement: “I believe the City should require businesses and apartment buildings to recycle.”
- 61% of respondents either agreed (38%) or strongly agreed (23%) with the following statement: “I believe the City should require businesses and apartment buildings to recycle and impose penalties on businesses that don’t recycle.” A total of 16% were neutral and 23% disagreed.
- When asked which businesses, if any, should be exempt from mandatory commercial recycling (respondents were asked to list all that apply):
 - 24% of respondents stated that “no businesses should be exempt”;
 - 20% stated “businesses with small amounts of trash”;
 - 16% stated “businesses that prove they have inadequate space for recycling”;
 - 12% stated “small businesses.”
- 75% of respondents held the opinion that “helping businesses by providing recycling technical assistance” should be a high priority for the City if a mandatory recycling ordinance were to be put in place.
- Over 90% of all respondents stated they already recycle and usually recycle cardboard (97%), mixed paper (91%), and cans and bottles (90%).

Current Recycling

The survey found that the most respondents self-report that they usually recycle cardboard (97%), mixed paper (91%), and cans and bottles (90%) at work. Most respondents (n =32) reported that they did not recycle yard trimmings and food scraps, and C&D debris or that these items was not applicable in their workplace, as shown in the graph below.

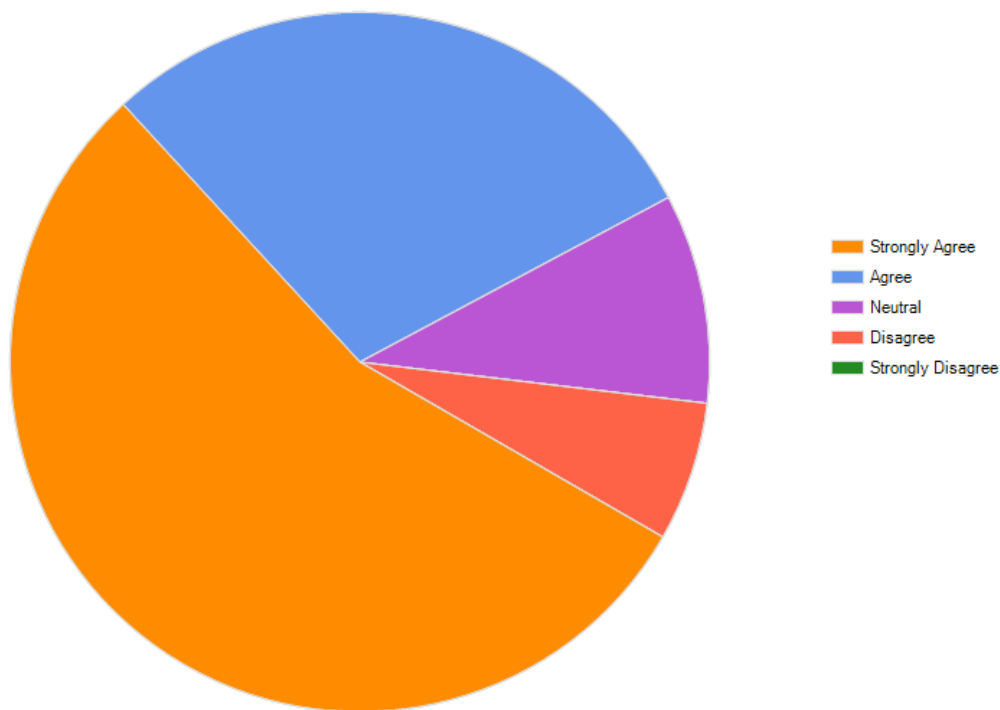


34% of respondents said that they have a moderately successful recycling program, as illustrated by the statement: “We are able to capture a fair amount of the recyclables, but there are still some that go into the trash.” A total of 62% said that they have high success, as illustrated by the statement: “Almost all recyclables get recycled.” The remaining 4% of respondents reported that they have low success with recycling, and identify with the statement: “Most recyclables are thrown out in the trash.”

Support for Mandatory Recycling

- 83% of respondents either strongly agreed (54%) or agreed (29%) with the following statement: “I believe the City should require businesses and apartment buildings to recycle.” 10% were neutral with the above statement and 6% disagreed, as shown in the graph below.

Please state whether you agree or disagree with the following statement: I believe the City should require businesses and apartment buildings to recycle.



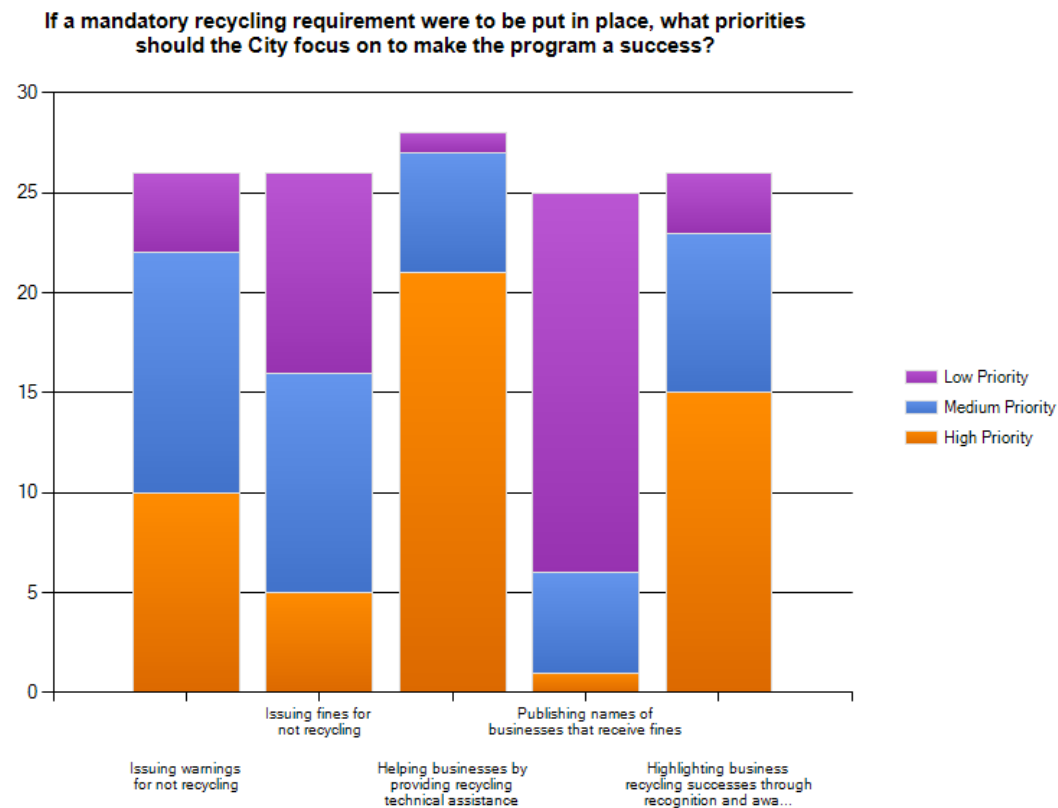
61% of respondents either agreed (38%) or strongly agreed (23%) with the following statement: “I believe the City should require businesses and apartment buildings to recycle and impose penalties on businesses that don’t recycle.” A total of 23% disagreed (disagreed, 10%; strongly disagreed, 13%) and 16% were neutral.

47% of the respondents who strongly agreed with a need to have a mandatory commercial recycling ordinance identified the following statement as a primary reason for supporting mandatory commercial recycling: “Recycling is the right thing to do.” 30% of the respondents who strongly agreed with a need to have a mandatory commercial recycling ordinance identified the following statement as a primary reason for supporting mandatory commercial recycling: “Recycling helps with the environment/climate change.”

Priorities for Program Features

- 24% of respondents stated that “all businesses” should adhere to a mandatory commercial recycling ordinance’s requirements, whereas (respondents were asked to choose all that apply):

- 20% stated that “businesses with small amounts of trash” should be exempt from a mandatory commercial recycling ordinance’s requirements;
 - 16% stated that “businesses that prove they have inadequate space for recycling” should be exempt;
 - 12% stated that “small businesses” should be exempt from a mandatory commercial recycling ordinance’s requirements.
-
- 75% of respondents held the opinion that “helping businesses by providing recycling technical assistance” should be a high priority for the City if a mandatory recycling ordinance were to be put in place. 58% of respondents stated that “highlighting business recycling successes through recognition and awards programs” is a high priority. 76% of respondents cited that “publishing names of businesses that receive fines” is a low priority approach in implementing a mandatory commercial recycling ordinance. The chart below provides further details regarding respondents’ stated priorities.



Other Comments

All respondents were asked if they had other comments at the close of the survey. General comments included the following:

- “The City itself has to have available cans for recycling for the public. Also provide easy recycling access to business and residential users.”
- “What about weighted pricing? The more regular trash you have, the significantly higher your fees.”
- “Great job - so happy to see this program is coming!”
- “The City should also install and routinely empty recycling containers on Laurel Street and at sports fields and parks.”
- “Make it simple and people and businesses will do it willingly. I suggest single mixed recyclable bins for apartment and business complexes.”
- “You need to include a regular schedule of washing the dumpsters in your program. It would make the whole program more attractive if I did not have to monitor the bins and call you when they smell.”
- “Make sure that the hauler plays along. If the City of San Carlos composts/recycles at City Hall and other City buildings, then everyone can follow their example.”
- “I think it will help the City to check these things out, and I haven't seen too much action from the City. They should be stricter.”



Survey Results:

Potential Mandatory Commercial Recycling Ordinance, City of San Mateo

Prepared for the SBWMA and the City of San Mateo

September 2009

by

Steven Sherman
Dominique Gomez

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Executive Summary

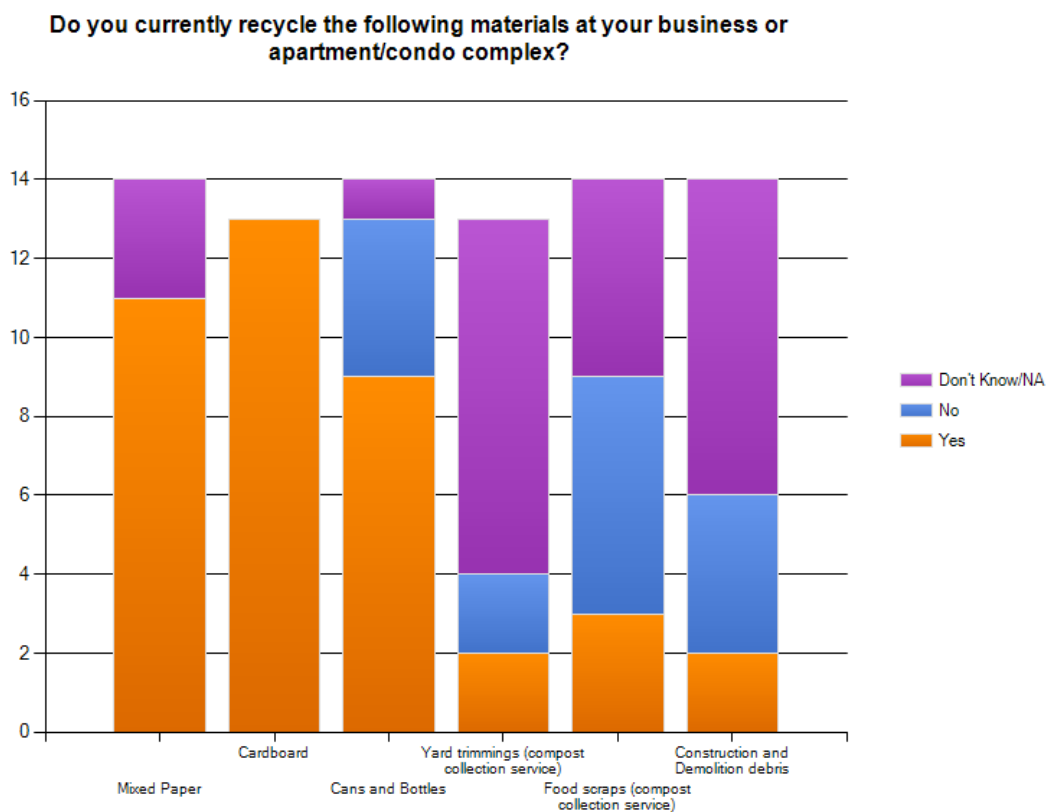
Cascadia Consulting Group, Inc. conducted a telephone survey of commercial entities in the City of San Mateo regarding a potential mandatory commercial recycling ordinance. It was supplemented by an electronic mailing of the survey by the San Mateo Chamber of Commerce to its members. The survey was conducted from July 23 to August 7. During this time, 114 businesses were contacted and 25 surveys were completed.

The major findings are listed below:

- 67% of respondents either agreed (50%) or strongly agreed (17%) with the following statement: “I believe the City should require businesses and apartment buildings to recycle.”
- 27% of respondents either agreed (18%) or strongly agreed (9%) with the following statement: “I believe the City should require businesses and apartment buildings to recycle and impose penalties on businesses that don’t recycle.” Most respondents were either neutral (27%), disagreed (36%), or strongly disagreed (9%) with this statement.
- When asked which businesses, if any, should be exempt from mandatory commercial recycling (respondents could choose more than one response, so figures do not sum to 100%):
 - 50% of respondents stated that “no businesses should be exempt”;
 - 25% stated “businesses with small amounts of trash”;
 - 5% stated “businesses that prove they have inadequate space for recycling”;
 - 25% stated “small businesses”;
 - 5% stated “shopping malls.”
- 81% of respondents stated that “helping businesses by providing recycling technical assistance” should be a high priority for the City if a mandatory recycling ordinance were to be put in place.
- Over 90% of respondents already have a recycling program, and usually recycle cardboard (95%), mixed paper (75%), and cans and bottles (55%).

Current Recycling

The survey found that the majority of respondents usually recycle cardboard (95%), mixed paper (75%), and cans and bottles (55%) at work. Most respondents reported that they did not know if they recycled yard trimmings, food scraps and C&D debris, or that these materials were not applicable in their workplace.

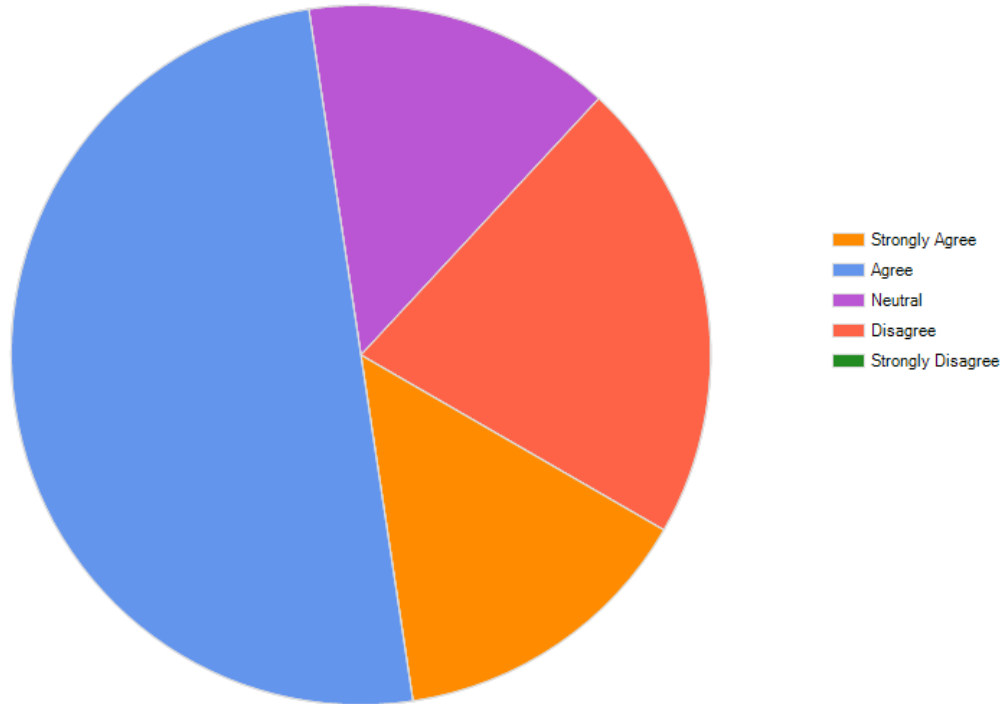


55% of respondents said that they have a moderately successful recycling program, as illustrated by the statement: “We are able to capture a fair amount of the recyclables, but there are still some that go into the trash.” A total of 35% said that they have high success, as illustrated by the statement: “Almost all recyclables get recycled.” The remaining 10% of respondents reported that they have low success with recycling, and identify with the statement: “Most recyclables are thrown out in the trash.”

Support for Mandatory Recycling

67% of respondents either agreed (50%) or strongly agreed (17%) with the following statement: “I believe the City should require businesses and apartment buildings to recycle.” 8% stated that they were neutral, 17% disagreed, and 8% strongly disagreed.

Please state whether you agree or disagree with the following statement: I believe the City should require businesses and apartment buildings to recycle.



9% of respondents agreed and 18% strongly agreed with the statement: “I believe the City should require businesses and apartment buildings to recycle and impose penalties on businesses that don’t recycle.” A total of 46% disagreed (disagreed, 37%; strongly disagreed, 9%) and 27% were neutral.

Of the businesses that strongly agreed with having a mandatory recycling ordinance, half (50%) said their primary reason for support was based on their view that “recycling is the right thing to do.” The other half (50%) said their primary reason for support was based on their view that “recycling helps with the environment/climate change.”

Of the businesses that strongly disagreed with the statement “I believe the City should require businesses and apartment buildings to recycle,” half (50%) cited a “dislike government intervention” as the closest representation of the primary reason for their disagreement. The other half (50%) said that their primary reason for strongly disagreeing with having a mandatory recycling ordinance was: “You can’t penalize owners for non-compliance by tenants and employees.”

Priorities for Program Features

When asked which businesses, if any, should be exempt from mandatory commercial recycling (respondents could choose more than one response, so figures do not sum to 100%):

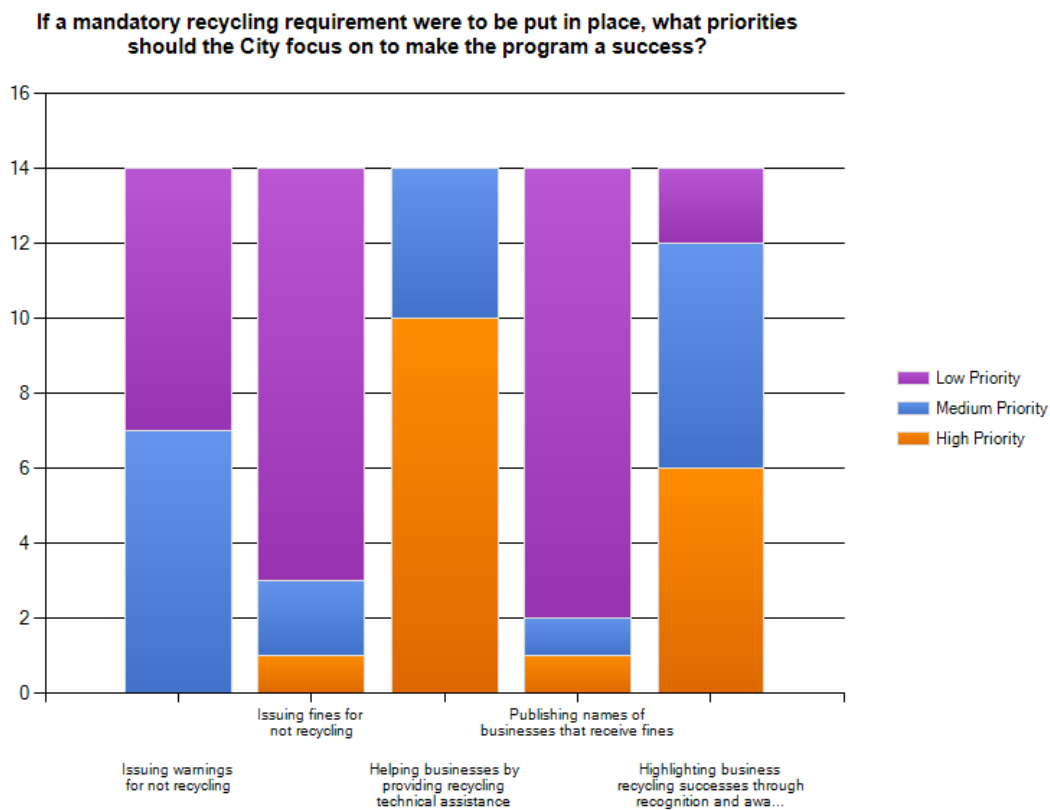
- 50% of respondents stated that “no businesses should be exempt”;

- 25% stated “businesses with small amounts of trash”;
- 5% stated “businesses that prove they have inadequate space for recycling”;
- 25% stated “small businesses”;
- 5% stated “shopping malls.”

Most respondents (81%) held the opinion that “helping businesses by providing recycling technical assistance” should be a high priority for the City if a mandatory recycling ordinance were to be put in place. The issuance of fines was cited as a low priority by approximately two-thirds (67%) of respondents.

“Highlighting business recycling successes through recognition and awards programs” was also cited as a high priority by 52% of respondents. “Publishing names of businesses that receive fines” was cited as a low priority by 76% of respondents.

The chart below provides further details regarding respondents’ stated priorities.



Other Comments

All respondents were asked if they had other comments at the close of the survey. These comments included the following:

- “Some companies cannot recycle because of container ordinances issued from the City. If recycling would become mandatory, the City would have to be willing to make it easy for some companies that don’t currently have the ability, by being creative with containers, collection services and ideas to make it possible. I think this is a great way to begin changing this community and our land. Thank you!”
- “In today's economy, one more penalty isn't a good thing.”
- “If the City wants to improve recycling, the best way would be if they have separate bins downtown and require property managers to provide more bins. But we should not have to have the business to pay for the bins.”
- “As far as our restaurant goes, we would recommend talking to the property manager. We rent space, so it's hard to know who is in charge.”
- “We feel we are doing well, and would like other businesses to do the same.”
- “I fully support it!”
- “If people have the tools, and if the laws are implemented correctly, then fines are OK--but probably not right at first. Don't be the "Green Police." Make recycling attractive and easy to follow through. A large education campaign would be needed in order to get a good response.”
- “I would like to have a composting option for apartment buildings (residences).”
- “Some buildings would have to spend a lot of time and money in the first place to set these systems up. It would be unfair to penalize a company for something they cannot do easily.”
- “It’s not the time for fines. We would like a period where we could get training and equipment set up.”
- “It would be hard to enforce. The City should provide tools to help us recycle before doing penalties.”
- “Sort of have to have a penalty or people won't do it.”
- “I’m not sure if fining is the right method. The City should start with giving us the tools.”
- “Hitting the pocketbook generally makes people comply.”
- “It's a good idea, but impossible to comply--the apartment building can put out recycling bins and hopefully the tenants will comply, but there is no way to force them to recycle.”

Appendix C

- PowerPoint presentation to various associations, such as the Kiwanis, Lions, Rotary, Downtown Association, and Chambers of Commerce.

Required Recycling Ordinance Elements

Steven Sherman
Senior Manager



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1

An Expanding List

- Sacramento Regional Waste Management Authority
- San Diego (City)
- Fresno (City)
- San Francisco
- Seattle
- Portland
- Honolulu
- Central Vermont Solid Waste Management District
- Gainesville (FL)
- Philadelphia
- Passaic County (NJ)
- New York (City)



2

Why Required?

Voluntary participation (pitching in: altruism)
—point of diminishing returns on public investment?



Economic incentives (discounts: self-interest)
—good, but often not strong enough to get results



Required recycling will be mandated by the State of California
—AB32 Scoping Plan



3

Potential Advantages

Higher diversion
Higher participation
Cost savings for businesses
Greater efficiency in materials usage

Fairness
Greenhouse gas reductions
Local economic development
Important additional tool in the toolkit of behavior change approaches



4

Potential Disadvantages

Higher materials handling costs
Loss of use of valuable work areas
Public sector expense for enforcement
Resentment by business community
"Recycling police" could dampen business-friendly climate



5

Key Choices

Who:
must participate?
monitors compliance?
remediates problems?
enforces compliance?

What:
materials included?
contamination threshold?
are the penalties?
exemptions?

When:
to start?
to begin enforcement?



6

Attachment 2: Phase II PowerPoint Presentations to Stakeholders

Mandatory Commercial And Multi-Family Recycling
in the City of San Carlos

Required Recycling Ordinance

What It Means For YOU


Presentation by:
Cliff Feldman, SBWMA
with
Steven Sherman
Cascadia Consulting

 **RethinkWaste**
South BaySide Waste Management Authority

January 13, 2010

Overview

- Why mandatory/required recycling?
- Who is affected?
- What are the requirements?
- How will the requirements be enforced?
- When will the requirements take effect?
- Who will be excluded or exempt from the requirements?
- What are the specific requirements for building owners and property managers?
- What are the specific requirements for independent recycling collectors?
- What are your questions and concerns?
- What are the next steps?



Why A Local Mandatory Commercial Recycling Program?

- Increases recycling diversion, participation, and reduces greenhouse gas emissions
 - Voluntary programs and economic incentives are limited
- Provides greater return on investment in recycling infrastructure
 - Higher efficiency and capital utilization
 - Cost savings for businesses
 - Keeps garbage rates stabilized
- Will be mandated by the State of California
 - AB32 Scoping Plan – Mandatory Commercial Recycling slated for implementation in 2010
 - Opportunity to design a local program that fits San Carlos



Other Communities With Mandatory Recycling Policies And Programs


- Sacramento Regional Waste Management Authority
- San Diego
- Fresno
- San Francisco
- San Luis Obispo
- Seattle
- Portland
- Honolulu
- Central Vermont Solid Waste Management District
- Gainesville (FL)
- Philadelphia
- Passaic County (NJ)
- City of New York



4

San Carlos Commercial Sector Background Statistics


- 1,140 commercial garbage accounts
- 879 with recycling service
- 62 with organic materials recycling service
- Recycling rate = 24% (Residential = 58%)
- Approximately 2/3 of garbage collected
- Nearly 40% of disposed commercial garbage is recyclable or compostable
- Organic materials (food scraps) recycling service available since 2004 for commercial (Residential - March 2009)



5

San Carlos Commercial Sector Background Statistics

Garbage Service Level	Number of Commercial Accounts	Percent of Total Commercial Accounts	Percentage of Commercial Garbage Generated
less than 2 cubic yards/week	393	34.5%	4.3%
2 to 4 cubic yards/week	258	22.7%	8.6%
4 or more cubic yards/week	487	42.8%	87.1%
TOTAL	1,138	100.0%	100.0%



6

Who Is Affected?

- All commercial and multi-family customers with 2 or more cubic yards per week of garbage collection service; also includes City buildings
- Special events
- Exclusions
 - Small accounts – those with less than 2 cubic yards per week of garbage service
- Exemptions
 - Cases where recycling is not feasible (for example due to space constraints)
 - Accounts that don't generate recyclable material



7

What Are The Requirements?

- Receive recycling collection service from the franchised collection company or independent recycling collector
- Separation and collection of organics from medium to large food service establishments
- Property owners/managers and special event organizers are required to:
 - subscribe to recycling service
 - provide adequate containers and signage
 - provide education and training



8

How Will The Requirements Be Enforced?

- 3 step process:
 - 1st event - Courtesy Notice
 - 2nd event - Warning
 - 3rd event - Violation
- Graduated fines:
 - \$100 initial violation; maximum penalty \$500
- City will enforce ordinance and issue fines; franchised collection services provider will assist with monitoring compliance and reporting



9

When Will The Requirements Take Effect?

- 7/1/2010:** 6-month grace period before ordinance requirements are enforced
- 1/1/2011:** Recyclable materials for larger accounts (4 or more cubic yards/week)
- 1/1/2012:** Recyclable materials for medium-sized accounts (2 or more cubic yards/week)
- 1/1/2013:** Organic materials for larger food service accounts (4 or more cubic yards/week)
- 1/1/2014:** Organic materials for medium-sized food service accounts (2+ cy/week)



10

Rationale For A Phased-In Approach

- Largest garbage generators generally offer highest recycling diversion and greenhouse gas reduction opportunities.
- Allows for targeted education and outreach.
- Helps generators to gain experience with effective recycling, before adding organics.

Examples:

- San Francisco: No phase-in period.
- Other jurisdictions: Phase-in approach.



11

Exclusions And Exemptions

Proposed Approach

- Exclusion: Customers with less than 2 cubic yards per week of garbage service.
- Exemption: Customers where recycling is not feasible or don't generate recyclable materials.
 - Can petition for exemption
 - Will be charged a fee to cover City's costs

Rationale

- Limited impact on waste stream; high cost to enforce compliance
- Approximately 400 businesses (34%) would be excluded
- These small commercial accounts generate 4% of franchised commercial garbage collected in San Carlos



12

Requirements For Building Owners And Property Managers

Proposed Approach

- Building owners and property managers will be required to:
 - Provide adequate recycling collection service
 - Ensure that adequate containers and signage are provided
 - Provide information and training to users

Rationale

- Ensures that generators have the services, infrastructure, and knowledge needed to comply
- Facilitates the City's and SBWMA's education efforts on recycling

Franchised Garbage and Recycling Collection Company provides recycling collection service at no additional cost. Organics collection is provided at a 25% discount from garbage service.



13

Requirements For Building Owners And Property Managers

- Franchised Garbage and Recycling Collection Company provides recycling collection service at no additional cost.
- Organics collection is provided at a 25% discount from garbage service.



14

Requirement For Independent Recycling Collectors

Proposed Approach

- City business registration
- Compile and maintain information on service levels and materials collected from customers
- Submit reports on recycling services provided to businesses upon request by City

Rationale

- Ensures legitimate recycling and minimum regulation of service providers
- Enables City to track progress and better enforce ordinance
- Provides level playing field for all affected businesses



15

Next Steps

- Consolidate stakeholder input from 2009/2010 meetings and 2009 survey
- February 2010 – Provide update on process to City Council
- Per Council direction - Develop draft ordinance including stakeholder input
- March/April 2010 - Present ordinance to City Council for consideration
- If approved:
 - Develop and implement the education and outreach campaign
 - Conduct workshops and provide customized technical assistance to businesses



16

Questions And Comments?

Cliff Feldman
Recycling Programs Manager
SBWMA
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cfeldman@rethinkwaste.org



THANK YOU FOR
YOUR INPUT!

Mandatory Commercial And Multi-Family Recycling
in the City of San Mateo

Required Recycling Ordinance

What It Means For YOU


Presentation by:
Cliff Feldman, SBWMA
with
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Cascadia Consulting



January 13, 2010

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2

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3

Other Communities With Mandatory Recycling Policies And Programs


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- Portland
- Honolulu
- Central Vermont Solid Waste Management District
- Gainesville (FL)
- Philadelphia
- Passaic County (NJ)
- City of New York



4

San Mateo Commercial Sector Background Statistics


- 2,300 commercial garbage accounts
- 1,600 with recycling service
- 118 with organic materials recycling service
- Recycling rate = 25% (Residential = 49%)
- Approximately 2/3 of garbage collected
- Nearly 40% of disposed commercial garbage is recyclable or compostable
- Organic materials (food scraps) recycling service available since 2004 for commercial



5

San Mateo Commercial Sector Background Statistics

Garbage Service Level	Number of Commercial Accounts	Percent of Total Commercial Accounts	Percentage of Commercial Garbage Generated
Less than 2 cubic yards/week	641	27.9%	2.6%
2 to 4 cubic yards/week	518	22.5%	5.9%
4 or more cubic yards/week	1,142	49.6%	91.5%
TOTAL	2,301	100.0%	100.0%



6

Who Is Affected?

- All commercial and multi-family customers with 2 or more cubic yards per week of garbage collection service; also includes City buildings
- Special events
- Exclusions
 - Small accounts – those with less than 2 cubic yards per week of garbage service
- Exemptions
 - Cases where recycling is not feasible (for example due to space constraints)
 - Accounts that don't generate recyclable material



7

What Are The Requirements?

- Receive recycling collection service from the franchised collection company or independent recycling collector
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 - subscribe to recycling service
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8

How Will The Requirements Be Enforced?

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 - 3rd event - Violation
- Graduated fines:
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- City will enforce ordinance and issue fines; franchised collection services provider will assist with monitoring compliance and reporting



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When Will The Requirements Take Effect?

- 7/1/2010:** 6-month grace period before ordinance requirements are enforced
- 1/1/2011:** Recyclable materials for larger accounts (4 or more cubic yards/week)
- 1/1/2012:** Recyclable materials for medium-sized accounts (2 or more cubic yards/week)
- 1/1/2013:** Organic materials for larger food service accounts (4 or more cubic yards/week)
- 1/1/2014:** Organic materials for medium-sized food service accounts (2+ cy/week)



10

Rationale For A Phased-In Approach

- Largest garbage generators generally offer highest recycling diversion and greenhouse gas reduction opportunities.
- Allows for targeted education and outreach.
- Helps generators to gain experience with effective recycling, before adding organics.

Examples:

- San Francisco: No phase-in period.
- Other jurisdictions: Phase-in approach.



11

Exclusions And Exemptions

Proposed Approach

- Exclusion: Customers with less than 2 cubic yards per week of garbage service.
- Exemption: Customers where recycling is not feasible or don't generate recyclable materials.
 - Can petition for exemption
 - Will be charged a fee to cover City's costs

Rationale

- Limited impact on waste stream; high cost to enforce compliance
- Approximately 640 businesses (28%) would be excluded
- These small commercial accounts generate less than 3% of franchised commercial garbage collected in San Mateo



12

Requirements For Building Owners And Property Managers

Proposed Approach

- Building owners and property managers will be required to:
 - Provide adequate recycling collection service
 - Ensure that adequate containers and signage are provided
 - Provide information and training to users

Rationale

- Ensures that generators have the services, infrastructure, and knowledge needed to comply
- Facilitates the City's and SBWMA's education efforts on recycling

Franchised Garbage and Recycling Collection Company provides recycling collection service at no additional cost. Organics collection is provided at a 25% discount from garbage service.



13

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14

Requirement For Independent Recycling Collectors

Proposed Approach

- City business license
- Compile and maintain information on service levels and materials collected from customers
- Submit reports on recycling services provided to businesses upon request by City

Rationale

- Ensures legitimate recycling and minimum regulation of service providers
- Enables City to track progress and better enforce ordinance
- Provides level playing field for all affected businesses
- Reduces record keeping burden on affected businesses



15

Next Steps

- Consolidate stakeholder input from 2009/2010 meetings and 2009 survey
- February/March 2010 – Provide update on process to Public Works (PW) Commission
- Per PW Commission direction - Develop draft ordinance including stakeholder input for consideration by Council
- April/May 2010 - Present ordinance to City Council for consideration
- If approved:
 - Develop and implement the education and outreach campaign
 - Conduct workshops and provide customized technical assistance to businesses



16

Questions And Comments?

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cfeldman@rethinkwaste.org



THANK YOU FOR
YOUR INPUT!

Attachment 3: City of San Carlos Mandatory Commercial and Multi- Family Residential Recycling Ordinance

Mandatory Commercial and Multi-Family Residential Recycling Ordinance

Ordinance amending the San Carlos Municipal Code by adding Chapter 8.25.010 through 8.25.210, entitled “Mandatory Commercial and Multi-Family Residential Recycling Ordinance.”

Sections:

8.25.010	Purpose
8.25.020	Findings
8.25.030	Definitions
8.25.040	Solid Waste Customers
8.25.050	Commercial Generators
8.25.060	Multi-family Generators
8.25.070	Special Events
8.25.080	Provisions For Self-haulers
8.25.090	Solid Waste Collectors
8.25.100	Exclusions
8.25.110	Exemptions
8.25.120	City Authority
8.25.130	Administrative Appeal
8.25.140	Enforcement Goals
8.25.150	Enforcement for Contamination
8.25.160	Enforcement for Other Violations
8.25.170	Penalties
8.25.180	Implementation Schedule
8.25.190	Other Provisions
8.25.200	Disclaimer of Liability
8.25.210	Duties Discretionary
8.25.220	Severability

8.25.010. Purpose

The purpose of this Ordinance is to:

- a. Establish requirements for the Collection and Recycling of Recyclable Materials and Collection and Organics Processing of Organic Materials generated from Commercial Facilities, Multi-family Dwellings, and Special Events. These requirements are intended to accomplish the following:
 - i. Assist the City in complying with AB 939, which requires each local jurisdiction in the State to divert 50% of waste from landfill Garbage Disposal, and AB32, requiring that Commercial Generators statewide participate in Recycling programs.
 - ii. Augment voluntary Recycling efforts to further the City’s Recycling and diversion goals.
 - iii. Reduce greenhouse gas emissions associated with the mining and manufacturing of goods from virgin materials and associated with the disposal of Solid Waste in landfills.

- iv. Further protect the natural environment and human health as well as enhance the economy through increased Recycling and Organics Processing activities.
- b. Provide for enforcement through the use of fines for violating the requirements of this Ordinance;
- c. Establish a schedule for implementing and enforcing the Ordinance;
- d. Provide exclusions and exemptions for select Solid Waste Customers, Commercial Generators, and Special Events who are not included or able to comply with this Ordinance or for whom the Ordinance poses an undue burden.

8.25.020 Findings

The City Council finds and determines as follows:

A. The City wishes to maintain a safe, controlled and cost-efficient Commercial and Multi-Family Residential Recycling program, which serves as a convenience to the community and preserves the public health and safety.

B. The City wishes to encourage commercial, multi family and special event recycling in order to reduce impacts to landfill and to reduce greenhouse gas emissions attributable to solid waste.

C. The City has determined that reducing the amount of solid waste is entering the waste stream in the overall interest of the community, and is required by State mandates under Assembly Bill 939, Senate Bill 1018 and Assembly Bill 32.

8.25.030. Definitions

The definitions set forth in Section 8.04.030 of the Municipal Code shall apply to this chapter.

8.25.040 Solid Waste Customers

Each Solid Waste Customer shall be responsible for ensuring and demonstrating its compliance with the requirements of this Ordinance. Each Solid Waste Customer shall:

- a. Subscribe to an adequate level of service for Recyclable Materials and, when applicable, Organic Materials generated at the Commercial Facility, Multi-family Dwelling, or Special Event if the Solid Waste Customer does not Self Haul those Recyclable Materials or Organic Materials to a Recycling or Organics Processing facility.

- b. Provide, directly or through the Solid Waste Collector, appropriate and sufficient Containers, placed in appropriate and accessible locations with adequate signage, to ensure maximum Segregation of Recyclable Materials by all Commercial Generators, Multi-family Generators, and Special Events and to ensure maximum Segregation of Organic Materials by Food Service Establishments.
- c. Post and maintain signs containing information and instructions on the proper Segregation and storage of Recyclable Materials and Organic Materials in areas where Containers are located.
- d. Ensure that all Containers used for collecting and storing Recyclable Materials and Organic Materials (i) are affixed with or have adjacent to the Container signs that display the appropriate information to enable users to clearly differentiate which Containers are used for Recyclable Materials, Organic Materials, and Garbage; (ii) display the name of the Solid Waste Collector that provides collection service of the Container; and (iii) ensure that users of the Containers make efforts to minimize the Contamination of material placed in the Containers.
- e. Distribute Ordinance requirements and appropriate educational materials to all Commercial Generators, Multi-family Generators, and Special Events at the Commercial Facility or Multi-family Dwelling at least once each year. All new Commercial Generators, Multi-family Generators, and Special Events shall receive this information upon occupancy, employment, or contracting. Educational materials shall include (i) the requirement and procedures to ensure the accurate Segregation of Recyclable Materials and Organic Materials from Garbage; (ii) the Commercial Generator's, Multi-family Generator's, or Special Event's responsibilities regarding compliance with this Ordinance; and (iii) the types and location of Recyclable Materials, Organic Materials, and Garbage Containers.
- f. Ensure that instructions or training materials provided to Commercial Generators, Multi-family Generators, and Special Events are promptly made available to the City upon request.
- g. Ensure that the contents of the Recyclable Materials and Organic Materials Containers are not collected for Garbage Disposal unless the contents of these Containers include unacceptable levels of Contamination. Solid Waste Customers shall be assessed a premium fee based on the size of the Container for Recyclable Materials and Organic Materials Containers that are collected for Garbage Disposal by the Franchisee if the contents of their Recyclable Materials and Organic Materials Containers contain unacceptable levels of Contamination.

8.25.050 Commercial Generators

Each Commercial Generator shall be responsible for ensuring and demonstrating its compliance with the requirements of this Ordinance. Each Commercial Generator shall:

- a. Ensure the Segregation of Recyclable Materials and, for Food Service Establishments, Organic Materials from Garbage by placing each type of material in a separate designated Receptacle or Container and ensure that employees, contractors, volunteers, customers, visitors, and other persons on site Segregate Recyclable Materials and, for Food Service Establishments, Organic Materials.

- b. Provide an adequate number and type of labeled Receptacles needed for Segregating and storing Recyclable Materials and, for Food Service Establishments, Organic Materials and provide adequate access to these Receptacles.
- c. Post and maintain signs containing information and instructions on the proper Segregation and storage of Recyclable Materials and, for Food Service Establishments, Organic Materials in areas where Receptacles are located.
- d. Ensure that all Receptacles used for collecting and storing Recyclable Materials, Organic Materials, and Garbage are affixed with signs or labels that display the appropriate information to enable users to clearly differentiate which Receptacles are used for Recyclable Materials, Organic Materials, and Garbage to minimize the Contamination of material placed in Receptacles.
- e. Provide adequate instructions to employees, contractors, and volunteers of the requirements of this Ordinance, including (i) the requirement and procedures to ensure the Segregation of Recyclable Materials and, for Food Service Establishments, Organic Materials from Garbage; (ii) the employee's, contractor's, and volunteer's responsibilities regarding compliance with this Ordinance; and (iii) the types and location of Receptacles and Containers for Recyclable Materials, Organic Materials, and Garbage.
- f. Ensure that instructions or training materials provided to employees, contractors, and volunteers are promptly made available to the City upon request.
- g. Ensure that the contents of Receptacles are deposited in the proper Container and ensure that the contents of the Receptacles for Recyclable Materials and Organic Materials are not delivered to Garbage Containers. Commercial Generators shall be assessed a premium fee based on the size of the Container for Recyclable Materials and Organic Materials Containers that are collected for Garbage Disposal by the Franchisee if the contents of their Recyclable Materials and Organic Materials Containers contain unacceptable levels of Contamination.

8.25.060 Multi-family Generators

Each Multi-family Generator shall:

- a. Participate in programs covered by this Ordinance that require Segregating Recyclable Materials from Garbage and depositing them in designated Containers provided by the Solid Waste Customer or Solid Waste Collector.

8.25.070 Special Events

Special Events shall be responsible for ensuring and demonstrating compliance with the requirements of this Ordinance. In addition to other requirements in this ordinance and the Municipal Code, each Special Event shall:

- a. Segregate Recyclable Materials and, for Special Events that include Food Service Establishments, Organic Materials from Garbage by placing each type of material in a separate designated Receptacle or Container and ensure that employees, contractors, volunteers, customers, visitors, and other persons on site Segregate Recyclable Materials and, for Food Service Establishments, Organic Materials.
- b. Ensure the Special Event has access to an adequate number and type of Containers needed for collecting and storing Recyclable Materials, and, when applicable, Organic Materials generated at and by the Special Event.
- c. Provide or ensure the provision of adequate Receptacles throughout the Special Event location to make the Segregation of Recyclable Materials and Organic Materials convenient for employees, volunteers, contractors, vendors, exhibitors, presenters, visitors, attendees, customers, and other persons on site.
- d. Provide or ensure the provision of an equal or greater number of Receptacles for Recyclable Materials and, when applicable, Organic Materials to Receptacles for Garbage. Individual Receptacles for Recyclable Materials, Organic Materials, and Garbage shall be placed as close together as possible throughout the Special Event location in order to provide equally convenient access to Receptacles for Recyclable Materials and Organic Materials as to Receptacles for Garbage.
- e. Ensure that all Receptacles used for Segregating and storing Recyclable Materials, Organic Materials, and Garbage are affixed with signs or labels that display the appropriate information to enable users to accurately Segregate Solid Waste and to clearly differentiate which Receptacles are used for Recyclable Materials, Organic Materials, and Garbage, to minimize the Contamination of material placed in Receptacles. Require food vendors and Food Service Establishments to have at least one separate Receptacle each for Recyclable Materials, Organic Materials, and Garbage for use by employees, contractors, custodians, customers, visitors, and other persons on site.
- f. Distribute Ordinance requirements and appropriate informational materials to all vendors, exhibitors, and other Commercial Generators during event planning and set up.
- g. Ensure that the contents of the Receptacles for Recyclable Materials and Organic Materials are not delivered to Garbage Containers unless they include unacceptable levels of Contamination.

8.25.080 Provisions for Self-haulers

- a. Nothing in this Ordinance shall preclude any person, Solid Waste Customer, Commercial Generator, Multi-family Generator, or Special Event from Self Hauling Recyclable Materials or Organic Materials generated by that entity to a Recycling or Organics Processing facility.
- b. Self-haulers shall:

- i. Comply with the requirements in this Ordinance by delivering for Recycling those items that can be Recycled by local Recycling facilities; Self-haulers that are also Food Service Establishments shall comply by delivering for Organics Processing those items that are accepted by local Organics Processing facilities.
- ii. Provide proof of compliance with this Ordinance, upon request by the City; proof includes but is not limited to a receipt from a Recycling or Organics Processing facility that clearly identifies the type and quantity of material delivered.

8.25.090 Solid Waste Collectors

- a. Recycling and Organic Materials Collectors shall obtain and maintain a business registration with the City.
- b. Solid Waste Collectors shall keep separate Garbage, Recyclable Materials, and Organic Materials that have been segregated into separate Containers by Commercial Generators, Multi-family Generators, or Special Events.
- c. Solid Waste Collectors shall ensure that Segregated Recyclable Materials are delivered to a Recycling facility and that Segregated Organic Materials are delivered to an Organics Processing facility, except that a Container that contains unacceptable levels of Contamination may be delivered for Garbage Disposal if the Solid Waste Collector notifies the City of the occurrence; the date of the occurrence; and the account name, primary contact, phone number, billing address, and service address for the Solid Waste Customer at which the Container is located.
- d. Within five (5) days of request by the City, Solid Waste Collectors shall provide progress reports providing the following information, at a minimum:
 - i. Total number of Solid Waste Customers to whom the Solid Waste Collector currently provides Garbage, Recyclable Materials, and Organic Materials Collection service within the City's boundaries;
 - ii. For each Solid Waste Customer, the account name, identifying number, primary contact, phone number, billing address, and service address;
 - iii. Information on the type of Collection service provided, such as Garbage, Recyclable Materials, or Organic Materials services;
 - iv. The weekly volume and type of Collection service provided, including the number, type, and size of Containers serviced and the days of service for each Container;
 - v. Name and location of the Solid Waste Facilities where materials are delivered for processing;
 - vi. List of accounts not in compliance with this Ordinance, including whether they are excluded or exempt based on the exemptions in Sections 4 and 5.

8.25.100. Exclusions

Solid Waste Customers that subscribe to less than two (2) cubic yards of Garbage collection service per week shall be excluded from the requirements of this Ordinance.

8.25.110. Exemptions

Solid Waste Customers, Commercial Generators, and Special Events that can document using the methods described in subsection 5.3 that the circumstances described in subsections 5.1 and 5.2 pertain to their operations shall be exempt from the requirements of this Ordinance:

a. No Generation of Recyclable Materials

Solid Waste Customers, Commercial Generators, and Special Events may be exempt from the requirements of this Ordinance if the Solid Waste Customer, Commercial Generator, or Special Event demonstrates to the City that no Recyclable Materials or Organic Materials are generated on site.

b. Space Constraints and Zoning Considerations

- 1 Solid Waste Customers may be exempt from the requirements of this Ordinance if the City determines that either:
 - i. There is inadequate space for a Solid Waste Customer to store Containers for Recyclable Materials or Organic Materials on site and that it is infeasible for the Solid Waste Customer to share Recyclable Materials or Organic Materials Containers with adjacent Commercial Facilities or Multi-family Dwellings; or
 - ii. Compliance with this Ordinance will result in violating City zoning or other regulations.
2. Commercial Generators, Multi-family Generators, and Special Events may be exempt from the requirements of this Ordinance if the City determines that either:
 - i. The Solid Waste Customer that is responsible for managing Solid Waste for the Commercial Generator, Multi-family Generator, or Special Event is excluded or exempt from providing Containers for Recyclable Materials or, for Food Service Establishments, Organic Materials; or
 - ii. There is inadequate space for the Commercial Generator or Special Event to store Receptacles for Recyclable Materials or Organic Materials on site and that it is infeasible for the Commercial Generator or Special Event to deposit Recyclable or Organic Materials directly into Containers without an intermediate Receptacle; or
 - iii. Compliance with this Ordinance will result in violating City zoning or other regulations.

c. Verification of Exemption

The Solid Waste Customer, Commercial Generator, or Special Event shall petition the City with a written request for an exemption documenting the circumstances of a claimed exemption. The City may visit the Solid Waste Customer's, Commercial Generator's, or Special Event's site; examine the Receptacles for Garbage, Recyclable Materials, or Organic Materials; or take other actions to verify the circumstances identified in the petition. The Solid Waste Customer, Commercial Generator, or Special Event requesting an exemption shall not be granted an exemption from the requirements of this Ordinance if the City determines that (i) Recyclable Materials or Organic Materials are generated on site, (ii) it is feasible for Containers and Receptacles for Recyclable Materials and, as necessary, for Organic Materials to be placed on site, and (iii) it is feasible for to share Recycling Containers with an adjacent Commercial Facility, or Multi-family Dwelling. The City may impose an administrative fee on petitioning entities to cover the costs of processing such petitions. The City may require the Solid Waste Customer, Commercial Generator, or Special Event that is granted an exemption from the requirements of this Ordinance to submit a renewal of its petition for an exemption every two years from the date the exemption was granted by the City.

8.25.120 City Authority

The City or its designee is authorized to administer and enforce the provisions of this Ordinance. To the extent permitted by law, the City or its designee may inspect any collection Container at a Commercial Facility, Multi-family Dwelling, or Special Event and any Solid Waste Collector's load for Garbage, Recyclable Materials, or Organic Materials. To the extent permitted by law, the City or its designee may also inspect the premises of any Commercial Facility, Multi-family Dwelling, or Special Event to determine compliance with the provisions of this Ordinance.

8.25.130 Administrative Appeal

Unless otherwise expressly provided by the City Municipal Code, any person adversely and directly affected by any determination made or action taken by the City pursuant to the provisions of this Ordinance may file an administrative appeal with the City Clerk. If no appeal is filed within ten (10) days under the municipal code City administrative appeal procedures at Section 1.25 of the Municipal Code, the determination of the City shall be final.

8.25.140 Enforcement Goals

The City shall enforce this Ordinance with the goal of maximizing the amount of Recyclable Materials and Organic Materials properly Segregated and ensuring that Recyclable Materials and Organic Materials that have been properly Segregated by the Solid Waste Customer, Commercial Generator, Multi-family Generator, or Special Event are correctly Collected and delivered to Recycling and Organics Processing facilities. The City or its designee shall conduct the following activities to enforce this Ordinance:

- a. Provide details on the requirements of this Ordinance to affected Solid Waste Customers, Commercial Generators, Multi-family Generators, and Special Events;

- b. Develop and disseminate public education and promotional materials relating to the importance of Recycling and Organics Processing and the availability of Recycling and Organics Processing opportunities available to Solid Waste Customers, Commercial Generators, Multi-family Generators, and Special Events;
- c. Provide technical assistance and training to Solid Waste Customers, Commercial Generators, Multi-family Generators, and Special Events to increase recycling;
- d. Enforce provisions of the Franchise Agreement for Collection of Recyclable Materials, Organic Materials, and Garbage with the Franchisee to stimulate demand for Recyclable Materials and Organic Materials collection service.

8.25.150 Enforcement for Contamination

Enforcement of this Ordinance regarding Contamination in Containers for Garbage, Recyclable Materials, and Organic Materials shall be carried out by the City or its designee in a three step process, as follows:

- a. **Step One — Issuance of a Courtesy Notice:** If the City or its designee identifies Contamination in a collection Container, they shall notify the Solid Waste Customer in writing by affixing to the corresponding Container a written “Courtesy Notice” identifying the Contamination and shall provide a copy of this Courtesy Notice to the City along with the account name, primary contact, phone number, billing address, and service address of the Solid Waste Customer.
- b. **Step Two — Issuance of a Warning Notice:** If the City or its designee identifies Contamination in a collection Container a second time, they shall notify the Solid Waste Customer affixing to the corresponding Container a written “Warning Notice” identifying the Contamination and shall provide a copy of this Warning Notice to the City along with the account name, primary contact, phone number, billing address, and service address of the Solid Waste Customer.
- c. **Step Three — Issuance of a Violation Notice:** If the City or its designee identifies Contamination in a collection Container after the City or its designee has issued both a Courtesy Notice and Warning Notice to the same Solid Waste Customer, the Solid Waste Collector may refuse to Collect the Container with Contamination, and the Solid Waste Collector or City or its designee must affix to the corresponding Container a written “Violation Notice” identifying the Contamination and send a written copy of the Violation Notice to the Solid Waste Customer, identifying the incorrect materials and describing what action must be taken for the materials to be collected; provided, however, that a Solid Waste Collector may not refuse on this basis to empty containers from Commercial Facilities with multiple tenants and joint account collection service due to excessive Contamination, but the Solid Waste Collector may manage contaminated loads as Garbage and charge the Solid Waste Customer accordingly. The Solid Waste Collector or the designee of the City shall also provide a copy of the Violation Notice to the City, along with the account name, primary contact, phone number, billing address, and service address of the Solid Waste Customer.

Solid Waste Collectors shall not be held liable for the failure of Solid Waste Customers to comply with this Ordinance, unless specified in the franchise, contract, registration certificate, or permit issued by the City.

8.25.160 Enforcement for Other Violations

Enforcement of this Ordinance regarding violations of Section 3 of this Ordinance by Solid Waste Customers, Commercial Generators, or Special Events, excluding Contamination in Containers for Garbage, Recyclable Materials, and Organic Materials, shall be carried out by the City or its designee as follows:

- a. **Step One—Issuance of a Courtesy Notice:** If the City or its designee determines that a Solid Waste Customer, Commercial Generator, or Special Event has violated the requirements identified in section 3 of this Ordinance, the City or its designee shall provide to that entity a written Courtesy Notice identifying the violation(s), describing what actions may be taken to correct the violation(s), and providing information on assistance for correcting the violation(s) that may be available from the City or its designee. If the Courtesy Notice has been issued by a designee, the designee shall provide a copy of the warning notice along with the name, primary contact person, phone number, and address of the entity that was issued the Courtesy Notice.
- b. **Step Two—Issuance of a Warning Notice:** If the City or its designee determines that a Solid Waste Customer, Commercial Generator, or Special Event has violated the requirements identified in Section 3 of this Ordinance, after that entity has received a Courtesy Notice, the City or its designee shall provide to that entity a written Warning Notice identifying the violation(s), describing what actions may be taken to correct the violation(s), listing the date after which the City or its designee may issue Violation Notice if the violation(s) have not been corrected, and providing information on assistance for correcting the violation(s) that may be available from the City or its designee. If the Warning Notice has been issued by a designee, the designee shall provide a copy of the warning notice along with the name, primary contact person, phone number, and address of the entity that was issued the Warning Notice.
- c. **Step Three—Issuance of a Violation Notice:** If the City or its designee determines that a Solid Waste Customer, Commercial Generator, or Special Event has not corrected violation(s) identified in a Warning Notice by the date specified on the Warning Notice, City or its designee shall provide to that entity a written Violation Notice identifying the violation(s) and describing what actions may be taken to correct the violation(s). If the Violation Notice has been issued by a designee, the designee shall provide a copy of the warning notice along with the name, primary contact person, phone number, and address of the entity that was issued the Violation Notice.

8.25.170 Penalties

The City may issue administrative fines for violating this Ordinance or any rule or regulation adopted pursuant to this Ordinance, except as otherwise provided in this Ordinance. The City's procedures on imposition of administrative fines are hereby incorporated in their entirety and shall govern the imposition, enforcement, collection, and review of administrative citations issued to enforce this Ordinance and any rule or regulation adopted pursuant to this Ordinance; provided, however, that the City may adopt regulations providing for lesser penalty amounts for Solid Waste Customers, Commercial Generators, or Special Events. No penalty shall be issued to any Multi-family Generator, unless that entity is also a Solid Waste Customer.

A Violation Notice shall be issued and served upon the Solid Waste Collector, Solid Waste Customer, Commercial Generator, or Special Event for violations of this Ordinance. No Violation Notice shall be issued or served upon any Multi-family Generator, unless that entity is also a Solid Waste Customer. For violations for which a Violation Notice is served, public nuisance proceedings and/or code enforcement proceedings under the City’s Code shall apply, in addition to the administrative penalties approved by resolution of the City governing body, as modified from time to time. The City has the authority to impose administrative penalties for the Violation Notice. The amount of the administrative fine shall not be more than \$100 for the first occurrence of the violation(s) identified in a Violation Notice, \$250 for the second occurrence of the violation(s) identified in a Violation Notice, and \$500 for the third and subsequent occurrences of the violation(s) identified in a Violation Notice.

All administrative civil penalties collected from actions brought pursuant to this Ordinance shall be paid to the City and shall be deposited into a special account (or Solid Waste account) that is available to fund activities to implement the applicable provisions of this Ordinance.

The City Attorney may seek injunctive relief or civil penalties in the Superior Court in addition to the above remedies and penalties.

8.25.180 Implementation Schedule

The schedule for enforcement of this Ordinance shall be implemented in accordance with the timeline specified in Table 1:

Table 1		
Date	Entities Affected	Materials Covered
January 1, 2011	Recyclable Materials: All Solid Waste Collectors and Solid Waste Customers that subscribe to two (2) cubic yards or more of Garbage collection service per week.	Recyclable Materials
January 1, 2012	Organic Materials: All Solid Waste Collectors and Solid Waste Customers that subscribe to two (2) cubic yards or more of Garbage collection service per week and that serve Food Service Establishments and Special Events.	Organic Materials

8.25.190 Other Provisions

a. No Other Powers Affected

This Ordinance does not do any of the following:

- i. Otherwise affect the authority of the City, or designee to take any other action authorized by any other provision of law.
- ii. Restrict the power of a city attorney, district attorney, or the Attorney General to bring in the name of the people of California, any criminal proceeding otherwise authorized by law.
- iii. Prevent the City or designee from cooperating with, or participating in, a proceeding.

- iv. Affect in any way existing contractual arrangements including franchises, permits, or licenses previously granted or entered into between the Solid Waste Collectors and City.

b. Cumulative Remedies

Any remedy provided under this Ordinance is cumulative to any other remedy provided in equity or at law. Nothing in this Ordinance shall be deemed to limit the right of the City or its Solid Waste Operators to bring a civil action; nor shall a conviction for such violation exempt any person from a civil action brought by the City or its Solid Waste Operators. The fees and penalties imposed under this article shall constitute a civil debt and liability owing to the City from the persons, firms, or corporations using or chargeable for such services and shall be collectible in the manner provided by law.

c. Liability

Nothing in this article shall be deemed to impose any liability upon the City or upon any of its officers or employees including without limitation under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA).

8.25.200 Disclaimer of Liability

The degree of protection required by this Ordinance is considered to be reasonable for regulatory purposes. The standards set forth in this Ordinance are minimal standards and do not imply that compliance will ensure safe handling of Recyclable Materials, Organic Materials, or Garbage. This Ordinance shall not create liability on the part of the City, or any of its officers or employees, for any damages that result from reliance on this Ordinance or any administrative decision lawfully made in accordance with this Ordinance. All persons handling Solid Waste within the boundaries of the City should be and are advised to conduct their own inquiry as to the handling of such materials. In undertaking the implementation of this Ordinance, the City is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officer and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

8.25.210 Duties Discretionary

Subject to the limitations of due process and applicable requirements of State or federal laws, and notwithstanding any other provisions of this Ordinance, whenever the words “shall” or “must” are used in establishing a responsibility or duty of the City, its elected or appointed officers, employees or agents, it is the legislative intent that such words establish a discretionary responsibility or duty requiring the exercise of judgment and discretion.

8.25.220 Severability

If any section, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this Ordinance. City hereby declares that it would have passed this Ordinance and adopted this article and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

Attachment 4: Menu of Options

Task 3 Deliverable: Menu of Options for a Mandatory Commercial Recycling Ordinance

This document presents information about options for key elements of the proposed mandatory commercial recycling ordinances for review by staff of the SBWMA and the Cities of San Carlos and San Mateo. The matrix below identifies the main options for each element and presents advantages, disadvantages, implications, and examples elsewhere. This menu of options is intended to inform discussions among SBWMA staff, city staff, and consultants that will identify the initial set of options to be presented for stakeholder review. The ordinance will include the following key elements.

- a. **Findings and purpose**—to demonstrate the rationale for the ordinance.
- b. **Definitions**—of key terms used in the ordinance.
- c. **Covered generators**—definitions and criteria for inclusion and exclusion, such as generator type and size or quantity of weekly trash service; includes property owners and managers; potentially includes waste generated at special events (such as festivals, rallies, or other large gatherings).
- d. **Covered materials**—definitions or criteria for the materials targeted by the ordinance.
- e. **Exemptions**—including both a process for exemptions and any blanket exemptions not defined in covered generators.
- f. **Generator requirements**—requirements and/or prohibitions for generators, property owners and managers, and special events organizers.
- g. **Collector and processor requirements**—requirements and/or prohibitions for solid waste and recycling collectors, transfer stations, and/or processing facilities. This section will address container/storage requirements, recycling collector certification, and franchised collection service.
- h. **Ownership of recyclable materials**—both before and after collection by a recycling collector.
- i. **Self-Haul**—provisions to allow generators to transport their own covered materials to an appropriate processor.
- j. **Construction requirements**—to ensure that new construction or expansion of commercial structures provides adequate space for recycling infrastructure, such as external recycling containers.
- k. **Inspections and enforcement protocols**—for generators, special events organizers, property owners and managers, collectors, transfer stations, and/or processors.
- l. **Reporting requirements**—for generators, property owners and managers, collectors, transfer stations, and/or processors.
- m. **Timeline**—for implementation and enforcement.
- n. **Rulemaking process**—to define the process used by staff to clarify or amend rules, providing flexibility in interpreting the ordinance to adapt to changes in solid waste generation and recycling opportunities.
- o. **Other provisions**—any provisions necessary to ensure the ordinance is consistent with existing City statutes regarding solid waste, recycling, litter, collectors, and generators.
- p. **Severability and liability disclaimer.**

Menu of Options

Options	Advantages	Disadvantages	Implications	Notes and Examples Elsewhere
a. Findings and Purpose— <i>Why is this ordinance needed? What is the ordinance seeking to accomplish?</i>				
Describe findings and purpose	Frames issues and goals. Identifies previous steps taken in pursuit of goals.	In some cases can be overly wordy or have unsupported assertions.	Each city should develop its own section based on its unique experience and perspective.	Ordinances elsewhere cite goals such as achieving waste reduction, conserving natural resources, and reducing greenhouse gas emissions. Some also identify previous voluntary efforts to increase business recycling and county or state requirements to increase recycling and waste reduction.
b. Definitions— <i>What do key terms mean?</i>				
Define key terms	Accurate and precise definitions help to clarify meaning and set boundaries.	Overly broad or restrictive definitions may erode the effectiveness of the ordinance.	Each city should develop its own set of definitions, paying close attention to consistency with terms previously defined in other ordinances and rules adopted by that city.	We will identify the key terms for the definitions section. Common terms found in ordinances are business, customer, hauler, multifamily residential property, non-residential property, recyclable materials, recycling facility, self-haul, solid waste, and source separation.

Options	Advantages	Disadvantages	Implications	Notes and Examples Elsewhere
c. Covered Generators — <i>Which generators should be covered by the ordinance? Who should be held responsible for non-compliance?</i>				
Businesses	Great potential to increase diversion, especially among large generators of trash.	May impose perceived undue burden on a key source of jobs and tax revenue.	<p>The ordinance is intended, in part, to meet State of California requirements per the AB 32 Scoping Plan.</p> <p>Will need to specify whether all or some businesses are covered. Exemptions for smaller businesses with small volumes may be appropriate (see exemptions section below).</p>	<p>Arcadia, California Cambridge, Massachusetts Central Vermont SWMD Chicago, Illinois Fresno, California Honolulu, Hawaii Kingsburg, California Pleasant Hill, California Portland, Oregon Poway, California Sacramento, California San Diego, California San Francisco, California San Luis Obispo, California Seattle, Washington St. Paul, Minnesota</p>
Multifamily residences	Can improve chronic underperformance of owners, managers, and tenants.	Frequently presents educational, organizational, logistical, and operational challenges.	May need to identify specific requirements for property owners or managers, separate from tenants' responsibilities.	<p>Central Vermont SWMD Chicago, Illinois Fresno, California Kingsburg, California Pleasant Hill, California Poway, California Sacramento, California San Diego, California San Francisco, California San Luis Obispo, California St. Paul, Minnesota</p>

Options	Advantages	Disadvantages	Implications	Notes and Examples Elsewhere
Multi-use buildings	May generate a large quantity of recyclables. Defining requirements for multi-use buildings can reduce confusion.	May be more difficult for some owners, managers, and tenants to comply.	May need to identify specific requirements for property owners or managers, separate from tenants' responsibilities.	Sacramento, California San Diego, California San Francisco, California
Non-residential properties	Includes institutional, governmental, and non-profit properties without specifying each individually.	None identified.	Broadens the reach of the ordinance. Could also be defined as any property with a commercial garbage account.	Sacramento, California San Diego, California San Francisco, California
Local government	Can serve as a model for commercial sector and community.	None identified.	Local government would be held to same standards as it requires of others.	San Diego, California San Francisco, California San Luis Obispo, California
Special districts, state, or federal agencies	Can be sizable generators.	Frequently excluded in case law.	Not likely to be included in local ordinance.	None identified.
Special events	Highly visible opportunity for education and mass participation.	Requires advance planning by event organizers.	Depending on specificity of ordinance, additional rules or protocols may be needed for clarification after ordinance's passage.	San Diego, California San Luis Obispo, California

Options	Advantages	Disadvantages	Implications	Notes and Examples Elsewhere
d-1. Covered Materials—How should the ordinance specify materials?				
Specific materials named in ordinance	Provides clarity.	Materials cannot be changed unless ordinance is changed.	Covered materials cannot be changed without passing a new ordinance.	Kingsburg, California Portland, Oregon Seattle, Washington
Specific materials named in ordinance with provisions for additional materials collected by haulers or designated by city	Provides a list of materials covered and allows flexibility to add new materials in the future as recycling markets increase.	Could result in confusion about what materials are collected or covered.	Provides mechanism to change list of materials collected and covered.	Kingsburg, California San Diego, California St. Paul, Minnesota
All source-separated materials collected per franchise agreement for recycling and/or organics processing	Ensures collection is available for covered materials and generators.	Limits collection of uncommon recyclable materials that may be generated by commercial or industrial businesses, such as clean plastic film.	If the lists of materials collected per franchise agreements vary by city, then the ordinances may result in some inter-jurisdictional confusion about requirements for businesses that have branches in several cities.	San Francisco, California San Luis Obispo, California
Materials not named in ordinance but decided by administrative officer in rulemaking process	Flexibility to change materials covered over time.	Less clearly prescriptive. Reduces certainty that all desired materials will be included, unless ordinance also specifies that materials collected per franchise agreements are also covered.	It may be appropriate to combine this option with the option specifying that materials collected per franchise agreements are also covered.	Central Vermont SWMD Sacramento, California San Francisco, California

Options	Advantages	Disadvantages	Implications	Notes and Examples Elsewhere
d-2. Covered Materials — <i>If the ordinance lists specific materials, which should be included?</i>				
Cardboard	Easy to recycle. Large quantities of cardboard are discarded despite existing markets.	Material can be bulky when not flattened, which may result in improper set-outs that violate other rules or ordinances if the cardboard does not fit within a generator’s recycling containers.	Need to balance recycling requirements with constraints associated with the set out of bulky items.	Arcadia, California Cambridge, Massachusetts Chicago, Illinois Fresno, California Honolulu, Hawaii Kingsburg, California Pleasant Hill, California Portland, Oregon Poway, California Rancho Cordova, California Sacramento, California San Diego, California San Francisco, California Seattle, Washington St. Paul, Minnesota
Mixed paper, office paper, and/or newspaper	Easy to recycle. Prevalent in solid waste stream.	Several types of generators produce very small quantities.	Can be incorporated into a single-stream recycling program.	Arcadia, California Cambridge, Massachusetts Chicago, Illinois Fresno, California Honolulu, Hawaii Kingsburg, California Pleasant Hill, California Portland, Oregon Poway, California Rancho Cordova, California Sacramento, California San Diego, California San Francisco, California Seattle, Washington St. Paul, Minnesota

Options	Advantages	Disadvantages	Implications	Notes and Examples Elsewhere
Food and beverage containers (glass, aluminum, other metal, certain plastic)	These items are generated by many sub-sectors of the commercial sector.	Possible confusion about which food and beverage containers are included, especially in terms of plastics. May result in high need for education and outreach, and elevated contamination.	Can be incorporated into a single-stream recycling program.	Arcadia, California Cambridge, Massachusetts Fresno, California Honolulu, Hawaii Kingsburg, California Pleasant Hill, California Portland, Oregon Poway, California (from bars and restaurants) Sacramento, California San Diego, California San Francisco, California St. Paul, Minnesota
Yard trimmings	Material can be easily separated, in most cases.	Requires additional container to separate from trash and recyclables.	Yard trimmings disposal bans are common in the U.S., and a local requirement to recycle such materials may be prudent in anticipation of a regional or state policy.	Alameda County Waste Management Authority, California Cambridge, Massachusetts Honolulu, Hawaii Kingsburg, California Poway, California San Francisco, California Seattle, Washington St. Paul, Minnesota

Options	Advantages	Disadvantages	Implications	Notes and Examples Elsewhere
Food scraps	At least 400 businesses in San Mateo County already participate in source-separated food scraps recovery.	Several generators may face educational, logistical, and operational issues. Requires a significant amount of outreach and technical assistance.	Food scraps are a major component of commercial disposed waste and a key contributor to greenhouse gas (GHG) emissions caused by disposal in landfills. The diversion of food scraps is necessary to achieve meaningful reductions in GHG emissions at landfills.	San Diego, California San Francisco, California St. Paul, Minnesota
Construction and demolition debris	Inclusion reinforces existing C&D ordinance.	Potentially redundant. Potential confusion if not redundant.	Can be incorporated into ordinances by reference.	Fresno, California
Wood, wood waste, or wood pallets	Material is typically heavy and easy to separate.	Generally not part of franchised hauling system, which may complicate tracking and compliance monitoring.	Could be addressed at a later date if ordinance initially focuses on materials that are collected as part of franchise agreements.	Arcadia, California Cambridge, Massachusetts Chicago, Illinois Sacramento, California San Diego, California St. Paul, Minnesota
Appliances or scrap metal	Material is typically heavy and easy to separate.	Generally not part of franchised hauling system, which may complicate tracking and compliance monitoring.	Could be addressed at a later date if ordinance initially focuses on materials that are collected as part of franchise agreements.	Cambridge, Massachusetts (scrap metal) Fresno, California (appliances) Honolulu, Hawaii Kingsburg, California Rancho Cordova, California (scrap metal) Sacramento, California (scrap metal) San Diego, California

Options	Advantages	Disadvantages	Implications	Notes and Examples Elsewhere
e. Exemptions—Who should be exempt from requirements or receive special provisions?				
Generators or responsible persons are allowed to self-haul, sell, or donate recyclable materials	Allows businesses flexibility in recycling materials.	Reduces certainty that materials are recycled and increases costs to track these materials.	Unclear: may increase opportunity to comply with the ordinance and may increase avenues to circumvent compliance.	Chula Vista, California Fresno, California Kingsburg, California Pleasant Hill, California Poway, California (requires proof) Sacramento, California San Diego, California San Luis Obispo, California St. Paul, Minnesota
Generators or responsible persons that self-haul are exempt from subscribing to collection services	Allows businesses flexibility in recycling materials.	Reduces certainty that materials are recycled and increases costs to track these materials.	Implications unclear.	Sacramento, California
Properties with limited space or other site constraints	Requirements may pose an undue hardship on small businesses with limited space.	Without city verification, an excessive number of generators could claim this exemption.	Some jurisdictions require verification of space constraints. Limiting use of this exemption could encourage creative space re-design solutions by the private sector.	Cambridge, Massachusetts Chicago, Illinois Portland, Oregon Sacramento, California San Diego, California San Francisco, California Seattle, Washington

Options	Advantages	Disadvantages	Implications	Notes and Examples Elsewhere
<p>Properties or generators that subscribe to less than a minimum of trash service</p>	<p>Requirements may pose an undue cost on small businesses. Exemption can reduce compliance tracking costs for city.</p>	<p>De-emphasizes broad participation.</p>	<p>San Carlos: exempting accounts with less than 4 CY/wk trash service captures 87% of trash by volume and 43% of generators. Exempting accounts with less than 2 CY/wk service captures 96% of volume and 66% of generators.</p> <p>San Mateo: exempting accounts with less than 4 CY/wk trash service captures 92% of trash by volume and 50% of generators. Exempting accounts with less than 2 CY/wk service captures 97% of volume and 72% of generators.</p>	<p>Rancho Cordova, California Sacramento, California San Diego, California</p>
<p>Properties or generators that do not generate covered materials or generate below a certain amount of covered materials</p>	<p>Quantities may be too small to track and pursue enforcement.</p>	<p>Verification may be difficult.</p>	<p>Exempting these properties may help to focus attention better on large generators.</p>	<p>Chicago, Illinois Pleasant Hill, California Sacramento, California San Diego, California</p>

Options	Advantages	Disadvantages	Implications	Notes and Examples Elsewhere
Properties or generators below a certain size defined by square feet of building space, number of employees, or number of tenant units	Requirements may pose an undue cost on small businesses. Exemption can reduce compliance tracking costs for city.	These metrics may not be a reliable proxy for amount of waste or recycling generated.	Trash service levels may be better threshold factor to use.	Chicago, Illinois Rancho Cordova, California Sacramento, California
Properties or generators without access to collection services	Requirements may pose an undue cost on generators without access to recycling collection services.	None identified.	Implications unclear.	Sacramento, California San Luis Obispo, California
f-1. Generator Requirements—Who is considered the responsible person?				
The individual or entity responsible for solid waste management or the customer of record for solid waste service	Responsible person is clearly identifiable.	Tenants in multi-tenant buildings may bear no direct responsibility for compliance.	Setting clear responsibilities is beneficial.	Fresno, California Sacramento, California San Diego, California San Luis Obispo, California
Occupant or generator	This group has control over the proper use of recycling services.	Can be difficult to verify or enforce, especially where multiple occupants of a building share collection containers.	This approach would be especially problematic in multi-tenant buildings in terms of enforcement.	Fresno, California St. Paul, Minnesota

Options	Advantages	Disadvantages	Implications	Notes and Examples Elsewhere
f-2. Generator Requirements—What should be required of generators, property owners/managers, or special events organizers?				
Require separation of key materials for recycling at source	Generators, building managers, owners, and event organizers have some control over separation. Conforms well to source-separation activities at residential level.	Specific actions required to source separate may change over time, depending on changes in collection and processing.	Requires ample outreach, technical assistance, and monitoring.	Central Vermont SWMD Fresno, California Honolulu, Hawaii Kingsburg, California Sacramento, California San Diego, California San Francisco, California San Luis Obispo, California Seattle, Washington St. Paul, Minnesota
Ban the disposal of key materials	Sends strong message about what is acceptable and not acceptable in the trash.	May have unintended consequences, such as increased illegal dumping.	A ban on disposal at the transfer, disposal facility, and generator level reinforces a source-separation requirement.	Alameda County Waste Management Authority, California Central Vermont SWMD Honolulu, Hawaii Kingsburg, California Seattle, Washington
Submit a recycling plan or compliance form	Ensures that responsible parties know how to comply (recycling plan) and are aware of regulation.	Creates additional paperwork, requiring allocation of staff time.	Potentially useful for very large generators but less useful across the entire commercial sector.	Cambridge, Massachusetts Honolulu, Hawaii Rancho Cordova, California Sacramento, California
Subscribe to or provide collection service from a franchised or authorized collector	Clear and straightforward to verify. Ensures that a collection method is available.	Limits choice of collectors.	Implications not evaluated.	Fresno, California Kingsburg, California Rancho Cordova, California Sacramento, California San Diego, California

Options	Advantages	Disadvantages	Implications	Notes and Examples Elsewhere
Educate employees and tenants, post signs, or provide internal or other recycling containers	These actions increase the likelihood that employees, commercial tenants, and multi-family residents know about and have access to recycling opportunities.	Difficult to verify.	This is a way to ensure access to recycling opportunities.	Portland, Oregon Sacramento, California San Diego, California San Francisco, California San Luis Obispo, California
g. Collector and Processor Requirements—What should collectors and processors be required to do?				
Specify container/storage requirements such as that collectors must provide adequate containers and containers must identify acceptable materials	Containers labeled with recyclable materials can increase compliance and reduce contamination.	Collector-provided containers may not fit well in all properties and may reduce container choice for businesses.	Requirements for recycling containers should be the same as existing requirements for solid waste containers. Vermin-proof containers are important for compostable material collection that includes food waste.	Sacramento, California San Diego, California
Require recycling collectors to be certified	Ensures that collectors know recycling regulations and, if required, report tonnage or other information (such as which businesses are recycling).	Adds paperwork and monitoring burden.	If not already in place, certification may require a broader discussion of collector requirements that is beyond the scope of a mandatory recycling ordinance.	Fresno, California Kingsburg, California Sacramento, California San Diego, California
Franchised collection service options include a requirement to deliver source separated recyclables to recycling facilities	Existing franchise agreements require delivery to designated transfer and processing facilities.	Reduces choice.	Conforms to existing franchise agreements and processing system.	Sacramento, California San Diego, California

Options	Advantages	Disadvantages	Implications	Notes and Examples Elsewhere
Liability protection for materials improperly separated by generators.	Haulers and recyclers can collect and process materials without fear of liability for customer's failure to comply.	May undercut disposal ban, if any.	Implications unclear.	Sacramento, California (haulers and authorized recyclers are not held liable for the failure of customers to comply)
h. Ownership of Recyclable Materials—Who owns or is responsible for recyclable materials placed in collection container or after collection?				
Specify when ownership passes from generator to collector	Addressing ownership of materials can clarify responsibilities for managing non-conforming set-outs.	Section may not be necessary.	Ownership of materials may have some implications for responsibility in cases of non-compliance or other problems with set-outs.	Fresno, California Sacramento, California St. Paul, Minnesota
i. Self-haul Provisions—Under what circumstances can individuals and businesses transport covered materials to processors?				
Self-haul allowed but provisions not specified	Creates no additional burden.	City cannot verify the proper recycling of materials or quantities recycled. City may not be able to verify which businesses are complying if non-compliant businesses claim to self-haul.	Lack of verification could create problems.	Kingsburg, California San Luis Obispo, California
Generators must certify that they self-haul materials and comply with requirements	Increases certainty that self-haulers are properly recycling materials. Allows city to verify recycling and, if reporting is required, calculate tons of recyclables self-hauled.	Increases paperwork.	If not already in place, city must set up system to certify and track self-haulers.	Sacramento, California

Options	Advantages	Disadvantages	Implications	Notes and Examples Elsewhere
j. Construction Requirements — <i>Should new construction or remodeled structures be required to include space for recycling?</i>				
New commercial and multifamily structures must provide adequate space for waste and recycling infrastructure	Reduces the number of generators that could be exempt in the future due to space constraints.	May increase building costs, reduce number of parking spaces, or cause other changes in space utilization.	Conforms to existing local laws.	San Francisco, California
Remodeled commercial and multifamily structures must provide adequate space for waste and recycling infrastructure	Reduces the number of generators that could be exempt in the future due to space constraints.	May increase building costs, reduce number of parking spaces, or cause other changes in space utilization.	Some remodels may face considerable hurdles while others do not. A process to take this variability in burden into account could be helpful.	San Francisco, California

Options	Advantages	Disadvantages	Implications	Notes and Examples Elsewhere
k-1. Inspections and Enforcement Protocols—How should compliance be monitored for covered generators?				
None specified in ordinance	None identified.	No penalties for non-compliance.	Mandatory programs must have a framework for taking corrective action.	None identified.
Businesses self-certify compliance	None identified.	No penalties for non-compliance.	Mandatory programs must have a framework for taking corrective action.	None identified.
Haulers report non-compliance	Allowing haulers to report non-compliance or suspected non-compliance can increase the number of violators observed.	Haulers may be perceived incorrectly as having legal enforcement powers. Adds to paperwork burden and tasks for haulers.	Haulers may need to adjust operations to accommodate monitoring and reporting.	San Francisco, California (warning tags)
Public sector inspectors or their contractors can report non-compliance	Including a provision that allows city inspectors, or their designees, to conduct site visits clarifies one method of monitoring.	Possible resentment from regulated community about additional people inspecting their premises.	This approach can supplement other approaches.	Chicago, Illinois Fresno, California Honolulu, Hawaii Sacramento, California San Francisco, California San Luis Obispo, California (conducts waste sampling to determine recyclables content)

Options	Advantages	Disadvantages	Implications	Notes and Examples Elsewhere
k-2. Inspections and Enforcement Protocols—What penalties should be assessed for non-compliance by covered generators?				
Warnings and citations	Adequate warnings can increase public acceptance and compliance.	Adds to paperwork and monitoring burden.	This step may greatly increase compliance, without resorting to fines or other measures.	Fresno, California Portland, Oregon San Luis Obispo, California San Francisco, California Seattle, Washington
Haulers permitted to refuse to collect contaminated garbage or recycling and to assess additional collection fee	Provides an immediate and visible penalty to violator.	May involve multiple agencies to determine whether the contaminated materials must be collected by the hauler. Potential sanitation issues.	Authorizing haulers to refuse non-conforming set-outs poses trade-offs.	Central Vermont SWMD San Francisco, California
Revoke business license	Provides a clear and very significant penalty for non-compliance.	Some people may consider this penalty too severe.	If selected, city would need to consider how to address businesses that dissolve and re-apply for a license under a new name.	Arcadia, California
Temporary ban from using disposal sites	Applies to self-haulers.	May encourage illegal dumping. May be administratively challenging.	Implications unclear.	Honolulu, Hawaii

Options	Advantages	Disadvantages	Implications	Notes and Examples Elsewhere
Administrative fines	Provides a direct financial penalty structure.	May be subject to considerable opposition and disproportionate use of city resources to collect fines.	Unknown effect on overall administrative burden.	Chicago, Illinois (up to \$100 per day) Fresno, California (up to \$1,500 per year) Portland, Oregon (unspecified) Sacramento, California (up to \$1,000 per day) San Francisco, California (up to \$100/\$200/\$500 for initial/second/subsequent violations within one year, up to \$1,000 for misdemeanor or criminal violations; initial fine limited to \$100 for properties generating less than one CY/wk) San Luis Obispo, California (up to \$1,000 per day) Seattle, Washington (up to \$250) Central Vermont (\$200/\$300/\$500 for first/second/third violations; \$25 per tenant unit for multifamily property owners)

Options	Advantages	Disadvantages	Implications	Notes and Examples Elsewhere
k-3. Inspections and Enforcement Protocols—How should compliance be monitored and enforced for collectors and processors?				
Collectors and processors self-certify compliance	Reduces burden on city inspectors.	Reduces certainty that materials are properly handled.	Potential weak link in the system due to lack of verification.	None identified.
City inspectors or agents authorized to visit sites to certify compliance	Allowing city inspections increases flexibility in enforcement. Site visits increase certainty that collectors and processors are handling material properly.	Increases burden on city inspectors or their agents.	There may be ways to arrange for certification service regionally through San Mateo County or the SBWMA, rather than directly burdening city inspectors.	San Francisco, California
I. Reporting Requirements—What reporting should be required?				
Upon request, generators provide contracts to prove collection service	Low paperwork burden.	Generators may not have contracts if waste accounts are handled by third-party property owner or manager.	Method is not systematic and is potentially cumbersome if widely deployed.	Sacramento, California
Self-haulers provide reports	City can track quantity of materials recycled and can verify proper recycling of self-hauled material.	Creates additional paperwork.	Paperwork burden may be substantial relative to compliance gains.	Sacramento, California
Collectors provide reports regarding recycling performance and violations	City can track recycling quantities, rates, and violation patterns. City may be able to direct monitoring activities by identifying businesses not subscribed to recycling service.	Creates additional paperwork and monitoring requirements for hauler and city reviewer.	Franchised haulers typically provide substantial documentation, so this addition may not be particularly burdensome.	Sacramento, California San Diego, California San Francisco, California St. Paul, Minnesota

Options	Advantages	Disadvantages	Implications	Notes and Examples Elsewhere
m. Timeline — <i>How soon after passing the ordinance should the city enforce compliance?</i>				
Allow enforcement actions soon after passing ordinance	Signals that city is serious about increasing recycling.	May result in an overemphasis on enforcement actions to achieve compliance.	Ordinance could instead focus on the target date for enforcement rather than on the length of time between ordinance passage and enforcement.	Sacramento, California San Luis Obispo, California
Wait to begin enforcement action	Provides opportunity for extensive education and outreach prior to enforcement.	May not generate sense of urgency by generators to change behavior.	Ordinance could instead focus on the target date for enforcement rather than on the length of time between ordinance passage and enforcement.	Seattle, Washington
Phased approach for generators by size and/or type	Spreads out city’s burden of notifying, assisting, and enforcing initial compliance on covered generators.	May create confusion for generators, haulers, or regulators if phases are not well understood and publicized.	Ordinance could instead focus on the target date for enforcement rather than on the length of time between ordinance passage and enforcement.	San Diego, California (by size for commercial and multi-family customers) San Francisco, California (for multi-family properties)
n. Rulemaking Process — <i>Should a process be defined for staff to clarify or amend rules?</i>				
Include a rulemaking process	A rulemaking process allows ordinance to be clarified or amended as necessary without requiring additional legislative action.	None identified.	Process should be consistent with other city rulemaking processes.	None identified

Options	Advantages	Disadvantages	Implications	Notes and Examples Elsewhere
o. Other Provisions— <i>What other provisions are necessary in the ordinance?</i>				
None identified	Depends on provisions.	Depends on provisions.	Additional provisions may be necessary to ensure ordinance is consistent with existing city codes.	City clerks should determine whether proposed ordinance is inconsistent with existing city codes regarding solid waste, recycling, litter, collectors, and generators.
p. Severability and Liability Disclaimer— <i>What happens if a part of the ordinance is not valid?</i>				
Include disclaimer	Compartmentalizes clauses, so any individual clause that might be invalidated does not affect the validity of the others.	None identified.	Each city should use its standard phrasing for this section.	City clerks should insert the city’s standard severability and liability disclaimer.

Information Sources

To prepare this table, Cascadia reviewed the “Mandatory Commercial Recycling Workshop White Paper” issued by staff of the California Integrated Waste Management Board (CIWMB) on July 10, 2009 and mandatory recycling ordinances or codes for the following local governments.

- Central Vermont Solid Waste Management District
- Fresno, California
- Kingsburg, California
- Metro regional government containing Portland, Oregon
- Sacramento Regional Solid Waste Authority, California
- San Diego, California
- San Francisco, California
- San Luis Obispo County, California
- Seattle, Washington
- St. Paul, Minnesota

Attachment 5: Recommendations for Ordinance Components

Mandatory Commercial Recycling Ordinance

**Draft Recommendations and Rationale for Ordinance Components
South Bayside Waste Management Authority (SBWMA)**

January 2010

Sub-category	Recommendations	Rationale
Findings and Purpose: Why is this ordinance needed? What is the ordinance seeking to accomplish?		
n/a	Include a detailed rationale for the ordinance, including needs such as: increased recycling, decreased greenhouse gases, resource conservation, landfill diversion, and compliance with state laws.	This ordinance meets multiple purposes, which should be articulated in the ordinance itself. Standard procedure.
Definitions: What do key terms mean?		
n/a	Include a section which clearly defines key terms. Incorporate existing City definitions where possible and appropriate.	Clarify meaning; reduce ambiguity and potential for misinterpretation. Standard procedure.
Covered Generators: Which generators should be covered by the ordinance? Who should be held responsible for non-compliance?		
n/a	A broad spectrum of the commercial sector should be covered by the ordinance.	The commercial sector consists of several sub-sectors which generate considerable amounts of solid waste and potentially recyclable materials.
Businesses	Businesses should be included as a type of covered generator.	Great potential to increase diversion.
Multifamily residences	Multifamily residences should be included as a type of covered generator. The minimum number of units needed to qualify as a multifamily residence should be consistent with the City's Franchise Agreement for Collection Services.	Can upgrade sub-sector's chronic underperformance.
Multi-use buildings	Multi-use buildings should be included as a type of covered generator.	May generate a large quantity of recyclables. Defining requirements for multi-use buildings can reduce confusion.
Non-residential properties	Non-residential properties should be included as a type of covered generator.	Includes institutional, governmental, and non-profit properties without specifying each individually. Broadens the reach of the ordinance.
Local government	Local government should be included as a type of covered generator.	Can serve as a model for commercial sector and community. Local government would be held to same standards as it requires of others.
Special districts, state, or federal agencies	Special districts, state agencies, and federal agencies should not be included as a type of covered generator.	Case law exclusion.

Sub-category	Recommendations	Rationale
Special events	Special events should be included as a type of covered generator. Special events should have a definition that is consistent with existing city definitions.	Highly visible opportunity for education and mass participation.
Covered Materials: How should the ordinance specify materials?		
n/a	<p>The list of targeted recyclable materials and organic materials collected from commercial generators under the City's Franchise Agreement, and any subsequent amendments to it, are all subject to this ordinance. The City should provide information on its website regarding what materials are accepted as recyclable materials, organic materials, and solid wastes under this ordinance.</p> <p>As of January 1, 2011, per the City's franchise agreement, the list includes: newspaper; mixed paper; chipboard; corrugated cardboard; paper milk cartons; glass containers; aluminum; scrap metal; steel, tin or bi-metal containers; and plastic containers. For multi-family dwellings, also included are: used motor oil and filters, household batteries, and cell phones. Organic materials include plant materials, food scraps, paper contaminated with food scraps, biodegradable plastic food serveware, and unpainted and untreated wood and wallboard.</p> <p>The administrative officer in the rulemaking process should be empowered to specify additional materials covered under the ordinance. After public notice and a public hearing, the administrative officer should be empowered to adopt necessary forms, regulations, and guidelines to implement this ordinance.</p>	This approach syncs up the ordinance's covered materials with the franchise agreement's collected materials, while building in the ability for the ordinance to adapt to changes over time in recyclables collection, processing, and end product markets.
Exemptions: Who should be exempt from requirements or receive special provisions?		
All categories	An exemption process and an exclusion threshold should be established.	Minimizes undue hardship and helps to focus attention of larger generators of recyclables and solid waste.

Sub-category	Recommendations	Rationale
Properties with limited space or other site constraints	Include exemption process for properties with limited space or other site constraints. An administrative fee may be considered as part of the exemption verification process. No recommendation is made regarding the use of a fee structure for exemptions.	Limited space for recycling containers, other site constraints, and the lack of generation of covered materials affect some commercial generators. No estimate is made of the expected number of exemption applications or granted exemptions. An exemption process minimizes undue hardship on individual generators or properties.
Properties or generators that subscribe to less than a minimum of solid waste service	Include exclusion for commercial generators with less than 2 cubic yards per week of solid waste service (i.e., "small commercial generators").	<p>SAN CARLOS Small commercial generators--defined as those generating less than 2 cubic yards per week of solid waste service--total 34% of commercial solid waste accounts and generate only 4% of franchised solid waste service volume in the City of San Carlos. Thus, over one-third of San Carlos franchised commercial accounts qualify for the exclusion from the ordinance's requirements. Over time, as commercial generators reduce their solid waste disposal needs by increasing recycling and composting, the percentage of generators that qualify as small commercial generators for exclusion from the ordinance's requirements will rise. An exclusion for small commercial generators will reduce compliance tracking and other administrative costs (e.g., exemption process costs to handle the concerns of small commercial generators, which tend to encounter space and site constraints more frequently) for the city without causing a significant loss of potential landfill diversion or greenhouse gas emission reduction. ***</p> <p>SAN MATEO Small commercial generators--defined as those generating less than 2 cubic yards per week of solid waste service--total 28% of the solid waste accounts and generate only 3% of franchised solid waste service volume in the City of San Mateo. Thus, over [one-quarter of San Mateo franchised commercial accounts</p>

Sub-category	Recommendations	Rationale
		<p>qualify for the exclusion from the ordinance's requirements. Over time, as commercial generators reduce their solid waste disposal needs by increasing recycling and composting, the percentage of generators that qualify as small commercial generators for exclusion from the ordinance's requirements will rise. An exclusion for small commercial generators will reduce compliance tracking and other administrative costs (e.g., exemption process costs to handle the concerns of small commercial generators, which tend to encounter space and site constraints more frequently) for the city without causing a significant loss of potential landfill diversion or greenhouse gas emission reduction.</p>
<p>Properties or generators that do not generate covered materials or generate below a certain amount of covered materials</p>	<p>Include exemption process for properties or generators that generate little or none of the covered materials.</p>	<p>Exempting these properties or generators may help to focus attention better on large generators.</p>

Sub-category	Recommendations	Rationale
Generator Requirements: Who is considered the responsible person?		
All categories	The responsible person should be the individual or entity responsible for solid waste management or the customer of record for solid waste service.	Setting clear responsibilities reduces ambiguity and confusion.
Generator Requirements: What should be required of generators, property owners/managers, or special events organizers?		
Generators	All persons should be required to source separate their refuse into recyclables, compostables and solid waste, and place each type of material in a separate container designated for the collection of that type of material. No person should be allowed to mix recyclables, compostables or solid waste, or deposit materials of one type in a collection container designated for another type of material, except as otherwise provided in this ordinance.	Affirms principle of proper source separation of materials and vests responsibility for this behavior in generators.
Property owners/managers of commercial properties and multi-family dwellings	Owners or managers of multifamily or commercial properties should be required to: (a) provide adequate collection service to the tenants, employees, contractors, and customers of the properties; (b) supply appropriate number and size of containers, placed in an appropriate location, with adequate signage, to make source separation convenient for the tenants, employees, contractors, and customers of the properties. (c) provide information training for new tenants, employees and contractors on how to source separate recyclables, compostables and solid waste, and must re-educate existing tenants, employees and/or contractors at least once a year.	Establishes clear roles for property owners and managers, in short: (a) provide collection service; (b) supply well-marked containers; (c) provide training and education to users.
Special events organizers	Owners or managers of special events should be required to: (a) provide adequate collection service to their employees, contractors and customers; (b) supply the appropriate number and size of containers, placed in the appropriate location, with adequate signage, to make source separation of recyclables, compostables, and solid waste convenient for the employees, contractors, and customers of special events;	Establishes clear roles for special events organizers: (a) provide collection service; (b) supply well-marked containers; (c) provide training and education to users.

Sub-category	Recommendations	Rationale
Independent Recycling Collector Requirements: What should independent recycling collectors be required to do?		
Collection containers	Recyclable materials and organic materials collectors should be required to appropriately designate the collection containers they provide to customers. The containers should be required to: (a) Bear appropriate signage that allows users to clearly and easily identify which containers to use for recyclable materials and organic materials; (b) Bear the name of the collector to whom the container belongs.	For effective use, collection containers need to be easy to identify and use appropriately.
Collector certification	Recycling collectors should be required to: a) obtain a business registration or license in the City; b) maintain service level and tonnage information on its customers; and c) provide reports to the City upon request.	Ensures that collectors know recycling regulations and, if required, report service level, tonnage, participation, or other information.
Customer performance monitoring and reporting	Recycling haulers should be required to monitor and report to the City about customer performance. Haulers should be required to deliver tags and warning notices for non-compliance, and to provide information about such actions to the City and any other designated public agencies. All haulers should be required to submit to the City, on a form specified by the administrative officer, an annual report of all tons collected by material type and to whom the material was sent.	Engages haulers in educating customers about set-out requirements, and in providing documentation for ensuing City enforcement action, if necessary. Provides for flow of information to the City about materials collection and processing.
Processors-- Recyclables, Compostables	Recyclables or organics processing facilities should be allowed to send to a landfill a minor portion of those materials that constitutes unmarketable processing residuals, if the processing facility provides to the administrative officer, upon request, audits of specific collection vehicles for a specific period going forward in time, of the quantities of recyclables or compostables sent to the landfill from the processing facility.	This stipulation will help to ensure that residual quantities are recorded and known to the City, and that such residuals will not be, in the City's determination, excessive.
Processors--Solid waste	No person should be allowed to deliver solid waste from the City, including solid waste mixed with recyclables or compostables, to a processing facility, unless the processing facility has agreed to provide to the administrative officer, upon request, audits of collection vehicles for a specified period going forward in time.	This stipulation will help to ensure that the amount of covered materials, by material type, in the solid waste is tracked and reported regularly to the City.

Sub-category	Recommendations	Rationale
Ownership of Recyclable Materials: Who owns or is responsible for recyclable materials placed in collection container or after collection?		
All categories	No recommendation made for inclusion of definition or stipulation, other than to conform to existing city code regarding this topic. The person responsible for solid waste service should be responsible for ensuring that containers are safe from outside contamination.	Addressing ownership of materials can clarify responsibilities for managing non-conforming set-outs.
Self-haul Provisions: Under what circumstances can individuals and businesses transport covered materials to processors?		
All categories	Generators who self-haul should be required to certify that they self-haul materials and comply with the ordinance's requirements. The ordinance should not allow covered generators to haul materials to any facility that does not have an agreement with the City or SBWMA regarding periodic audits of loads coming from those generators.	Increases certainty that self-haulers are properly recycling materials. Allows City to verify recycling by self-haulers.
Construction Requirements: Should new construction or remodeled structures be required to include space for recycling?		
All categories	New construction or expansion or remodeling of multifamily or commercial properties may be subject to Department of Building Inspection requirements, to provide adequate space for recyclables and compostables.	Reduces the number of generators that could be exempt in the future due to space constraints.
Inspections and Enforcement Protocols: How should compliance be monitored for covered generators?		
All categories	The City should establish a protocol for enforcement, including tags, notices, warnings, non-collection, administrative actions such as surcharges or fines, and other administrative remedies. In addition to the roles of collectors and processors (see Collector and Processor Requirements above), the City should use City inspectors or contractors to verify non-compliance with the ordinance, immediately prior to pursuit of an enforcement action.	A progressive series of documented efforts to inform the generator of non-compliance will help to educate and guide generators toward compliance. As a result, the number of enforcement actions may end up being modest.

Sub-category	Recommendations	Rationale
Inspections and Enforcement Protocols: What penalties should be assessed for non-compliance by covered generators?		
All categories	The City's existing administrative fine procedure should be incorporated into the ordinance, and used to govern the imposition, enforcement, collection, and review of administrative citations issued to enforce this ordinance and any rule or regulation adopted pursuant to this ordinance; provided, however, that no administrative fine should exceed \$500 per offense. Such administrative remedies should be in addition to and should not supersede or limit any and all other remedies, civil or criminal.	The specter of fines, as an administrative remedy, may help to encourage compliance. In terms of anticipated administrative burden, the following comparative information from much larger communities is presented: Sacramento (City and unincorporated County) Regional Solid Waste Authority (population: over 500,000)--in first year, 38% increase in commercial recycling accounts, 30-40 "show cause" letters issued, five fines (averaging \$1,000 each under settlement agreement); City of San Diego (population: 1.3 million) -in first year, no fines issued; City of Seattle (population: 600,000)--in three years, increase in overall diversion rate to 48% from 38%, an estimated 80-120 second warning notices, 18 fines for multi-family buildings, 0 fines for businesses.
Inspections and Enforcement Protocols: How should compliance be monitored and enforced for collectors and processors?		
n/a	See Collector and Processor Requirements: Processors--Recyclables, Compostables; Processors--Solid waste, as described above.	See Collector and Processor Requirements: Processors--Recyclables, Compostables; Processors--Solid waste, as described above.
Reporting Requirements: What reporting should be required?		

Sub-category	Recommendations	Rationale
Timeline: How soon after passing the ordinance should the city enforce compliance?		
All categories	Establish a grace period for non-enforcement of the ordinance, from the date of passage to January 1, 2011. Establish a phased-in approach to enforcement, by solid waste service volume and type of material covered. Recommended enforcement dates: (a) January 1, 2011, targeted recyclable materials, for commercial accounts and special events with greater than or equal to 4 cubic yards per week of solid waste collection service; (b) January 1, 2012, targeted recyclable materials, for commercial accounts and special events with greater than or equal to 2 cubic yards per week of solid waste collection service; (c) January 1, 2013, organic materials, for food service establishments and special events with greater than or equal to 4 cubic yards per week of solid waste collection service; (b) January 1, 2014, organic materials, for food service establishments and special events with greater than or equal to 2 cubic yards per week of solid waste collection service.	Provides opportunity for extensive education and outreach prior to enforcement. Spreads out city's burden of notifying, assisting, and enforcing initial compliance on covered generators. Extends grace period for mid-sized (i.e., 2 to 4 cubic yards per week of solid waste service volume) generators of solid waste. Focuses initially on recycling throughout the commercial sector and then on organics for the food service sub-sector, to encourage widespread participation and then to deepen its effect over time by adding organics for a sub-group of generators with large concentrations of organics.
Rulemaking Process: Should a process be defined for staff to clarify or amend rules?		
All categories	Establish that the City's administrative officer has the power to clarify aspects of the ordinance by regulation or rule.	This stipulation will eliminate the need to modify the ordinance itself in most cases, as needs, conditions, and program details change.
Other Provisions: What other provisions are necessary in the ordinance?		
n/a	If no additional provisions are needed to ensure consistency with existing city codes, then this section should not be included.	No other provisions identified.
Severability and Liability Disclaimer: What happens if a part of the ordinance is not valid?		
n/a	Include standard city phrasing for this section.	A severability clause preserves validity of other parts of ordinance in event that one part is deemed invalid. Standard procedure.