

ORDINANCE NO. 4438

AN ORDINANCE to add a new Article H (RECYCLING) to Title 5 (TRANSPORTATION AND ENVIRONMENTAL SERVICES) to Chapter 1 (SOLID WASTE CONTROL) of The Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS

Section 1. That Chapter 1 of Title 5 of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same is amended by adding thereto a new Article H to read as follows:

Sec. 5-1-90 B Findings of fact and declarations of policy

The City Council of the City of Alexandria finds that in order to preserve natural resources, conserve energy, reduce the amount of disposable waste and the cost of waste disposal, and provide for a more efficient and effective means of disposing of waste materials, it is appropriate to exercise the police power in order to initiate a mandatory recycling program. Therefore, in order to reduce the volume of solid wastes and to encourage the effort to recover and reuse valuable resources, this mandatory recycling program is established.

Sec. 5-1-91 - Definitions

The following words and phrases, when used in this article, shall for the purposes of this article have the meanings ascribed to them in this section, except for those instances where otherwise expressly provided.

(1) *Business*. Any person, partnership, corporation, limited liability company, sole proprietorship, institution, or other entity, operating in the City of Alexandria. This definition excludes home-based businesses, as defined elsewhere herein, and landscaping and lawn maintenance companies.

(2) *Commingled Containers.* Any food and beverage containers, such as bottles, jars, and cans that are made from glass, plastic, steel (tin), or aluminum that is collected in a single container for recycling.

(3) *Hauler.* Any person, partnership, corporation, or other public or private entity that collects and/or transports recyclable materials within the City of Alexandria.

(4) *Home-based business.* Any business conducted out of a residential dwelling or a portion thereof conducted in accordance with the terms and conditions set forth in Zoning Ordinance 7-300, et seq.

(5) *Property management company or homeowners association* A business or association of homeowners within a community whose principal purpose is to ensure the provision of and maintenance of community facilities and services for the common benefit of the residents, including arranging for solid waste and recycling services.

(6) *Multiple-family dwelling.* A building, or portion thereof, designed for occupancy by four (4) or more families living independently. Home-based businesses operating from an individual unit within such dwellings are subject to the requirements of this article for units within multiple-family dwellings.

(7) *Paper/mixed paper.* Any old newspapers, magazines, office paper, specialty papers, paperboard, colored paper, or other approved grades of paper, including corrugated cardboard and paper bags, that is collected in a single receptacle for recycling.

(8) *Principal recyclable materials (PRMs).* Brush/leaves/grass, clean wood/pallets, commingled containers, food waste, paper/mixed paper, plastic film, tires, textiles, and used oil.

(9) *Single-family dwelling.* See Section 5-1-2(7).

(10) *Supplemental recyclable materials (SRMs).* Abandoned automobiles, ash, batteries, construction and demolition waste, electronics, fluorescent light bulbs, kitchen

grease & fat, sludge (composted), tree stumps, used antifreeze, and used oil filters.

(11) *Responsible party.* For single-family dwellings that do not have collection arranged through a homeowner=s association or similar entity and who are eligible for participation in the City=s curbside collection program, the responsible party shall be the dwelling occupant. For single-family residents who have collection services provided through their property management company or homeowners association, the responsible party shall be the property management company or homeowners association. For a multiple-family dwelling, the responsible party shall be the owner, manager, or agent and, if different, the party responsible for the management and disposal of solid waste generated at that property. For a business, the responsible party shall be the business or property owner, manager or agent and, if different, the party responsible for the management and disposal of solid waste generated at that business.

Sec. 5-1-92 Effective Date.

The effective date of this Article shall be July 1, 2006.

Sec. 5-1-93 Requirements for materials to be collected

(a) The responsible party of each single-family dwelling eligible for City curbside collection, or any property management company or homeowners association that contracts directly with a hauler for curbside collection, must establish a system to separate mixed paper and commingled containers from refuse for recycling.

(b) The responsible party of each multiple-family dwelling must establish a collection system to separate mixed paper and commingled containers from refuse for recycling.

(c) The responsible party of each business must establish a collection system to

separate the two (2) Principal Recyclable Materials (PRMs) that the business generates annually in the greatest quantities. In multiple-tenant properties in which individual businesses do not manage their own solid waste, the two (2) PRMs are determined on the basis of the property=s combined waste stream. Each new business that begins operations after July 1, 2006, is required to establish a collection system within sixty- (60) days after receiving a City of Alexandria Business License. The responsible party is encouraged to recycle Supplemental Recyclable Materials (SRMs) to the best of their ability and is required to report the amount of SRMs recovered in their recycling data report. Notwithstanding the foregoing, businesses generating less than one (1) cubic yard of recyclable materials per week (i.e.. 4, 60-lbs bags) may comply with the terms of this article by depositing recyclable materials at City drop-off centers.

(d) The responsible party for each federal, state or local government agency must establish a collection system to separate the two (2) PRMs that are generated in the greatest quantities. Each agency that has a new office or facility that begins operations after July 1, 2006, is required to establish a collection system within sixty- (60) days after receiving a City of Alexandria Business License, or from the effective date of the lease agreement. The responsible party is encouraged to recycle SRMs to the best of their ability and is required to report the amount recovered in their recycling data report.

Sec. 5-1-94 Notification Requirements

(a) Haulers permitted to operate in the City of Alexandria will be responsible for notifying their customers that recycling is mandatory for all businesses and multiple-family dwellings. As part of any service agreements or contracts, haulers will be responsible for providing customers with the appropriate containers, signage, and collection services to adequately address their recycling needs, relative to industry safety and technical standards.

(b) The responsible party of any property management company or homeowners association, business, federal, state, or local government agency, or multiple-family dwelling shall notify, in writing, its tenants, employees and/or clients, as applicable, that recycling participation is mandatory. Written notification (i.e., letter, newsletter, email notice, etc.) shall be provided within fifteen (15) days to all new tenants and employees and no less frequently than bi-annually thereafter to all existing tenants and employees. The written notification shall set forth the requirements of this article and include at a minimum:

1. Source separation of recyclable materials from the waste stream is mandatory for all tenants and employees;
2. What materials will be recycled;
3. How the recyclables are to be prepared;
4. Any set-out requirements;
5. Location of the recycling containers;
6. Prohibitions against contamination of source separated recyclable material;
7. The collection schedule for recyclable material
8. Name and telephone number of a representative of the business or multiple-family dwelling whom the tenant or employee should contact with any questions.

(c) The responsible party shall include the City's Commercial Recycling Specialist or such other City representative(s) as may be designated by the City on their notification distribution list.

(d) The responsible party of any property management company or homeowners association, business, federal, state, or local government agency, or multiple-family dwelling shall ensure that all recycling signs and instructions are displayed prominently in public areas and directional signs are used to direct tenants to the recycling collection

area.

Sec. 5-1-95 Reporting requirements

(a) The responsible parties for a single-family dwelling property management company or homeowners association, business, federal, state or local government agency or multiple-family dwelling are required to submit an implementation plan to the Department of Transportation & Environmental Services by January 1, 2007 and every second year following. Notification for submissions of these forms will be sent by the Department of Transportation & Environmental Services to each multiple-family dwelling and business address by November 1, prior to each year reports are due.

(b) The responsible party for each new property management company or homeowners association or multiple-family dwelling that is occupied after July 1, 2006 is required to submit this plan within sixty- (60) days from the date of first occupancy by a tenant. The responsible party and business owner, if different, of each new business that begins operations after July 1, 2006, are required to submit this plan within sixty- (60) days after receipt of a City of Alexandria Business License. The implementation plan must be approved by the Director of the Department of Transportation & Environmental Services or his designee to comply with the terms of this article.

(c) Implementation plans may be rejected if 2 PRMs have not been selected, or if one or both of the PRMs selected are not generated in larger quantities than other recyclable materials. Plans may also be rejected if the responsible party does not provide the following information: contact name, phone number, email address, mailing address, square footage of property, number of employees, name of solid waste and/or recycling services providers, number of containers, number of compactors, frequency of collection, and other relevant information requested. If an implementation plan is rejected by the Department of Transportation & Environmental Services, the submitting responsible party has thirty- (30) days from notification of the rejection to submit a revised plan for approval.

(d) The responsible party for each property management company or homeowners association, federal, state or local government agency, multiple-family dwelling and the responsible party and business owner, if different, of each property are required to submit a recycling data report to the Department of Transportation & Environmental Services by March 15, 2007 and every second year following for recycling activities during the preceding one-year period. Notification for submission of these forms will be sent by the Department of Transportation & Environmental Services to each multiple-family dwelling and business address by January 31, 2007.

(e) All permitted haulers in the City of Alexandria are required to submit an annual hauler recycling data report to the Department of Transportation & Environmental Services

- i) documenting the tonnage and types of materials collected from all single-family property management companies or homeowners associations, federal, state or local government agencies, businesses, and multiple-family dwellings; and
- ii) itemizing all solid waste and recycling containers of a volume greater than 3 cubic yards, including, but not limited to, dumpsters, roll-offs or other containers, owned by the hauler and deployed with the City of Alexandria.

This report must be submitted by March 15, 2007 and each year following for recycling activities during the preceding calendar year. Notification for submission of this report will be sent by the Department of Transportation & Environmental Services by March 15, 2007 and each year following. All haulers are required to provide a list of its City of Alexandria customers with this report.

Sec. 5-1-96 Adaptations for materials

(a) Limited adaptations, as set forth below, may be approved by the Director of Department of Transportation & Environmental Services or his designee. Applications for adaptation from the requirements shall be submitted to the Department of Transportation & Environmental Services on City forms. An adaptation may be allowed where compliance with the ordinance would result in unnecessary hardship to the applicant and the need for adaptation would not be shared generally by other applicants, provided such an adaptation

is not contrary to the intended spirit and purpose of this article and would result in substantial justice being done. All adaptations are to be construed as temporary, for a period not to exceed one (1) year, and shall be considered withdrawn on the first to occur of (a) a change in the condition(s) which prompted the adaptation, or (b) the expiration of the time period granted in the adaptation. Should an adaptation be withdrawn because the time period has expired, and applicant may apply for renewal of the adaptation. Application forms will be available online at: www.alexandriava.gov. Applications are evaluated against the following criteria:

1. Incompatibility of compliance with the requirements of this article and compliance with other City of Alexandria ordinances or other laws;
2. Unavailability of collectors or acceptors (defined as licensed haulers of recyclable materials or intermediate or final processors of recyclable materials) for one (1) or more of the required recyclable materials.
3. Unavailability of on-site space for the preparation and temporary storage of one (1) or more of the required recyclable materials;
4. Extreme disparity between the applicant=s cost of recycling one (1) or more of the required recyclable material(s); or
5. Negligible generation rates of one (1) or more of the required recyclable materials.

The Director of the Department of Transportation & Environmental Services or his designee will consider these criteria in evaluating the application and will consider the compliance rate, implementation plans, and recycling programs of similar businesses in the City of Alexandria. The Director of Department of Transportation & Environmental Services or his designee will prepare a report on the applicant=s property.

(b) After reviewing the information described above, the Director of the Department of Transportation & Environmental Services or his designee will take one (1) of the following actions:

1. Grant an adaptation that requires the applicant to recycle alternative materials identified by the Department of Transportation & Environmental Services;
2. Grant an adaptation that reduces the number of types of materials required to be recycled; or
3. Deny the request for adaptation.

Sec. 5-1-97 Penalties

(a) The failure by a hauler to timely notify its customers pursuant to Sec. 5-1-94(a) or submit conforming recycling data reports pursuant to Sec. 5-1-95(e) shall be a class three civil violation¹, as set forth in Sec. 1-1-11(b)(3) herein for every month the reports are not properly submitted. Any hauler who is assessed with a total of three separate civil violations pursuant to this section may be subject to revocation of its City of Alexandria hauler=s permit. Enforcement for recycling data reports will begin February 1, 2007.

¹ For a class three civil violation, the penalty for each individual violation shall be \$500 for the first violation, \$1,000 for the second violation of the same regulation or requirement arising from the same set of operative facts, and \$1,500 for each additional violation of the same regulation or requirement arising from the same set of operative facts

(b) The failure by a responsible party for each single-family dwelling property management company or homeowners association, business, or multiple-family dwelling that generates *more than ten tons* of solid waste to timely provide notification or submit conforming implementation plans and data reports pursuant to Sections 5-1-94 and -95 shall be a class three civil violation, as set forth in Sec. 1-1-11(b)(3) herein for every month the reports are not properly submitted. The failure by a responsible party for each single-family dwelling property management company or homeowners association, business, or multiple-family dwelling that generates *less than ten tons* of solid waste to timely provide notification or submit conforming implementation plans and data reports pursuant to Sections 5-1-94 and -95 shall be a class five² civil violation, as set forth in Sec. 1-1-11(b)(5) herein for every month the reports are not properly submitted. The failure to comply with the notification and reporting requirements set forth in Sections 5-1-94 and -95 by an entity for *which no data on the amount of solid waste generated is available* shall be a class four³ civil violation as set forth in Sec. 1-1-11(b)(4) herein. Enforcement of implementation plan submission requirements will begin February 1, 2007.

(c) The City=s Department of Transportation & Environmental Services shall have responsibility for responding to complaints, assessing compliance, levying penalties, violations and fines and otherwise enforcing the terms and provisions of this Article. All fines assessed pursuant to this Article shall be will be levied as a civil penalty, enforceable through the City Treasurer=s office.

Sec. 5-1-98 Right to appeal notices, fines and denials of requests for adaptation

² For a class five civil violation , the penalty for each individual violation shall be \$25 for the first violation, \$50 for the second violation of the same regulation or requirement arising from the same set of operative facts, and \$100 for each additional violation of the same regulation or requirement arising from the same set of operative facts

³ For a class four civil violation , the penalty for each individual violation shall be \$100 for the first violation, \$250 for the second violation of the same regulation or requirement arising from the same set of operative facts, and \$500 for each additional violation of the same regulation or requirement arising from the same set of operative facts

Upon service of a notice of violation, fine or denial of a request for an adaptation as provided herein, the responsible party or business owner shall have the right to appeal such notice, fine or denial and shall be granted a hearing before the Director of Department of Transportation & Environmental Services or his designee, provided that a written appeal and request for hearing is received by the Director of Department of Transportation & Environmental Services within five (5) working days after service of the notice. Upon receipt of such an appeal or request, the director of Department of Transportation & Environmental Services or his designee shall advise the appellant of the time and place of the hearing, shall convene the hearing, shall consider the evidence, and shall render a decision in writing and provide a copy to the appellant within fifteen (15) business days following the hearing. The Director of Transportation & Environmental Services shall ensure that the person hearing any appeal hereunder did not have any direct involvement in the notice, fine or denial from which the appeal is taken.

Sec. 5-1-99 Adequate space

(a) All new and significantly remodeled occupied structures shall provide for the collection and storage of refuse. All new and significantly remodeled occupied structures over 2,000 square feet shall provide adequate space for the collection and storage of recyclable materials. For the purposes of this section A significantly remodeled@ shall mean structures where fifty percent or more of the exterior of the structure is reconstructed, remodeled or modified (excluding painting or changing exterior cladding materials).

(b) The following buildings shall be exempt from Sec. 5-1-99(a) above:

- (1) Single-family dwellings; and
- (2) Multiple-family dwellings where there are no central or communal refuse/recycling collection or storage facilities, and where refuse and recyclable materials are stored and collected on an individual unit basis.

(c) The amount of space provided shall be adequate for the collection and storage

of the amount of recyclable materials generated by the building, and shall be designed to accommodate containers consistent with current methods of local collection, and shall accommodate for example containers for the collection of mixed paper, commingled containers, or other recyclables.

- (d) Storage and collection containers shall be clearly labeled or identified to indicate the type of materials accepted. Recyclable materials storage areas shall be located adjacent to refuse collection and storage areas in order to provide convenient recyclable materials storage areas.

Section 2. That this ordinance shall become effective July 1, 2006.

WILLIAM D. EUILLE

Mayor

Final Passage: February 25, 2006