

MEMORANDUM

Date: March 31, 2017
To: Civil Rights, Utilities, Economic Development and Arts Committee
From: Peter Lindsay, Council Central Staff
Subject: CB 118935 – Seattle Public Utilities Solid Waste Code Update Summary

This memo addresses code changes proposed by the Executive and discusses how the Seattle Public Utilities (SPU)'s proposal fits in the context of the City's solid waste recycling goal. The proposed legislation (CB 118935) will be presented by SPU staff at the March 31 Civil Rights, Utilities, Economic Development and Arts Committee.

The proposed legislation consolidates numerous recycling-related amendments to the (Seattle Municipal Code (SMC) that were made over time by reordering existing code and removing obsolete terminology. Specifically, the proposed legislation would modify SMC 21.36.082 and SMC 21.36.083 to provide better clarity and consistency related to disposal and enforcement requirements for recycling.¹ The only substantive change related to recycling enforcement is the removal of the term "significant" as a qualitative reference to enforcement standards.

Background

SPU manages the City's solid waste collection and disposal programs for the benefit of public health and the environment. To assist with decision making and to comply with state law, SPU operates under a Solid Waste Plan (the Plan) that articulates specific policy and programmatic goals for SPU's solid waste line of business. The Council adopted [Resolution 31426](#) in February 2013 approving the current incarnation of the Plan and endorsing programmatic recycling goals from 2012 to 2020. One goal was that residents and businesses should recycle 70 percent of Seattle's solid waste stream by 2020—at the time, about 56 percent of Seattle's solid waste stream was recycled. In 2013, SPU identified a new composting requirement for food waste and compostable paper as a strategy to help meet the 70 percent recycling goal.

In August 2014, the Council passed [Ordinance 124582](#) (a) prohibiting residential and commercial customers from disposing food waste and compostable paper as garbage and (b) authorizing SPU's Director to develop rules to educate customers and enforce the new prohibition. The City has a long record of implementing recycling requirements prohibiting certain items from garbage container; for instance, residential yard waste requirements were introduced in 1989.

Ordinance 124582 also required that SPU place educational notices or tags on residential and commercial garbage containers with "significant" amounts of food waste and compostable

¹ Recycling in this context means the purposeful disposal of waste for re-use (e.g., food waste, compostable paper, and aluminum cans).

paper as well as levy additional collection fees of \$1 or \$50 depending on the type of service subscription held by the customer. The legislation authorized the SPU Director to develop Director's Rules to help define and interpret new provisions of the SMC. Director's Rule SW-402.1, entitled "Prohibition of Recyclables in Garbage," established educational programs and enforcement procedures. The goal was to increase the diversion of organics and compostables from the solid waste stream, thereby improving the overall City recycling rate—getting the City closer to the 70 percent recycling goal—and reducing City expenses related to the collection and disposal of garbage. SPU customers currently recycle 57 percent of their solid waste. While this rate is slightly higher than the rate in 2013, the City will be challenged to meet its 70 percent goal by 2020.

In April 2016, the King County Superior Court ruled that certain aspects of SPU Director's Rule 402.1 were unconstitutional under Article 1, Section 7 of the Washington State Constitution, as the Court found that these rules authorized SPU to conduct unwarranted searches of residential garbage.

Analysis

The proposed bill makes changes to the SMC to improve the clarity and consistency of solid waste code provisions by eliminating obsolete and unnecessary language. The one substantive change related to recyclables enforcement is elimination of the word "significant" as it applies to a qualitative threshold of recyclable material in a non-recyclable garbage container in either residential or commercial waste.

Provisions of the code prohibiting disposal of food waste and compostable paper products in garbage containers are preserved as well as the City's ability to impose additional collection fees on those customers who do not comply with the prohibition. In effect, policies set by the Council remain intact, but SPU will need to address the problematic aspects of Director's Rule 402.1 with a new Director's Rule that addresses the Court's ruling about unwarranted searches of residential garbage.

Next Steps

In addition to the proposed changes in City code and in response to the King County Superior Court opinion cited above, SPU will need to promulgate new Director's Rules to comply with the court ruling. The new rules are in a draft form and yet to be adopted. SPU staff will provide an update of the rulemaking process and content of the proposed changes to Director's Rule 402.1 at the March 31 Civil Rights, Utilities and Economic Development Committee Meeting.

SPU does not anticipate any negative impacts to its recycling program or the overall recycling rate due to the proposed changes.

cc: Kirstan Arestad, Central Staff Director
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