

RECYCLING IN THE CITY OF HARRISBURG

A PROPOSED UPDATE TO AND EXPANSION OF THE CURRENT RECYCLING ORDINANCE IN THE CITY OF HARRISBURG

Pia Aklian

Email: Pfaklian@mail.widener.edu

Mobile: 617-596-3722

I. Introduction

This paper addresses the current recycling ordinance in the City of Harrisburg, Pennsylvania. Specifically, this paper considers a proposed update to and expansion of the City's existing recycling ordinance, which can be found in the Codified Ordinances of the City of Harrisburg, Chapter 9-309, Recycling.¹

While the City of Harrisburg has a comprehensive recycling ordinance, the City's residential recycling rate is very low.² Adjustments to the current ordinance would help increase the amount of recycling in Harrisburg and would help the City continue to meet its requirements as a mandated municipality under Pennsylvania Act 101, the Municipal Waste Planning, Recycling and Waste Reduction Act (Act 101). By implementing updates to the City's current ordinance, the City can promote the practice of recycling, which in turn can result in various social and economic benefits for its residents, businesses, and economy.

Although an increase in the practice of recycling across the City will require more than modifications to the ordinance, such as educational and public awareness programs, the

¹ Codified Ordinances of the City of Harrisburg, §9-309.

² From 2011 report, states that Harrisburg maintains recycling rate of about 5%. Municipal Financial Recovery Act Recovery Plan City of Harrisburg, p. 269 (2011), <http://harrisburgcitycontroller.com/wp-content/uploads/2010/02/Harrisburg-Act47-Recovery-Plan-070811.pdf>.

ordinance is the best place to start. By giving recycling a strong, local legal framework, the City will give the movement the momentum it needs.

The ordinance should be modified to provide more access to residents and to collect recyclables from a greater number of residents. Additionally, more enforcement measures may be necessary to demonstrate the City's commitment to the practice of recycling and to act as a deterrent to those who violate the ordinance. The more widespread the practice of recycling becomes, however, the less likely the City will need to utilize stricter enforcement mechanisms. Since it would be preferable for residents of the City to associate recycling with positive rather than negative repercussions, the focus should be on increasing the practice of recycling. Simply stated, recycling needs to become part of the culture in Harrisburg, and the proposed ordinance is the most efficient way to make this change happen.

The following proposal begins with a description of the problems associated with the currently low residential recycling rate in Harrisburg and the various opportunities that are available for the City if it were to increase its recycling rate. Then, it discusses the requirements and components of the current recycling ordinance in order to identify the areas that need improvement such as increased access to recycling containers, collecting recyclable waste from a greater number of residents, and demonstrating a commitment to the practice of recycling through stricter enforcement measures.

The paper then considers the practice of recycling in other jurisdictions. Specifically, by comparing recycling ordinances and programs in other comparable Commonwealth municipalities, the City can identify where it is lacking and what practices it may consider adopting in the future. This is followed by a discussion of the key policy issues that City decision-makers must address when considering the adoption of an updated and expanded

recycling ordinance, such as cost, effective enforcement, and implementation. Finally, the paper concludes with the proposed amendments to the City's current ordinance located in the Appendix section.

II. Problem/Opportunity

In the purpose section of the City's current recycling ordinance, it states that the City will try to recycle twenty-five percent of its waste by January 1, 1997.³ The current recycling rate in Harrisburg is estimated to be around five percent or less.⁴ The recycling rate in the City is simply too low, but to justify the need to promote recycling, it is important to consider what the effects of recycling would mean for the City's residents, businesses, and economy. First, in evaluating the impact of recycling, it is important to understand its economic effects. The more we recycle, the more waste is diverted from going to incineration, and the less the City has to spend on per ton waste for incineration. Each ton of waste that recycling diverts from the incinerator is equivalent to about \$200 in avoided cost for the Sanitation Fund.⁵ According to the 2011 Municipal Financial Recovery Act for the City of Harrisburg, a 25 percent increase in recycling (at the time) would have resulted in an estimated \$1,020,000 in savings.⁶ These savings would then be passed on to the residents in lower monthly costs for waste disposal.

The Pennsylvania Department of Environmental Protection (DEP) also offers several grants to municipalities under Act 101 in order to encourage recycling.⁷ For example, Recycling Performance Grants serve to reward municipalities with recycling programs; the amount of each

³ Codified Ordinances of the City of Harrisburg, § 9-309.1.

⁴ From 2011 report, states that Harrisburg maintains recycling rate of about 5%. Municipal Financial Recovery Act Recovery Plan City of Harrisburg, p. 269 (2011), <http://harrisburgcitycontroller.com/wp-content/uploads/2010/02/Harrisburg-Act47-Recovery-Plan-070811.pdf>.

⁵ Municipal Financial Recovery Act Recovery Plan City of Harrisburg, p. 269 (2011), <http://harrisburgcitycontroller.com/wp-content/uploads/2010/02/Harrisburg-Act47-Recovery-Plan-070811.pdf>.

⁶ *Id.* at 270.

⁷ <https://www.dep.state.pa.us/dep/DEPUTATE/AIRWASTE/WM/Recycle/facts/act101.htm>

award is based on the type and weight of recyclables and on the proportion of recycled items that are diverted from going to landfills and incinerators.⁸ In 2010, Harrisburg received approximately \$125,000 in Act 101 funds.⁹

Why focus on residential recycling? While commercial recycling in the City of Harrisburg has room for improvement, such as mandatory recycling of e-waste or electronic goods, the current rate for commercial recycling far exceeds that of residential and furthermore, the low residential recycling rate in the City has precluded it from receiving grant awards under Act 101.¹⁰ The formula for grant money under § 904 of Act 101 is based on a municipality's residential tonnage and commercial tonnage.¹¹ In addition, the bonus grant that is offered under the § 904 grant takes into account the City's recycling rates.¹² Since commercial recycling rates have exceeded residential recycling rates, the City has not been able to receive a diversion bonus for its Recycling Grant.¹³ If the City was to increase residential recycling, it is more likely to increase both the commercial and residential recycling diversion bonuses and more grant money would be awarded to the City.¹⁴

More importantly, the City should focus on residential recycling because it is not effectively collecting recyclables from a significant portion of its residents. Approximately 38.3 percent of housing in the City is made up of multi-unit structures, consisting of two or more

⁸ <https://www.dep.state.pa.us/dep/DEPUTATE/AIRWASTE/WM/Recycle/facts/act101.htm>

⁹ Municipal Financial Recovery Act Recovery Plan City of Harrisburg, p. 269 (2011), <http://harrisburgcitycontroller.com/wp-content/uploads/2010/02/Harrisburg-Act47-Recovery-Plan-070811.pdf>.

¹⁰ Recycling Technical Assistance Project #538, p. 2-3 (June 2013), http://files.dep.state.pa.us/Waste/Recycling/RecyclingPortalFiles/Harrisburg_538.pdf.

¹¹ Municipal Recycling Program Performance Grants, Act 101, Section 904 Grant Application Information (2013), <http://www.elibrary.dep.state.pa.us/dsweb/Get/Document-100821/2520-FM-BWM0013.3%202013.pdf>.

¹² *Id.*

¹³ Recycling Technical Assistance Project #538 at p.3, http://files.dep.state.pa.us/Waste/Recycling/RecyclingPortalFiles/Harrisburg_538.pdf

¹⁴ Recycling Technical Assistance Project #538 at p.3 http://files.dep.state.pa.us/Waste/Recycling/RecyclingPortalFiles/Harrisburg_538.pdf.

units.¹⁵ Currently, the City can do more to ensure that the residents of these multi-unit buildings contribute to recycling. After all, if the trash from each apartment residence contributes to the City's overall waste, it should follow that the City ensures these residences also do their part in diverting some of that waste through recycling. While the current ordinance does consider apartment residents in the City, it can be more aggressive in ensuring that recycling is easily accessible to these residential units and that the owners or landlords of such apartment buildings are taking the appropriate steps to promote recycling for their residents.

To increase recycling in the City, the proposed ordinance has three main objectives. First, it will help promote access to recycling by ensuring all residences have a recycling container. Second, the City is not capturing enough of the recycling waste from residents that live in apartment buildings. By including multi-unit residential buildings in the curbside program, the City can maximize the amount of recycling waste that they collect from residents. Third, the ordinance needs to reflect the seriousness of the City's commitment to its recycling mandates by incorporating stricter enforcement measures and ensuring that each municipal building has an approved recycling program in place.

It is critical to remember that Harrisburg has a greater responsibility to set a precedent for recycling and other sustainable programs because it is the capital city of the Commonwealth. As such, it has a unique opportunity and obligation to set the standard for sustainability. With increased visibility and media attention, the City can and should utilize these tools to further their sustainability efforts.

III. Why a Revised Ordinance is Needed

¹⁵ 2010 Census Data, Housing Characteristics for Harrisburg, PA.
<http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk>

The City's current recycling ordinance needs to be amended because it is outdated and it can be easily modified to maximize the amount of recycled waste that can be diverted from incineration or landfills. As it stands, the City of Harrisburg has a recycling ordinance that covers the basic requirements of a municipal recycling program such as a designated list of recyclables, a curbside pickup program, a division between recyclables from residences and commercial entities, and general mandates for recycling. However, there are several aspects of the ordinance that the City can broaden and enhance so that there is an increase in the practice of recycling and so more waste is diverted from incineration. Before addressing these areas of potential improvement, it is important to review what is currently in place to make it easier to assess what the City can build upon and what changes the City should consider adopting.

First, as discussed earlier, the purpose section of the ordinance states a goal to recycle 25 percent of the City's waste by January 1, 1997, a goal that is nearly twenty years old. The City needs to make sure that the goals of its administration are in line with its laws and policies. If the City is serious about recycling, the purpose section of the ordinance needs to be updated to reflect a new goal with a new date in the future by which to reach it. For that reason, the updated ordinance would set a goal of recycling 25% of its waste by January 1, 2020.

Second, the City currently requires that residents served by the curbside program source-separate their waste. This means that residents have to separate the recyclable items in their trash from the remainder of their ordinary waste. The items to be recycled are designated as such in the ordinance; they include plastic jugs, yard waste, newsprint, bimetal cans, tin cans, aluminum cans, clear glass, brown glass, and green glass.¹⁶ The ordinance calls for the

¹⁶ Codified Ordinances of the City of Harrisburg, § 9-309.4(E).

requirement that these recyclable materials be separated and placed into a recyclable container provided by the City, which will be picked up once a week as part of the curbside program.¹⁷

For residents living in apartment buildings or residential buildings with four or more units, which are not served by the curbside program, the ordinance leaves it to the owner, landlord, or agent of the owner or landlord (owner or landlord) of those buildings to set up a source-separation and collection program for recyclable items.¹⁸ Furthermore, the owner or landlord has to provide for transportation of the recyclables to a processing facility, and can do so either through the City or through a private hauler.¹⁹ If a private hauler is chosen, the owner, landlord, or agent of the owner or landlord has to provide an annual report as to the type and weight of materials recycled during the year.²⁰

The ordinance also addresses mandatory commercial, municipal, and institutional recycling.²¹ Specifically, the ordinance requires that all commercial, municipal, and institutional establishments source-separate designated recyclable materials either through the City or through a private hauler.²² Similar to apartment buildings, the establishments that use a private hauler have to provide an annual written report documenting the type and weight of materials recycling during the year.²³ The designated recyclables for such establishments consist of high-grade office paper, corrugated paper, glass containers and aluminum cans, and leaf waste.²⁴ The ordinance leaves room for the City to add additional items to the list of designated recyclables as

¹⁷ Codified Ordinances of the City of Harrisburg § 9-309.4.

¹⁸ *Id.* at § 9-309.4(G).

¹⁹ *Id.* at § 9-309.4(G).

²⁰ *Id.* at § 9-309.4(G).

²¹ *Id.* at § 9-309.8

²² *Id.* at § 9-309.8(B).

²³ *Id.* at § 9-309.8(B).

²⁴ *Id.* at § 9-309.8(C).

long as it provides thirty-days of notice by means of publication in a generally circulated City newspaper.²⁵

The City ordinance goes on to list acts that are prohibited and covers what constitutes a public nuisance.²⁶ It prevents those persons who are not designated contractors or those not permitted by the City to collect any designated recyclables placed at curbside pick-up points for collection or within a recycling dropoff location.²⁷ The ordinance also prohibits any person from violating or helping in the violation of any provision of the Recycling chapter or of Act 101.²⁸ The ordinance also prohibits any person from placing material that is not recyclable in Recycling Containers or leaving such materials at a dropoff location.²⁹ In addition, the ordinance prohibits the burning of designated recyclable materials, leaf waste, and other shrubbery or similar items.³⁰ The section concludes by stating that such unlawful conduct constitutes a public nuisance.³¹ While not stated directly in the City's ordinances, the Third Class City Charter states that if such a public nuisance is found to exist by the board of health, the board of health or designated department may request summary abatement.³²

The ordinance does reference some measures of enforcement. For example, under § 9-309.10, the ordinance states that the City may refuse to collect municipal waste from any who have "clearly failed to source-separate recyclables."³³ Additionally, at the end of the chapter, the ordinance states that any person who is in violation of the chapter shall be subject to the general

²⁵ *Id.* at § 9-309.8(C).

²⁶ *Id.* at § 9-309-9.

²⁷ *Id.* at §9-309.9(A)(1).

²⁸ *Id.* at §9-309.9(A)(2).

²⁹ *Id.* at §9-309.9(A)(3).

³⁰ *Id.* at § 9-309.9(A)(8).

³¹ *Id.* at § 9-309.9(B).

³² Third Class City Code § 37321, Abatement of public nuisances by designated department.

³³ *Id.* at § 9-309.10.

code penalty, § 1-301.99, and also to other remedies.³⁴ Under § 1-301.99, violators of water, air or noise pollution shall be fined not more than \$600 or be imprisoned for not more than 90 days, or both. In addition, under this subsection, it states that each day the violation continues constitutes a separate offense and that the penalty does not preclude additional enforcement measures and shall apply in addition to other fines or penalties.³⁵

While the ordinance creates important recycling mandates for residents and businesses and even includes some forms of enforcement, it is not enough and changes are necessary. These changes do not have to be drastic in order to be effective; however, they do need to be visible and meaningful. The visibility of the City's effort in promoting recycling will create the necessary attention it needs-it can send the message that recycling is a part of the city's culture and everyday life. While the city's current ordinance does not help facilitate this message, it can be modified to do so. The city's ordinance can be amended to cover certain aspects of recycling that can increase the visibility and practice of recycling. To be competitive with other cities in Pennsylvania, Harrisburg needs to implement more than the existing recycling mandates it has in place.

First, the city needs to ensure that each residence, including those in apartment buildings, has a recycling container. City residents need to have access to recycling containers in the same way that they have access to their own trash receptacles. By ensuring that each residence has a recycling bin, the City will remove the additional obstacle residents may face when they do wish to recycle. Some residents may not even know about the option to recycle or about the need to recycle. The simple act of distributing containers will create instant awareness and education. More importantly, blue containers act as free advertising – they are poster-boards for recycling

³⁴ *Id.* at §9.309.99.

³⁵ *Id.* at § 1-301.99

and they need to be all over the City. The more visible the containers are, the more likely people will be inclined to participate in recycling themselves.

In a recent study, Recycling Technical Assistance Project #538, sponsored by the Pennsylvania Department of Environmental Protection and completed by Gannett Fleming, a crew performed a two-hour audit of a partial recycling route in the City and reported their findings. Notably, the report stated that in places where there was better participation in recycling, it seemed to be consistent along both sides of the street and for longer distances on a given street. Likewise, where there was very poor participation in recycling, it was also consistently so along the stretch of the street. More importantly, poorer recycling participation seemed to coincide with a decreased visibility of blue bins. As the report pointed out, “recycling appeared to be contagious[.]”³⁶

Second, the ordinance does not efficiently capture a great portion of residents that can contribute to recycling in the City. As discussed earlier, approximately 38.3 percent of housing in the City are multi-unit dwellings with two or more units.³⁷ The ordinance needs to include apartment buildings as part of the curbside pickup program and if not, it needs a more rigorous process of ensuring that the owners or landlords of such buildings are in compliance with the ordinance. A similar program was recently created in Portland, Maine, which required apartment buildings to recycle by either becoming part of the curbside program or creating a recycling collection program that was approved by the Department of Public Works.³⁸ Here, however, the default and preferred position will be participation in the curbside program. This may entail

³⁶ Recycling Technical Assistance Project #538, Appendix D, Recycling Field Audit Summary, http://files.dep.state.pa.us/Waste/Recycling/RecyclingPortalFiles/Harrisburg_538.pdf

³⁷ 2010 Census Data, Housing Characteristics for Harrisburg, PA. <http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk>

³⁸ <http://bangordailynews.com/2014/04/08/business/new-portland-ordinance-will-require-multiunit-apartment-buildings-to-recycle/>

extending the curbside pickup route, but according to a recent study, the pickup route was not mapped out to maximize efficiency, so this may be an opportunity to remedy the problem.³⁹ Nevertheless, the key is that the ordinance must be able to bring recycling options to all of the City's residents, including those that are in apartment buildings.

One of the simplest yet important changes the City can make is to implement a recycling program within the city's own buildings. Currently, the municipal buildings in Harrisburg do not have a recycling program in effect. The addition of a provision requiring the municipal buildings in the City to have a recycling program sends a powerful message. To emphasize this point, consider the message that the absence of such a program sends to those visiting or working in the buildings. For recycling to become a part of the resident culture in the city of Harrisburg, it should start in the buildings where the city's decision makers work. It is a powerful yet simple way to express the administration's goals. Even if the recycling produced from the few hundred employees working in the City's municipal buildings is minimal, the message it sends is paramount.

Finally, adding different enforcement mechanisms such as warnings and tickets to the current ordinance can be effective. Once again, it reflects the seriousness and commitment the City is making to the promotion of recycling. By adding different enforcement measures under the penalties section of the ordinance, it also provides city officials with more options to use in creating public awareness.

It is also important to address the legal authority for this ordinance. Under Title 53, §41407 of Pennsylvania's Consolidated Statutes, the Optional Third Class City Charter, city

³⁹ Recycling Technical Assistance Project #538, Appendix D, Recycling Field Audit Summary, http://files.dep.state.pa.us/Waste/Recycling/RecyclingPortalFiles/Harrisburg_538.pdf

council has the authority to exercise the legislative power of the city.⁴⁰ The procedure for the passing of ordinances by the city council is expressed in §41607.⁴¹ Further, in § 41608, the adoption, publication, and effectiveness of ordinances is set out.⁴²

In addition, Pennsylvania Act 101, the Municipal Waste Planning, Recycling and Waste Reduction Act requires larger municipalities to implement curbside recycling programs and to aim at recycling at least twenty-five percent of their waste.⁴³ Since Harrisburg is considered one of these larger municipalities, it has certain responsibilities. Under the act, the City has to recycle at least three of the following materials: clear glass, colored glass, plastics, aluminum, steel and bi-metallic cans, high-grade office paper, corrugated paper and newsprint.⁴⁴ The City's updated ordinance can help facilitate these goals and help it fulfill its obligations under Act 101.

More specifically, under § 304 of Act 101, it states the powers and duties of municipalities in assuring the proper transportation and collection of municipal waste. Under § 304(a), it states that municipalities have the power to adopt and implement programs for the collection and recycling of municipal waste.⁴⁵ In subsection (b), the Act also gives municipalities the power to adopt ordinances and regulations for recycling that should not be less strict than or inconsistent with the Solid Waste Management Act, Act 101, and regulations that are promulgated pursuant to Act 101.⁴⁶

Recycling can provide many important benefits to the City of Harrisburg. First, recycling can create new businesses responsible for the processing and manufacturing of recyclable

⁴⁰ Optional Third Class City Charter, 53 P.S. §41407.

⁴¹ 53 P.S. §41607.

⁴² 53 P.S. §41608.

⁴³ <https://www.dep.state.pa.us/dep/DEPUTATE/AIRWASTE/WM/Recycle/facts/act101.htm>

⁴⁴ <https://www.dep.state.pa.us/dep/DEPUTATE/AIRWASTE/WM/Recycle/facts/act101.htm>

⁴⁵ Act of July 28, 1988, P.L. 556, No. 101, §304(a).

⁴⁶ *Id.* at §304(b).

goods.⁴⁷ New businesses lead to the creation of new jobs, which can help reduce unemployment in the City. Recycling also helps preserve natural resources because the amount to make recycled materials is less than that required for the production of new materials.⁴⁸ The use of recycled materials also takes some of the pressure away from the need to expand forestry and mining, both of which can cause environmental pollution.⁴⁹ In addition, recycling allows us to use less of our natural resources.⁵⁰ While the effects may seem minimal when viewed individually or on a small scale, imagine the compounding effect of these results as the practice of recycling continues to grow.

IV. How this problem has been addressed in other jurisdictions

In Pennsylvania, one way to measure the sustainability efforts of municipalities in the Commonwealth is through Sustainable Pennsylvania Community Certification. Based on a point system, the program awards municipalities various levels of certification such as association, bronze, silver, gold, and platinum.⁵¹ This certification system is an ideal way to measure not only the sustainability efforts that each municipality in Pennsylvania is taking, but also what practices are deemed to be ideal or best practices for certain sustainable movements. Thus, this program can measure and guide municipalities in the Commonwealth on how to promote sustainability efforts such as recycling.

For recycling, the program identifies certain factors that reflect sustainable efforts. These factors include the following: whether Act 101 mandatory municipalities have ordinances in

⁴⁷ Environmental Protection Agency, Communicating the Benefits of Recycling, <http://www.epa.gov/osw/conservation/localgov/benefits/>.

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ Sustainable Community Certification, <http://www.sustainablepacommunitycertification.org/pages/certification-details>.

place for waste and recycling that are in compliance with the act and for those not mandatory municipalities under the act, whether a recycling program is in effect; whether there is a curbside program or a drop-off recycling program; whether the municipality contracts for solid waste collection instead of residents contracting for collection on their own; whether there is a written waste reduction and recycling ordinance for residential, commercial, and institutional facilities; whether there is an active public informational program that promotes waste reduction and recycling to citizens; whether all municipal buildings have an active recycling program; whether, with regard to municipal institutions, there was a recent waste management assessment with municipal employees trained in waste reduction and recycling; whether an Environmentally Preferable Purchasing Program has been put into effect for municipal operations (such programs help governments make purchases for green products, thereby stimulating the market for such products); whether the municipality has an active litter prevention program or a clean-up program; whether a program with expanded recycling materials is being developed; and whether a community-wide recycling program is maintained at five percent above the state stipulated goal of thirty-five percent.⁵²

According to the program, Lancaster, has met many of these factors.⁵³ Lancaster also uses a source-separate system. The ordinance calls for a curbside pick-up program, and has designated recyclable materials to include clear glass, colored glass, aluminum, steel cans, plastic, newsprint, yard waste, tires, and white goods. In a study, Lancaster was compared to Harrisburg and used as a benchmark because it has a similar amount of residential and

⁵² http://www.sustainablepacommunitycertification.org/users/sustainable_community_library, Material Use, Waste, and Recycling.

⁵³ http://www.sustainablepacommunitycertification.org/users/sustainable_community_library, Material Use, Waste, and Recycling.

commercial units generating waste.⁵⁴ Lancaster made 1,400 to 1,750 stops along its curbside pickup route, where Harrisburg made 400-450, and Lancaster diverted over two times the recyclables of Harrisburg residents.⁵⁵ Lancaster produced 22.7 pounds recycled per residential unit for each month where Harrisburg produced 9.4. The residential solid waste fee for each unit per month was \$17.5 for Lancaster and \$32.24 for Harrisburg. These results should not be discouraging, but should reflect the ample room for improvement Harrisburg has if it encouraged participation in and optimized collection of recyclable materials.

While Lancaster's ordinance is very comprehensive, the impact of the law is much more powerful due to the complementary programs that the city has in place to support the practice of recycling and efficient waste disposal. For example, Lancaster has a program called the Bike Squad, which consists of patrol officers in red-shirts monitoring the downtown streets for issues with trash, graffiti, and city-maintenance.⁵⁶ At the same time, the members of the Bike Squad, who monitor the downtown area seven days a week, help residents and tourists with directions and other questions they may have about the city.⁵⁷ Another program called the Clean Team, with its members dressed in blue shirts, helps in litter prevention by sweeping and cleaning public areas in the downtown area in an effort to keep these areas free from litter.⁵⁸ These programs help emphasize the effects of the ordinance and create public participation. They also create jobs and encourage people to be more interactive with their city.

⁵⁴ Recycling Technical Assistance Project #538, page 2, http://files.dep.state.pa.us/Waste/Recycling/RecyclingPortalFiles/Harrisburg_538.pdf

⁵⁵ Recycling Technical Assistance Project #538, page 2, http://files.dep.state.pa.us/Waste/Recycling/RecyclingPortalFiles/Harrisburg_538.pdf

⁵⁶ Lancaster City Alliance, About the Bike Squad and Clean Team, <http://www.lancastercityalliance.org/clean-safe/about-the-bike-squad-and-clean-team/>.

⁵⁷ *Id.*

⁵⁸ *Id.*

V. Key policy issues

As a preliminary issue, cost is always an important issue and one that can inhibit the progress of new legislation. With regard to the proposed amendments to the recycling ordinance, the Department of Environmental Protection provides financial support to municipalities for their recycling efforts through Act 101 grants. Under § 902 of the Act, municipalities can be reimbursed for 90 percent of the approved costs for establishing a recycling program.⁵⁹ Furthermore, municipalities categorized as financially distressed under Act 47 of 1987 may be awarded 100 percent of those approved costs.⁶⁰ Under § 904, municipalities with recycling programs may also receive grant awards based on their recycling performance.⁶¹ The amount of the award is based on the weight and type of recycled materials as well as the amount of waste that is diverted from landfills/incineration.⁶²

In addition, the Department of Environmental Protection can provide the bins that the City would distribute to all residential units if the amendments are passed. As mentioned earlier, some of the grants available to municipalities depend on their recycling rates, so the maintenance and promotion of recycling in the city is very important to continue to receive grant funds and retain the levels of those funds.

On a general level, one of the most difficult policy choices that decision-makers on the city level have to consider with respect to recycling is how to capture the importance of the

⁵⁹ Pa. Dept. of Env't'l Protection, Recycling Fact Sheets, Act 101
<https://www.dep.state.pa.us/dep/DEPUTATE/AIRWASTE/WM/Recycle/facts/act101.htm>; Act 101, § 902.

⁶⁰ Pa. Dept. of Env't'l Protection, Recycling Fact Sheets, Act 101
<https://www.dep.state.pa.us/dep/DEPUTATE/AIRWASTE/WM/Recycle/facts/act101.htm>

⁶¹ Pa. Dept. of Env't'l Protection, Recycling Fact Sheets, Act 101
<https://www.dep.state.pa.us/dep/DEPUTATE/AIRWASTE/WM/Recycle/facts/act101.htm>; Act 101, §904.

⁶² Pa. Dept. of Env't'l Protection, Recycling Fact Sheets, Act 101
<https://www.dep.state.pa.us/dep/DEPUTATE/AIRWASTE/WM/Recycle/facts/act101.htm>; Act 101, §904.

practice of recycling within the city. One particular policy choice that confronts decision-makers in the adoption of ordinances on recycling is how to enforce them. More specifically, one issue is the authority that the municipality has to implement stronger enforcement mechanisms such as warnings and tickets in addition to the fines and penalties already in place for entities that do not abide by the provisions of the recycling ordinance. For example, under Act 101, larger municipalities have to establish curbside programs. If the program proves unsuccessful or if recycling rates are not improving within the municipality, can the City enforce penalties to those who do not separate their recyclables from their other waste products?

While enforcement mechanisms will help create increased program participation and ultimately more recycling in the City, the authority for such mechanisms is one problem that city council members have to consider in pushing forward a new ordinance. Related to the issue of proposed penalties or fines for violations of the recycling ordinance is determining the appropriate measures for each. What amount is too much for a fine for recycling?

In addressing these issues, it is important to keep penalties of violations reasonable. Warnings, for example, may be more informative and impactful than a simple ticket or fine. Not picking up trash that has comingled recyclables with ordinary trash is another mechanism that can be used more often to encourage participation in the recycling program. As the updated ordinance provisions reflect, these tools will help promote compliance and they allow the City to express its commitment to recycling and more efficient waste management.

Once again, modifications in the ordinance are a great place to start but will not be enough to rejuvenate the practice of recycling in the City. Education on recycling is also essential. Recycling is not a trend; it needs to be a way of life to be successful in a given community. To make recycling part of the City's way of living, an educational program must

complement the ordinance so that residents are aware of why and how to recycle. This education should start with the City's schools. A presentation on recycling to each school once or twice a year may be one way to start. Posters on recycling may also help to spread awareness. School administrators also need to initiate recycling as part of the school's waste management program. One way the City can be more involved in making this happen is by sponsoring contests for students. Education at a young age is critical in the effort to make recycling part of the City's way of life. Continued education on recycling practices coupled with the mandates of an extensive ordinance will create true sustainable progress.

VI. Conclusion

The City of Harrisburg's current recycling ordinance is comprehensive and includes many of the basic elements encompassed by model municipal recycling ordinances as well as many of the necessary elements required by Act 101. Nevertheless, given the lack of recycling participation by residents and a low recycling rate for the City, it is apparent that the time has come to revisit and update the current recycling ordinance in order to increase recycling in the City. The proposed changes do not promise hypothetical results because they have already produced promising results in other cities, some of which are very close to home. Amendments to the current law will help increase the city's recycling rate and allow it to stay current and competitive with other cities in the state. As the capital of the Commonwealth, the City has a responsibility to set an example and standard for sustainable living – one that other municipalities both in and outside of the Commonwealth can follow.

Although the ordinance is the best place to start, as is evidenced by the practices of other cities with stronger recycling rates such as the city of Lancaster, the ordinance needs to be

supported by proactive, complementary programs in the City. For example, programs that help monitor waste management in the downtown area of the City would be an excellent place to start for several reasons. First, such programs have already had success in other cities. Second, there is a constant flow of people downtown – during the day, the streets are filled with individuals employed at the Capital or one of the many businesses downtown, while during the night, Second street invites young professionals to its many restaurants. Thus, a wide spectrum of Harrisburg residents would be able to see and learn about the recycling programs just from being downtown. A real change will require a multi-faceted approach, but will demand the education and participation of residents of this City.

Appendix. Proposed Ordinance

Bill No. – 2014

Moved by: _____

An Ordinance amending Chapter 9 Sections 309 of the Codified Ordinances of the City of Harrisburg by amending the purpose section and provisions regarding the curbside program and mandatory recycling for multi-unit residential buildings, and also, by adding new sections regarding enforcement, violations, and mandatory recycling programs for municipal buildings.⁶³

WHEREAS, the Council of the City of Harrisburg hereby finds and declares the promotion of recycling practices to be important to the social, environmental, and economic vitality of the City; and

⁶³ Introduction of proposed ordinance up through the beginning of the ordinance text was modeled after Harrisburg Sample Ordinance 2 (regarding the creation of the Harrisburg Land Bank).

WHEREAS, in order to increase compliance with the act of July 28, 1988 (P.L. 556, No. 101), known as the Municipal Waste Planning, Recycling and Waste Reduction Act of 1988, and the county plan, it is necessary to establish a new goal for the City in its purpose section.

WHEREAS, in order to increase compliance with the Municipal Waste Planning, Recycling and Waste Reduction Act of 1988 and the county plan, it is necessary to expand the recycling program so that residents in large residential buildings, such as apartments, also have access to the residential recycling program.

WHEREAS, in order to increase recycling and reduce the amount of solid waste in the City of Harrisburg it is necessary to expand the enforcement mechanisms that exist in the current ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HARRISBURG, AND IT IS HEREBY ENACTED BY AUTHORITY OF THE SAME, as follows:

Additions indicated by underscoring, deletions indicated by [bracketing].

Chapter 9.⁶⁴

§9-301.2 Definitions; word usage.

LARGE RESIDENTIAL BUILDING

⁶⁴ The source for the City of Harrisburg’s current recycling ordinance and corresponding definitions (found in Chapter 9 of the Codified Ordinances of the City of Harrisburg) is www.ecode360.com, City of Harrisburg, PA. If amendments are modeled after another municipality’s ordinance or a model ordinance, the specific municipality’s ordinance or model is referenced in the corresponding footnote.

A residential building with more than six (4) units.

§ 9-309.1. Purpose and goals.

The City finds that the reduction of the amount of solid waste and conservation of recyclable materials is an important public concern and is necessary to implement the requirements of Pennsylvania Act 101, the Municipal Waste Planning, Recycling and Waste Reduction Act of 1988, and the county plan. The separation and collection of plastic, paper, cardboard, glass, cans, and vegetative yard waste for recycling from the residential, commercial, and institutional establishments in this City will minimize potential adverse environmental effects of landfilling by reducing the need for landfills and conserving existing landfill capacity; facilitate the implementation and operation of other forms of resource recovery called for by the county plan; conserve natural resources; and reduce the cost of municipal waste disposal generally. The promotion and use of recyclable material, goods produced from recycled materials, and goods which facilitate recycling will further serve the same purposes by encouraging and facilitating recycling. As a goal, the City will endeavor to recycle 25% of municipal waste by January 1, [1997] 2020, in accordance with the provisions of Act 101.

§ 9-309.2. Responsible agent.

- A. The Director DPW or a designee shall be responsible for all aspects of a recycling program in the City of Harrisburg, including the preparation of all necessary plans for recyclable materials and the coordination of those plans with local, state and federal agencies.
- B. The Director of DPW shall and is able to:

- (1) Provide public recyclable material collection, storage, transportation and marketing service and/or approve and regulate the establishment, maintenance and operation of private recyclable material collection, storage, transportation, and marketing services and sites;
- (2) Adopt, issue and enforce such rules and standards as are necessary to implement and carry out the intent of this chapter;
- (3) Issue warning notices and initiate proceedings against violators of this chapter;
- (4) Investigate all complaints;
- (5) Inspect all aspects of recyclable collection, storage and marketing, including but not limited to equipment, containers, facilities, books and records;
- (6) Designate an agent(s) to enforce this act.

§ 9-309.XX. Distribution of recycling containers to residents.⁶⁵

The City shall provide a Recycling Container to each residence that does not have one, free of charge. This shall include residential units that are located in large residential buildings.

§ 9-309.XX. Unauthorized use of recycling containers.⁶⁶

A. The City shall provide Recycling Containers for the exclusive use of City residents in separating and storing recyclable materials until such time as the materials are picked up by personnel authorized by City Council. The City maintains ownership of these containers, and such containers shall be returned to the City under the following conditions:

- (1) when requested by an authorized representative of the City;
- (2) when the residential user moves from within the limits of the City;

⁶⁵ Sample Recycling Ordinance, Pennsylvania State Association of Boroughs, §10.0, <http://boroughs.org/ordfiles/Recycling.pdf>.

⁶⁶ Sample Recycling Ordinance, Pennsylvania State Association of Boroughs, §10.0, <http://boroughs.org/ordfiles/Recycling.pdf>.

(3) when a container becomes unusable due to damage, and a request for a replacement is made to the City.

B. Recycling Containers are distributed by the City to its residents for the sole purpose of storing recyclable materials within the dwelling unit. Any other use of these containers, without the consent of City Council shall be considered a violation of this ordinance.

§ 9-309.3. Establishment of curbside program.

A. The Director DPW shall designate a schedule and plan for curbside collection of recyclable materials.

B. The Recycling Coordinator shall recommend updates and changes to the program as are necessary to carry out the intent of this chapter.

§ 9-309.8. Mandatory commercial, municipal and institutional recycling program.

A. All persons within the City who are not served by the curbside recycling program established pursuant to § 9-309.3 of this chapter[, including residents of apartments and other residential establishments,] shall source-separate and arrange for the collection of recycling of all designated recyclables in accordance with the source-separation and collection system at their establishment.

B. All commercial, municipal and institutional establishments are required to source-separate all designated recyclable materials set forth below and to provide for transportation of those designated recyclable materials, either through the City or a private hauler. If a commercial, municipal and institutional establishment utilizes a private hauler to transport the designated

recyclable materials, such person is required to provide annual written documentation as to the type and weight of materials recycled during the preceding 12 months. Reports are due to the City in a form provided by the City no later than January 15 of each year and may be supplemented quarterly.

C. Designated recyclables for the mandatory commercial, municipal and institutional recycling program shall consist of the following materials:

- (1) High-grade office paper;
- (2) Corrugated paper;
- (3) Glass containers and aluminum cans;
- (4) Leaf waste; and
- (5) Other recyclable materials as designated by the City 30 days after such designation and publication of notice in a newspaper of general circulation within the City.

D. All community events shall include the source separation and processing of corrugated paper, glass containers and aluminum cans.

E. The Director DPW shall ensure that the City's municipal buildings have implemented a recycling program. The program must meet the following requirements:

- (1) Each program must include an educational component that provides employees with information and training on recycling;
- (2) Each program must provide employees with access to recycling containers;
- (3) Each program must be approved by the Director DPW before implementation; and
- (4) The Director DPW shall be responsible for ensuring the program is implemented in each municipal building in the City.

F. The Director DPW shall ensure that the City's large residential buildings are added to the curbside recycling program.

§ 9-309.8A. Access to recycling programs and services for large residential buildings⁶⁷

- A. Owners or individuals in control of large residential buildings shall provide to residents access to the recycling programs and services offered by the City of Harrisburg to the extent herein required.⁶⁸
- B. Upon the Department of Public Works, Director DPW, or the Recycling Coordinator's receipt of a request from a resident, the Recycling Coordinator shall notify the owner of its receipt thereof. An owner or individual in control of the building, within 30 days of receipt of the notice from the Recycling Coordinator, shall provide access to the recycling programs and services of the City of Harrisburg by installing and maintaining an adequate number of recycling carts in a common area of the premises and within a reasonable proximity not to exceed three hundred fifty (350') feet from a point of egress of a large residential building and as close as practicable to the current waste/trash removal dumpsters or containers for the large residential building; if an owner or individual in control of a large residential building determines that the installation of recycling carts is impracticable then the owner shall contact the Recycling Coordinator for generation and/or approval to supply residents with access through alternative measures including but not limited to providing a set out container to each unit in the large residential building. If the Recycling Coordinator is unable to generate and/or approve alternative measures as aforesaid then the owner may seek an exemption

⁶⁷ City of Boston Municipal Code, §7-13A

⁶⁸ City of Boston Municipal Code, §7-13A.3(a).

pursuant to subsection §9-309.8B, Owners Unable to Comply; Exemption (note: this references the subsequent section).⁶⁹

- C. Nothing in this section prohibits owners or individuals in control of large residential buildings from supplying residents of such buildings with Recycling Containers.⁷⁰

§ 9-309.8B. Owners or individuals in control of large residential buildings unable to comply; exemption.⁷¹

- A. An owner or individual in control of a large residential building may submit to the Director DPW a detailed letter requesting exemption from the requirements of these sections within thirty (30) days of the date of final determination under §9-309.XX, Access to Recycling Programs and Services for Large Residential Buildings (note: this references the previous section), regarding alternative measures to providing access to the recycling programs and services. Said detailed letter shall include (1) the owner or individual in control of the large residential building's reasons for the request for exemption, (2) the specific steps the owner/individual in control has taken to evaluate the owner/individual in control's large residential building and its premises regarding compliance with these sections, and (3) the specific steps the owner/individual in control has taken in an attempt to comply with the provisions of these sections. The Director DPW shall, within thirty (30) days of the receipt of the request, respond in writing to the owner by: (1) rejecting the request and directing the specific steps the owner must take to

⁶⁹ City of Boston Municipal Code, §7-13A.3(b).

⁷⁰ City of Boston Municipal Code, §7-13A.3(c).

⁷¹ City of Boston Municipal Code, §7-13A.4.

ensure compliance with these sections or (2) approving the request. The decisions of the Director DPW is final and may be appealed only to a court of competent jurisdiction.⁷²

- B. Any large residential building from which the City of Harrisburg does not collect trash is exempt from the requirements of these sections. Nothing in these sections prohibits such a large residential building from voluntarily providing access to the City of Harrisburg's recycling services.⁷³

§ 9.309.8C. Annual Report.

In an effort to evaluate the effectiveness of the recycling programs of the City of Harrisburg and of large residential building in the City of Harrisburg, the Department of Public Works shall annually prepare a report regarding the City of Harrisburg's recycling program, including the tonnage of recycled materials collected and the tonnage of crash collected. This annual report shall specifically and separately detail the recycled tonnage collected from large residential buildings. An original of this report shall be filed with the City Council no later than March 31 of each calendar year.

§ 9-309.14. [Penalty]Violations and Penalties.⁷⁴

- A. Any person who violates the provisions of this chapter shall be subject to the general code penalty, § 1-301.99, in addition to the other remedies available to the City.

⁷² City of Boston Municipal Code, §7.13A.4(a).

⁷³ City of Boston Municipal Code, §7.13A.4(b).

⁷⁴ Sample Recycling Ordinance, Pennsylvania State Association of Boroughs, <http://boroughs.org/ordfiles/Recycling.pdf>.

B. The City may give warnings to any person or entity in violation of the provisions of this chapter.

C. The City may give tickets, subject to the same monetary limitations provided in §1-301.99, to any person or entity in violation of the provisions of this chapter.

§ 9-309.14A. Injunctive relief.

In addition to any other remedy provided in this chapter, the City may institute proceedings to restrain any violation of, or to require compliance with, this chapter and/or the City's Policies and Procedures.⁷⁵

§ 9-309.XX. Unlawful activity.⁷⁶

It shall be unlawful for any Person to violate, or cause or permit or assist in the violation of, any provision of this article or any provision of the Municipality's Policies and Procedures. All unlawful conduct shall also constitute a public nuisance.

§ 9-309.15. Severability.⁷⁷

If any provision, sentence, clause, section or part of this ordinance or the application thereof to any person or circumstance is for any reason found to be unconstitutional, illegal or invalid by a court of competent jurisdiction, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provision, sentences, clauses, section or parts of these ordinances. It

⁷⁵ § City of Lancaster, § 258.50.

⁷⁶ Lancaster Ordinance, §258-47.

⁷⁷ Sample Harrisburg Ordinance No.--Budget Transfer Within Personnel, at Section 3.

is hereby declared as the intent of the Council of the City of Harrisburg that these ordinances would have been adopted had such unconstitutional, illegal or invalid provision, sentence, clause, section or part not been included herein.

§9-309.16 Repealer.⁷⁸

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

§ 9-309.17. Effective Date.⁷⁹

This ordinance shall take effect in accordance with the law.

⁷⁸ *Id.* at Section 4.

⁷⁹ *Id.* at Section 5.