

**TOWN OF
APPLE VALLEY, CALIFORNIA**

AGENDA MATTER

Subject Item:

DISCUSS DEVELOPMENT OF COMMERCIAL RECYCLING PROGRAM TO MEET NEW STATE MANDATORY COMMERCIAL RECYCLING REGULATIONS.

Summary Statement:

AB 939, California's 50% recycling mandate, became law in 1989. In response, the Town of Apple Valley passed Ordinance #34 in August of 1989, articulating the Town's policy for mandatory participation the solid waste collection services throughout the Town. In 2008, Ordinance #345 further clarified that participation in the disposal and recycling service was mandatory for all *residential* properties. As a result, the volume of Apple Valley's residential recycling has generally been at acceptable levels. This doesn't include multifamily residences which are technically commercial properties.

Commercial recycling has not kept pace with residential recycling. According to the California Integrated Waste Management Board (CIWMB), over 70% of California's waste stream is generated at commercial/multi-family sites. Previous Town Councils chose to seek voluntary commercial recycling as opposed to mandatory. Today, over 20 years after passage of AB 939, 173 Apple Valley businesses have recycling accounts compared to 722 commercial trash accounts, meaning less than 24% of local businesses have recycling accounts.

(Continued)

Recommended Action:

- 1) Direct staff to prepare a mandatory commercial recycling ordinance for the Town of Apple Valley; or,
- 2) Provide other direction to staff with respect to achieving compliance with new commercial recycling regulations.

Proposed by: Diana McKeen

Item Number _____

T. M. Approval: _____

Budgeted Item Yes No N/A

AB 32, California's Global Warming Solutions Act of 2006, mandates the reduction of greenhouse gases throughout the state. The Air Resources Board (ARB) was tasked with implementing AB 32, and the agency produced a list of 72 specific actions. Some of these actions are voluntary and some are to be achieved through mandate. Item 38, commercial recycling, was assigned to the ARB and the CIWMB to accomplish through mandate.

CIWMB's successor agency, the Department of Resources Recycling and Recovery (CalRecycle), has prepared language to be added to the Health and Safety Code which imposes mandatory commercial recycling statewide, effective January 2012. The timeline for enacting the regulations anticipates that CalRecycle will send the regulatory language to the ARB in September, beginning a 45-day comment period. ARB will have a hearing on the proposed regulations October 20-21, and the regulations go into effect January 1, 2012.

The mandatory recycling regulation affects businesses that generate four or more cubic yards of waste weekly. This includes multifamily residences with five or more units and mobile home parks. Apple Valley has 176 apartment complexes containing 1468 units which would be affected by the regulation. The Town also has about 15 mobile home parks which would fall under these regulations, as well. One recent addition to the regulation is that it allows property owners of multi-family complexes to require tenants to source separate their recyclable materials.

There is a great deal of flexibility in the regulatory language which allows a city to create its own program of commercial recycling. If a jurisdiction implements a commercial recycling program which meets the requirements of the new regulations *prior* to July 1, 2012, no new or expanded program will be required by CalRecycle.

By way of municipal example, the City of San Diego has had a commercial recycling ordinance for three years. The ordinance mandates that commercial property owners or managers educate tenants on the recycling mandate annually and as new tenants lease space. San Diego's ordinance also specifies a ratio of required recycling space to the volume of trash. Enforcement by two full time officers – backed up by a staff of seven in the Recycling Department – is in the form of warnings, administrative hearings and citations with fines ranging from \$100 to \$1,000. By contract, the hauler is mandated to remind commercial customers of the recycling ordinance twice annually, and it must maintain a staff which is thoroughly knowledgeable about the city's commercial recycling ordinance.

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Although the regulation requires the businesses to recycle, it holds cities directly responsible for providing outreach and education to the business community regarding mandatory recycling, as well as monitoring the commercial recycling levels. At a minimum, cities are to track whether businesses are or are not recycling and to notify the latter that they are out of compliance with the regulations. Cities may be required to report non-compliant businesses to CalRecycle through the annual report at some point.

The new regulations allow jurisdictions to set their own exemptions for businesses, enact means of enforcement, and specifically provide that any fines or penalties assessed may be used to support the costs of the program.

Enacting an ordinance mandating commercial recycling, backed by the state regulation, would be the easiest approach for the Town and the one requiring the least expenditure of Town resources.