

3. **UNIFIED DEVELOPMENT ORDINANCE AMENDMENT – Amendments to the Unified Development Ordinance for Section 18.450.100 to modify the placement and screening requirements for recycling containers**

1. **APPLICANT:** The City of Overland Park is the applicant for this request.
2. **REQUESTED ACTION:** The applicant is requesting approval of Ordinance No. ZRR-2754, which amends section 18.450.100 of the Unified Development Ordinance to revise the screening requirements for recycling containers (Attachment A).
3. **ANALYSIS:** The amendments as proposed would allow greater flexibility in the placement and screening of recycling containers. The current Unified Development Ordinance (UDO) of the Overland Park Municipal Code does not distinguish between recycling containers and trash containers. All such containers must be fully screened on all four sides.

City staff has received several inquiries/complaints regarding the placement and number of recycling containers being located particularly at schools, places of worship, and non-profit organization properties. Several of these recycling containers have been placed unscreened in prominent locations that are highly visible from public streets and the adjacent residential properties. These recycling containers are often brightly colored (yellow or green and yellow), are not screened from view from adjacent properties, are often placed in the parking lot, on a parking lot island, or on the grass adjacent to the parking lot or drive. Often, both the placement and the lack of screening would be violations of the current UDO requirements.

In addition, these recycling containers are often being used as a means of fundraising for schools, places of worship, or non-profit organizations. Two companies, Abitibi-Consolidated Recycling Division and Deffenbaugh Industries, have marketed the use of paper recycling containers as fundraising opportunities. Up to this point, the emphasis has been on paper product recycling only, but this may change as the market for recycling materials evolves and the price of transporting the material changes.

The dilemma is that the current Unified Development Ordinance (UDO) of the Overland Park Municipal Code does not distinguish between recycling containers and trash containers. Both types of containers are required to meet the following standard:

UNIFIED DEVELOPMENT ORDINANCE AMENDMENT – Amendments to the Unified Development Ordinance for Section 18.450.100 to modify the placement and screening requirements for recycling containers - continued

“18.450.100 Screening Requirements

Plans for all residential projects containing multi-family dwellings, all non-residential projects in residential districts, and all commercial and industrial projects shall include a detailed drawing of enclosure and screening methods as provided hereinafter.

- A. Trash containers, trash compactors, and recycling bins shall be screened from public view on all four sides with a solid fence, wall, or gate constructed of cedar, redwood, masonry or other compatible building material, and shall be appropriately landscaped.”

4. COMMUNITY DEVELOPMENT COMMITTEE (INITIAL AUTHORIZATION): On Wednesday, April 2, 2008, staff brought the issue to the Community Development Committee to seek policy direction as to whether the committee wished to consider revising the current UDO standards for recycling containers as long as certain conditions are met. Staff felt that a reasonable accommodation could be worked out that would make these recycling containers less visible to the immediate surrounding residences and public streets, but would still allow them to be quickly identified on the site and easily accessible to the public. Staff recommended a similar approach as was recently approved (February 2008) in the City of Lenexa. The points below were proposed to address the important issues in the City of Lenexa’s ordinance and other issues that city staff considers useful to review and discuss:
- a. Require placement of recycling container(s) behind the front of the building.
 - b. Allow placement only on a paved or specifically approved surface. Specifically approved surface could include mulch, pavement, pavers, or gravel.
 - c. Require recycling container(s) to be substantially screened from view from the adjacent properties and any public street if within a certain distance, such as 250 feet. This would allow a recycling container to be placed next to the side or back of the building, but more than 250 feet away from the street or adjacent properties without screening.

UNIFIED DEVELOPMENT ORDINANCE AMENDMENT – Amendments to the Unified Development Ordinance for Section 18.450.100 to modify the placement and screening requirements for recycling containers - continued

- d. Use of acceptable screening material include a solid fence, wall, or gate constructed of cedar, redwood, masonry or other compatible building material, earthen berm, and landscaping. Where landscaping or landscaping and an earthen berm are used for screening, a landscape plan signed by a registered landscape architect should be submitted for approval.
- e. Limit the number of recycling containers to one or two containers only. Additional recycling containers could be approved, but should meet the requirements of a recycling collection point that would require either administrative approval or final development plan approval. Also, should larger recycling operations have different placement and screening requirements?
- f. Limit the height and size of the recycling container(s), for example, to 8-feet in height and 6-8 cubic yards in size rather than not have a limit and have roll-on/roll-off recycling containers show up on a site.
- g. Restrict the type of recycling materials to be collected to avoid unsightly or hazardous materials.
- h. Allow small directional signs at entrances and at key locations on the property to direct residents to the recycling container(s).

Following the discussion of several issues at the April 2, 2008, Community Development Committee meeting, the committee authorized staff to proceed with drafting possible ordinance changes to the Unified Development Ordinance (UDO). Staff proposed to work with the Ordinance Amendment Committee of the Planning Commission to develop the draft ordinance language. The authorized ordinance changes discussed by the Community Development Committee were to allow greater flexibility in the placement and screening of recycling containers.

- 5. ORDINANCE AMENDMENT COMMITTEE: Staff met with the Ordinance Amendment Committee on Monday, April 14, 2008, and Monday, May 19, 2008, to develop draft ordinance language for consideration by the Community Development Committee. The final draft of the proposed language is found in Ordinance No. ZRR-2754.

The Ordinance Amendment Committee considered the several issues that were discussed by the Community Development Committee at its April 2,

UNIFIED DEVELOPMENT ORDINANCE AMENDMENT – Amendments to the Unified Development Ordinance for Section 18.450.100 to modify the placement and screening requirements for recycling containers - continued

2008, meeting. The committee felt that the proposed draft language as presented in Ordinance No. ZRR-2754 best addressed the interest in allowing greater flexibility in the placement and screening of recycling containers, while avoiding having those containers becoming too intrusive for the neighborhoods they are intended to serve.

Another issue addressed in the proposed ordinance pertains to the type of material used to screen trash containers and larger recycling containers. The Ordinance Amendment Committee recommended requiring the use of masonry construction rather than allowing the use of less durable screening materials for those containers that are required to be screened from public view on all four sides. This recommendation addresses an on-going problem with the use of less durable materials that have often been damaged, ill maintained, or simply removed because of disrepair. The use of masonry is already being encouraged for use by staff.

6. SCHOOL DISTRICT CONTACT: Staff contacted representatives from the two main school districts in Overland Park where the recycling containers have been used as a fundraising activity. Comments received from representatives of the Shawnee Mission and Blue Valley School Districts were as follows:

Bruce Kracl, who is Manager of Operations and Maintenance, with the Shawnee Mission School District mentioned that they use a decentralized approach in that each individual school orders the containers and designates their location. If the new ordinance was to be approved, he would ensure that the information is distributed to each school administrator to make them aware of the regulations.

Mr. Kracl did inquire about the timing of any regulations and how soon non-complying containers needed to be removed or relocated and whether there would be a phase-in period. Staff informed him that any changes would take approximately 60 days, as it would involve review by both the Planning Commission and City Council, and that staff would likely propose some reasonable time frame for bringing things into compliance when working out the administration of any new regulations.

In an initial conversation with Dave Hill, Executive Director, Facilities and Operations with the Blue Valley School District, staff reviewed the proposed regulations with him. Mr. Hill asked staff to pass onto the Community Development Committee that he felt the proposed regulations

UNIFIED DEVELOPMENT ORDINANCE AMENDMENT – Amendments to the Unified Development Ordinance for Section 18.450.100 to modify the placement and screening requirements for recycling containers - continued

were reasonable and gave the district needed flexibility. He said that if passed, he could have his staff work on meeting the new requirements. Mr. Hill recently reconfirmed that the district is comfortable with the revised screening requirements.

7. COMMUNITY DEVELOPMENT COMMITTEE (FORMAL AUTHORIZATION): On Wednesday, June 4, 2008, the Community Development Committee reviewed the draft ordinance as recommended by the Ordinance Amendment Committee of the Planning Commission. The draft ordinance (Ordinance No. ZRR-2754 – an ordinance relating to the Unified Development Ordinance for the City of Overland Park, Kansas; Amending and Repealing Existing Overland Park Municipal Code Section 18.450.100) if approved would revise the location and screening requirements for most recycling containers. At the June 4, 2008, meeting, the Community Development Committee, by unanimous vote, recommended to authorize the start of the text change process as outlined in the Unified Development Ordinance (UDO). On Monday, June 9, 2008, the City Council voted unanimously to authorize the text change process for Ordinance No. ZRR-2754 (Attachment A).

8. STAFF RECOMMENDATION: The staff recommends approval of Ordinance No. ZRR-2754, an ordinance relating to the Unified Development Ordinance for the City of Overland Park, Kansas; Amending and Repealing Existing Overland Park Municipal Code Section 18.450.100 (Attachment A). Both the Community Development Committee and the Ordinance Amendment Committee have discussed the issue thoroughly and have unanimously recommended Ordinance No. ZRR-2754 for consideration by the Planning Commission.