



RULE INTERPRETATION DETERMINATION

Determination #: 2016-001

Title: Activities Constituting “Processing” Relating to Recycling Uses and Screening Requirements

Drafted by: Land Development, Policy Administration

Rule in Question: Table 311-2, Nonresidential Use Matrix and 35-525

Department Action: The Director concurs with the staff position regarding the clarification of outside storage and processing, as well as the screening requirements. The Director also concurs with amending the Unified Development Code (UDC), accordingly.


Roderick Sanchez, AICP, CBO
Development Services Director

12-15-15
Date

Effective Date of Determination: Immediately

Please note RIDs often result in direct or related UDC amendments to codify the clarification addressed within the RID. RIDs can also be superseded by subsequent RIDs or UDC amendments. The Development Services Department will remove RIDs from the website when they are no longer valid.

Staff Analysis:

This RID is a customer and staff clarification initiative to address interpretation issues that have historically been present in the application of zoning regulations relating to recycling uses. Specifically, the RID seeks to address and clarify the existing Department interpretations and business processes associated with recycling uses relating to the distinction between “indoor” and “outdoor”, as well as screening, when required. It is important to note that this RID does not seek to impose any new requirements, but rather to clarify existing requirements to ensure uniformity.

The current UDC has four distinct entries in the Nonresidential Use Matrix (Table 311-2 of the UDC) relating to recycling – two for “Recycling Facility” and two for “Metal Recycling Entity”. Both categories make a distinction between the uses having “Outside Storage And/Or Processing” or “Without Outside Storage And/Or Processing”.

Screening standards, while not explicit in the UDC for recycling facilities, have nonetheless been historically applied to outdoor components of these uses. Likewise, the UDC recognizes that uses allowed within Industrial Zoning Districts are generally more intense than the uses allowed in Commercial and Residential districts, and specifies the screening of freight handling areas and storage yards is required when Industrial districts abut less intense zoning districts. As such, there is a need to clarify the screening regulations required for outdoor components to help both customers and DSD staff understand what is required. As per Section 35-525 of the UDC, storage of recyclable materials is considered “Class 5 Storage”, which requires screening “to a height commensurate with the location and height of the proposed storage.” Staff interprets this provision broadly by requiring screening for both outside storage and processing (where allowed) and storage which is under roof.

Appendix A of the UDC defines “Recycling facility” as follows:

Recycling facility. For the purposes of this chapter, a facility in which recyclable products are recycled, processed, and treated to return such products to a condition in which they may be used again in new products. The presence of power-driven processing equipment distinguishes a recycling facility from a facility used merely for drop off or collection of recyclable materials. This use includes the processing of waste material into salable products. Recycling of oil and other liquids may also occur in a recycling facility.

The term “Processing” is also defined in Appendix A of the UDC:

Processing. For the purposes of this chapter, a series of operations, usually in a continuous and regular action or succession of actions, taking place or carried on in a definite manner. "Processing" is generally associated with the chemical transformation of materials or substances into new products and may include, but is not limited to, the blending and combining of gases and liquids or the shredding and compacting of metals. Processing of recyclable material may include baling, briquetting, cleaning, compacting, crushing, flattening, grinding, shredding and sorting of source-separated recyclable materials and repairing of reusable

materials. A processing facility may also contain a warehouse. Outdoor storage shall comply with UDC section 35-525.

Additionally, Section 35-525 of the UDC defines screening standards for outdoor storage. The UDC, in Appendix A, also defines “Outdoor storage” as follows:

Outdoor storage. The keeping, in an unroofed area of any goods, junk, material, or merchandise in the same place for more than twenty-four (24) hours.

The purpose of this RID is to clarify what constitutes “outside” or “outdoor” storage or well as “processing” and to clarify the screening requirements of these sections.

Staff Position and Interpretation:

The intent of the distinction between outside and non-outside uses is to protect adjacent properties, particularly non-commercial and non-industrial uses, from the negative impacts that are often associated with recycling uses. These negative impacts include, but are not limited to, visual clutter, visual obstruction, noise pollution, odors, rodents, and vectors.

In order for recyclable materials storage to be considered “inside”, stored materials must be kept wholly in an area which lies under a substantial, non-permeable roof, either with or without building walls. Fencing with open voids, trellis, mesh, fabric, and other similar materials which are open in any way do not constitute a roof for these purposes.

Additionally, properties on which buildings are used for materials storage shall be screened with a solid fence or wall that is a minimum of 6 feet in height. If such roofed building is higher than 6 feet and has no exterior walls, then a solid, opaque screen attached to the building must be furnished to screen the stored materials under the roof from view of adjacent properties. For example, a 10-foot high building on a property surrounded by a solid fence 6 feet high shall be required to provide a solid, opaque screen attached to the building that covers the remaining 4 feet of the screening requirement.

Materials stored or processed outside, in allowable zoning districts, shall not be allowed to be stacked higher than the constructed fence or wall. For example, if an “I-2” property is surrounded by an 8-foot high fence, then materials shall not be stacked outside higher than 8 feet.

The definition of a recycling facility specifically notes a distinction in that the presence of power-driven processing equipment distinguishes a recycling facility from a materials drop-off location. Additionally, the definition of “Processing” specifically notes the type of activities which constitute “processing”. The activities include but are not limited to baling, briquetting, cleaning, compacting, crushing, flattening, grinding, shredding, sorting, and repairing. The list is not meant to be exhaustive, but rather is meant to provide examples from which to draw a reliable conclusion as to a distinction between processing and storage. To further clarify, any act, other than movement of materials from processing to storage or from storage to transportation apparatuses to remove materials from the property, shall be considered “processing”.

For “processing” to be considered “inside”, all activities relating to “processing” must occur in a structure which is under a substantial, non-permeable roof (as previously described) and walled with solid panels which create a fully enclosed space under the roof. The only openings permitted are doors sufficient to provide appropriate ingress and egress for the structure and appropriate cargo and material loading doors. On walls not facing the adjacent residential properties, windows may also be provided to provide the natural light required by the building code. Skylights, where required by the energy code, may also be provided.

Future UDC Amendments:

To codify this interpretation, staff suggests the following UDC amendments to add a Section to Article III, Section 7 to add Supplemental Use Regulations for Recycling Facilities and Recycling Entities, as well as amend Table 311-2 (Nonresidential Use Matrix) for clarity:

Table 311-2

TABLE 311-2 NONRESIDENTIAL USE MATRIX													
	PERMITTED USE	O-1 & O-1.5	O-2	NC	C-1	C-2	C-3	D	L	I-1	I-2	ERZD	(LBCS Function)
Processing	Recycling Facility Without Outside Storage And/Or Processing (Excluding Metal Recycling Entity) - See Section 35-3xx for Supplemental Use Regulations									P	P	S	4340
Processing	Recycling Facility With Outside Storage And/Or Processing (Excluding Metal Recycling Entity) - See Section 35-3xx for Supplemental Use Regulations										P	NA	4340
Processing	Metal Recycling Entity Without Outside Storage and/or Processing- See Section 35-3xx for Supplemental Use Regulations									S	S	S	4340
Processing	Metal Recycling Entity With Outside Storage and/or Processing- See Section 35-3xx for Supplemental Use Regulations										S	NA	4340

Section 35-3xx Recycling Facilities and Recycling Entities

(a) I-1 zoning districts. Where allowed in I-1 zoning districts, the following regulations shall apply:

1. Screening. Screening shall be required as follows:

A. All recycling facilities and recycling entities in I-1 zones shall be enclosed on all sides by a substantial and anchored solid wall or fence at least 6 feet in height.

B. Where higher fencing is required by another Chapter of the City Code, the recycling facility or entity shall comply with the higher fence requirement.

C. Recycling materials shall be stored in a building under a substantial and non-permeable roof

i. Appropriate roofing materials shall not include fencing with open voids, trellis, mesh, fabric, and other similar materials which are open in any way.

ii. If such roofed building has no exterior walls and is taller than the height of the screening fence required in subsection A above, then a solid, opaque screen attached to the building must be furnished to screen the open parts taller than the fence of the building from view of adjacent properties.

2. Processing. Processing, as defined in Appendix A of this chapter, shall only occur within a fully enclosed structure which is under a substantial, non-permeable roof and walled with solid panels which create a fully enclosed space under the roof.

A. Appropriate roofing materials shall not include fencing with open voids, trellis, mesh, and other similar materials which are open in any way.

B. The only openings permitted are doors sufficient to provide appropriate ingress and egress for the structure and appropriate cargo and material loading doors, windows to provide natural light on walls not facing residential properties as required by the building code, and skylights as required by the energy code.

C. The movement of baled or bundled materials, but not loose or raw materials, from processing to storage or from storage to transportation apparatuses to remove materials from the property, shall not be considered "processing" for the purposes of this Section.

(b) I-2 zoning districts. Where allowed in I-2 zoning districts, the following regulations shall apply:

1. Screening. Screening shall be required as follows:

A. All recycling facilities and recycling entities in I-2 zones shall be enclosed on all sides by a substantial and anchored solid wall or fence at least 6 feet in height.

B. Where higher fencing is required by this Chapter or another Chapter of the City Code, the recycling facility or entity shall comply with the higher fence requirement.

C. No material shall be stored in such a manner so that it is taller than the solid fence enclosure in subsection A above.

D. No equipment shall be stacked higher than the solid fence required in subsection A above unless that equipment is housed within a structure which also provides adequate and complete screening of said equipment.

(c) **Conditional Zoning Districts.** Where a recycling facility or recycling entity has been allowed pursuant to a conditional use, the provisions of subsection (a), above, as well as any other condition imposed by the City Council, shall apply.