



# Ordinance Fact Sheet

**TO:** CITY COUNCIL **DATE:** April 8, 2013  
**FROM:** CITY ATTORNEY  
**SUBJECT: AN EXTENSION OF URGENCY ORDINANCE TEMPORARILY  
PROHIBITING RECYCLING CENTERS**

## TITLE OF PROPOSED ORDINANCE

**AN EXTENSION OF INTERIM URGENCY ORDINANCE NO. 7226 OF THE CITY OF PASADENA TEMPORARILY PROHIBITING THE APPROVAL OF NEW RECYCLING FACILITIES, THE EXPANSION OR MODIFICATION OF EXISTING FACILITIES, AND THE RESUMPTION OF DISCONTINUED LEGAL NONCONFORMING STATUS FOR RECYCLING FACILITIES**

## PURPOSE OF ORDINANCE

This ordinance extends for 10 months and 15 days the existing moratorium (Ordinance No. 7226) on the approval of new recycling facilities, the expansion or modification of existing facilities, and the resumption of discontinued legal nonconforming facilities.

## REASON WHY LEGISLATION IS NEEDED

Pursuant to Government Code Section 65858, Council may extend for 10 months and 15 days the moratorium established by Ordinance No. 7226, after conducting a duly noticed public hearing, receiving a written report describing the measures taken to alleviate the condition which led to the adoption of Ordinance No. 7226, and finding that there is still a current and immediate threat to the public health, safety and welfare. The Planning Department and the Public Works Department will continue to study the issue to determine the extent of the problem and whether there is a solution, and needs additional time to do so during which no new, expanded, modified or resumed facilities can come in and adversely impact the City's ability to regulate any negative effects.

**04/22/2013**

MEETING OF ~~04/08/2013~~

AGENDA ITEM NO. ~~-21~~ 15

**PROGRAMS, DEPARTMENTS OR GROUPS AFFECTED**

The Planning and Development Department will implement the moratorium, with support from the Public Works Department.

**FISCAL IMPACT**

There will not be an immediate fiscal impact as a result of this extension of the temporary moratorium.

**ENVIRONMENTAL DETERMINATION**

Prior to first reading, Council is being asked to find that the extension of Ordinance No. 7226 is statutorily exempt from the provisions of the California Environmental Quality Act (CEQA). CEQA Guidelines Section 15060 (C)(2) states that projects which will not result in a direct or reasonably foreseeable indirect physical change in the environment are not subject to CEQA. The exemptions from CEQA pursuant to Section 15262 apply to projects that involve only feasibility or planning studies for possible future actions which the City has not approved, adopted, or funded, and does not involve adoption of a plan that will have a legally binding effect on later activities.

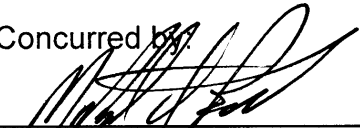
Respectfully submitted,

  
Michele Beal Bagneris  
City Attorney

Prepared by:

  
Theresa E. Fuentes  
Assistant City Attorney

Concurred by:

  
Michael J. Beck  
City Manager

Introduced by: \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

**EXTENSION OF INTERIM URGENCY ORDINANCE NO. 7229 OF THE CITY OF PASADENA TEMPORARILY PROHIBITING THE APPROVAL OF NEW RECYCLING FACILITIES, THE EXPANSION OR MODIFICATION OF EXISTING FACILITIES, AND THE RESUMPTION OF DISCONTINUED LEGAL NONCONFORMING STATUS FOR RECYCLING FACILITIES**

WHEREAS, the City Council of the City of Pasadena completed second reading of An Interim Urgency Ordinance Prohibiting the Approval of New Recycling Facilities, the Expansion or Modification of Existing Facilities, and the Resumption of Discontinued Legal Nonconforming Status for Recycling Facilities on March 11, 2013 (Ordinance No. 7229, or “the Ordinance”); and

WHEREAS, as indicated therein, staff has started to analyze avenues to address potential secondary effects on surrounding land uses that arise from recycling facilities; and

WHEREAS, pursuant to Government Code Section 65858(d), on April 8, 2013 (more than 10 days prior to the expiration of the Ordinance), staff presented to the City Council a written report describing the measures taken to alleviate the condition which led to the adoption of the Ordinance, and staff concluded that it requires further time to complete its analysis and propose options for solutions to the City Council and to conduct the outreach and discussion with affected communities required by the Council; and

WHEREAS, on April 8, 2013, the City Council held a properly noticed public hearing regarding an extension of the Ordinance; and

WHEREAS, the City Council finds that there is still a current and immediate threat to the public health, safety and welfare because, without an extension of the Ordinance, a new recycling facility may operate after receiving approval from the City, an existing recycling facility may be expanded, or a recycling facility currently “grandfathered” from compliance with the Zoning Code may resume operations within a certain time after discontinuing such use without full protection to adjacent uses and neighborhoods from the secondary effects of recycling facilities; and

WHEREAS, pursuant to California Government Code Section 65858, and in order to protect the public health, safety and welfare, the City Council may extend the Ordinance for 10 months and 15 days to continue to study the matter.

NOW THEREFORE, the People of the City of Pasadena ordain as follows:

**SECTION 1.** This ordinance, due to its length and corresponding cost of publication, will be published by title and summary as permitted in Section 508 of the Pasadena City Charter. The approved summary of this ordinance is as follows:

**“Summary**

“Ordinance No. \_\_\_\_\_ extends for 10 months and 15 days the provisions of Ordinance No. 7229, which temporarily prohibits the approval of new recycling facilities, the expansion or modification of existing recycling facilities, and the resumption of discontinued legal nonconforming recycling facilities. During that time, the City will

undertake a review of state law, including but not limited to the California Beverage Container Recycling and Litter Reduction Act, to determine the extent to which the City can further regulate, or even prohibit, recycling facilities, and will conduct outreach and discussion with affected communities. This ordinance may be further extended after a duly noticed public hearing.

Ordinance No. \_\_\_\_\_ shall take effect upon publication.”

**SECTION 2.** The provisions of Ordinance No. 7229 (temporarily prohibiting the issuance of any approvals for new recycling centers, any approvals for expansion or modification of existing facilities, and the resumption of a discontinued legal nonconforming recycling center as currently allowed by the Zoning Code) are hereby extended for a period of 10 months and 15 days. During the effectiveness of this extension of Ordinance No. 7229, the City will continue to undertake a review of state law, including but not limited to the California Beverage Container Recycling and Litter Reduction Act, in consideration of the goals and policies established in the City’s Land Use Element and Zoning Code, to determine the extent to which the City can further regulate, or even prohibit, recycling facilities, and will conduct outreach and discussion with affected communities.

**SECTION 3.** Unless extended pursuant to California Government Code Section 65858, the provisions of this ordinance shall expire at the end of the 10 months and 15 day period following its date of adoption.

**SECTION 4.** This ordinance is additional to and supplemental to, and shall not affect, except as specifically provided herein, any provision of the Pasadena Municipal Code, which shall be operative and remain in full force and effect without limitation with respect to all such land uses.

**SECTION 5.** The City Council hereby declares that, should any section, paragraph, sentence, phrase, term or word of this ordinance, hereby adopted, be declared for any reason to be invalid, it is the intent of the City Council that it would have adopted all other portions of this ordinance irrespective of any such portion declared invalid.

**SECTION 6.** The City Clerk shall certify the adoption of this ordinance and shall cause this ordinance to be published by title and summary.

**SECTION 7.** This ordinance shall take effect upon publication, and shall remain in effect for a period of 10 months and 15 days from the date of adoption, in accordance with California Government Code Section 65858.

Signed and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

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Bill Bogaard  
Mayor of the City of Pasadena

I HEREBY CERTIFY that the foregoing ordinance was adopted by the City Council of the City of Pasadena at its meeting held this \_\_\_\_\_ day of \_\_\_\_\_ 2013, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Date Published:

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Mark Jomsky, CMC  
City Clerk

Approved as to form:

  
Theresa E. Fuentes  
Assistant City Attorney

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