

# Agenda Report

February 25, 2013

**TO:** Honorable Mayor and City Council  
**FROM:** Planning & Community Development Department  
**SUBJECT: AN INTERIM URGENCY ORDINANCE 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 CENTERS**

## **RECOMMENDATION:**

Staff recommends that the City Council:

1. Find that the proposed interim ordinance is categorically exempt from the California Environmental Quality Act (CEQA Guidelines Sections 15060 (C)(2) and 15262 because the interim ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment and because the project involves 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;
2. Find that the proposed moratorium is consistent with the objectives and policies of the General Plan;
3. Find that: (a) there is a current and immediate threat to public health, safety and welfare because continued approval of new, the expansion or modification of existing, and the resumption of discontinued legal nonconforming status recycling facilities would have adverse impacts on the public health, safety, or welfare pursuant to the standards and policies set forth in the General Plan, and (b) the proposed interim ordinance is necessary to avoid these adverse impacts;
4. Adopt an interim urgency ordinance 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; and
5. Provide direction to staff regarding a permanent ordinance regulating recycling facilities.

## **EXECUTIVE SUMMARY:**

A moratorium is proposed to temporarily prohibit the establishment of new, the expansion or modification of existing, and the resumption of discontinued legal nonconforming recycling facilities while staff is drafting permanent revisions to the existing ordinance. These facilities have the potential to create adverse effects on surrounding land uses. There is a current and immediate threat to the public health, safety and welfare because existing regulations would permit new recycling facilities to be established and existing facilities to be expanded or replaced without consideration of their potential adverse effects.

## **BACKGROUND:**

In response to issues raised regarding the operation of existing recycling centers in the City, on December 5, 2012, the Economic Development and Technology Committee of the City Council discussed the matter at a properly noticed public meeting. At the meeting, the public expressed concerns regarding the secondary impacts of these facilities, including the accumulation of trash in and around the facilities, excessive noise, loitering, transient activity, traffic congestion, public drunkenness and general property upkeep and maintenance issues. These impacts have the potential to negatively affect both residential and commercial uses in the vicinity of a recycling center. At the meeting, staff presented background information on the City's existing ordinance and discussed potential revisions. The Committee directed staff to amend the City's recycling ordinance in an effort to eliminate or mitigate negative impacts associated with these uses.

Currently, new recycling facilities may be established in the City, and existing facilities may be expanded or replaced, which may result in additional negative impacts to surrounding uses. To address the immediate concerns of new, expanded or replaced recycling facilities, on February 4, 2013, the City Council directed staff to prepare a moratorium on such uses while a permanent ordinance is being drafted.

The moratorium provides an opportunity to determine what regulations are necessary to eliminate or mitigate potential secondary impacts associated with recycling facilities and also to understand how further regulation or a prohibition on recycling centers may impact businesses governed by the California Beverage Container Recycling and Litter Reduction Act (Public Resources Code §§ 14500 et seq.). Any revised ordinance would be presented to the Planning Commission and the public to receive input and a formal recommendation prior to adoption by the City Council. Staff may need to return to Council with a request to extend the moratorium to afford time to draft a new ordinance and for the public process to be completed.

**Applicability:** During the period of the moratorium, no new recycling facilities may be established, and no existing recycling centers may be expanded, modified or resume if discontinued.

**Exceptions:** Due to the negative impacts associated with such uses, no exceptions to this moratorium are proposed.

**Processing:** During the period of the moratorium, no applications for recycling centers of any kind (except those related to immediate life safety concerns), including but not limited to, business license, planning, building or any other applications will be accepted by any City department.

## **GENERAL PLAN OBJECTIVES AND POLICIES**

The Land Use Element of the City's adopted General Plan provides principles, policies and objectives to improve the physical environment in the City and protect neighborhoods from incompatible uses.

Guiding Principle No. 2 of the Land Use Element of the General Plan states in part that, "...development must be accomplished in a fashion that enhances and blends with Pasadena's existing qualities, both physical and social," and that, "Development should respect existing social fabric as well as the natural and built environment."

Policy 5.7 – Enhanced Environment: Development should be shaped to improve the environment for the public; it should support the distinctiveness of the locality and region as well as the special characteristics of the existing fabric of the site's immediate surroundings.

**OBJECTIVE 18 – IMPROVED ENVIRONMENT:** Improve the quality of the environment for Pasadena and the region.

Guiding Principle No. 3 of the Land Use Element states in part that, "Pasadena's quality of life depends in part on services provided by the city. The city addresses not only the need for health and safety but also the *desire for well-kept neighborhoods.*" [emphasis added].

## **STATE LAW REQUIREMENTS**

California Government Code Section 65858 states that, without otherwise required notice and public hearings, "[t]he legislative body of a...city..., to protect the public safety, health, and welfare, may adopt as an urgency measure an interim ordinance prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body, planning commission or the planning department is considering or studying or intends to study within a reasonable time." With legislative findings that there is a current and immediate threat to the public health, safety, and welfare and a four-fifths vote of the body, the interim ordinance may be in effect for 45 days. The legislative body may, after proper notice and public hearing, extend an interim ordinance for a 10 month and 15 day period, and extend it again after

proper notice and a public hearing for another one year period, with a four-fifths vote, for a total period of two years, if certain additional findings are made. The specific findings are related to specific, adverse impacts on health and safety, the necessity of the moratorium, and the absence of a feasible alternative.

## **ADDITIONAL INFORMATION**

As directed, an interim urgency ordinance is included on this same Agenda for the City Council's consideration for first reading, to address the immediate concerns regarding recycling facilities. In addition to the preparation of the moratorium, the City Council requested the following:

1. A cost benefit analysis of providing lockable recycling bins to all residential customers;
2. The amount of staff resources spent on the City's existing recycling facilities;
3. Whether or not state law requires recycling facilities given the City's curbside recycling program; and
4. That in its consideration of a revised recycling facilities ordinance, staff evaluate certain specific aspects of the existing ordinance.

Each of these issues is discussed in more detail below.

## **LOCKABLE BINS FOR RESIDENTIAL CUSTOMERS**

Pasadena residents have the opportunity to request a 60-gallon lockable recycling container for an additional charge of \$1.40/month. Currently 196 customers (0.7% of total residential customers) use lockable recycling containers. The City is in the process of conducting a customer satisfaction survey of users and former users. Results so far have been favorable, with issues raised on the lock functionality.

The City has experienced the following through its use of the lockable containers:

- 20% of containers do not work properly and require replacement due to mechanical failure between lock and container (typical life expectancy of standard, non-locking container is 10 years);
- One standard key opens all containers (which is prudent operationally but does not bode well for long term security);
- Customers frequently lose keys necessitating replacement by City (extra operational cost) and may result in residents placing recyclables in mixed waste container instead; and
- Locking function can be manipulated to open with minimal effort (may not offer expected level of security).

The cost to provide one locking recycling container to each of the City's 27,500 residential customers would be approximately \$2.6 million. This includes \$1.8 million to

purchase the containers, locks, assembly, and for delivery to the City of Pasadena (\$65.45/container) plus \$788,000 (\$28.65/container) for delivery to customers. The rate impact of this would be \$1.57/customer/month (4% increase to typical customer) if spread over 5 years; \$0.78/customer/month (2% increase to typical customer) if spread over 10 years. Both scenarios assume no replacement costs are budgeted.

The Department of Public Works believes enforcement of the City's anti-scavenging ordinance (PMC 8.60.310 – Scavenging) coupled with a public education campaign explaining that theft of recyclables from the public right-of-way, container, or transport over the public streets is a violation of City law, is the best way to reduce the amount of recyclables stolen from curbside recycling bins. The Department estimates that the theft of recyclables by scavengers costs the City more than \$30,000 in recycling revenue per year (given the City receives \$42.15/ton for flat rate recyclables materials and loss of California Redemption Value). In November 2012 and January 2013, the Department of Public Works and Pasadena Police Department partnered to execute effective enforcement operations which could be the model for future efforts.

#### **STAFF RESOURCES ALLOCATED TO RECYCLING FACILITY USES**

There are currently five recycling facilities within the City, as identified in the table below. As defined by the City's Zoning Code, each of these facilities is classified as a Small Recycling Facility because it is less than 500 square feet in size. Staff has compiled information from the City's Police Department and the Code Enforcement Division of the Planning and Community Development Department regarding the number of calls to each of these facilities. Some of the more common calls for service to the Police Department are public intoxication and transient activity. A complete report is attached hereto as Attachment 1. The calls for Code Enforcement are generally regarding junk/debris or property maintenance issues.

<b>Name</b>	<b>Address</b>	<b>Name of Market</b>	<b>* # of Calls for Service (cases) from 2003 to present (Code Enforcement)</b>	<b># of Calls for Service from 2010 to present (Police Department)</b>
rePLANET LLC	160 N. Lake Ave.	Ralph's (Lake and Walnut)	2	17
NexCycle	665 N. Fair Oaks Ave.	Von's (Fair Oaks and Orange Grove)	0	4
rePLANET LLC	1329 N. Lake Ave.	Food For Less (Lake and Washington)	4	20
NexCycle	1390 N. Allen Ave.	Von's (Allen and Washington)	1	0
rePLANET LLC	3601 Foothill Blvd.	Ralph's (Foothill and Rosemead)	2	1

As indicated in the above table, the number of Code Enforcement calls at each of the above locations is well less than one call per year. For the Police Department, three of the five facilities receive less than one call per year, on average, while the other two locations receive between three and four calls per year, or one call every four months. These numbers do not represent an undue number of calls for service to these facilities.

## **ARE RECYCLING CENTERS REQUIRED IN THE CITY?**

Staff is exploring state law requirements regarding recycling centers within certain distances of beverage distribution facilities, such as grocery stores. Recycling facilities are governed in part by the California Beverage Container Recycling and Litter Reduction Act. Because the City has a curbside recycling program, there may be opportunity to reduce the number of recycling facilities within the City, and it is possible that such facilities may be able to be banned, but there may be unintended consequences of such actions which are not yet understood by staff. Additional research coordinated with the City Attorney's Office, the Public Works Department, and the California Department of Resources Recycling and Recovery is required.

## **PROPOSED ORDINANCE REVISIONS**

In its drafting of a revised recycling facilities ordinance, staff will consider the following:

- *Evaluate the Standards by which Facilities are Defined as 'Large' and 'Small'.* Currently, a Large Facility is defined as: A recycling center over **500** square feet for the drop-off or deposit of recyclable materials. These uses include mobile recycling units and reverse vending machines collectively over **500** square feet. And a Small Facility is defined as: A recycling center of **500 square feet or less** for the deposit or drop-off of recyclable materials. These uses include mobile recycling units and reverse vending machines. Other cities' ordinances set the threshold of a large facility to be over 200 square feet. Large facilities are subject to additional regulations, require a Conditional Use Permit and are only permitted within the General Commercial and Industrial Zones.
- *Evaluate the Distance/Separation Requirements.* Currently, a Small Recycling Facility must be located at least 150 feet and a Large Recycling Facility must be at least 100 feet away from the nearest residential use. These requirements may not be appropriate to mitigate the noise, odor and other impacts from these uses. In addition, staff will explore whether additional distance requirements may be needed, such as a minimum distance to an operable window of an adjacent use.
- *Design Review.* Revisions to the ordinance should include provisions for Design Review to ensure that applicable guidelines are complied with and may require Design Review for any structures on placed on a site.
- *Property Maintenance.* Existing regulations will be evaluated and additional performance standards may be added to reduce/eliminate issues regarding litter/debris accumulation, landscaping, cleanliness and security.

- *Apply to New and Existing Facilities.* The revised ordinance may include a provision so that it applies to both new and existing facilities and may include provisions requiring existing facilities to be phased into compliance with existing standards within a specified time frame, such as 6 or 12 months.
- *Evaluate Appropriate Hours of Operation.* Generally, the hours should be consistent with the business hours of the principal use but should not be longer than between 8:00 a.m. to 6:00 p.m., Monday through Saturday, and 10:00 a.m. to 5:00 p.m., Sunday.
- *Evaluate New Conditions.* Consider the addition of general standards to apply to all uses, including the requirement that these uses:
  - May be no closer than ten feet to a property line.
  - May be no closer than ten feet to any public right-of-way.
  - May not occupy any required landscape areas.
  - May not occupy any required driveways or parking spaces.
  - Shall not obstruct pedestrian or vehicular circulation.
  - Shall not be within ten feet of a driveway aisle providing vehicle access in a parking lot.
  - Shall be screened from view of the public right-of-way by a minimum six-foot high solid screen or an enclosure. All screens or enclosures shall be subject to Design Review.

Additional elements may be added to the revised ordinance through additional research of the issue and the public hearing process.

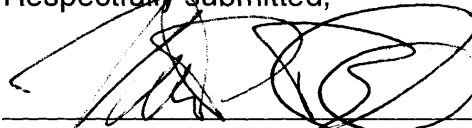
### **ENVIRONMENTAL ANALYSIS:**

The interim ordinance 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 exemption 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. Any proposed changes to the Zoning Code will require separate environmental review at the time they are presented to Council.

**FISCAL IMPACT:**

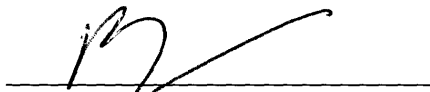
There is no significant effect to the City's General Fund associated with the adoption of the interim urgency ordinance.

Respectfully submitted,



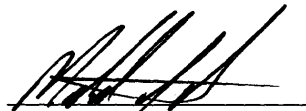
VINCENT P. BERTONI, AICP  
Director of Planning & Community  
Development Department

Prepared by:



David Reyes  
Principal Planner/Zoning Administrator

Approved by:



MICHAEL J. BECK  
City Manager

Attachments (1):

Attachment 1 – Police Department Activity Report



**ATTACHMENT 1**  
Police Department Activity Report

Name	Year	Incident	A	Date	Time	Type	NOI	Unit	Dispo	Location
Food 4 Less	2010	0PA0008024	P	09/21/10	12:18:26	647F	SUSPICIOUS CIRC	1L32	RPT1	1329 N. LAKE AV
Food 4 Less	2010	0PA0008031	P	09/21/10	12:33:19	SUPV	SUPERVISOR RQST	1C1	RES	1329 N. LAKE AV
Food 4 Less	2010	0PA0020457	P	10/23/10	16:23:41	TRST	TRANSIENT		CAN	1329 N. LAKE AV
Food 4 Less	2010	0PA0028598	P	11/13/10	12:44:59	273A	CHILD ENDANGERI	1S4	RES	1329 N. LAKE AV
Food 4 Less	2010	0PA0034788	P	12/01/10	14:41:55	647F	PUBLIC INTOX	2L25	UTL	1329 N. LAKE AV
Food 4 Less	2012	2PA0036883	P	04/24/12	10:45:59	415M	TRST	1L31	GOA	1329 N. LAKE AV
Food 4 Less	2012	2PA0068300	P	07/29/12	17:02:27	415GRP	415 GROUP	2A25	UNF	1329 N. LAKE AV
Food 4 Less	2012	2PA0076173	P	08/22/12	16:11:10	602	415 MISC	2L25	RES	1329 N. LAKE AV
Food 4 Less	2012	2PA0076789	P	08/24/12	13:14:57	SUSCIR	SUSPICIOUS CIRC	1C7	UNF	1329 N. LAKE AV
Food 4 Less	2012	2PA0077270	P	08/25/12	15:13:03	918	MENTAL HEALTH		CAN	1329 N. LAKE AV
Food 4 Less	2012	2PA0078273	P	08/28/12	16:45:39	TRST	TRANSIENT	1L22	RESH	1329 N. LAKE AV
Food 4 Less	2012	2PA0078889	P	08/30/12	15:49:47	415M	415 MISC	2L25	GOA	1329 N. LAKE AV
Food 4 Less	2012	2PA0079092	P	08/31/12	08:37:02	415M	POSS 243A	1A21	GOA	1329 N. LAKE AV
Food 4 Less	2012	2PA0079809	P	09/02/12	11:29:35	647F	PUBLIC INTOX	1A22	GOA	1329 N. LAKE AV
Food 4 Less	2012	2PA0083276	P	09/12/12	16:43:28	647F	PUBLIC INTOX	2L25	RES	1329 N. LAKE AV
Food 4 Less	2012	2PA0083820	P	09/14/12	11:53:54	TRST	TRANSIENT		CAN	1329 N. LAKE AV
Food 4 Less	2012	2PA0087135	P	09/24/12	16:56:51	TRST	TRANSIENT	2A25	GOA	1329 N. LAKE AV
Food 4 Less	2012	2PA0089647	P	10/02/12	16:48:44	TRST	TRANSIENT	1L22	RES	1329 N. LAKE AV
Food 4 Less	2012	2PA0111372	P	12/12/12	07:44:41	TRST	TRANSIENT		CAN	1329 N. LAKE AV
Food 4 Less	2013	3PA0008356	P	01/30/13	10:28:33	415M	CUSTOMER	1A21	GOA	1329 N. LAKE AV
Ralphs	2010	0PA0033024	P	11/26/10	09:37:53	SUSCIR	925A	1L32	UNF	160 N. LAKE AV
Ralphs	2010	0PA0033030	P	11/26/10	10:09:23	SUSCIR	SUSPICIOUS CIRC	1L51	UTL	160 N. LAKE AV
Ralphs	2010	0PA0033056	P	11/26/10	11:27:57	415M	415 MISC	1L51	RES	160 N. LAKE AV
Ralphs	2011	1PA0000841	P	01/03/11	14:40:18	415M	415 MISC	2L55	RES	160 N. LAKE AV
Ralphs	2011	1PA0003195	P	01/09/11	14:14:02	415M	415 MISC	2L55	GOA	160 N. LAKE AV
Ralphs	2011	1PA0006176	P	01/17/11	10:59:14	415M	415 MISC	1L51	RES	160 N. LAKE AV
Ralphs	2011	1PA0006254	P	01/17/11	15:46:17	EXSER	EXTRA SERVICE		CAN	160 N. LAKE AV
Ralphs	2011	1PA0028079	P	03/17/11	07:06:10	415M	TRST	3L51	RES	160 N. LAKE AV
Ralphs	2011	1PA0079671	P	08/15/11	15:34:03	CHKWEL	RDVIOL	2L55	RES	160 N. LAKE AV
Ralphs	2012	2PA0020269	P	03/05/12	11:01:40	415M	415 MISC	1L51	RES	160 N. LAKE AV
Ralphs	2012	2PA0046293	P	05/23/12	08:15:04	415M	POSS 647F	1L51	RES	160 N. LAKE AV
Ralphs	2012	2PA0054982	P	06/18/12	20:42:12	CHKWEL	TRST	3L51	RES	160 N. LAKE AV
Ralphs	2012	2PA0079823	P	09/02/12	12:47:57	TRST	415 MISC	HP1	GOA	160 N. LAKE AV
Ralphs	2012	2PA0084727	P	09/17/12	09:23:02	TRST	415 FIGHT	1L51	RPT	160 N. LAKE AV
Ralphs	2012	2PA0084735	P	09/17/12	09:46:15	PHOTO	PHOTO REQUEST	1C1	ADD	160 N. LAKE AV
Ralphs	2012	2PA0094446	P	10/18/12	12:12:45	415T	415 THREATS	1L51	GOA	160 N. LAKE AV
Ralphs	2012	2PA0108763	P	12/03/12	14:26:10	TRST	TRANSIENT	2M31	RES	160 N. LAKE AV
Ralphs	2010	0PA0011377	P	09/29/10	14:19:25	PA	PTRL ADVISEMENT		PA	3601 E. FOOTHILL BL
Vons	2011	1PA0014162	P	02/08/11	13:10:42	484A	PETTY THEFT	1L21	RPT1	655 N. FAIR OAKS AV

Name	Year	Incident	A	Date	Time	Type	NOI	Unit	Dispo	Location
Vons	2012	2PA0027494	P	03/27/12	15:01:02	484A	VEHICLE BURG	2U74	RPT	655 N. FAIR OAKS AV
Vons	2012	2PA0068579	P	07/30/12	15:22:21	SUSCIR	POSS 288	1A21	UTL	655 N. FAIR OAKS AV
Vons	2012	2PA0068644	P	07/30/12	18:31:02	SUSCIR	SUSPICIOUS CIRC	2A25	RPT	655 N. FAIR OAKS AV