

Ordinance Fact Sheet

TO: CITY COUNCIL **DATE:** February 25, 2013
FROM: CITY ATTORNEY
**SUBJECT: AN URGENCY ORDINANCE TEMPORARILY PROHIBITING
RECYCLING CENTERS**

TITLE OF PROPOSED ORDINANCE

**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 FACILITIES**

PURPOSE OF ORDINANCE

This ordinance imposes an initial 45 day moratorium 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

Council is concerned about the secondary impacts recycling facilities are currently having on nearby land uses, 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 affect the public health, safety and welfare of surrounding neighborhoods. The Planning Department has been asked to study the issue to determine the extent of the problem and whether there is a planning solution, and needs adequate time to do so during which no new, expanded, modified or resumed facilities can come in and negatively impact the City's ability to regulate any negative effects.

03/11/2013

MEETING OF ~~02/25/2013~~

AGENDA ITEM NO. ~~-15~~ 12

PROGRAMS, DEPARTMENTS OR GROUPS AFFECTED

The Planning and Development Department will implement the moratorium.


FISCAL IMPACT

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

ENVIRONMENTAL DETERMINATION

Prior to first reading, Council is being asked to find that 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 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.

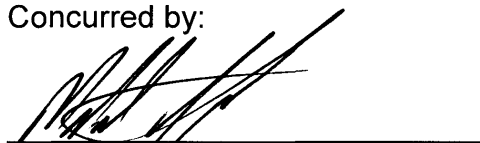
Respectfully submitted,


Michele Beal Bagneris
City Attorney

Prepared by:


Theresa E. Fuentes
Assistant City Attorney

Concurred by:


Michael J. Beck
City Manager

Introduced by: _____

ORDINANCE NO. _____

**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 FACILITIES**

WHEREAS, the City of Pasadena (“City”) has adopted the Land Use Element of the General Plan; and

WHEREAS, the Land Use Element sets forth policies and goals toward the improvement of the physical environment and protection of neighborhoods; and

WHEREAS, citizens have repeatedly voiced concerns regarding secondary effects of recycling facilities on surrounding land uses; and

WHEREAS, the Planning Department has reviewed the recycling facility land use and operational requirements set forth in the Zoning Code at Section 17.50.220 and, in conjunction with the Public Works Department, has started to analyze other avenues to address these potential secondary effects on surrounding land uses; and

WHEREAS, further regulation of and/or banning of recycling facilities may reduce the secondary effects commonly associated with such businesses on areas in close proximity to recycling facilities, such as increased crime, noise, pollution and accumulation of litter and debris, which reduces the quality of life in City neighborhoods and negatively impacts adjacent uses. However, 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.), City staff would need adequate time to study the matter; and

WHEREAS, nonetheless the City Council finds that there is a current and immediate threat to the public health, safety and welfare because, without the moratorium, 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 adopt as an urgency measure an interim ordinance prohibiting any uses that may be in conflict with a contemplated general plan or zoning proposal that the City intends to study within a reasonable time.

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. _____ 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, for a 45-day period. 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. This ordinance may be extended after a duly noticed public hearing.

Ordinance No. _____ shall take effect upon publication.”

SECTION 2. The provisions of this ordinance temporarily prohibit 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. During the effectiveness of this ordinance, the City will 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.

SECTION 3. Unless extended pursuant to California Government Code Section 65858, the provisions of this ordinance shall expire at the end of the 45 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 upon publication, and shall remain in effect for a period of 45 days from the date of adoption, in accordance with California Government Code Section 65858.

Signed and approved this _____ day of _____, 2013.

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:

Mark Jomsky, CMC
City Clerk

Approved as to form:



Theresa E. Fuentes
Assistant City Attorney

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