



Ordinance Fact Sheet

TO: CITY COUNCIL

DATE: February 10, 2014

FROM: CITY ATTORNEY

SUBJECT: A SECOND URGENCY EXTENSION OF URGENCY ORDINANCE
TEMPORARILY PROHIBITING RECYCLING CENTERS

TITLE OF PROPOSED ORDINANCE

SECOND URGENCY 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 an additional year (to March 11, 2015) 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 an additional year 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 as requested by the Planning Commission, and need 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.

MEETING OF 02/10/2014

AGENDA ITEM NO. 8

PROGRAMS, DEPARTMENTS OR GROUPS AFFECTED

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

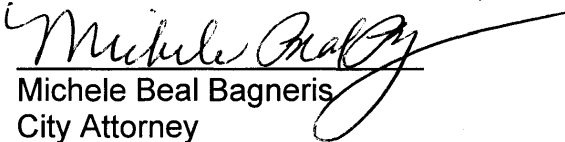
FISCAL IMPACT

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 second extension of Ordinance No. 7226 is statutorily exempt from 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. _____

SECOND URGENCY 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, in April of 2013, by Urgency Ordinance No. 7230, the City Council extended Urgency Ordinance No. 7229 to March 11, 2014; and

WHEREAS, staff has analyzed avenues to address potential secondary effects on surrounding land uses that arise from recycling facilities, and on January 8, 2013, presented its analysis and recommendations to the Planning Commission, at which time the Planning Commission recommended further study; and

WHEREAS, pursuant to Government Code Section 65858(d), on January 27, 2014 (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 the additional analysis requested by the Planning Commission and to propose options for solutions to the City Council; and

WHEREAS, on February 10, 2014, the City Council held a properly noticed public hearing regarding a second urgency extension of Ordinance No. 7229; and

WHEREAS, the City Council finds that there is still a current and immediate threat to the public health, safety and welfare because, without a second extension of Ordinance No. 7229, 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 extended Ordinance No. 7229 for 10 months and 15 days to continue to study the matter; 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 Ordinance No. 7229 for another year to continue to study the matter, but there may be no further extensions of the Ordinance.

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

“Urgency Ordinance No. _____ extends for an additional year (until March 11, 2015) the provisions of Urgency 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 continue 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. Urgency Ordinance No. 7229 may not be further extended, and may be terminated early if the Council so chooses.

Urgency 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 one more year, until March 11, 2015. 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.

SECTION 3. Ordinance No. 7229, and any extensions thereof, may not be further extended, and may be terminated early if the Council so chooses.

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 until March 11, 2015, or until terminated by Council, in accordance with California Government Code Section 65858.

Signed and approved this _____ day of _____, 2014.

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 _____ 2014, 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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