

Agenda Report

July 20, 2015

TO: Honorable Mayor and City Council

THROUGH: Municipal Services Committee (July 14, 2015)

FROM: Department of Public Works

SUBJECT: AMENDMENT TO CHAPTER 8.60 OF PASADENA MUNICIPAL CODE, SOLID WASTE, TO ENHANCE AND UPDATE ANTI-SCAVENGING ORDINANCE

RECOMMENDATION:

It is recommended that the City Council:

1. Find that the proposed amendment to the Anti-scavenging Ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15061 (b) 3 (General Rule);
2. Approve the proposed changes to the Anti-scavenging Ordinance to deter theft of City recyclables and receive full diversion credit for material; and
3. Direct the City Attorney to draft an ordinance amendment within 60 days consistent with the provisions set forth herein.

MUNICIPAL SERVICES COMMITTEE RECOMMENDATION:

On July 14, 2015, staff presented the proposed amendment to the Anti-scavenging Ordinance to the Municipal Services Committee (MSC). The MSC recommended modifying the definition of scavenging to clarify that all collection containers serviced by the City of Pasadena or the City's franchise haulers are covered by the ordinance. Also, since the costs for additional enforcement have been contemplated and included in the FY 2016 budget, the committee recommended adding this information to the agenda report. With these modifications, MSC voted unanimously to approve the amendment to the Anti-scavenging Ordinance.

ENVIRONMENTAL ADVISORY COMMISSION RECOMMENDATION:

On March 17, 2015, staff presented the proposed amendment to the Anti-scavenging Ordinance to the Environmental Advisory Commission (EAC). The EAC recommended modifying the definition of scavenging to clarify that residential and commercial City of Pasadena containers are covered by the ordinance. With this modification, EAC voted unanimously to approve the amendment to the Anti-scavenging Ordinance.

EXECUTIVE SUMMARY:

Ongoing problems with the theft of recyclable materials from the City's residential and commercial collection containers as well as the City's collection containers at the Rose Bowl make it necessary for the City to strengthen its Anti-scavenging Ordinance. Revisions needed to enhance and update the ordinance include: adding definitions for scavenging, special events and large venue events; expanding the scope of the ordinance to include special events and large venue events; clarifying the City's ownership of recyclable materials placed in residential or commercial City collection containers, which include all collection containers serviced by the City of Pasadena or the City's franchise haulers; adding language to prohibit informal agreements for recycling collection between an independent recycler and property representative on City collection days; allowing for the confiscation of scavenged recyclable materials; and allowing for the issuance of citation(s) for violations to vehicle drivers/registered owners observed participating in scavenging.

BACKGROUND:

In 2000, the City Council adopted the Anti-scavenging Ordinance (PMC Chapter 8.60.310). The Anti-scavenging Ordinance has been an important component of the Department of Public Works' recycling program to recover the maximum amount of material possible as the program has grown in scope and complexity over the years. The City's most current (CY 2013) diversion rate was 73%.

Since the inception of the City's recycling program, scavenging of recyclables has been an issue. In the early history of the City's recycling efforts, much of the scavenging observed involved individuals collecting materials that they brought to the recycling redemption centers to exchange for cash. Over the years, scavenging has grown into a business often involving multiple individuals working together to collect entire truckloads of material. Large scale scavenging operations have been observed curbside and also at the Rose Bowl events where the City has invested substantial resources to facilitate recycling of materials generated.

The City has taken proactive measures to address scavenging of recyclable materials. Residents are encouraged to report instances of scavenging that they observe. The Department of Public Works and the Pasadena Police Department conduct focused enforcement of the Anti-scavenging Ordinance on a quarterly basis, concentrating on the residential curbside recycling program.

Quantifying the amount of materials scavenged is difficult since the majority of these activities occur late at night or early in the morning before City crews are at work. A Department of Public Works focused enforcement project conducted over a two week period in 2008 yielded 1.45 tons of bottles and cans confiscated by staff. This quantity of lost recyclables translates to approximately 40 tons per year. The loss of this material amounts to approximately \$31,500 in annual revenue. This figure is likely a conservative estimate since it is based only on confiscated material during a short pilot operation.

The goals of the proposed ordinance amendment are to: deter large scale scavenging of the City's recyclables; strengthen the ordinance to allow for effective enforcement; reduce scavenging activity and associated nuisances; meet public expectations for recycling; increase the City's operational efficiency; expand the scope of the ordinance to include special and large venue events; receive full credit for the City's diversion efforts; and prepare to implement Zero Waste Strategic Plan Initiative number 6 (enhance enforcement of the Anti-scavenging Ordinance). Also, to comply with the State's recent organics diversion mandates established in AB1594 and AB1826 and to achieve the City's long range goal of sending Zero Waste to landfills by 2040, it is important to recover and account for all materials placed in residential or commercial City collection containers.

Staff's recommended ordinance changes to achieve these goals include the following, which are also summarized in Table 1:

A. Add a definition of "scavenging".

"Scavenging" is the unauthorized collection, removal, or possession of solid waste, recyclables or organic material that is placed in residential or commercial City collection containers, including all collection containers serviced by the City of Pasadena or the City's franchise haulers and any permanent or temporary receptacles utilized at special events and large venue events, by any person or entity other than the City or a City-authorized collector.

B. Add a definition of "special events".

City recycling support has been extended to include public events that require City permits. The City requires organizers of permitted events to submit Waste Management Plans that cover recycling of waste materials generated. Typically, event organizers redeem collected recyclables for revenue at recycling facilities. The City loans recycling equipment for these events and monitors diversion achieved. Staff proposes incorporating the definition of special events utilized by the City's Special Events Office. "Special events" are events open to the general public and take place within the public right-of-way or are located within a park and/or are coordinated through the City of Pasadena's special event permit process.

C. Add a definition of “large venue”.

The existing ordinance does not reference large venue events. The City is required by State law to ensure that recycling is available at large venue events, which the State defines as events attended by 2,000 people or more per day. The Rose Bowl's events are of special concern since, as the Rose Bowl's waste hauler, the City provides recycling services. The City proposes incorporating the State's definition of large venue. "Large venue" means a permanent venue facility that seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility. For purposes of this chapter, a venue facility includes, but is not limited to a public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, conference or civic center, performing arts center, museum, theater, or other public attraction facility. For purposes of this chapter, a site under common ownership or control that includes more than one large venue that is contiguous with other large venues in the site is a single large venue.

D. Add reference to specific recyclable materials and reference to special event and large venue event recycling containers.

It is the City's responsibility to properly disposition all waste materials placed in residential or commercial City collection containers or materials set out for collection by City crews. Therefore, it is necessary to specify the types of waste materials that may not be scavenged, such as all materials currently being recycled as well as those anticipated to be recycled in the near future, such as organics. Due to recently passed legislation, California cities will be required to divert and account for organic waste. AB1826 mandates commercial organics recycling and AB1594 will discontinue the policy of allowing diversion credit for green material used as alternative daily cover at landfills. Recent passage of these bills requires development of local or regional infrastructure for the collection and processing of organic waste. Subsequently, it will be important for the City of Pasadena to control and account for the organic waste placed in residential or commercial City collection containers. Also, to cover recycling activities at special events and large venue events, it is necessary to reference recycling containers used at these events.

Staff's recommended language is: 8.60.310 - Scavenging. It is unlawful to interfere with the collection and disposal of solid waste by the City, the City's contractors or by a person duly licensed by the City so to do. It is unlawful for any person other than the employees or franchisees of the City acting in the scope of their agency or employment to remove, collect, or have in their possession any recyclable from the public right-of-way or a residential or commercial City of Pasadena solid waste collection container, including any collection container serviced by the City of Pasadena or the City's franchise haulers and any permanent or temporary receptacles utilized at special

events and large venue events, or transport over the public streets of the city any recyclable material so removed. Recyclables include but are not limited to: bottles and cans, mixed paper, cardboard, metals, bulky items, electronics, white goods or appliances, used motor oil, organics and other compostable materials.

E. Add a new section to clarify City ownership of materials in or around City of Pasadena residential or commercial solid waste collection containers.

At large venue events, recyclable materials often accumulate on top of and several feet around collection containers and it is necessary for the City to be able to specify an area of control for these materials. Staff's recommended language is: It is unlawful to scavenge materials within an area that is ten feet in or around a residential or commercial City of Pasadena solid waste collection container, including any collection container serviced by the City of Pasadena or the City's franchise haulers and any permanent or temporary solid waste receptacle utilized at special events and large venue events.

F. Add a new section to allow confiscation of scavenged recyclables.

It is necessary to recover stolen recyclables to ensure the financial viability of the City's recycling programs and to discourage future occurrences of this illegal activity. Staff's recommended language is: The City may confiscate any materials scavenged from residential or commercial City of Pasadena solid waste collection containers, including all collection containers serviced by the City of Pasadena or the City's franchise haulers and any permanent or temporary receptacles utilized at special events and large venue events.

G. Add a new section to forbid private/informal recycling agreements between a scavenger and a property representative allowing for collection on City collection days.

When confronted by staff, scavengers often allege to have the property owner's permission to take materials out of the City's bins. This language is necessary to address the safety hazards associated with individuals near or physically inside City bins while City crews are attempting to service the bins. Staff's recommended language is: Any private/informal recycling agreements between commercial/multifamily entities and independent recyclers may not allow for collection to occur on the day the City of Pasadena or a City authorized collector provides collection services to that commercial/multifamily entity and may not include material placed inside residential or commercial City collection containers including all collection containers serviced by the City of Pasadena or the City's franchise haulers.

H. Add language to allow issuance of citation(s) to vehicle drivers/registered owners observed participating in scavenging.

The issuance of citations will help deter the occurrence of large scale scavenging conducted by organized groups utilizing vehicles. The citation

amounts are set in the approved FY 2016 General Fee Schedule. The citations are the following amounts: first is \$106; second is \$213; third is \$534; and fourth is \$1,074. Staff's recommended language is: Drivers and/or registered owners of vehicles observed to be participating in scavenging of materials from residential or commercial City of Pasadena solid waste collection containers, including all collection containers serviced by the City of Pasadena or the City's franchise haulers and any permanent or temporary receptacles utilized at special events and large venue events, may be cited for scavenging.

Table 1
 Summary of Proposed Changes to Municipal Code 8.60 Solid Waste-Scavenging

Item	Description	Existing	Proposed
A	Add definition of scavenging	N/A	"Scavenging" is the unauthorized collection, removal, or possession of solid waste, recyclables or organic material that is placed in residential or commercial City collection containers, including all collection containers serviced by the City of Pasadena or the City's franchise haulers and any permanent or temporary receptacles utilized at special events and large venue events, by any person or entity other than the City or a City-authorized collector.
B	Add definition of special events	N/A	"Special events" means events that are open to the general public and take place within the public right-of-way or are located within a park and/or are coordinated through the City of Pasadena's special event permit process.
C	Add definition of large venue	N/A	"Large venue" means a permanent venue facility that seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility. For purposes of this chapter, a venue facility includes, but is not limited to a public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, conference or civic center, performing arts center, museum, theater, or other public attraction facility. For purposes of this chapter, a site under common ownership or control that includes more than one large venue that is contiguous with other large venues in the site is a single large venue.
D	Add reference to specific recyclable materials and reference to special event and large venue event recycling containers	8.60.310 - Scavenging. It is unlawful to interfere with the collection and disposal of solid waste by the city, the city's contractors or by a person duly licensed by the city so to do. It is unlawful for any person other than the employees or franchisees of the city acting in the scope of their agency or employment to remove any recyclable from the public right-of-way or container, or transport over the public streets of the city any recyclable material so removed.	8.60.310 - Scavenging. It is unlawful to interfere with the collection and disposal of solid waste by the City, the City's contractors or by a person duly licensed by the City so to do. It is unlawful for any person other than the employees or franchisees of the City acting in the scope of their agency or employment to remove, collect, or have in their possession any recyclable from the public right-of-way or a residential or commercial City of Pasadena solid waste collection container, including any collection container serviced by the City of Pasadena or the City's franchise haulers and any permanent or temporary receptacles utilized at special events and large venue events, or transport over the public streets of the city any recyclable material so removed. Recyclables include but are not limited to: bottles and cans, mixed paper, cardboard, metals, bulky items, electronics, white goods or appliances, used motor oil, organics and other compostable materials.

Table 1 (continued)

Summary of Proposed Changes to Municipal Code 8.60 Solid Waste-Scavenging

Item	Description	Existing	Proposed
E	Add a new section to clarify City ownership of materials in or around City of Pasadena residential or commercial solid waste collection containers	N/A	It is unlawful to scavenge materials within an area that is ten feet in or around a residential or commercial City of Pasadena solid waste collection container, including any collection container serviced by the City of Pasadena or the City's franchise haulers and any permanent or temporary solid waste receptacle utilized at special events and large venue events.
F	Add a new section to allow confiscation of scavenged recyclables	N/A	The City may confiscate any materials scavenged from residential or commercial City of Pasadena solid waste collection containers, including all collection containers serviced by the City of Pasadena or the City's franchise haulers and any permanent or temporary receptacles utilized at special events and large venue events.
G	Add a new section to forbid private/informal recycling agreements between a scavenger and a property representative allowing for collection on City collection days	N/A	Any private/informal recycling agreements between commercial/multifamily entities and independent recyclers may not allow for collection to occur on the day the City of Pasadena or a City authorized collector provides collection services to that commercial/multifamily entity and may not include material placed inside residential or commercial City collection containers including all collection containers serviced by the City of Pasadena or the City's franchise haulers.
H	Add language to allow issuance of citation(s) to vehicle drivers/registered owners observed participating in scavenging.	N/A	Drivers and/or registered owners of vehicles observed to be participating in scavenging of materials from residential or commercial City of Pasadena solid waste collection containers, including all collection containers serviced by the City of Pasadena or the City's franchise haulers and any permanent or temporary receptacles utilized at special events and large venue events, may be cited for scavenging.

COUNCIL POLICY CONSIDERATION:

This proposed ordinance amendment is consistent with the City Council's goal of increasing conservation and sustainability. It also supports the United Nations Urban Environmental Accords of 2005 Action 4 of achieving zero waste to landfills and incinerators by 2040. The proposed amendment supports the Zero Waste Strategic Plan adopted by Council in October 2014. Enhanced enforcement of the Anti-scavenging Ordinance is one of the 19 program initiatives in the Zero Waste Strategic Plan.


ENVIRONMENTAL ANALYSIS:

The adoption of this ordinance amendment is exempt from the California Environmental Quality Act ("CEQA") pursuant to the State CEQA Guidelines Section 15061 (b) 3 (General Rule). Since it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

FISCAL IMPACT:

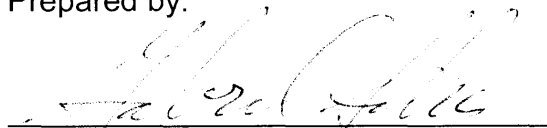
The proposed amendment to the Anti-scavenging Ordinance is anticipated to have minimal fiscal impact. The costs for additional enforcement have been contemplated and included in the FY2016 budget with the addition of a new Code Compliance Officer budgeted at \$108,639 fully encumbered. This position was added to the FY2016 budget for enforcement of environmental regulations related to inspection of construction and demolition projects as well as enforcement of new ordinances resulting from the Zero Waste Strategic Plan. The new position will be funded with additional citation revenue, vehicle inspection fees, and administrative review fees associated with construction and demolition projects. It is estimated that the additional 40 tons of curbside recyclable materials that may be recovered each year will generate approximately \$31,500 in annual revenue, from bulk recyclable revenue (\$1,500) and supplemental California Redemption Value (CRV) (\$30,000) paid by the State. The reimbursement process from the State takes approximately 2 years and will not be realized until FY2018. It is anticipated that 15% of the new Code Compliance position's time will be spent on anti-scavenging enforcement.

Respectfully Submitted:



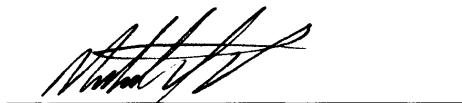
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