REPORT TO COUNCIL
City of Sacramento

915 I Street, Sacramento, CA 95814-2604
www. CityofSacramento.org

Consent
February 10, 2009

Honorable Mayor and
Members of the City Council

Title: Ordinance: Scavenging from Solid Waste Receptacles

Location/Council District: All

Recommendation:
1) Review an Ordinance repealing Section 13.10.160 of the Sacramento City Code relating to the removal of recyclable materials placed for City sponsored program and adding Section 13.10.160 of the Sacramento City Code relating to scavenging from solid waste receptacles.
2) Pass for publication the Ordinance title as required by the Sacramento City Charter 32c to be adopted on March 3, 2009;

Contact:	Edison Hicks, Integrated Waste General Manager
	Marty Strauss, Integrated Waste Planning Superintendent
Presenters:	Edison Hicks
Department:	Utilities
Division:	Solid Waste
Organization No:	13700

Description/Analysis

Issue:

There has been a recent increase in reports of scavenging in all types of solid waste receptacles occurring throughout the City. Scavenging can result in injuries to the scavengers, waste being strewn about the surrounding areas, containers being left open to emit foul odors and attract animals and pests, theft of recyclable material and identity theft.

The proposed ordinance would make it illegal for any person to scavenge from any type of solid waste receptacle.

Policy Considerations:

Currently, Section 13.10.160 of the Sacramento City Code makes it illegal for persons to remove recyclable and salvageable materials from containers used in connection with a city-sponsored recycling program. The proposed ordinance will repeal the current Section 13.10.160 and replace it with a new Section 13.10.160 that expands upon the current policy and makes it illegal for persons to scavenge any type of material from any type of solid waste receptacle.

Environmental Considerations:

California Environmental Quality Act (CEQA):

The prohibition of scavenging from solid waste receptacles is not subject to CEQA because it does not have the potential for causing a significant effect on the environment. (CEQA Guidelines §§ 15060(c)(2), 15061(b)(2), 15061(b)(3), 15321(b), 15378(a).)

Sustainability Considerations:

The prohibition of scavenging from solid waste receptacles is consistent with the Sustainability Master Plan goal of encouraging the local recycling of materials by addressing the concerns of residents that placing recyclable materials in containers for collection might attract persons who would steal the materials or their personal information, litter its contents in the area, and create other health and safety hazards.

Commission/Committee Action: The proposed ordinance was discussed at the Law and Legislation Committee meeting on January 6, 2009. The Law and Legislation Committee voted to forward the item to the City Council for discussion and consideration. They support the change in the ordinance.

Two citizens spoke on this item. Both objected to the proposed ordinance. Their concern was prohibiting scavenging from all solid waste receptacles would be detrimental to persons scavenging for goods they can sell and/or reuse. Another objection voiced was the proposed ordinance would discourage reuse of materials found in the garbage. The members of the Law and Legislation Committee were sympathetic to these concerns, but felt the danger of identity theft through scavenging is a significant problem, and that persons wishing to reuse or recycle materials from another person's receptacles could ask for permission before doing so.

Rationale for Recommendation: Prohibiting scavenging from all solid waste

receptacles benefits the health, safety and welfare of the public by protecting persons from illness and injury, reducing blight and nuisances, and preventing crime.

Financial Considerations: Preventing scavenging will mitigate the loss of recyclable materials put out for collection by Solid Waste Services, helping to stabilize rates from revenue received for curbside recyclable materials collected.

Emerging Small Business Development (ESBD): No goods or services will be purchased as a result of the proposed actions in this report. Therefore, there are no Emerging Small Business Development issues.

Respectfully Submitted by: _____
Edison Hicks
Integrated Waste General Manager

Approved by: _____
Marty Hanneman
Assistant City Manager
Director of Utilities

Recommendation Approved:

_____
for Ray Kerridge
City Manager

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BACKGROUND

Currently, Section 13.10.160 of the Sacramento City Code prohibits persons from collecting or removing recyclable and salvageable materials from containers used in connection with a city-sponsored recycling program. However, there has recently been an increase in reports of scavengers searching through both recycling and garbage containers. Under the current code, law enforcement may prohibit someone from removing material from recycling containers, but can do nothing if a person is doing the same thing in a garbage container. Because of this inconsistency in the law, some scavengers must be allowed to continue their actions. As a result, recyclable material and identifying information in waste containers are more vulnerable to being stolen; it is more common to find waste strewn about the surrounding areas; containers are left open to emit foul odors and attract animals and pests; and the health, safety and welfare of the public is jeopardized.

The proposed ordinance will resolve this dilemma by expanding the prohibition on scavenging to all types of solid waste receptacles, i.e. any type of container used to deposit, store or collect most any kind of waste. (See subsection (B) of the proposed Section 13.10.160 of the Sacramento City Code.) This includes the city's recycling, garbage and green waste containers, and any privately owned waste containers. Under the proposed ordinance, law enforcement officers will no longer be limited to addressing only one type of container, and will be able to better protect the health safety and welfare of the public.

The proposed ordinance also recognizes that some entries into solid waste containers are appropriate and necessary. Accordingly, the proposed ordinance includes exceptions for persons who own or occupy the property for which the receptacle is used, persons acting with the consent of the owners or occupants, persons who are responsible for hauling away the contents of the receptacles, and government employees acting in accordance with their duties.

A violation of the proposed ordinance is an infraction.

ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

AN ORDINANCE REPEALING SECTION 13.10.160 OF THE SACRAMENTO CITY CODE RELATING TO THE REMOVAL OF RECYCLABLE MATERIALS PLACED FOR CITY SPONSORED PROGRAM AND ADDING SECTION 13.10.160 OF THE SACRAMENTO CITY CODE RELATING TO SCAVENGING FROM SOLID WASTE RECEPTACLES

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

The City Council hereby finds and declares that:

A. There is an increasing problem of persons scavenging from solid waste receptacles. Scavenging can result in injuries to the scavengers, waste being strewn about the surrounding areas, containers being left open to emit foul odors and attract animals and pests, theft of recyclable material and identity theft.

B. Prohibiting the scavenging from solid waste containers benefits the health, safety and welfare of the public by protecting persons from illness and injury, reducing blight and nuisances, and preventing crime.

SECTION 2.

Section 13.10.160 of the Sacramento City Code is hereby repealed.

SECTION 3.

Section 13.10.160 of the Sacramento City Code is hereby added to read as follows:

13.10.160 Scavenging from solid waste receptacles

A. No person shall open, look into, search through or remove any of the contents of any solid waste receptacle.

B. For purposes of this section, "solid waste receptacle" shall mean any bin, automatic lift container or any other type of receptacle used for the deposit, storage,

collection or transport of garbage, litter, junk, debris, refuse, swill, rubbish, waste matter, putrescible waste, hazardous waste, infectious waste, recyclable materials, or garden refuse.

C. This section shall not apply to the following persons:

1. Any owner, tenant, lessee, or occupant of the property for which the solid waste receptacle is used;

2. Any person acting with the consent of any owner, tenant, lessee, or occupant of the property for which the solid waste receptacle is used;

3. Any private collector or any employee or contractor of a private collector, as defined in Section 13.10.310 of this code, that owns or maintains the solid waste receptacle or is responsible for hauling away its contents, who is acting in accordance with their duties as such; or

4. Any employee or contractor of any city, county, state or federal government agency, who is acting in accordance with their duties as such.

D. Any person violating this section is guilty of an infraction.

Adopted by the City of Sacramento City Council on by the following vote:

Ayes:

Noes:

Abstain:

Absent:

_____
MAYOR

Attest:

_____
City Clerk

Passed for Publication:
Published:
Effective:

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B. Prohibiting the scavenging from solid waste containers benefits the health, safety and welfare of the public by protecting persons from illness and injury, reducing blight and nuisances, and preventing crime.

SECTION 2.

Section 13.10.160 of the Sacramento City Code is hereby repealed.

~~13.10.160 Removal of recyclable and salvageable materials placed for city sponsored recycling program prohibited.~~

~~It is unlawful and an infraction for any persons, other than the city or the city's designee, to collect or remove recyclable or salvageable materials placed by any person in a bag or container labeled for use in connection with a recycling program sponsored by the city.~~

SECTION 3.

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C. This section shall not apply to the following persons:

1. Any owner, tenant, lessee, or occupant of the property for which the solid waste receptacle is used;

2. Any person acting with the consent of any owner, tenant, lessee, or occupant of the property for which the solid waste receptacle is used;

3. Any private collector or any employee or contractor of a private collector, as defined in Section 13.10.310 of this code, that owns or maintains the solid waste receptacle or is responsible for hauling away its contents, who is acting in accordance with their duties as such; or

4. Any employee or contractor of any city, county, state or federal government agency, who is acting in accordance with their duties as such.

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