

DATE SUBMITTED May 11, 2018
 SUBMITTED BY City Attorney
 DATE ACTION REQUIRED May 16, 2018

COUNCIL ACTION ()
 PUBLIC HEARING REQUIRED ()
 RESOLUTION ()
 ORDINANCE 1ST READING ()
 ORDINANCE 2ND READING ()
 CITY CLERK'S INITIALS *[Signature]*

**IMPERIAL CITY COUNCIL
 AGENDA ITEM**

SUBJECT: Discussion regarding current or potential ordinances to prohibit scavenging of recyclable materials.

DEPARTMENT S INVOLVED: Potentially City Attorney, Police and/or Public Services

BACKGROUND/SUMMARY: Inquiry was raised at the last council meeting concerning the manner in which the city could address issues associated with scavenging of recyclable materials. Although the city is currently meeting goals established by AB939, there is the potential that scavenging could negatively impact the city in that regard. Further, scavengers often leave behind debris thereby potentially affecting the public health and safety. Section 10-8 of the city ordinances states, "Except as otherwise provided in this chapter, only a person having a contract with the city as provided in section 10-5, or the employee of such person, or any employee of the city, shall remove any refuse or transport or convey any refuse upon or along any public street, alley or place within the city; provided, that a private person may transport his own rubbish from the residence. Nothing herein shall be deemed to exclude or exempt any person from charges levied pursuant to this chapter for collection and processing of refuse...". It appears the intent of the ordinance was to facilitate the hauling of trash by a contractor. While said section is subject to an interpretation which would prohibit scavenging, it is the recommendation of the city attorney to direct development of an ordinance which would specifically address scavenging, if that is the goal of the council.

FISCAL IMPACT: To be determined based upon resources allocated to enforcement.

F.O. INITIALS _____

STAFF RECOMMENDATION: Provide direction to staff as to whether council wishes development of an ordinance to specifically address scavenging of recyclable materials..

MANAGER'S RECOMMENDATION:

MANAGER'S INITIALS _____

MOTION:

SECONDED:
 AYES:
 NAYES:
 ABSENT:

APPROVED () REJECTED ()
 DISAPPROVED () DEFERRED ()

REFERRED TO:

10-8 Unauthorized removal or transportation of garbage, rubbish or swill. Except as otherwise provided in this chapter, only a person having a contract with the city as provided in section 10-5, or the employee of such person, or any employee of the city, shall remove any refuse or transport or convey any refuse upon or along any public street, alley or place within the city; provided, that a private person may transport his own rubbish from the residence. Nothing herein shall be deemed to exclude or exempt any person from charges levied pursuant to this chapter for collection and processing or refuse.

At such time as there is in force a contract entered into by the council with any person for the collection and disposal of garbage or rubbish in the city, it shall be unlawful, except as otherwise herein provided, for any person other than the contractor to collect any garbage or rubbish within the city.

At such time as there is in force a contract entered into by the council with any person for collection of swill, it shall be unlawful for any person other than a person in the employ of the contractor having such contract to collect any swill within the city except as otherwise provided. (Ord. 424)

10-9 Collection, etc., of swill when swill contract not in force. At such time as there is not in force a contract entered into by the council with any person for the collection of swill it shall be unlawful for any person to collect or remove swill from any place or origination except the owner thereof, who shall first obtain a permit from the city council to do so. The council shall grant such a permit only after it has satisfied itself that the applicant therefore is properly equipped to remove and handle swill in a sanitary manner. (Ord. 424)

10-10 Separation of swill from dry garbage. Persons producing or having swill shall place all such swill in a suitable container apart from dry garbage in such manner that they may be conveniently collected by city employees or employees of persons holding a contract with the city for such collection. (Ord. 424)

10-11 Throwing, etc., refuse on street. It shall be unlawful for any person in the city to throw or deposit any refuse or to cause the same to be thrown or deposited upon any street, alley, gutter, curb, park or other public place. (Ord. 424)

10-12. Throwing, etc., of refuse on vacant lot, etc. It shall be unlawful for any person in the city to throw or deposit any refuse or to cause, allow or permit the same to be thrown or deposited in or upon any vacant lot or back yard. (Ord. 424)

10-13 Allowing rats to have access to garbage or to refuse. It shall be unlawful for any person to have, store, deposit or keep refuse where rats can have access thereto for feed thereon. (Ord. 424)

Division II. Charges

SAMPLE

**CITY OF HAWAIIAN GARDENS
CASE NUMBER 96-43MCA
ORDINANCE 435**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HAWAIIAN GARDENS, STATE OF CALIFORNIA, ADDING CHAPTER 6.13, RELATING TO THE PROHIBITION OF SCAVENGING, INTO THE HAWAIIAN GARDENS MUNICIPAL CODE.

WHEREAS, the California Integrated Waste Management Act (AB 939) requires that jurisdictions, such as the City of Hawaiian Gardens, reduce their waste stream by 50% by the year 2000; and

WHEREAS, the City of Hawaiian Gardens will shortly enter into an agreement for the pick up, sorting, and distribution of recyclable materials; and

WHEREAS, this agreement would require mandatory recycling of materials (i.e., glass, plastics, metals, green waste [grass, leaves, etc.], etc.) by residents and business of the City; and

WHEREAS, the City of Hawaiian Gardens wishes to discourage the stealing, or scavenging, of recyclable materials and their containers; and

WHEREAS, a notice to file a negative declaration has been filed with the County Clerk's Office and prepared in accordance with the California Environmental Quality Act; and

WHEREAS, significant environmental impacts will not occur as a result of Municipal Code Amendment (MCA) 96-43; and

WHEREAS, on June 28, 1996, an advertisement was published in the Long Beach Press-Telegram and public notices were placed at the Hawaiian Gardens City Hall and the Hawaiian Gardens Branch of the Los Angeles County Public Library System, specifying the date, time, and location of the public hearing; and

WHEREAS, on July 9, 1996 the City Council of the City of Hawaiian Gardens held a duly noticed and advertised public hearing to receive oral and written testimony relative to Municipal Code Amendment 96-43; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hawaiian Gardens as follows:

SECTION 1. The City Council HEREBY FINDS AND DETERMINES that Case No. 96-43MCA would not cause potentially significant environmental impacts, and therefore adopts a negative declaration in accordance with the California Environmental Quality Act.

SECTION 2. Title 6, Chapter 6.13 of the Hawaiian Gardens Municipal Code is hereby created by adding thereto new Sections 6.13.010 to 6.13.080 to read as follows:

CHAPTER 6.13
PROHIBITION OF SCAVENGING

Sections:

6.13.010	PURPOSE AND INTENT
6.13.020	DEFINITIONS
6.13.030	OWNERSHIP OF RECYCLABLE MATERIALS
6.13.040	TAMPERING WITH REFUSE AND RUBBISH
6.13.050	DISTURBANCE OF RECYCLABLE MATERIALS
6.13.060	OWNERSHIP OF RECYCLING CONTAINERS
6.13.070	CIVIL ACTION BY PERMITTEE
6.13.080	VIOLATIONS AND PENALTIES

SECTION 6.13.010 PURPOSE AND INTENT. To reduce the waste stream generated by residents and business within the City of Hawaiian Gardens, the City has or intends to adopt certain residential and commercial/industrial recycling programs. Scavenging of recyclables from these programs undermines their economic viability and thereby undermines their success. This chapter is intended to eliminate scavenging of recyclables

SECTION 6.13.020 DEFINITIONS. Whenever the following words and phrases are used in this article, they shall have the definition or meaning established by this section, unless it is clearly apparent from the context in which the word or phrase appears, that a different definition or meaning is intended.

(A) "City Agent" shall mean any person designated by the City Council or City Administrator as being responsible for administering, directing, supervising, collecting, or providing for the disposal of recyclable materials.

(B) "Permittee" shall mean a recycling operator performing services pursuant to a permit issued by or a contract awarded by the City.

(C) "Recyclable Materials" shall mean paper, glass, cardboard, plastic, ferrous metals, aluminum, compostable yard matter, or other materials which may be recycled for use in an altered form that has been segregated from other solid waste and placed at a designated collection location for the purpose of collection and recycling.

(D) "Recycling Operator" shall mean a person or persons, firm, partnership, joint venture, association, or corporation engaged in the collection and recycling of waste and other discarded materials.

SECTION 6.13.030 OWNERSHIP OF RECYCLABLE MATERIALS. Recyclable materials placed at the curbside of residential, commercial, or industrial or public or quasi-public facilities or properties or placed for collection on residential, commercial, or industrial or public or quasi-public facilities or properties for pick up by the City's permittee shall become the property of the permittee at the time of placement in either the City's or permittees recycling containers which are labeled "City of Hawaiian Gardens Recycles," or some similar text, or otherwise set out for collection under the City's recycling program. Such materials shall be deemed discarded by a property owner or occupant at the time the material is placed in the container or otherwise set out for collection.

SECTION 6.13.040 TAMPERING WITH REFUSE AND RUBBISH

(A) No person shall collect or transport recyclable materials within the City unless such person is a permittee of the City or is exempt in accordance with subsections (1) and (2) of this section. No person shall permit, allow, or enter into any agreement whatsoever for the collection of recyclable materials from any residential unit, commercial or industrial premises, or public or quasi-public facility with any person who is not a permittee as herein defined, except as permitted in subsections (1) and (2) of this section.

(1) The collection and removal of grass clippings and shrubbery by individual residents, business owners, and by individuals doing business as professional landscapers/gardeners, when the collection is directly related to their work and having a valid business license issued by the City of Hawaiian Gardens, shall be exempt from the permit section.

(2) The removal of recyclable materials from a residential, commercial, industrial, or public or quasi-public facility by the owner or occupant shall be exempt from the permit section.

SECTION 6.13.050 DISTURBANCE OF RECYCLABLE MATERIALS. It shall be unlawful for any person to burn, break, destroy, scatter, scavenge, collect, or take any recyclable materials without the consent of the resident or occupant of a premises or permittee.

SECTION 6.13.060 OWNERSHIP OF RECYCLING CONTAINERS. It shall be unlawful for any person other than the 1) resident or occupant of a premise or their designee; or 2) the City; or 3) the City permittee, to remove any approved recycling container from curbside or on the property of said resident or occupant.

SECTION 6.13.070 CIVIL ACTION BY PERMITTEE. Nothing in this chapter shall be deemed to limit the right of an authorized permittee to bring civil action against any person who violates the above described sections of this chapter, nor shall a conviction for such violation exempt any person from civil action brought by a City permittee.

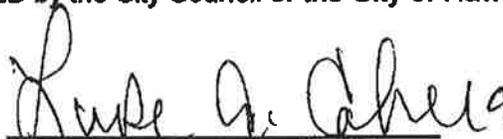
SECTION 6.13.080 VIOLATIONS AND PENALTIES. Violation of any part of this section shall be a misdemeanor pursuant to the Hawaiian Gardens Municipal Code.

Section 3. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Ordinance. The City Council of the City of Hawaiian Gardens hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more section, subsection, sentence, clause, phrase, or portion may be declared invalid or unconstitutional.

Section 4. This Ordinance shall take effect thirty days (30) after its adoption. The City Clerk or his duly appointed deputy, shall certify to the adoption of this Ordinance and shall cause this Ordinance to be published as required by law.

Section 5. The Mayor or presiding officer, of the City of Hawaiian Gardens City Council is **HEREBY AUTHORIZED** to affix his signature to this Ordinance signifying its adoption by the City Council of the City of Hawaiian Gardens, and the City Clerk, or his duly appointed Deputy, is directed to attest thereto.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Hawaiian Gardens on the 13th day of August 1996.


Lupe A. Cabrera, MAYOR

ATTEST:


Domenic Ruggeri, CITY CLERK

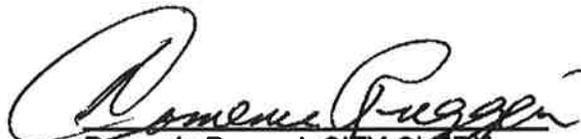
I Domenic Ruggeri, City Clerk of the City of Hawaiian Gardens, do hereby certify that Ordinance No. 435, was duly and regularly passed and adopted on the 13th day of August 1996, by the following roll call vote as the same appears on file and record in the Office of the City Clerk.

AYES: Flores, Prida, Canada, Cabrera

NOES: None

ABSENT: None

ABSTAIN: Navejas


Domenic Ruggeri, CITY CLERK

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