



REPORT TO LAW & LEGISLATION COMMITTEE City of Sacramento

915 I Street, Sacramento, CA 95814-2671

STAFF REPORT
February 20, 2007

Honorable Members of the
Law and Legislation Committee

Subject: Small Recyclable Collection Container Facilities (M06-058)

Location/Council District: Citywide

Recommendation: This report is for the Committee's information, staff is seeking direction on whether to draft amendments to city code and, if so, which policies to include in the amendments.

Contact: Sandra Yope, Senior Planner, (916) 808-7158; Jason Hone, Junior Planner, (916) 808-5749

Presenters: Jason Hone, Junior Planner

Department: Development Services

Division: Current Planning

Organization No: 4881

Description/Analysis:

Issue: Councilmember Hammond requested staff to investigate and report back to the Committee on modifications to the current design standards, site criteria and allowed materials related to small recyclable collection container facilities. Currently the City of Sacramento Code states that small recyclable collection container facilities shall accept only glass bottles, metals, plastic containers and papers. The term "metals" is broad and encompasses a wide array of materials including scrap metals and alloys such as copper, stainless steel, and aluminum which tend to be targeted by thieves. Staff believes that restricting the ease with which stolen material can be exchanged for cash would curtail the illegal activity. This report suggests different strategies to address this issue at all recycling facilities within the City of Sacramento.

As for design standards and site criteria for small recyclable collection container facilities, the attached discussion paper calls attention to some specific concerns and suggests preliminary strategies for the Committee's consideration. The identified concerns relate to processing noise, site cleanliness, and design compatibility with the primary use. When applicable, the discussion paper

highlights existing ordinances in other jurisdictions and suggests strategies for revising sections of current City of Sacramento Code.

Policy Considerations: Revising sections of the City Code associated with recycling facilities and their activities is consistent with the City's Strategic Plan Focus Areas of enhancing public safety, sustainability and livability.

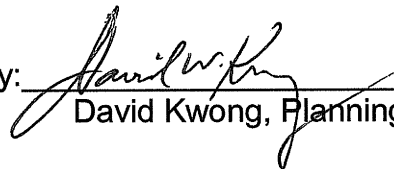
Environmental Considerations: None.

Rationale for Recommendation: Directing staff to draft ordinances amending the City Code will bring clarity to small recyclable collection container facility operations, deter illegal activity relating to scrap metals and alloys, and improve operations, aesthetics, and accountability of small recyclers.

Financial Considerations: None.

Emerging Small Business Development (ESBD): None.

Respectfully Submitted by:


David Kwong, Planning Manager

Approved by:


William Thomas
Director of Development Services

Recommendation Approved:

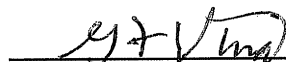

Gustavo F. Vina, Assistant City Manager

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ATTACHMENT 1**Introduction**

In reporting back to the Law and Legislation Committee, staff has identified two main issues concerning recycling facilities in the City of Sacramento. The first issue involves the current operational and development standards ascribed to small recyclable collection container facilities. The second issue is the extent to which current recycling practices contribute to the incidence of scrap metal theft in the region. Both issues require further investigation and analysis. Their treatment herein is for purposes of receiving further direction from the Committee.

Background Information

City of Sacramento code¹ delineates four types of recycling facilities: 1) Small recyclable collection container facilities; 2) Minor facilities; 3) Major facilities; and 4) Greenwaste facilities. This classification system is based on the types and volume of materials handled. The code specifies development and operational standards for each type of facility.

Small Recyclable Collection Container Facilities

At the request Councilmember Hammond, staff investigated the possibility of limiting small recyclable collection container facilities to the collection of beverage containers only. The California Beverage Container Recycling and Litter Reduction Act², requires at least one recycling facility in each convenience zone which will accept California Redemption Value (CRV) materials. The certified facility must operate at least 30 hours a week, five hours of which must be outside the hours of 9:00 AM to 5:00 PM. The act does not explicitly prohibit local jurisdictions from limiting these recycling facilities to the collection of only CRV beverage containers or other food and beverage recyclable containers.

Current operational and development standards for small recyclable collection container facilities are listed in subsection "d" of Chapter 17.24.050 (41) which is included as Attachment 2 to this report.

Scrap Metals and Alloys Theft

Scrap metals and alloys³, due to rapidly rising values, have increasingly become the target of theft. There is a litany of examples illustrating the consequences of this illegal

¹ City of Sacramento. Municipal Ordinances. Chapter 17.24.050 footnote 41.

² California Public Resources Code § 14500-14599

³ From California Business and Professions Code § 21600: "scrap metals and alloys" includes, but is not limited to, materials and equipment commonly used in construction, agricultural operations and electrical power generation, railroad equipment, oil well rigs, nonferrous materials, stainless steel, and nickel which are offered for sale to any junk dealer or recycler, but does not include scrap iron, household generated waste, or aluminum beverage containers, as defined in Chapter 2 (commencing with Section 14502) of Division 12.1 of the Public Resources Code.

activity. Very recently, a Sacramento Bee article⁴ called attention to the impact of copper wire theft on the City of Sacramento itself. Repairs (employee time and materials) associated with the replacement of stolen wiring from street lights and traffic signals have cost the Department of Transportation over \$25,000. The article also makes reference to the incidence of scrap metal theft in neighboring jurisdictions. The California Farm Bureau Federation notes that “As market prices for copper, aluminum, brass and stainless steel have skyrocketed, so has the number of metal thefts in California and across the country.”⁵ Agriculture is hard hit by this trend. In fact, reports from 11 Central Valley counties in 2005 revealed “255 metal theft cases that totaled a value of \$1,137,978.”⁶ Metal theft is the fastest growing crime in the San Joaquin Valley according to Bill Yoshimoto, project director and supervising attorney for the Agricultural Crime Technology Information and Operations Network.⁷

In addition to the monetary damages inflicted on private and public entities, there are serious public safety concerns associated with this type of activity. In the event of wire theft, not only is the loss of power to important infrastructure of grave concern, those involved in the theft risk electrocution. Furthermore, the theft of copper grounding wire jeopardizes the next technician who would come into contact with the formerly grounded equipment.

Intuitively, limiting the ease with which individuals can exchange scrap metals and alloys for cash would curtail the incidence of illicit activities. California state law⁸ mandates certain record keeping associated with the exchange of “junk”. Scrap metals and alloys are included in the definition of “junk.”⁹ Consequently, the instant a recycler deals in scrap metals, he or she meets the State’s definition of a “junk dealer” and is bound by law to adhere to the record keeping requirements associated with those transactions. The City of Sacramento does not include scrap metals and alloys in its definition of junk, and therefore does not require recyclers who deal in scrap metals and alloys to undergo the same City permitting process applied to junk dealers, pawn brokers and secondhand dealers.

State law¹⁰ requires recyclers and junk dealers engaged in the purchase of scrap metals and alloys to keep the following records for two years:

1. The place and date of each sale or purchase of junk made in the conduct of his or her business as a junk dealer or recycler;
2. The name, valid driver's license number and state of issue or California-issued identification card number, and vehicle license number including the state of

⁴ Montaño, Ralph. “Copper thefts plague city: Culprits steal valuable utility wiring, leaving darkened streets.” *Sacramento Bee*. January 25, 2007. [Included as Attachment 3]

⁵ Souza, Christine. “Rural rip-off: Metal thefts a costly concern.” *Ag Alert*. A weekly publication of the California Farm Bureau Federation. February 22, 2006. Available online at <http://www.cfbf.com/agalert/>

⁶ Ibid.

⁷ Kaufman, Robin. “Stealing Metals is a Hot Crime in the Valley.” *Valley Voice Newspaper*. August 2, 2006. Available online at <http://www.valleyvoiceweb.com/vvarc/2006/august22006.htm>

⁸ California Business and Professions Code § 21600-21609

⁹ California Business and Professions Code § 21600

¹⁰ California Business and Professions Code § 21600-21609

- issue of any motor vehicle used in transporting the junk to the junk dealer's or recycler's place of business;
3. The name and address of each person to whom junk is sold or disposed of, and the license number of any motor vehicle used in transporting the junk from the junk dealer's or recycler's place of business;
 4. A description of the item or items of junk purchased or sold, including the item type and quantity, and identification number, if visible; and
 5. A statement indicating either that the seller of the junk is the owner of it, or the name of the person he or she obtained it from, as shown on a signed transfer document.

The Institute of Scrap Recyclers, Inc. (ISRI) has assembled a list of operational recommendations to minimize transactions in stolen materials:

Tracking a Transaction (Financial & Video):¹¹

- Paying by check.
- Paying by ATM, with a record of the vendor's name. Some ATMs also can photograph the seller.
- Camera with a time stamp at the scale or cashier. The video time stamp allows the correlation of specific video segments to specific transaction times as recorded by the computer or the time stamp on a hand-written scale ticket.

Prohibit Certain Materials Unless Accompanied by Written Authorization:¹²

- New production scrap or new materials that are a part of a manufacturing process that are being sold by an individual, not a company.
- Items often used only by governments, utilities, or for very specific purposes. Examples include guardrails, manhole covers, certain cables used only in high-voltage transmission lines, historical markers, and cemetery plaques.
- Full-sized, new materials, such as those used in construction, or equipment and tools used by contractors.

Some local jurisdictions¹³ have implemented measures such as waiting periods and fingerprinting to go above and beyond existing reporting requirements. Others, such as San Diego, require junk dealers (as defined in CA State Code, which includes dealers in scrap metals and alloys) to provide a daily report to the police department detailing all transactions.¹⁴

In the following sections of this discussion paper, staff will attempt to clarify the perceived issues and problems and offer possible strategies and approaches.

¹¹ Institute of Scrap Recyclers, Inc. (ISRI). *Recommended Practices and Procedures for Minimizing the Risks of Purchasing Stolen Scrap Materials*. Available online at <http://www.isri.org/theftpractices/> last accessed January 17, 2006. Document created October 27, 2006.

¹² Ibid.

¹³ Detroit, Michigan and Lincoln, Nebraska.

¹⁴ San Diego Municipal Code. Chapter 3: Business Regulations, Business Taxes, Permits and Licenses. Article 3: Police Regulated Occupations and Businesses. Division 11: Junk Dealer, Junk Collector, SecondHand Dealer, Pawn Broker. § 31.1101

Identification of the Issues

In this report back to the Law and Legislation Committee, staff seeks direction for the eventual development of revised ordinances addressing specific concerns associated with recycling facilities. As of this writing, the two main concerns relate to: 1) the current operational and development standards ascribed to small recyclable collection container facilities; and 2) the extent to which current recycling practices contribute to the incidence of scrap metal theft.

More specifically, these two issues are evidenced by the following specific problems:

1. Possibility for transactions in stolen scrap metals and alloys.
2. Noise concerns in small collection container facilities adjacent to residential uses.
3. Undesirable small collection container facility appearance, cleanliness, and design.

The following section of this discussion paper will offer some initial suggested alternatives for addressing the three specific problems listed above.

Preliminary Strategies

Scrap Metals and Alloys Theft

Rising values of scrap metals and alloys such as aluminum and copper are driving increased theft of publicly and privately owned property. Efforts to restrict the ability of would-be thieves to trade scrap metals and alloys for quick cash can be part of a strategy to address this issue.

Code Changes:

Amend Title 17 of the City Code to prohibit scrap metal and alloy recycling at small recyclable collection container facilities. Minor and major facilities require Zoning Administrator and Planning Commission special permits respectively, whereas small recyclable collection container facilities do not. The greater level of review may discourage those who would otherwise engage in illicit activities related to scrap metals and alloys.

The Committee may also give direction for staff to incorporate strategies such as financial or video transaction tracking, waiting periods and automatic reporting to local authorities as discussed in the background section of this paper. Chapter 5.80¹⁵ of the City Code could be amended to include recyclers dealing in scrap metals and alloys in the definition of "junk dealers." While this is already the case in California state law, the City of Sacramento does not currently include scrap metals and alloys in this section of the Code. The Code may also be amended to require stricter record keeping and

¹⁵ Chapter 5.80 JUNK DEALERS, SECONDHAND DEALERS, PAWNBROKERS AND PALLET RESELLERS

reporting guidelines. Staff is currently consulting the Police Department and can develop additional strategies pending committee direction.

Design, Cleanliness, and Noise at Small Collection Container Recycling Facilities

Design

Current ordinance does not require these facilities to compliment the design of the primary use. Other jurisdictions have adopted codes requiring this type of compatibility with the primary use. The City of San Mateo, for example, requires that the “Design and colors of the center shall be compatible with other businesses on the site.

Improvements may be required to ensure compatibility, including but not limited to landscaping, screening, trailer skirting, and parking lot improvements.”¹⁶

Code Change: Amend Title 17 of the City Code to require small collection container facilities be compatible and/or complimentary to the primary use.

Cleanliness

Current code¹⁷ requires that these small facilities “Shall be maintained free of litter and any other undesirable materials, and mobile facilities, at which truck or receptacles are removed at the end of each collection day, shall be swept at the end of each collection day.” However, it is often the case that small facilities become littered during the course of the day.

Code Change: Amend Title 17 of the City Code to clarify and strengthen language specifying site cleanliness at all times.

Noise

These facilities are currently limited to operating between the hours of 9:00 AM and 7:00 PM when within 100 feet of a residential zone or use. They are also prohibited from using any type of power driven processing equipment. Daytime noise may be further addressed if these facilities are prohibited from any kind of processing, not just that done with power driven equipment. This would reinforce the concept that these facilities are purely *collection* facilities. Processing (breaking glass, crushing cans) with battery powered or manual equipment generates noise levels found to be a nuisance to some neighboring uses.

Code Change: Amend Title 17 of the City Code to prohibit any type of processing, manual or power driven.

¹⁶ City of San Mateo Municipal Codes. Chapter 27.69.020 DEVELOPMENT STANDARDS

¹⁷ City of Sacramento Municipal Codes. Chapter 17.24.050 (41)

ATTACHMENT 2

**City of Sacramento Municipal Ordinance
Chapter 17.24.050 (41) Subsection d.**

d. Development Standards—Administrative Review. The following standards will be applied to new or expanded facilities requiring an administrative review:

i. Small Recyclable Collection Container Facilities. Small collection facilities may be sited in commercial and industrial zones with administrative review provided they comply with the following conditions:

(A) Shall be established in conjunction with an existing commercial use or community service facility which is in compliance with the zoning, building and fire codes of the city;

(B) Shall be no larger than five hundred (500) square feet, and occupy no more than five parking spaces not including spaces that will be periodically needed for removal of materials or exchange of receptacles. No parking spaces required for the primary host use may be occupied by the facility;

(C) Shall be set back at least ten (10) feet from any street or building or shall not be located in any required setback and shall not obstruct pedestrian or vehicular circulation;

(D) Shall accept only glass bottles, metals, plastic containers and papers;

(E) Shall use no power-driven processing equipment;

(F) Shall use receptacles that are constructed and maintained with durable waterproof and rustproof material, covered when site is not attended, and shall be of a capacity sufficient to accommodate materials collected and collection schedule;

(G) Shall store all recyclable material in receptacles and shall not leave materials outside of receptacles when attendant is not present;

(H) Shall be maintained free of litter and any other undesirable materials, and mobile facilities, at which truck or receptacles are removed at the end of each collection day, shall be swept at the end of each collection day;

(I) Attended facilities located at community service sites shall be in operation only during the hours between dawn and dusk; and facilities located within one hundred (100) feet of a property zoned or occupied for residential use shall operate only during the hours between nine a.m. and seven p.m.;

(J) Receptacles shall be clearly marked to identify the type of material which may be deposited; the facility shall be clearly marked to identify the name and telephone

number of the facility operator and the hours of operation and display a notice stating that no material shall be left outside the recycling enclosure or receptacles;

(K) Materials shall be removed from the facility on a routine basis;

(L) The facility shall not impair the landscaping required for any concurrent use by this title or any permit issued pursuant thereto;

(M) No additional parking spaces will be required for customers of a small collection facility located at the established parking lot of a host use. One space will be provided for the attendant, if needed;

(N) Occupation of parking spaces by the facility and by the attendant shall not reduce available parking spaces below the minimum number required for the primary host.

ATTACHMENT 3

**Copper thefts plague city
Culprits steal valuable utility wiring, leaving darkened streets**

By Ralph Montañó - Bee Staff Writer
Published 12:00 am PST Thursday, January 25, 2007

Friday morning brought more bad news for Jack Wyscarver, Sacramento's supervisor of traffic signals and street lighting.

The street lights were out in another section of Natomas, and the culprit wasn't bad weather or a broken conductor. It was wire thieves, again.

"I just got a call that they hit Benefit Way and East Commerce Way," Wyscarver said. "On Thursday, it was Orchard Drive and Barandas Drive. Just about every night we get a call."

For almost two months, the city has been plagued by thieves who tear up the city's streetlights to get the copper wire. Neighborhoods are being left in the dark, sometimes for days as repair are being made.

Linda Tucker, a spokeswoman for the city's Department of Transportation, said repairs have cost the city \$25,000, counting employee time and materials.

The problem is one that has popped up all across the Sacramento area, thanks largely to the rising prices being paid by recyclers for the metals. The Bee reported in August 2006 that authorities in Yolo and El Dorado counties were seeing an increase in thefts of aluminum and copper. Aluminum irrigation pipes were being pulled out of the ground and copper wire was being torn out of the walls at construction sites, investigators told The Bee.

Last year, hundreds of thousands of people in Placerville lost telephone service after thieves knocked down more than 1,000 feet of AT&T cable seeking copper wiring. In Lodi, hundreds of copper vases disappeared from graves in Cherokee Memorial Park. Almost 800 of the vases turned up in scrap yards across San Joaquin County.

Officials with the scrap recycling industry said copper prices are at an all-time high, up to \$3 a pound because of several factors, including increased demand and strikes at mines throughout the world.

City officials say they are contacting scrap metal recyclers to warn them about accepting the stolen goods.

"If we can cut off where they are cashing it in, then hopefully they will move on," Wyscarver said. A similar strategy appears to have been successful in Stockton, Wyscarver added. "Their problem apparently stopped the day before ours began."

The theory that the thieves are coming from Stockton has no real evidence, according to Sacramento police spokesman Sgt. Matt Young. He said investigators have yet to find a single eyewitness to 15 different thefts.

"We are asking the public's help in being our eyes and ears," Young said. Anyone seen working on utility wires not wearing a city worker uniform or driving a city truck should raise suspicion.

The thieves are getting access to the wire by lifting the concrete covers located on sidewalks. Wyscarver said once the thieves get to the wire, they cut the connection and pull out hundreds of feet of underground wire. The Orchard Way theft, for example, resulted in the theft of about 2,000 feet of wire, Wyscarver said. A 10-foot section of wire weighs about a pound, he estimated.

The thefts have left behind open utility covers and live wires that are a danger to the public. Anyone finding a street light wiring box left open is advised not to reach inside.

Anyone with information about the thefts is asked to call the Sacramento Police Department at (916) 264-5471.

ATTACHMENT 4

Sacramento Police Department's Draft Letter to Scrap Metal Recycler

Note: The draft language of this letter was received by Development Services on 1/25/07 in an e-mail attachment from Sacramento Police Department. The Police Department indicated that, as of that date, the letter had not been sent.

Draft Language Follows:

Over the past several months, the Sacramento Police Department has received an increase in the number of reported thefts of recyclable goods such as aluminum and copper wire. These increases have not only been experienced in the City, but county wide. We believe that the increases in these types of thefts are directly related to the increase in value of these goods. These goods are being sold to junk and secondhand dealers.

Because your business is located within the City of Sacramento and jurisdiction of the Sacramento Police Department, we are seeking your help in reducing these types of thefts in our City. We are asking for your assistance with the following:

- A list of all sellers' license plates numbers and California Driver's License information including the weight from all sales greater than 10 lbs for copper of any type.
- A list of the categories of metals being sold over 10 lbs.
- Copies of sales receipts from these transactions for each month. These receipts/reports can be emailed, faxed, or we will pick them up.

With your assistance we can reduce these thefts. Partnerships such as this will help improve the quality of life and the profitability of businesses within the City of Sacramento.