

E-4

Agenda Item No

DATE SUBMITTED 06/13/2018
SUBMITTED BY City Attorney
DATE ACTION REQUIRED 06/20/2018

CITY COUNCIL ACTION (X)
PUBLIC HEARING REQUIRED ()
RESOLUTION ()
ORDINANCE 1ST READING ()
ORDINANCE 2ND READING ()
CITY CLERK'S INITIALS ()

SUBJECT: DISCUSSION/ACTION: DRAFT ORDINANCES TO PROHIBIT SCAVENGING OF MATERIALS PLACED FOR COLLECTION.

- 1. REVIEW/PROVIDE DIRECTION OF DRAFT ORDINANCES TO PROHIBIT SCAVENGING OF MATERIALS PLACED FOR COLLECTION.

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

BACKGROUND/SUMMARY: Direction was given at the council meeting of June 6, 2018, for staff to return with a draft ordinance which would attempt to address issues associated with scavenging. Aside from recycling mandates, there is also a concern with impacts to public health and safety related to debris that is not returned to containers.

Attached is a draft ordinance which makes scavenging a violation of city ordinance. Unless specifically stated to be an infraction, violation of a city ordinance is a misdemeanor.

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

STAFF RECOMMENDATION:

MANAGER'S RECOMMENDATION:

MANAGER'S INITIAL 

MOTION:

SECONDED: APPROVED () REJECTED ()
AYES: DISAPPROVED () DEFERRED ()
NAYES:
ABSENT: REFERRED TO:

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IMPERIAL
ADDING ARTICLE VII TO CHAPTER 10 OF THE CITY OF IMPERIAL MUNICIPAL
CODE RELATING TO THE PROHIBITION OF SCAVENGING**

The City Council of the City of Imperial does hereby ordain as follows:

SECTION 1: Article VII of Chapter 10 of the Imperial Municipal Code is hereby enacted to read as follows:

Article VII

Scavenging Prohibition

Section 10-50	Findings
Section 10-51	Purpose and Intent
Section 10-52	Definitions
Section 10-53	Ownership of Recyclable Materials
Section 10-54	Disturbance of Recyclable Materials or Garbage
Section 10-55	Tampering with Recyclable Materials
Section 10-56	Civil Action by Permittee
Section 10-57	Violations and Penalties
Section 10-58	Survivorship
Section 10-50.	Findings

WHEREAS, THE California Integrated Waste Management Act (AB939) required that jurisdictions such as the City of Imperial (“City”) reduce their waste stream by 50% by the year 2000; and

WHEREAS, the City has entered into an agreement (“Agreement”) for the pick-up, sorting, and distribution of recyclable materials and collection and disposal of garbage; and

WHEREAS, the Agreement contemplates recycling of specified materials such as glass, plastics, metals and green waste by residents and businesses of the City; and

WHEREAS, the City wishes to discourage the stealing or scavenging, of recyclable materials; 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 Ordinance No. _____.

Section 10-51. Purpose and Intent

To reduce the waste stream generated by residents and businesses within the city of Imperial, The City has adopted 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. Further, this ordinance is intended to prevent the prevention of public nuisances associated with debris removed from waste and recycle containers and left on the ground.

Section 10-52. 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 Manager as being responsible for administering, directing, supervising, collecting, or providing for the disposal of refuse and waste.

(b) "Garbage" includes the material set forth in Section 10-1 of this Chapter.

(c) "Permittee" shall mean a recycling operator and/or garbage collector performing services pursuant to a permit issued by or a contract awarded by the City.

(d) "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.

(e) "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 10-53. 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 permittee's recycling containers 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 10-54. Disturbance of Recyclable Materials or Garbage

It is unlawful for any person to burn, break, destroy, scatter, scavenge, collect or take any recyclable materials or garbage without the consent of the resident or occupant of a premises or a permittee.

Section 10-55. Tampering with Recyclable Materials

(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 Imperial, 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 10-56. 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 10-57. Violations and Penalties

Violation of any part of this Article shall be a misdemeanor.

Section 10-58. Survivorship

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 Imperial 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 2. This Ordinance shall take effect thirty days (30) after its adoption. The City Clerk of her duly appointed deputy, shall certify to the adoption of this Ordinance and shall cause this Ordinance to be published as required by law.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Imperial, Imperial County, State of California, this __ day of _____, 2018.

Mayor

ATTEST:

Debra Jackson, City Clerk

I, Debra Jackson, City Clerk of the City of Imperial, do hereby certify that Ordinance No. ____, was duly and regularly passed and adopted on the __ day of ____, 2018, by the following roll call vote as the same appears on file and record in the Office of the City Clerk.

AYES:

NOES:

ABSENT

ABSAIN:

Debra Jackson, City Clerk