

**LOS ANGELES CITY PLANNING DEPARTMENT
RECOMMENDATION REPORT**

CITY PLANNING COMMISSION	CASE NO:	CPC-2003-4015-CA	
	CEQA:	ENV-2003-4016-CE	
DATE:	September 11, 2003	LOCATION:	Citywide
TIME:	after 9:30 a.m.*	COUNCIL DISTRICTS:	All
PLACE:	Room 1010 City Hall	PLAN AREAS:	All
	200 North Spring St.	RELATED FILES:	CF 01-2324; 02-1560
	Los Angeles, CA 90012		CPC-2003-5266-CA

PUBLIC HEARING REQUIRED

REQUEST: Amendments to Sections 12.21 and 12.26 of the Los Angeles Municipal Code.

SUMMARY: A proposed ordinance (Appendix A) amending the Los Angeles Municipal Code to establish an annual inspection fee, revise the regulations for recycling centers, and strengthen the enforcement provisions of those regulations.

RECOMMENDATION:

1. **Adopt** the staff report as its report on the subject.
2. **Adopt** the attached findings.
3. **Approve** the proposed ordinance and recommend its adoption by City Council.

Thomas Rothmann, Project Coordinator (213) 978-1338
Simon Pastucha, City Planner (213) 978-1475

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ADVICE TO PUBLIC: *The exact time this report will be considered during the meeting is uncertain since there may be several other items on the agenda. Written communication may be mailed to the Commission Secretariat, 200 North Main Street, Room 532, Los Angeles, CA 90012 (Phone No. 213/978-1300). While all written communications are given to the Commission for consideration, the initial packets are sent a week prior to the Commission's meeting date. If you challenge these agenda items in court, you may be limited to raising only those issues you or someone else raised at the public hearing agendaized herein, or in written correspondence on these matters delivered to this agency at or prior to the public hearing. As a covered entity under Title II of the Americans with Disabilities Act, the City of Los Angeles does not discriminate on the basis of disability, and upon request, will provide reasonable accommodation to ensure equal access to this programs, services and activities. Sign language interpreters, assistive listening devices, or other auxiliary aids and/or other services may be provided upon request. To ensure availability of services, please make your request no later than 3 working days (72 hrs.) prior to the meeting by calling the Commission Secretariat at 213/978-1300.

SUMMARY:

The proposed ordinance (Appendix A) amends the Los Angeles Municipal Code (L.A.M.C.) to include definitions and regulations governing recycling centers throughout the City. The attached proposed ordinance amends two Sections of the Los Angeles Municipal Code. Section 12.21 A 18(c) is amended to add regulations governing the locations and sizes of recycling collection and buyback centers that are typically transient and located near grocery markets. This Section will also be expanded to apply the requirements of Section 12.21 A 18(d)(3) through (19) for these same facilities.

Section 12.26 F is amended to add recycling centers and facilities to the uses requiring annual inspections. This is governed by existing regulations for Auto Dismantling Yards, Junk Yards, and Scrap Metal Processing Yards, and is proposed to include "Recycling Center, Mobile", "Recycling Center Operator or Junk Dealer", "Recycling Collection or Buyback Center", "Recycling Materials Processing Facility", and "Recycling Materials Sorting Facility", as defined in Section 12.03 of the Los Angeles Municipal Code). Further, this Section will also be augmented with an expanded list of potential violations relative to landscaping; trash and debris; collection containers; inspection fees; and loading/parking spaces.

The attached ordinance strengthens the regulations and enforcement authority of the Department of Building and Safety regarding the safety, allowable uses, and overall appearance of recycling facilities.

FINDINGS:

The City Planning Department recommends that the City Planning Commission, in accordance with Charter Section 558, find:

1. In accordance with Charter Section 558 (b)(2), the proposed ordinance (Appendix A) is in substantial conformance with the purposes, intent, and provisions of the General Plan. to reinforce the goal identified in the Framework Element of the General Plan that identifies specific standards to enhance and/or conserve the appearance and functionality of commercial areas. The ordinance provides improved standards for the location, size, operation, and maintenance of a variety of recycling centers, as well as additional mechanisms for stricter enforcement of Code provisions that will better the appearance of neighborhoods. These provisions of the proposed ordinance will reinforce the goals identified in the Framework Element of the General Plan for enhancing and conserving the appearance and functionality of commercial areas.

2. In accordance with Charter Section 558 (b)(2), the proposed ordinance (Appendix A) will have no adverse effect upon the General Plan, specific plans, or any other plans being created by the Department of City Planning because the proposed ordinance is consistent with the General Plan and carries out the General Plan goals, policies and objectives discussed above. There will be no substantive changes made to the existing Los Angeles Municipal Code, therefore there will be no effects on any above-referenced plans.
3. In accordance with Charter Section 558 (b)(2), the proposed ordinance (Appendix A) will be in conformity with the public necessity, convenience, general welfare and good zoning practice in that improved regulations for the location, size, operation, and maintenance of recycling centers, as well as stricter enforcement of the regulations, will decrease the potential for the recycling facilities to generate public nuisance and impacts on surrounding properties and the community.
4. The proposed ordinance (Appendix A) is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Article II, Section 2, Subsection (m) of the City's Guidelines (ordinances which do not of themselves have an impact on the physical environment). Each individual project will have its own environmental clearance.

CON HOWE
Director of Planning

ROBERT JANOVICI
Chief Zoning Administrator

REVIEWED BY:

PREPARED BY:

SIMON PASTUCHA
City Planner

THOMAS ROTHMANN
Project Manager

STAFF REPORT

REQUEST:

On October 30, 2001, Councilmember Jan Perry introduced a Motion to establish a task force to bring recycling centers and used automobile sale lots into compliance with all local ordinances. The task force discussed how the proliferation of recycling centers has created regulatory difficulties since these facilities tend to open and close quickly. These types of recycling centers have gained attention recently due to their growing popularity and that they can attract criminal behavior. All participating departments worked together to develop appropriate regulatory and enforcement guidelines for temporary recycling centers within existing State laws. The Department of City Planning and the Department of Building and Safety worked together to recommend amendments to the Los Angeles Municipal Code that would add recycling facilities to auto junkyards in Section 12.24 F.

On July 19, 2002, Councilmember Perry introduced a Motion that advanced the recommendations of the task force and requested that the City Attorney prepare and present an ordinance to include recycling centers under an annual Building and Safety inspection program, with specific instructions to amend Section 12.26 F of the Los Angeles Municipal Code to include "Recycling Center, Mobile", "Recycling Center Operator or Junk Dealer", "Recycling Collection or Buyback Center", "Recycling Materials Processing Facility", and "Recycling Materials Sorting Facility", as defined in Section 12.03 of the Los Angeles Municipal Code.

DISCUSSION:

Recycling centers, which may include recycling collection or buyback sites, recycling sorting facilities, or other recycling oriented sites have become commonplace in many neighborhoods. Some centers occupy permanent sites with permanent structures that provide necessary recycling services to the community. Other facilities are transient and relocate quickly and frequently. It is the proliferation of the transient recycling centers, which often occupy portions of shopping center parking lots or other vacant lots throughout the City, that are most often negatively impacting some neighborhoods. Nevertheless, both types of facilities play a crucial role in the City's efforts to recycle materials and provide a convenience for residents who dispose of those materials. Therefore, there is a demonstrated purpose to ensure the availability of such facilities in a manner that will have lessened negative impacts on their surrounding communities.

The Los Angeles Municipal Code (L.A.M.C.) currently regulates uses such as auto dismantling yards, junkyards, and scrap metal processing yards. However, the L.A.M.C. does not adequately address those temporary or permanent recycling facilities such as “Recycling Center, Mobile”, “Recycling Center Operator or Junk Dealer”, “Recycling Collection or Buyback Center”, “Recycling Materials Processing Facility”, or “Recycling Materials Sorting Facility”, as defined in Section 12.03 of the Los Angeles Municipal Code.

The proposed ordinance (Appendix A) will clarify the distinctions between the temporary and permanent recycling centers and strengthen the regulations that apply to each. Temporary and permanent recycling centers will be more clearly classified as a “yard”, as governed by the provisions of L.A.M.C. Section 12.24 F, and will have annual inspections. Temporary recycling centers classified as “recycling collection or buyback sites” will be regulated by amended Section 12.21 A 18(c).

The attached ordinance (Appendix A) strengthens the regulations for the often temporary recycling collection and buyback centers by adding provisions governing their location, size and potential impacts on surrounding properties, pursuant to L.A.M.C. Section 12.21 A 18(c). Because of observed impacts on adjoining properties, several regulations are added to minimize future impacts on the surrounding properties. No portion of the recycling operation may be closer than 100 feet to an A or R Zone. Larger recycling centers tend to have greater impacts on other properties. Therefore, the total area for the recycling center may not exceed 600 square feet. Lastly, most of the provisions of similar recycling facilities in the M2 and M3 Zones will now be applied to those near grocery markets in a C1 or more restrictive zone. The provisions of L.A.M.C. Section 12.21 A 18(d)(3) through (19) will now be applied in order to ensure that there are adequate protections relative to distance, size, storage, clean up, hours of operation, administrative fees, etc. These added regulations should ameliorate the impacts most frequently observed at transient recycling collection and buyback sites typically located near grocery stores.

The ordinance will also strengthen the regulations for the more permanent “yards”, by amending L.A.M.C. Section 12.24 F with an expanded list of applicable uses plus an expanded list of potential violations that should lessen impacts that have occurred near those sites. The enforcement authority of the Department of Building and Safety will be strengthened by requiring annual inspections and enabling fines to be levied for each of the following violations: (1) a failure to maintain required landscaping; (2) a failure to maintain sites free of all non-recyclable trash and debris; (3) a failure to maintain recyclable material in appropriate containers; (4) a failure to pay an annual inspection fee within 60 days of assessment; and (5) a failure to provide or maintain the required minimum number of loading or parking spaces including any required handicapped spaces and necessary striping.

This ordinance strengthens the authority of the Department of Building and Safety by providing several additions to the L.A.M.C. that allow the Department of Building and Safety to issue Notices to Comply and also to revoke Certificates of Occupancy. Annual inspections will be performed on these centers to insure all zoning and building code requirements are being met. Further enhanced enforcement allows an arrest to be made or citation issued if the violations noted in a Notice to Comply are not corrected on or before the due date noted upon such notice. The ordinance also states that if the site does not have a valid Certificate of Occupancy, any and all rights granted with regards to non-conforming uses can be revoked.

This proposed ordinance amends the L.A.M.C. so that no materials of any kind (currently the L.A.M.C. only stipulates vehicles) shall be stacked or piled above the height standards. It also adds “crushing” and “melting” to the list of processes that are prohibited outside the required wall or fence of the recycling centers. No portion of the recycling operation may be closer than 100 feet from an agricultural or residential zone and the area for depositing recyclable materials may not exceed a total of 600 square feet.

For clarification purposes, this proposed ordinance modifies the application of inspection fees in the L.A.M.C. This includes a revised provision that any “accessory storage only yard” that is nearby but not contiguous to a main yard, may be approved and inspected with an additional fee of one half of the annual inspection fee for each such yard. It is also noted that it is a violation when a citation to comply is not corrected prior to the compliance date or any extension thereof, or if the annual inspection fee has not been paid within 60 days of assessment.

CONCLUSION:

The proliferation of temporary recycling centers has brought about a situation that is negatively impacting neighborhoods throughout the City. Guidelines for transient facilities are difficult to regularly enforce and for that reason they often attract a variety of un-related illegal activities. This proposed ordinance is intended to amplify the rules for different types of recycling facilities while enhancing the enforcement authority of the Department of Building and Safety to regulate all of these facilities, and thereby reduce negative impacts to surrounding properties.

The proposed amendment will expand the enforcement abilities and requirements of the Department of Building and Safety to reinforce the goal identified in the Framework Element of the General Plan that identifies specific standards to enhance and/or conserve the appearance and functionality of commercial areas. The proposed amendment also facilitates the landscaping of temporary recycling centers and permanent recycling yards to reduce any negative aesthetic impacts.

ENVIRONMENTAL REVIEW:

The proposed ordinance (Appendix A) is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Article II, Section 2, Subsection (m) of the City's Guidelines (ordinances which do not of themselves have an impact on the physical environment). Each individual project will have its own environmental clearance.

PROPOSED ORDINANCE FOR DISCUSSION
THE PEOPLE OF THE CITY OF LOS ANGELES
DO HEREBY ORDAIN AS FOLLOWS:

Section 1. Subparagraphs (3) through (5) of Paragraph (c) of Subdivision 18 of Subsection A of Section 12.21 of the Los Angeles Municipal Code are hereby added to read as follows:

(3) No portion of the recycling operation may be closer than 100 feet to an A or R Zone.

(4) The area for depositing recyclable materials shall not exceed a total of 600 square feet.

(5) The requirements of Subsection 12.21 A 18 (d) (3) through (d) (19) must be complied with at all times except that no reduction of any kind in required parking spaces is allowed.

Section 2. Subsection F of Section 12.26 of the Los Angeles Municipal Code is hereby amended to read as follows:

F. Automobile Dismantling Yards, Junk Yards, and Scrap Metal Materials Processing Yards, and Recycling Centers.

1. Definitions. As used in this subsection, the following terms have the definitions specified herein. The term "yard" means any automobile or truck dismantling yard, junk yard, scrap metal processing yard or any open storage location where used materials and equipment of any kind, including vehicles, boats, or airplanes which are inoperable, wrecked, damaged, or unlicensed, i.e., not currently licensed by the Department of Motor Vehicles, are stored or processed. The term "recycling center" means any "Recycling Center, Mobile", "Recycling Center Operator or Junk Dealer", "Recycling Collection or Buyback Center", "Recycling Materials Processing Facility", or "Recycling Materials Sorting Facility", as defined in Section 12.03 of the Los Angeles Municipal Code. The term "Superintendent" means the Superintendent of Building or his or her authorized representative. The term "Board" means the Board of Building and Safety Commissioners. The term "Department" means the Los Angeles Department of Building and Safety.

2. Applicability. The provisions of this subsection shall apply to every yard and recycling center operating pursuant to a valid certificate of occupancy. In addition, these provisions shall be applicable to every yard and recycling center operating without a certificate of occupancy pursuant to Section 12.23 of the Municipal Code, and as to such yards or recycling centers, any revocation proceedings authorized by these provisions shall be deemed to be proceedings to revoke and void any rights otherwise granted by Section 12.23.

3. Inspections. The Department of Building and Safety shall make an inspection of each yard or recycling center at least once a year to verify compliance with all applicable provisions of the Los Angeles Municipal Code. An annual inspection fee, as specified in Section 98.0402 (e) of the Los Angeles Municipal Code, shall be collected by the Department. An inspection may also be made whenever a complaint is received by the Department concerning a ~~yard~~ violation of the Municipal Code or as needed to verify continued compliance with applicable Municipal Code requirements. ~~If there are one or more accessory yards not contiguous to the main yard, an additional fee of one-half the annual inspection fee shall be charged for each such accessory yard.~~ Accessory storage only yards, where no business is conducted, which are nearby but not contiguous with a main yard may be approved and inspected with an additional fee of one half of the annual inspection fee for each such yard.

4. Notice to Comply. If a yard or recycling center so inspected is found to be in violation of any provision of the Municipal Code, the Superintendent shall send a notice to comply to the owner of the property and the operator of the yard or recycling center. The notice to comply shall clearly state the following:

(a) The violation must be corrected by a compliance date specified in the notice, which date shall be no more than 30 days from the date the notice is mailed.

(b) The compliance date as specified in the notice may be extended for an additional period not to exceed 45 days if the owner or operator of the yard or recycling center presents satisfactory evidence to the Superintendent that unusual difficulties prevent substantial compliance without such extension.

(c) Failure to correct the violation on or before the compliance date or any authorized extension thereof will lead to commencement of certificate of occupancy revocation proceedings. Such proceedings will terminate with a revocation hearing, which hearing may only be avoided if the violation is corrected and a fine paid according to the fine schedule in Subdivision 14 of this subsection.

5. Reinspection. The Superintendent shall reinspect a yard or recycling center for which a Notice to Comply was issued pursuant to this subsection subsequent to the compliance date or any authorized extension thereof.

6. Citation authority prior to Revocation Notice. An arrest may be made or citation issued as per Section 98.0408 of the Los Angeles Municipal Code if the violations noted in a notice to comply are not corrected on or before the due date noted upon such notice. This action does not preclude the commencement of revocation of certificate of occupancy proceedings.

67. Failure to Correct Violation; Revocation Proceedings. If any violation specified in a notice or a citation to comply is not corrected prior to the compliance date or any extension thereof, or if the annual inspection fee has not been paid within 60 days of assessment, then certificate of occupancy revocation proceedings shall be commenced by issuance of a notice of revocation, which shall be sent to the owner of the property and the operator of the yard or recycling center subsequent to any reinspection pursuant to Subdivision 5 of this subsection. The notice of revocation shall state the following:

(a) The date and place of the revocation hearing, which shall be scheduled at least 15 days and not more than 90 days from the date of issuance of the notice of revocation.

(b) A list of all violations uncorrected as of the compliance date.

(c) Copies of all inspection reports related to such violations, unless such copies were previously furnished to the owner or operator.

(d) Termination of revocation proceedings may only be obtained if each violation noted in the notice of revocation is corrected before the date of the revocation hearing and if a specified fine is paid, which fine shall be fixed in accordance with the fine schedule in Subdivision 14 of this subsection.

(e) The owner or operator is entitled to be represented by legal counsel at any revocation hearing.

(f) Each violation of the Municipal Code and each day of operation without a certificate of occupancy is a misdemeanor.

78. Termination of Revocation Proceedings. The Superintendent shall terminate certificate of occupancy revocation proceedings upon a finding that each violation of this Municipal Code specified in the notice of revocation has been corrected and the fine specified in such notice has been paid. Such termination may only occur on or before the date of the revocation hearing.

89. Revocation Hearing. On the date specified in the notice of revocation, a certificate of occupancy revocation hearing shall be held. The Board may appoint a Hearing Examiner to conduct such hearing, which Examiner shall not be any individual who participated in the issuance of any of the notices required by this subsection. Subpoenas may be issued pursuant to Section 98.0307 of the Municipal Code. The hearing shall be conducted pursuant to the provisions of Sections 93.0308 and 98.0309 of the Municipal Code.

910. Hearing Examiner's Report. Within 30 days of the last day of the revocation hearing, the Hearing Examiner shall report his findings and recommendations in writing to the Board.

4011. Board Determination. Within 15 days of receipt of the Hearing Examiner's report, the Board shall determine whether the certificate of occupancy shall be revoked. Such revocation shall be ordered by the Board if it finds that any required fines have not been paid or any of the violations specified in the notice to comply were not corrected on the revocation hearing date, except for the circumstances stated in the next paragraph.

The Board may, in its discretion, determine that a certificate of occupancy should not be revoked if it makes both of the following findings:

(a) Taken together, the violations specified in the notice to comply and uncorrected as of the revocation hearing date have such a minimal adverse effect on neighboring properties or on the general public as to not warrant revocation.

(b) The owner or operator of the yard has paid the fine specified in Subdivision 14 of this section with respect to each such uncorrected violation.

In making its determination, the Board may hear from the owner, operator, or other interested party. The determination by the Board is final.

4412. Loss of Nonconforming Rights. Notwithstanding any provision of this Municipal Code to the contrary, where a certificate of occupancy is revoked pursuant to this subsection, a new certificate of occupancy for the property may only be issued if all requirements of the Municipal Code in effect at the time of issuance of such new certificate are satisfied. In the case of a site that has no valid certificate of occupancy or use of land permit, any and all rights granted by Section 12.23 are revoked.

4213. Appeals. Notwithstanding any provision of the Municipal Code to the contrary, there shall be no appeal to the Board of Building and Safety Commissioners from any notice issued or determination made by the Superintendent pursuant to this Subsection F.

4314. Repeat Violations. Notwithstanding any provision of this subsection to the contrary, if a Notice to Comply is issued for violation of a provision of the Municipal Code, and after compliance with it, a subsequent Notice to Comply is issued for a violation of the same provision occurring within one year of the date of the initial notice:

(a) Each violation cited in a subsequent Notice to Comply shall carry a fine as specified in Section 98.0402 (f) 1 of the Los Angeles Municipal Code and shall be paid prior to the compliance date. If this fine is not paid by the compliance date, the fine shown in the fine schedule in Subdivision 14 shall supersede it.

(b) The compliance date for any such notice to comply shall be no more than ten days from the date of mailing of such notice.

(c) No extension of the compliance date may be granted.

(d) The amounts set forth in the fine schedule in Subdivision 14 of this subsection shall be doubled if revocation proceedings were started for any previous Notice to Comply.

4415. Fine Schedule. The fine specified in the Notice of Revocation shall be:

(a) A fine as specified in Section 98.0402,(f),2,A of the Los Angeles Municipal Code shall be levied for each of the following violations:

(1) Wall or fencing in disrepair.

(2) Vehicles or materials of any kind stacked or piled above the height standards specified in the Municipal Code.

(3) Storage of vehicles or materials outside the required walls or fences surrounding the yard or recycling center.

(4) Failure to provide or maintain the required loading space or the required minimum number of parking spaces, including any required handicapped spaces and necessary striping.

(5) Dismantling, repairing, wrecking, modifying, processing, stripping, crushing, melting, or otherwise working on any vehicles, ~~or other vehicle~~ parts, or materials or equipment of any kind outside the required wall or fence.

(6) Failure to maintain required landscaping.

(7) Failure to maintain recycling center sites free of all non-recyclable trash and debris and failure to maintain recyclable material in appropriate containers.

(8) Failure to pay annual inspection fee within 60 days of assessment.

(b) A fine for each violation as specified in Section 98.0402,(f),2,A of the Los Angeles Municipal Code shall apply to all other violations specified in the Notice of Revocation.

Section 3. The City Clerk shall certify . . .