



CITY OF POMONA

COUNCIL REPORT

June 3, 2019

To: Honorable Mayor and Members of the City Council

From: Linda Lowry, City Manager

Submitted By: Mark J. Gluba, Deputy City Manager
Anita Gutierrez, Development Services Director

**SUBJECT: STATUS UPDATE ON CODE ENFORCEMENT CASES FOR
RECYCLING FACILITIES AND OTHER INDUSTRIAL USES -
RECEIVE AND FILE**

RECOMMENDATION:

It is recommended that the City Council review and receive and file this update on code enforcement cases for recycling facilities and other industrial uses.

EXECUTIVE SUMMARY:

This staff report is presented in response to a request for code enforcement information at the May 6, 2019 City Council meeting in part emanating from a recent fire at Master Recycling Center, a private business in District 3, and to highlight concerns over the deployment and accountability of code enforcement resources. The report includes a recap of the 2016 recycling inspection and resulting enforcement, an update on the status of recycling businesses, and an explanation of the dedicated "Industrial" Code Officer duties.

FISCAL IMPACT: *None*

PREVIOUS RELATED ACTION: At the Meeting on May 6, 2019, several speakers expressed concerns about a recent fire at an industrial business on South Reservoir Street. The City Council subsequently requested that staff prepare a report with an updated status on Code Enforcement at recycling facilities in the City. At the Meeting on October 3, 2016, the City Council received and filed an inspection report on waste and recycling businesses and directed staff to enforce violations against businesses not in compliance with development and operational standards defined in the City's Zoning Code or in violation of conditions within the respective business' Conditional Use Permits.

DISCUSSION:

In August and September of 2016, the Code Enforcement Division, coordinated by then Planning Manager Johnson, conducted inspections of all waste and recycling facilities known to be operating in the City, issued notices of violation when violations were observed and took subsequent Code Enforcement actions to compel compliance with City Codes amongst these businesses. An updated compliance summary of these businesses is contained below.

As part of the Conditional Use Permit for the Pomona Valley Transfer Station located at 1371 E/ 9th Street operated by Valley Vista Services (Valley Vista), Valley Vista provides the City with \$100,000 annually toward funding one Code Enforcement Officer position, that is dedicated to enforcement activities of all businesses operating in the City's Industrial Zones.

Recycling Facility Background and Status

Prior to adoption of the Waste and Recycling Ordinance, recycling centers were permitted in the C-IND, M-Special Industrial, M-1 and M-2 Zones. Some facilities would have required a Conditional Use Permit, if they were explicitly defined as a recycling center or were on a property of one acre in size or greater or had a building footprint of more than 20,000 square feet. However, other facilities may not have been explicitly defined as a recycling center prior to 2017, even though it may have been reasonable to infer that they were involved in the recycling goods supply chain.

For instance the M-Zones allowed for the manufacturing of plastics and synthetics as a by-right use, which we would today consider part of the recycling goods supply chain. The 2017 Waste and Recycling Ordinance addressed this issue by adding more inclusive definitions to capture the full breadth of waste and recycling uses. Facilities that were legally established prior to the implementation of the Waste and Recycling Ordinance would be considered legal non-conforming and would therefore be allowed to continue operations unless the use discontinued operation for a period of two or more years.

The Planning Commission may revoke the conditional use permits for any property operating as a recycling center if they have violated the terms of conditions for their entitlements or have ceased operation. In 2019, the Planning Division revoked eight (8) such entitlements all of which were associated with Mission Recycling.

The October 3, 2016, Council Staff Report detailing the results of the 2016 recycling and waste facility inspections is attached (Attachment 1). As indicated in that report, the former Waste and Recycling Task Force identified 16 "waste and recycling" facilities within the City. A review of these Code Enforcement case files since 2016 reveals some businesses, which have been in operation prior to the City's adoption of the Waste and Recycling Ordinance, that were not included on the inspection reports in the 2016 Council Report. This fact, along with the description of the recycling supply chain above, create some difficulty in reconciling the status of some current Code Enforcement activities pertaining to "recycling" businesses, with the previous report and some discrepancies as to what constitutes a recycling business as defined within the Waste and Recycling Ordinance. Additionally, within the 2016 Report, staff indicated multiple businesses that were identified by the Task Force as "Recycling Businesses" but were ultimately determined not to be waste or recycling businesses as defined in the Ordinance.

The majority of the businesses inspected as part of the 2016 Waste and Recycling Inspection detail were either free of violations, or have achieved compliance with City Codes as a result of various Code Enforcement activities. Staff identified six open and active Code Enforcement cases for businesses that are either identified as Waste and Recycling businesses or were included in the 2016 Waste and Recycling Inspection Report. The business names and addresses of the facilities with open and active Code Enforcement cases are, as follows:

MACO – 1820 S. Reservoir St.
Master Recycling Center – 1980 S. Reservoir St.
Pomona Scrap Metal – 1432 E. Franklin St
Recycling Resources – 1406 W. 2nd Street
Stericycle – 2490 Pomona Blvd.
Allan Company – 1404 W. Holt Blvd.

While these locations have opened and active cases, each may be at a different stage of implementing the changes necessary to achieve compliance with the City Codes. The aforementioned fire at Master Recycling has been determined to be caused by human activity and is under investigation by LA County Fire. After review of Code Compliance case notes for this parcel, there does not appear to be any correlation between the fire and any open Code violations. Additionally, existing violations are not necessarily directly attributable to the use of the facility for waste or recycling purposes. Examples of such violations may include violations such as fencing exceeding standard heights or minor unpermitted structures that can be brought into compliance with appropriate permitting, demolition or other approved staff or Planning Commission related actions. As such, each case must be reviewed individually to identify the most effective means of achieving compliance. Code Enforcement staff is preparing a file on each open and active case for review with Development Services and legal Counsel, as appropriate. Staff will brief the City Council and seek direction should progressive actions be necessary to achieve compliance.

Industrial Inspector Background and Status

As part of the Conditional Use Permit for the Pomona Valley Transfer Station located at 1371 E/ 9th Street and operated by Valley Vista Services (Valley Vista), Valley Vista provides the City with \$100,000 annually toward funding one Code Enforcement Officer position, that is dedicated to enforcement activities, of all businesses, operating in the City's Industrial Zones. This amount was agreed to during negotiations with Valley Vista in an effort to address inability of the City's limited resources to effectively enforce Code and CUP requirements within these areas. However, this funding and current staffing within Code Enforcement is not sufficient to administer a comprehensive and proactive industrial Code Enforcement Program.

According to information within the City's GIS systems Pomona has 1,213 parcels zoned for industrial uses representing over 1,761 acres in area. The Industrial Inspector is responsible for all Code Enforcement inspections, complaints and enforcement actions within the industrial areas. These duties include, initial and follow up inspections, coordinated research with the Planning Division of individual CUPs, issuance of notices of violation and administrative

citations and coordinating activities with the City prosecutor, including providing testimony in the court process when necessary.

The City's Industrial Inspector balances the above duties and follow-up on open cases within the City's industrial zones, while performing industry specific inspection details at the direction of management. The most recent focus has been a concentrated pallet yard enforcement detail. Code Enforcement is working with Development Services to identify similar industrial uses and CUPs to facilitate an effective work plan for the methodical, fair and risk-wise inspection of all industrial uses as resources permit. Annual inspections of all recycling uses and the prioritization of inspection and compliance of the City's pallet yards are a priority that rests within oversight of all of the City's industrial zoned properties.

Prepared by:

Mark J. Gluba
Deputy City Manager

ATTACHMENT: October 3, 2016 Council Report on Inspections of Waste and Recycling Businesses