



NEW BUSINESS





## STAFF REPORT

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**To:** SBWMA Board Members  
**From:** Robert J. Lanzone, SBWMA Legal Counsel  
**Date:** November 15, 2012 Board of Director's Meeting  
**Subject:** Election of Vice Chair

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### Recommendation

Staff recommends the following process for the Board to follow in electing a Vice Chair for the balance of calendar 2012 and until new Board elections are held at the January 2013 Board of directors meeting:

1. Chair calls for nominations for the position of Vice Chair (nominations do not require a second).
2. Motion is adopted to close nominations.
3. Board votes on nominations in the order in which the nominations were made until a Vice Chair is elected.
4. Sections 8.5 and 10.8 of the JPA Agreement require the successful vote to be by 2/3 of the Directors present.

The Board also has the option of leaving this position vacant until the next Board meeting in January 2013.

### Background

The SBWMA Joint Powers Agreement was amended in 2005 to provide for the annual election of a Chair and Vice Chair from amongst the SBWMA Board members. (JPA Agreement sec. 8.5 and 8.6). The Vice Chair position is vacant due to the resignation of Board Member Jesus Nava who has accepted a new position outside of the service area.





## STAFF REPORT

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**To:** SBWMA Board Members  
**From:** Kevin McCarthy, Executive Director  
Marshall Moran, Finance Manager  
**Date:** November 15, 2012 Board of Director's Meeting  
**Subject:** Resolution Approving Shoreway Environmental Center Tipping Fee Adjustments Effective 1/1/13

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### Recommendation

It is recommended that the SBWMA Board of Directors approve Resolution No. 2012-24 attached hereto authorizing the following action:

Approval of the following Shoreway facility tipping fee adjustments effective January 1, 2013:

- Increase franchised solid waste disposal rate by \$3.00/ton from \$88.00/ton to **\$91.00/ton**
- Increase franchised residential organics recycling rate by \$3.00/ton from \$89.00/ton to **\$92.00/ton**
- Increase franchised commercial food waste recycling rate by \$3.00 from \$101.00/ton to **\$104.00/ton**
- Increase non-franchised weighed rates by \$1.00 from \$90.00/ton to **\$91.00/ton**
- Increase public (residential, commercial) solid waste disposal rates by \$1.00/cubic yard from \$33.00/cubic yard to **\$34.00/cubic yard**
- Increase public (residential, commercial) clean plant material and wood recycling rates by \$1.00/cubic yard from \$22.00/cubic yard to **\$23.00/cubic yard**
- Increase public construction and demolition recycling rate by \$1.00/cubic yard from \$29.00/cubic yard to **\$30.00/cubic yard**

The Board adopted FY 2013 budget assumed the above tipping fee adjustments. These tip fee assumptions were also used in the disposal expense projection in the SBWMA Final Report on Review of 2013 Recology Compensation Application, Appendix F, approved by the board in September.

### Analysis

When evaluating potential adjustments to the Shoreway tipping fees, staff took into consideration three key factors:

- Updated calendar year 2012 and 2013 financial projections ("updated bond proforma"), including net operating surplus/shortfall and cash reserve balances (designated and undesignated reserves).
- An analysis of tip fees collected per ton versus actual operating costs per ton by material type (solid waste, residential organics, plant materials, food scraps and C&D).
- Compliance with bond debt covenant requirements.

As part of the analysis we also completed our annual survey of tipping fees at select Bay area transfer stations and landfills and have included the results as **Attachment A**. This rate survey is relevant for comparing certain public rates at local facilities in competition with Shoreway for public customers; these facilities would be Ox Mountain Landfill and FERMA in Redwood City. The Board's previous actions to lower green waste and C&D rates at Shoreway, coupled with price increases at competing facilities, has proven successful in reversing yardage declines and in fact has increased public business at Shoreway; this is the basis for recommending only minor rate increases for public customers.

### ***Updated SBWMA Financial Projections for Calendar Year 2012 and 2013***

Updated financial projections for calendar year 2012 and 2013 are shown in **Table 1** on the next page. The 2013 projected net income of \$1.73 million is slightly lower than the \$1.77 million in the September projection included as

Table 8 in the final SBR rate application report. The calendar year projections were used to update cash reserve balances as shown in Table 2.

Table 1

<i>estimate</i>	Calendar Year		% Change	% of Total
	2012 Projection	2013 Projection		
<b>Operating Revenue</b>				
Franchise Revenue	25,141,647	26,241,154	4.4%	64.6%
Public Revenue	4,568,631	4,950,295	8.4%	12.2%
Commodity Material Sales	10,098,913	10,013,622	-0.8%	24.6%
Commodity Revenue Sharing	(1,272,181)	(1,248,300)	-1.9%	-3.1%
HHW Program	426,317	500,462	17.4%	1.2%
Other Revenue	159,430	170,000	6.6%	0.4%
<b>Total Operating Revenue</b>	<b>39,122,756</b>	<b>40,627,233</b>	<b>3.8%</b>	<b>100.0%</b>
<b>Operating Expenses</b>				
SBR Operating Cost	14,689,033	15,861,720	8.0%	40.8%
SBR Interim Operation Cost	-	-		
Subtotal SBR Cost	14,689,033	15,861,720	8.0%	40.8%
Allied 2009 Adjustment				
Allied 2010 Adjustment	641,000	-	-100.0%	
Off-site Processing to Smurfit				
Disposal Expense	13,588,473	14,171,495	4.3%	36.4%
Buyback Payments	583,839	583,839	0.0%	1.5%
Shoreway Facility & Maintenance	85,000	205,000	141.2%	0.5%
<b>Total Operating Cost</b>	<b>29,587,345</b>	<b>30,822,053</b>	<b>4.2%</b>	<b>75.9%</b>
SBWMA Operating Budget	2,852,910	2,740,468	-3.9%	7.0%
HHW Program	426,317	500,462	17.4%	1.3%
Ed Center Operations	70,000	60,000	-14.3%	0.2%
Insurance & Sewer	220,784	227,203	2.9%	0.6%
Franchise Fee	1,415,000	1,485,000	4.9%	3.8%
<b>Total Other Costs</b>	<b>4,985,011</b>	<b>5,013,133</b>	<b>0.6%</b>	<b>12.9%</b>
<b>Total Expense</b>	<b>34,572,356</b>	<b>35,835,187</b>	<b>3.7%</b>	<b>92.1%</b>
<b>Non-Operating</b>				
Interest Income < >	(126,077)	(65,042)	-48.4%	-0.2%
Interest Expense	3,177,862	3,123,112	-1.7%	8.0%
Subtotal	3,051,785	3,058,070	0.2%	7.9%
<b>Total Expense</b>	<b>37,624,140</b>	<b>38,893,257</b>	<b>3.4%</b>	<b>100.0%</b>
<b>Net Operating Income</b>	<b>\$ 1,498,616</b>	<b>\$ 1,733,977</b>	<b>15.7%</b>	
<b>Other non-Operating Payments</b>				
Capital Expenditures	1,868,905	350,000		
Miscellaneous	(259,748)	175,000		
Bond Principal Payments	1,095,000	1,150,000		
<b>Net Cash Flow</b>	<b>(1,465,289)</b>	<b>233,977</b>		
<b>Bond Covenant</b>				
Break Even 1	1.0104	1.0146		
Debt Coverage 2	1.43	1.48		
1 Required to be 1.0 or greater				
2 Required to be 1.4 or greater				

The projected net income for calendar year 2013 results in meeting both bond covenant tests of break-even and debt coverage ratio of 1.4, but close to the minimum levels required; this leaves little room for negative variances in our financial projections. However, even a slight negative variance to projected costs or commodity prices may require a revenue transfer for 2012 and/or 2013 to meet bond covenant requirements.

Table 2 below shows \$8.5 million in cash reserves for calendar year 2013 which is \$1.1 million below our funding target of \$9.62 million to meet all current Board approved reserve funding levels. The \$8.5 million is net of the accrual of funds to pay off the \$3 million bond (loan) from Burlingame which is due in September 2014. A subcommittee of the Board and agency staff will be evaluating our current cash reserve policies to determine if changes are warranted in the type and amounts of such reserves.

Table 2

SBWMA RESERVE BALANCES	CALENDAR 2011 Projection	CALENDAR 2012 Estimate	CALENDAR 2013 Estimate	IF FULLY FUNDED FY2013	VARIANCE
<b>UNRESTRICTED:</b>					
OPERATING RESERVE (10% of total expense)	\$ 3,479,184	\$ 3,457,236	\$ 3,583,519	\$ 3,583,519	\$ -
RATE STABILIZATON (10% of expense)	\$ 3,479,184	\$ 3,457,236	\$ 2,489,668	\$ 3,583,519	\$ (1,093,851)
EQUIPMENT (ANNUAL - start in 2012)		\$ 1,225,000	\$ 2,450,000	\$ 2,450,000	\$ -
UNDESIGNATED	\$ 2,698,301	\$ 1,161,179	\$ (0)	\$ (0)	\$ -
<b>SUBTOTAL UNRESTRICTED GENERAL RESERVES</b>	<b>\$ 9,656,669</b>	<b>\$ 9,300,650</b>	<b>\$ 8,523,186</b>	<b>\$ 9,617,037</b>	<b>\$ (1,093,851)</b>
<b>COMMITTED:</b>					
MASTER PLAN INTERNAL CAPITAL SPENDING	\$ 1,685,963				
BOND PRINCIPAL PAYMENT FUND	\$ 365,000	\$ 383,333	\$ 401,667	\$ 401,667	\$ -
BURLINGAME BOND REPAYMENT FUND	\$ 818,107	\$ 1,636,215	\$ 2,454,322	\$ 2,454,322	\$ -
<b>TOTAL GENERAL RESERVES</b>	<b>\$ 12,525,740</b>	<b>\$ 11,320,198</b>	<b>\$ 11,379,175</b>	<b>\$ 12,473,026</b>	<b>\$ (1,093,851)</b>

Based on the projections shown in Tables 1 and 2, staff does not recommend any reductions to the assumed tipping fee adjustments incorporated into the FY13 adopted budget although the Board may want to consider higher tip fees to have more of a cushion to meet bond covenants without the possible need for a revenue transfer in 2013.

**Recommended Tipping Fees vs. Projected 2013 Operating Costs**

The projected operational and disposal costs below are based on data taken from the Board approved 2013 South Bay Recycling Compensation Application. Table 3 on the next page shows the breakout of operational costs.

**2013 projected franchise rates:**

	(Revenue)	(Operational Expense)	
	Recommended		
<u>Material</u>	<u>Tipping Fee</u>	<u>Operational Costs (SBR + disposal/processing rates + SBWMA)</u>	
Solid Waste	\$91.00/ton	\$27.68 (SBR) + \$38.65 (Ox Mtn. rate) + \$18.29 (SBWMA) =	\$84.62/ton
Residential Organics	\$92.00/ton	\$36.97 (SBR) + \$38.89 (Newby & Grover) + \$18.29 (SBWMA) =	\$94.15/ton
Comm. Food Waste	\$104.00/ton	\$40.13 (SBR) + \$53.72 (Newby & Grover) + \$18.29 (SBWMA) =	\$112.14/ton
Inerts	\$91.00/ton	\$28.13 (SBR) + \$24.54 (Ox Mtn.) + \$18.29 (SBWMA) =	\$70.96/ton

All proposed tipping fees for franchised and public customers cover operational costs except for residential organics and commercial food waste. With close management of contractual obligations to the organics processors, staff believes we can manage operational costs below those shown above for residential organics and commercial food waste.

2013 projected public rates:

	(Revenue)	(Operational Expense)	
	Recommended		
Material	Tipping Fee	Operational Costs (SBR + disposal/processing rates+ SBWMA)	
Solid Waste	<b>\$34.00/yard</b>	\$5.54 (SBR) + \$7.73 (Ox Mtn. rate) + \$3.66 (SBWMA) =	<b>\$16.93/yard</b>
Green Waste	<b>\$23.00/yard</b>	\$6.93 (SBR) + \$8.35 (Biofuels/Zanker) + \$4.12 (SBWMA) =	<b>\$19.40/yard</b>
C&D	<b>\$30.00/yard</b>	\$9.68 (SBR) + \$14.15 (Zanker Road) + \$5.74 (SBWMA) =	<b>\$29.57/yard</b>

Table 3 details the cost components that make-up what is paid to SBR to handle and ship all materials, the disposal and processing costs (passed through by the SBWMA from our vendors) and SBWMA program administration, debt and reserve funding requirements. The dollar amounts shown for "reserve funding" reflect the 2013 projected cash reserves of \$8.5 million. Cost estimates for self-haul yards were derived from converting tonnage figures to yardage figures using assuming densities for each material.

Table 3

2013 Cost / Ton (Estimated):											
	SBR										estimate
	Transfer Station	Transp	SBR P-T	SubTotal	Disposal	SBWMA Admin	Franchise Fee & Other	Debt	Reserve Funding		TOTAL / Ton
<b>FRANCHISE</b>											
Solid Waste	\$ 11.76	\$ 15.30	\$ 0.61	\$ 27.68	\$ 38.65	\$ 6.60	\$ 4.21	\$ 2.55	\$ 4.93		\$ 84.61
Residential Organics	\$ 11.76	\$ 24.59	\$ 0.61	\$ 36.97	\$ 38.89	\$ 6.60	\$ 4.21	\$ 2.55	\$ 4.93		\$ 94.14
Commercial Food Waste	\$ 11.76	\$ 27.75	\$ 0.61	\$ 40.13	\$ 53.72	\$ 6.60	\$ 4.21	\$ 2.55	\$ 4.93		\$ 112.13
Inerts	\$ 11.76	\$ 15.76	\$ 0.61	\$ 28.13	\$ 24.54	\$ 6.60	\$ 4.21	\$ 2.55	\$ 4.93		\$ 70.95
2013 Cost / Yard (Estimated):											
	SBR										TOTAL / Yard
<b>SELF-HAUL</b>											
Solid Waste	\$ 2.35	\$ 3.06	\$ 0.12	\$ 5.54	\$ 7.73	\$ 1.32	\$ 0.84	\$ 0.51	\$ 0.99		\$ 16.92
Green Waste	\$ 2.65	\$ 4.15	\$ 0.14	\$ 6.93	\$ 8.35	\$ 1.49	\$ 0.95	\$ 0.57	\$ 1.11		\$ 19.40
C&D	\$ 3.70	\$ 5.79	\$ 0.19	\$ 9.68	\$ 14.15	\$ 2.07	\$ 1.32	\$ 0.80	\$ 1.55		\$ 29.59



## Background

Historical tipping fees at the Shoreway facility are summarized below.

Year:	2007	2008	2009	1/1/10	7/1/10	1/1/11	7/1/11	1/1/12
<b>Rates</b>								
Franchised Solid Waste	\$61.00/ton	\$63.00/ton	\$72.00/ton	\$81.00/ton	\$84.00/ton	\$90.00/ton	Same	\$88.00/ton
Franchised Plant Materials/Organics	\$48.50/ton	\$52.50/ton	\$60.50/ton	\$69.50/ton	\$70.00/ton	\$79.00/ton	Same	\$89.00/ton
Franchised Food Waste								\$101.00/ton
Public Solid Waste	\$22.00/yard	\$25.00/yard	\$29.00/yard	\$34.00/yard	\$35.00/yard	\$40.00/yard	\$35.00/yard	\$33.00/yard
C&D	\$22.00/yard	\$25.00/yard	\$29.00/yard	\$34.00/yard	\$28.00/yard	\$29.00/yard	\$29.00/yard	\$29.00/yard
Public Green Waste	\$16.50/yard	\$19.00/yard	\$22.00/yard	\$25.00/yard	\$25.00/yard	\$25.00/yard	Same	\$22.00/yard

## Fiscal Impact

The recommended tipping fee adjustments have the net effect of increasing franchise revenue by \$854,000 which has an approximate 0.9% impact on customer solid waste collection rates. The public tip fee adjustments increase revenue by \$161,000.

### Attachments:

Resolution 2012-24

Attachment A -- Comparison of Bay Area Transfer Station and Landfill Rates



## RESOLUTION NO. 2012-24

### RESOLUTION OF THE SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY BOARD OF DIRECTORS APPROVING SHOREWAY ENVIRONMENTAL CENTER TIPPING FEE ADJUSTMENTS EFFECTIVE JANUARY 1, 2013

**WHEREAS**, staff has submitted a report to the Board, dated November 15, 2012 recommending adjustments to the tipping fees charged at the Shoreway Environmental Center (the Tipping Fees); and

**WHEREAS**, the SBWMA Board has reviewed the suggested changes to the Tipping Fees.

**NOW, THEREFORE, BE IT RESOLVED** that the SBWMA Board approves the adjustments to the Tipping Fees as recommended in the staff report.

**PASSED AND ADOPTED** by the Board of Directors of the South Bayside Waste Management Authority, County of San Mateo, State of California on the this 15th day of November, 2012, by the following vote:

Agency	Yes	No	Abstain	Absent	Agency	Yes	No	Abstain	Absent
Atherton					Menlo Park				
Belmont					Redwood City				
Burlingame					San Carlos				
East Palo Alto					San Mateo				
Foster City					County of San Mateo				
Hillsborough					West Bay Sanitary Dist				

I HEREBY CERTIFY that the foregoing Resolution No. 2012-24 was duly and regularly adopted at a regular meeting of the South Bayside Waste Management Authority on November 15, 2012.

ATTEST:

\_\_\_\_\_  
Jim Porter, Chairperson of SBWMA

\_\_\_\_\_  
Cyndi Urman, Board Secretary

Facility	City	Public	Private	Permitted TPD	HH Trash		Comm. Trash		Green Waste		Clean Wood		Dirt, rocks (inerts)		C & D	
					cy	ton	cy	ton	cy	ton	cy	ton	cy	ton	cy	ton
SBWMA- Shoreway (current)	San Carlos	<input checked="" type="checkbox"/>		3000	\$33.00	\$88.00*	\$33.00	\$88.00*	\$22.00	\$89.00*	\$22.00	\$89.00*		\$90.00	\$29.00	
Shoreway proposed new rates	Proposed rate adjustments per adopted FY 11/12 budget				\$34.00	\$91.00	\$34.00	\$91.00	\$23.00	\$92.00	\$23.00	\$92.00		\$91.00	\$30.00	
Berkeley Transfer Station (rates effective 1/1/10)	Berkeley	<input checked="" type="checkbox"/>		560	\$29.00	\$126.00	\$29.00	\$126.00	\$23.00	\$67.00	\$23.00	\$67.00			\$29.00	\$126.00
Sunnyvale Smart Station (rates effective March 2012)	Sunnyvale	<input checked="" type="checkbox"/>		1500	\$16.50				\$15.00		\$20.00		\$69.50		\$34.00	
FERMA	Redwood City		<input checked="" type="checkbox"/>	174 - C&D 499 - WW & GW					\$18.00	\$40.00	\$16.00		\$25.00		\$25.00	
Blue Line Transfer (South SF-Scavenger)	S. San Francisco		<input checked="" type="checkbox"/>	1200		\$88.00		\$88.00		\$76.00		\$73.00		\$62.00		
WM Davis Street TS (2/1/11)	San Leandro		<input checked="" type="checkbox"/>	5600	\$30.62	\$121.43	\$30.62	\$121.43	\$26.00		\$26.00	\$60.00	\$55.00	\$105.00	\$30.62	\$121.43
Fremont Recycling & TS (BLT Enterprises)	Fremont		<input checked="" type="checkbox"/>	2400		\$84.83		\$84.83		\$79.42		\$79.42		\$79.42		\$84.83
Newby Island Landfill (Republic) (effective 7/1/12)	Milpitas		<input checked="" type="checkbox"/>	4000	\$49.00		\$49.00		\$36.00				\$33.00		\$36.00	
Ox Mountain Landfill (Republic) (effective 1/1/12)	Half Moon Bay		<input checked="" type="checkbox"/>		\$26.00	\$62.00	\$26.00	\$62.00	\$20.00	\$35.00	\$20.00	\$35.00	\$25.00	\$25.00	\$26.00	\$26.00
San Bruno Transfer Station (Recology)	San Bruno		<input checked="" type="checkbox"/>		\$50.00				\$50.00	\$65.00	\$50.00	\$65.00	\$65.00		\$40.00	\$65.00
SF Dump (Sunset Scavenger- Recology)	San Francisco		<input checked="" type="checkbox"/>	3000		\$140.76								\$140.76		\$140.76
Zanker Materials Recovery and Landfill	San Jose		<input checked="" type="checkbox"/>		\$25.00		\$25.00		\$12.00		\$8.00		\$25.00		\$25.00	

Note: \*SBWMA member agency rate.





## STAFF REPORT

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To: SBWMA Board Members  
From: Kevin McCarthy, Executive Director  
Cliff Feldman, Recycling Programs Manager  
Date: November 15, 2012 Board of Director’s Meeting  
Subject: Discussion on Model Anti-Scavenging Ordinance

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### Recommendation

This staff report is for discussion purposes only and no formal action is requested of the Board of Directors.

### Analysis

As the illegal scavenging of recyclable materials continues by and large unabated in our service area and elsewhere, Staff has been focused on strategies to address this problem. Even though the impact of the illegal theft of recyclables is difficult to quantify, it is a problem that staff is encouraging our Member Agencies to consider addressing. Given the investment in recycling processing and collection infrastructure, our Member Agencies would be well served to consider adopting an ordinance in an effort to mitigate the problems attributable to illegal scavenging, such as lost revenue and potential links to other crime.

On October 15, 2012, Staff shared with the Board the attached report (i.e., A Review of Anti-Scavenging Ordinances) prepared by Cascadia Consulting. The report provides information on the experiences of seven California municipalities that have adopted an anti-scavenging ordinance, two of which are Member Agencies. In addition, it includes a model anti-scavenging ordinance that can be modified for use by Agencies interested in developing an ordinance.

The report was shared with our Member Agencies in advance of the November Board meeting in an effort to facilitate a discussion. Policy decisions such as this potentially impact several municipal departments (e.g., code compliance, police, city hall hotline, etc.) and of course have political implications. While Staff did not receive any feedback on the on the email Report sent to the Board on October 15, we are once again encouraging our Member Agencies to distribute this report to the pertinent staff in your Agency and consider bringing forth questions to the November Board meeting in order for other Member Agencies to benefit from your unique perspective.

### Background

The problem of illegal scavenging of recyclable materials has persisted since the inception of the first curbside recycling programs in California. Along with passage of the California Integrated Waste Management Act of 1989 (AB939) establishing local diversion mandates, the State also promulgated regulations making the illegal theft of recyclable materials an offence punishable as a misdemeanor under Penal Code 18. This statute, Public Resources Code section 41950, made illegal the unauthorized removal of recyclable materials from a recycling container. However, the practical effect of having this law is minor since this type of crime is prosecuted by the County District Attorney and has consistently been given a very low priority.

In addition, Recology continues to share timely and useful examples of this problem with our Member Agencies and the company's efforts are appreciated. In the recently released Third Quarter Report from Recology, the company included a handful of pictures illustrating this problem. However, one of the only practical methods to address this problem is for an Agency to adopt and enforce an anti-scavenging ordinance.

**Fiscal Impact**

There is no fiscal impact associated with this discussion.

**Attachments:**

Attachment A – A Review of Anti-Scavenging Ordinances

(Please note that Appendix B-5, D-1, D-2, D-3 and D-4 print on 8½x14 paper due to size.)



South Bayside Waste Management Authority (RethinkWaste)

# A Review of Existing Anti-Scavenging Ordinances

July 2012 Report

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## INTRODUCTION

Cascadia Consulting Group, Inc. was contracted by the SBWMA to research and analyze various aspects of anti-scavenging ordinances. This analysis informed the development of a draft model ordinance for use by the Member Agencies.

Cascadia researched 15 cities (14 in California and one in New Jersey) with existing Municipal Code provisions addressing residential and commercial recyclables scavenging and similar in population to SBWMA's Member Agencies. Seven of these cities were selected to participate in a telephone survey pertaining to their anti-scavenging ordinance and related activities.

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## METHODOLOGY

Cascadia conducted online research and literature reviews and identified 14 cities in California and one in New Jersey that had existing anti-scavenging ordinances in place and were similar in population size to the SBWMA Member Agencies. For each ordinance identified, Cascadia documented the following key elements:

- ◆ How the ordinance defined scavenging
- ◆ The specific activities prohibited by the ordinance
- ◆ Penalties, if any, specified in the ordinance

To gain additional information and feedback on the anti-scavenging ordinances, seven of the cities were selected for a telephone survey. Cities represented through interviews were Chula Vista, Encinitas, Foster City, Palo Alto, Redwood City, Sacramento, and Sonoma. These cities were selected based on specific criteria, including the level of specificity in their ordinance, their population size, and whether their ordinance language covered the commercial sector. The phone interview (**Appendix A**) conducted with each of these cities was used to gather the following information:

- ◆ Process followed to develop and adopt the ordinance
- ◆ Implementation timeframe
- ◆ Enforcement mechanisms
- ◆ Method of funding for enforcement
- ◆ Role of franchised/contracted collection services provider
- ◆ Public education activities (including schedule and costs)
- ◆ Feedback on the effectiveness of the ordinance (what works/ what doesn't work)

We created a matrix comparing the key provisions of each ordinance, based on the online research, literature reviews, and phone interviews. This matrix can be found in **Appendix B**.





## RESULTS AND FINDINGS

This section reviews the different components of an anti-scavenging ordinance and summarizes key findings from the online research and phone interviews. More detailed information about each ordinance researched is available in the matrix (**Appendix B**).

Cascadia conducted interviews for each city starting with the environmental/solid waste program managers and then often times was referred to city attorneys, code enforcement officers, and/or police chiefs. Each City representative provided unique insights, depending on their role in the development, implementation and/or enforcement of the ordinance. For example, environmental/solid waste program managers gave a good overall view of the ordinance; city attorneys addressed the process for how and why the ordinance was enacted; and both code enforcement and police chiefs discussed how the ordinance was actually being enforced.

## ADOPTION

### Reasons Ordinance Was Adopted

Anti-scavenging ordinances had been enacted as early as 1971 (Newport Beach) and as recently as 2011 (Foster City). Of the seven cities interviewed, six stated that their ordinances were adopted to address the potential loss of revenue from their recycling programs due to scavenging. The cities of Encinitas, Foster City, Redwood City and Sacramento also stated that, in addition to lost revenues, scavenging was a nuisance and that the ordinance assisted as a tool in dealing with scavenging complaints from the public. The reasons stated by the cities interviewed for adopting an anti-scavenging ordinance are listed below:

	Chula Vista	Encinitas	Foster City	Palo Alto	Redwood City	Sacramento	Sonoma
Affecting revenues	X	X	X		X	X	X
Nuisance and crime		X	X		X	X	
Needed a law to enforce due to complaints to police department			X		X	X	
Related to AB939 and littering				X			



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## Process to Develop Ordinance

Three cities provided information about the process and timeline of developing an anti-scavenging ordinance. Although the process of researching and preparing the ordinance varied somewhat from city to city, all three cities described similar steps in the development process. The timeline for the first four steps varied depending on the depth of the review and the number of times it came back to staff for further development, and could range from a month to a year. The timeline for the adoption of the ordinance (steps five through seven) was usually 30 days from the first reading by the governing body. The seven steps are:

### Research and Preparation for Ordinance

1. Review other city anti-scavenging ordinances
2. Hold internal discussion with Public Works, City Attorney and Police Department and other stakeholders
3. Draft ordinance
4. Submit to council subcommittee (as appropriate)

### Going to Council (similar process for most cities)

5. Goes to Council for first reading- public hearing (will either approve or send back to committee)
6. Goes to Council for second reading – 2 weeks later, consent item
7. Effective 30 days later

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## SCAVENGING

### Scavenging Defined

Only two of the cities interviewed (Chula Vista and Foster City) actually define the term “scavenging” or “scavenger” in their municipal codes, see below. Five of the seven cities interviewed did not define the terms, but interviewees stated that their own definition of scavenging was taking material out of a bin that is not their own. Example definitions of scavenging include:

- Chula Vista: *“uncontrolled and/or unauthorized removal of solid waste, designated recyclables, or recoverable material”* (Chula Vista Municipal Code 8.25.020 III).
- Foster City: *“Scavenger shall mean individual(s) who are involved in the unauthorized taking of recyclable materials either in or near a recycling container set out for collection”* (Foster City Municipal Code 8.07.010N).
- Santee (one of the cities reviewed but not interviewed): *“Scavenging means the uncontrolled or unauthorized removal of solid waste, recyclables or yard waste pursuant to this chapter”* (Santee Municipal Code 13.36.020).



## Prohibited Activities

Anti-scavenging ordinances from six of the seven cities interviewed specifically prohibit removal of materials from trash and recycling containers on both commercial and residential premises. Only the City of Sonoma included residential recycling containers only. Five of the cities (Encinitas, Foster City, Palo Alto, Redwood City, and Sonoma) specifically prohibit scavenging of loose cardboard or other un-containerized material.

## Impact of Scavenging

Of the seven cities interviewed, no city actually quantifies the impacts of scavenging. Foster City stated it does not quantify volumes taken by scavenging because the district attorney does not currently prosecute scavengers, primarily because the volume of material taken is not of sufficient value to justify prosecution. Sacramento stated that it is unable to quantify scavenging impacts due to limited code enforcement and police department resources.

## ENFORCEMENT

The management, funding and impacts of enforcement are described below and contain details to further understand what the norm is for the cities interviewed. Enforcement is not only about where the material is taken from, but also the type of material that is taken. For all seven cities interviewed, the enforced material type pertains to “All types of designated recyclables<sup>1</sup>” and is defined in the city ordinances and municipal codes, most of which vary according to the recyclable material types taken within that City. To review the specific definitions for each ordinance, refer to Appendix B.

## Who Enforces

Six of the seven cities interviewed use code enforcement and/or the police department to enforce the ordinance. Only the City of Chula Vista uses their environmental services department to assist with enforcement.

### Enforcement of ordinance

	Chula Vista	Encinitas	Foster City	Palo Alto	Redwood City	Sacramento	Sonoma
Code Enforcement / Police Department		X	X	X	X	X	X
Environmental Services	X						

Chula Vista noted that if their recycling specialists are confronted by belligerent scavengers they call the police and press charges. Those scavengers usually have outstanding warrants for more serious crimes,

<sup>1</sup> Quotation for each Ordinance as “scavenged material”



and are prosecuted for those crimes and not scavenging. Chula Vista also stated that if they observe someone scavenging, the recycling specialists will write down the vehicle license plate number and notify the owner of the penalties for scavenging, and usually they do not see those vehicles again. The Chula Vista representatives can receive owner information by attending a California Law Enforcement Terminal Systems (CLETS) training with the California Department of Justice every 2-3 years. This is required before registered owner information can be provided.

The franchised hauler does not play a role in enforcing the anti-scavenging ordinance in any of the seven cities interviewed, but haulers are instructed to call the police if they observe scavenging activities occur.

### Type of Enforcement

There are four types of enforcement efforts that the seven cities follow: having an ordinance to fall back on in case they want to enforce but currently don't, warnings, citations and prosecution. All seven cities have some type of enforcement agent (recycling specialists, code enforcement) that can enforce the ordinance, five currently issue warnings and only one has cited a scavenger. None of the cities have ever prosecuted scavengers primarily because the amount that was stolen is not that significant. The reason the City of Palo Alto does not enforce the ordinance is because they do not have the personnel available to do so and the City of Sonoma stated that they either don't see scavengers any more, or the scavenging takes place too early in the morning or is not reported. The matrix below shows what types of enforcement take place in each city.

#### Types of Enforcement

	Chula Vista	Encinitas	Foster City	Palo Alto	Redwood City	Sacramento	Sonoma
Ordinance (no current action)				X			X
Warnings	X	X	X		X	X	
Citations					X		
Prosecution							



## Funding

Five of the cities interviewed pay for enforcement directly through the police or sheriff's budget. Only the cities of Chula Vista and Sacramento pay for enforcement through solid waste fees.

### Enforcement Funding

	Chula Vista	Encinitas	Foster City	Palo Alto	Redwood City	Sacramento	Sonoma
AB939 / Solid Waste Fees	X					X	
Sheriff / Police Budget		X	X	X	X		X

## Impacts of Enforcement

Cities that actively enforce their anti-scavenging ordinance reported several positive impacts. Note that no statistical analysis was done to form these conclusions, only that the person interviewed stated the city staff noticed a difference in each of the areas mentioned below.

- Both Chula Vista and Foster City stated that there was a reduction in other/overall crime once the anti-scavenging ordinance was adopted. Prior to the ordinance some scavengers would commit other crimes of opportunity (for example, stealing items from multi-family complexes as they walked towards the recycling bins). Following the cities' enforcement efforts, they report that petty crime has decreased and that the scavengers do not enter their city as often as before.
- The Sonoma Police Department stated that they have noticed an increase in tourism since the ordinance has been in effect. They claim that the tourists did not like to see "sketchy people" looking into the trash bins, and now that they have the ordinance they don't see these people any more.

## Enforcement Challenges

Cities interviewed described two enforcement challenges. First, some interviewees noted that enforcement is not a priority for police and that by the time police arrive at the location where the scavenger was reported to be, they are usually gone. Second, because the cities typically don't prosecute scavengers, the police don't always cite individuals caught scavenging. For example, the city attorney from Redwood City noted:

*"It's really just to have something on the books, the City doesn't prosecute these. If the recipient wants to challenge it, it's in traffic court as an infraction. If the person doesn't pay, it is like an unpaid parking ticket, not much happens. Although if there were six unpaid infractions they might have trouble getting vehicle registration or they would have a huge fine if they ever got a traffic ticket. The consequences are not that severe."*



## PENALTIES

All seven cities interviewed reported that violation of their anti-scavenging ordinance is an infraction or misdemeanor, with fines between \$100 and \$1,000 dollars and jail time up to 6 months (12 months in Sonoma). Five of the seven cities have issued warnings to individuals caught scavenging, and only Redwood City has actually cited a scavenger.

Whether an ordinance violation is defined as an *infraction* or a *misdemeanor* affects the severity of the penalty and who can enforce the ordinance. *Infractions* are enforced through an administrative citation that can be issued by police or code enforcement officers and the penalty would be a small fine (like a traffic ticket). *Misdemeanors* are enforced through citation or arrest performed only by law enforcement officers and the penalty would be a bigger fine and/or up to 12 months in jail.

The table below shows the different penalties (infractions and/or misdemeanor) stated in the cities' ordinances and the severity of the penalty (warning, fine or jail time). Redwood City is the only city interviewed that has issued citations (6 total) to a scavenger; the other cities have either not enforced their anti-scavenging ordinances or have only issued warnings.

<b>Penalties</b>	<b>Chula Vista</b>	<b>Encinitas</b>	<b>Foster City</b>	<b>Palo Alto</b>	<b>Redwood City</b>	<b>Sacramento</b>	<b>Sonoma</b>
<b>Defining a violation:</b>							
Misdemeanor	X			X			X
Infraction			X	X	X	X	X
<b>Penalty for violation:</b>							
Fine	\$1,000		\$100 to \$500	\$250 to \$1000	\$100	\$100 and up	\$100 to \$500
Jail time	Up to 6 months			Up to 6 months			Up to 12 months
<b>Enforcement:</b>							
Warnings only	X	X	X		X	X	
Citations issued					X		



The penalties for violation of the anti-scavenging ordinance can be defined in the ordinance itself, or penalties can default to whatever the city's municipal code identifies for miscellaneous violations of the city's code. Two cities interviewed (Chula Vista and Foster City) have specific penalties stated in the Anti-Scavenging ordinance, four cities (Palo Alto, Redwood City, Sacramento and Sonoma) mention or defer penalties to the general penalties chapter of the municipal code, and Encinitas did not mention penalties at all in the ordinance.

## **PUBLIC EDUCATION AND OUTREACH**

Three of the seven cities interviewed (Foster City, Palo Alto, and Sacramento) conducted public education and outreach regarding their anti-scavenging ordinance. All three cities noted that these activities were relatively minor: flyers, press releases, and garbage bill inserts were sent out when the ordinance first was enacted. However, due to other more pressing departmental items, outreach and education efforts have not been revisited since.

## **BEST PRACTICES AND CHANGES**

All seven cities interviewed felt having an anti-scavenging ordinance was important because it allowed them to inform the public about scavenging, and provided a tool to deter scavenging activities. Some of the city representatives interviewed also believed that having an ordinance was not necessarily sufficient and suggested that, in order to effectively control scavenging, they needed a plan for active enforcement and prosecution of individuals caught.

Cities interviewed suggested that the following elements are important for creating an effective anti-scavenging ordinance:

1. Develop and maintain a good relationship with police;
2. Ensure adequate staffing for the department that provides the enforcement;
3. Engage in public education and outreach, especially to businesses, to demonstrate the impacts of scavenging on their waste and recycling costs;
4. Enable prosecution of individuals cited under the anti-scavenging ordinance.

## HAULER PAYS SCENARIO

The City of Concord was recently approached by their hauler, Concord Disposal, to hire a police officer to prevent recycling theft due to their concern about the ability to meet State mandates for waste diversion. Concord Disposal stated<sup>2</sup> that they are willing to pay the City \$12,000 a month to hire personnel to support this type of enforcement. Cascadia conducted a phone interview with Corporal Murray, Supervisor of Concord Police Department's Code Enforcement Division, to understand more about their unique approach to anti-scavenging. The City currently does not have an anti-scavenging ordinance however the police officers do write citations for scavenging and use the California penal code under petty theft<sup>3</sup> for enforcement. This does not allow for transparency to understand how many anti-scavenging citations are written because the department is unable to break out the number of citations deciphering between scavenging and other theft.

Due to the questions Cascadia asked during the interview, further investigation by Corporal Murray with their City Attorney has been prompted on the actual enforcement mechanism and how the City is supposed to hire someone to enforce anti-scavenging when they don't have an ordinance to strongly support the effort. This information, along with quantifying the volumes of scavenged material and the amount of money that would be saved by enforcing anti-scavenging would be important in order to understand if there would be financial justification for the position. Currently the City does not keep track of this information.

## UPCOMING LEGISLATION

In a recent article in *Resource Recycling*, the State of Illinois is about to vote on legislation that would require sellers of bulk plastic to show proof of ownership. This legislation is in response to plastic scrap theft and brings awareness to other commodities not currently addressed under the State's scrap metal law. It will be interesting to see if legislation like this will be used in other states to address scavenging.

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## DRAFT ANTI-SCAVENGING ORDINANCE

An anti-scavenging draft ordinance was developed to assist the SBWMA Member Agencies in choosing the appropriate language that will work within their municipal code and current franchise agreement guidelines. The draft anti-scavenging ordinance can be found in **Appendix C**. In order to decide on which option you may choose, **Appendix D**, an "Ordinance Options Matrix" has been prepared which shows the different options available, the benefits and drawbacks of the option, and the options chosen by the cities that were interviewed.

<sup>2</sup> According to the Waste and Recycling News article from April 12, 2012

<sup>3</sup> Penal Code Section 484-502.9.





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# APPENDIX A

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## Questions Asked to Cities Interviewed

1. Define scavenging
2. Does it relate to both recycling and trash; residential and commercial?
3. How long have you had a scavenging ordinance?
4. Why did you implement one?
5. How do you quantify scavenging?
6. What was the process for developing and adopting the ordinance?
7. Who enforces this ordinance?
8. What are the impacts by enforcing the ordinance?
9. What is the method of funding for enforcement?
10. Do you enforce cardboard, glass, metal? What qualifies as scavenging?
11. Do you enforce piles on the sidewalk or only if they take material out of bin?
12. Do you use the land use code as part of your enforcement?
13. Do you require bin enclosures?
14. What are the penalties (infraction vs. misdemeanor)?
15. What is the role of the franchised collection services provider?
16. What public education and outreach activities are conducted? What are their costs? Timeframe throughout the year?
17. What ordinance elements work well?
18. What ordinance elements do not work well?
19. If you had to write a new ordinance, what recommendations would you make?



## Appendix B-1: City Contacts

City	Name of Contact	Title	Population Size	Commercial/Residential/ Both Ordinance	Length
<i>Interviewed</i>					
Chula Vista	Lynn France	Environmental Services Program Manager	243916	Both	3 paragraphs
Encinitas	Bill Wilson	Public Works Recycling and Trash Contract Management Analyst	59518	Both	2 pages
	Joan Kling	Head of Code Enforcement			
Foster City	Laura Galli	Assistant Engineer	30567	Both	.5 pages
	John Furman	Police Captain			
Palo Alto	Paula Borges	Management Analyst	64403	Both	2 paragraphs
Redwood City	Hilary Stevenson	Deputy City Attorney	76815	Both	2 pages
Sacramento	Chris Thoma	Waste Reduction Coordinator	466488	Both	3 paragraphs
Sonoma	Bret Sacket	Chief of Police	10648	Residential	5 pages
<i>No Contact</i>					
Anaheim			336255	Both	1 paragraph
Fountain Valley			55313	Both	3 paragraphs
Hayward			144186	Residential	1.5 pages
Los Angeles			3.8 M	Commercial	1 sentence
Long Beach			462257	Residential	1 sentence
Mammoth County (NJ)			630800	Both	1 sentence
Newport Beach			85146	Both	1 page
San Diego			1.3 M	Both	1 sentence
Santee			53513	Both	.5 pages

## Appendix B-2: Municipal Code

	City	Municipal Code		
		Title	Chapter	Section
Interviewed - Interviewed - Interviewed	Chula Vista	8-Health and Sanitation	8.24-Solid Waste and Litter	8.24.200-interference with collection and scavenging prohibited
			8.25-Recycling	8.25.080-Scavenging
	Encinitas	11-Health	11.21-Prohibition of Scavenging	11.21.030-Scavenging Prohibited
	Foster City	8-Health and Safety	8.07-Storage and Disposal of Solid Wastes and Recyclable Materials	8.07.060-Scavenging
	Palo Alto	5-Health and Sanitation	5.20-Collection Removal and Disposal of Solid Waste and Recyclable Material	5.20.210-Scavenging Prohibited
	Redwood City	N/A	14-Refuse, Weed, Nuisance and Abandoned Shopping Cart Regulation and Abatement	14.17-Only City contractor or person with permit may remove or dispose of refuse
	Sacramento	13-Public Services	13.10-Garbage Collection and Disposal	13.10.160-Scavenging from solid waste receptacles
	Sonoma	N/A	7.12 Anti-Scavenger Ordinance	7.12.032-Unauthorized Collection Prohibited
Not Interviewed - Not Interviewed - Not Interviewed	Anaheim	10-Public Services and Utilities	10.10 Waste Collection and Disposal	10.10.020 Supervision of Collections and/or Franchises subsection .030
	Fountain Valley	6-Health and Sanitation	6.08 Solid Waste	6.08.060 Scavenging Prohibited
	Hayward	N/A	5-Sanitation and Health	Article 9 Prohibition of Scavenging-Section 5-9.30
	Los Angeles	N/A	VI-Public Works and Property	Article 6 Garbage Refuse Collection Section 66.28 Refuse Rubbage and Salvage Tampering With
	Long Beach	8-Health and Safety	8.60-Solid Waste, Recycling and Litter prevention	8.60.130 Removal of waste from receptacles
	Monmouth County (NJ) (Borough of Sea Bright)	N/A	178	Article 2-Recycling-Section 178-11 Collection by Unauthorized Persons Prohibited
	Newport Beach	6-Health and Sanitation	6.04-Garbage, Refuse and Cuttings	6.04.070 Collection of Garbage and Recyclables
	San Diego	N/A	6-Public Works and Property	Article 6, Division 4-Collection of Recyclable Materials-section 66.0402 Unauthorized Collection Prohibited
	Santee	13-Public Services	13.36 Solid Waste Management	13.36.090 Illicit Scavenging

**Appendix B-3: Adoption**

		Adoption				
	City	Year	Updated	Why?	Development Process	Timeframe
Interviewed - Interviewed - Interviewed - Interviewed - Interviewed - Interviewed - Interviewed	Chula Vista	1992	2008	Revenue from sales of recyclables goes to the City; scavengers were taking money out of the program which would drive up the costs for residences and businesses.	Unable to refer, person was no longer there	Unable to refer, person was no longer there
	Encinitas	1989	N/A	Nuisance. Impacts hauler revenue from recyclable materials. Scavenging of recyclables from the residential and commercial recycling programs undermines the participation of residents and businesses.	If code enforcement knows they will provide information.	If code enforcement knows they will provide information.
	Foster City	2011	N/A	They were getting a handful of complaints from the public and heard complaints from the police department. SBWMA was discussing the fact that it was affecting revenues that were going to the transfer station and their hauler was complaining they weren't meeting their targets. More from the hauler, but they did it because the police department became very interested due to the police receiving calls from the public and they couldn't do anything about it.	Internal discussions, had to run it around the police department, public works, City manager. Is it really a problem? Can we enforce it? What is the cost? Then it died and came back again. The actual adoption process was quick and easy because very straightforward because not a lot of data and research. More antidotal and looking at other cities' ordinances and meeting with their attorney and the police department to get the wording right so it could be a useful tool.	30 day implementation Read January 3, 2011, adopted January 18, 2011.
	Palo Alto	1997	N/A	Related to AB939 and setting up recycling collection and making sure there wasn't a problem with taking that material and littering the streets with it.	If code enforcement knows they will provide information.	If code enforcement knows they will provide information.
	Redwood City	2009	N/A	Quite a bit of late night scavenging; financial reason plus public nuisance. Police also said it was difficult to enforce state law. Citizens also complained it increased their garbage fees and potentially increases the chance of other crimes for opportunity.	Enacted 30 days after passage, first reading then council makes changes; 2nd reading actually adopted without any discussion and then 30 days in sec.	30 days
	Sacramento	2009	N/A	Give them something to work with when they get complaints, identity theft was figuring into it, didn't want scavengers to get credit card statements, wanted more recyclable revenue and to help deal with complaints.	Any new ordinance goes to law and legislative committee, subcommittee with 4 council members along with a couple staff members from the city managers office, then from this committee, once approved goes to council for approval, two meeting process, first, passed for publication, 2nd public hearing, city staff makes a presentation, and adopt or send back to staff 30 days.	If code enforcement knows they will provide information.

		Adoption				
	City	Year	Updated	Why?	Development Process	Timeframe
	Sonoma	1991	N/A	Recyclables are going out to recycling contractor and part is based on revenue; need to ensure that the recyclables are collected.	Refer to City Attorney's office	Refer to City Attorney's office
Not Interviewed - Not Interviewed	Anaheim	1994	2000			
	Fountain Valley	2007	N/A			
	Hayward	Not listed		SEC. 5-9.00 PURPOSE AND INTENT. To reduce the waste stream generated by citizens of Hayward, the City has or intends to adopt certain residential recycling programs. Scavenging of recyclables from these programs undermines their economic viability and thereby undermines their success.		
	Los Angeles	1974				
	Long Beach	1980	1999			
	Monmouth County (NJ) (Borough of Sea Bright)	2010				
	Newport Beach	1971	2011			
	San Diego	1998				
	Santee	1995				



		Scavenging					
	City	Code Definition	Staff Definition	Recycling/T rash	Residential / Commercial	How do you quantify?	
In	Sonoma	Not defined in definitions	Going around to garbage containers and digging out recyclables	Recycling	Residential	Really don't quantify- not a lot of scavenging going on in Sonoma.	
	Anaheim	Not defined in definitions		Both	Both		
Not Interviewed - Not Interviewed - Not Interviewed - Not Interviewed - Not Interviewed - Not Interviewed - Not Interviewed - Not Interviewed - Not Interviewed - Not Interviewed	Fountain Valley	Not defined in definitions		Both	Both		
	Hayward	Not defined in definitions		Recycling	Residential		
	Los Angeles	Not defined in definitions		Both	Both		
	Long Beach	Not defined in definitions		Both	Both-but per code enforcement just residential.		
	Monmouth County (NJ) (Borough of Sea Bright)	Not defined in definitions		Both	Both		
	Newport Beach	Not defined in definitions		Both	Both		
	San Diego	Not defined in definitions		Both	Both		
	Santee	13.36.020 Scavenging" means the uncontrolled or unauthorized removal of solid waste, recyclables or yard waste pursuant to this chapter			Both	Both	

**Appendix B-5: Enforcement**

Enforcement										
City	Department	Funding	Impacts	What recyclables qualify?	Sidewalk Piles	Out of Trash/Recycling Bin	Land Use Code Used	Bin Enclosure Requirement	Role of Franchised Service Provider	
Interviewed - Interviewed - Interviewed - Interviewed - Interviewed	Chula Vista	Environmental Services Recycling Specialists are out tagging bins in the morning and later in the day; if they need to they call police for backup if someone is threatening. Specialists also go through police officer standards training every couple of years to know how to confront people and take them down; little jujitsu kind of thing.	Part of AB 939 fee on trash bills	Reduction in theft of personal items (shoes, patio chairs and other things homeless people need) from multi-family complexes that are seen while walking to recycling container. Also, in this economy you see identify theft from scavengers pulling bills out of the bins and they don't want to see that happen.	All designated recyclables	No, but some people will deliberately place recyclables out and they will ask if the scavenger has an agreement and if so, they want to see a letter. Therefore if someone gets stopped they can show the letter confirming no illegal scavenging.	Code says both, but if they take it out of the trash it's fine with them. If it is pulled out of a blue/white recycling bin then that's stealing from the City. Must actually see them before they can approach; don't assume that their bag of cans was actually taken from the blue bin.	No	Requires everyone who builds new to have enclosures but other parts of the city that are older don't have them and they can't enforce it.	Nothing. People who see scavengers can call the hauler and report it. Other than that, the hauler does not to get involved.
	Encinitas	Code Enforcement Division receives complaints and then reports to Sheriff's office	Sheriff's Budget	No response	All. Code def 11.21.020-paper, glass, cardboard, plastic, used motor oil, ferrous metal, aluminum, compostable yard waste 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.	Yes-11.21.030A5-Remove or tamper or meddle with any recyclable material set out for collection, pursuant to the provisions of this Title, on private property or any sidewalk, street or public right-of-way.	Both	No	Yes, businesses and apartments are required to have enclosures	They keep on eye on the problem; contact Sheriff when appropriate, but usually scavengers are long gone before trash trucks there.
	Foster City	Police Department	Police Budget	Garbage rates stabilize. Crime rates lower because usually when people are scavenging something else peaks their interest and theft occurs.	All. 8.07.010J-Recyclable materials shall mean those materials that are suitable for recycling.	Yes	Both	No	Yes	Let City know when they notice someone taking stuff; another set of eyes for monitoring and reporting to the police.



Enforcement										
City	Department	Funding	Impacts	What recyclables qualify?	Sidewalk Piles	Out of Trash/Recycling Bin	Land Use Code Used	Bin Enclosure Requirement	Role of Franchised Service Provider	
<b>Palo Alto</b>	Public Works hears complaints, but Police Department enforces it.	Police Budget	Not actively tracking it nor proactively enforcing it to be able to tell the impacts.	All.5.20.010.23-recyclable materials means those materials that are suitable for recycling.	Yes	Both	No	Required for new projects or projects over a certain square footage.	To call police department or public works if they see scavenging happening.	
<b>Redwood City</b>	Police Department	Police Budget	Not sure now that they have single stream recycling.	All-14.1 recyclable materials shall mean those materials that are suitable for recycling.	Yes	Both	No	Not sure	Not sure	
<b>Sacramento</b>	Solid Waste and Recycling Division	Through solid waste rate fees to pay code enforcement	They did pull recycling cans from the parks because scavengers in violation of the ordinance were only leaving trash in them. Not a lot to measure though, unless code enforcement or police actually enforce.	All	No-but falls under illegal dumping code 13.10.180	Both	No	Yes-17.72.040	Call City directly	
<b>Sonoma</b>	Police Department	Police Budget	There's not a significant impact to the police department. They were not sure they could develop a correlation between reduction in crime, but it does provide a calming effect on the community; it keeps tourists coming back, so that's positive because they don't have to wonder about sketchy people going through the trash bins.	7.12.010-recyclable materials such as, but not limited to, newspapers, glass, metal and aluminum cans, plastic bottles, corrugated cardboard, and used motor oil which are separate from other garbage or refuse for the purpose of recycling.	Yes	Recycling	No	Not sure	Call police when see people scavenging	

Enforcement										
	City	Department	Funding	Impacts	What recyclables qualify?	Sidewalk Piles	Out of Trash/Recycling Bin	Land Use Code Used	Bin Enclosure Requirement	Role of Franchised Service Provider
Not Interviewed	Anaheim				10.10.010 subsection 170 "Recyclable Materials" means any of the following materials, as described in the franchise granted to a Franchisee, contained within a load of source-separated single-family recyclable materials or commercial waste which are in such a state as to constitute recoverable materials: corrugated paper, newspaper, mixed paper, super mix paper, sorted office paper, sorted color ledger,	Yes	Both			
	Fountain Valley				6.08.020 "Recyclable material" includes paper products such as (1) newspaper, cardboard, magazines, telephone books, junk mail, office paper, computer paper, other white and colored paper; (2) food containers such as metal cans, glass or plastic bottles or jars; and (3) other plastics made from high-density polyethylene (HDPE), low-density polyethylene (LDPE), and polyethylene (PET).	No	Both			



Enforcement										
City	Department	Funding	Impacts	What recyclables qualify?	Sidewalk Piles	Out of Trash/Recycling Bin	Land Use Code Used	Bin Enclosure Requirement	Role of Franchised Service Provider	
San Diego				66.0102 Recyclable Material means residential, commercial or industrial source separated byproducts of some potential economic value, set aside, handled, packaged, or offered for collection in any manner different from refuse. Recyclable Materials Collector shall mean an enterprise	No	Both				
Santee				13.36.020 Recyclables means materials generated on or emanating from residential or commercial premises, no longer useful or wanted thereon, and which are separated from the solid waste stream for the purpose of recycling into other useable product(s).	Yes	Both				



		Penalties						
City	Infraction	Misdemeanor	Fines	Jail Time	Warnings	Citations	Actually Enforced / Prosecuted Anyone?	
Sacramento	Yes	No	\$100 and goes up from there	No	Issued	Not sure	Don't do a lot with it, fielding phone calls from public, maybe try to enforce it if they see someone.	
Sonoma	Yes	Yes	\$100 first, \$250 2nd, \$500 3rd	Up to 12 months	None Issued	No one Cited	Can't think of the last time they enforced the ordinance, or remember the last time they saw anyone. Not a lot of complaints because the activity usually happens at the crack of dawn and residents don't care.	
Not Interviewed - Not Interviewed - Not Interviewed - Not Interviewed - Not Interviewed - Not Interviewed - Not Interviewed - Not Interviewed - Not Interviewed - Not Interviewed	Anaheim	Yes	Yes	1st in accordance with CA Penal Code; 2nd Determined by City Attorney	1st in accordance with CA Penal Code; 2nd Determined by City Attorney			
	Fountain Valley	Yes	Yes	Infraction-1st \$100, 2nd \$200, 3rd+ \$500; Misdemeanor \$1000	Misdemeanor up to 6 months			
	Hayward	Yes	Yes if 3rd violation within 12 months	1st \$100, 2nd \$200, 3rd+ \$500; after 3rd punishable by misdemeanor	After 3rd punishable by misdemeanor			
	Los Angeles	Yes	Yes	500	Up to 6 months			
	Long Beach	Yes	Yes	Up to \$1000	Up to 6 months			
	Monmouth County (NJ) (Borough of Sea Bright)	Not specifically stated, cite NJSA 40:49-4	Not specifically stated, cite NJSA 40:49-5	Not specifically stated, cite NJSA 40:49-6	Not specifically stated, cite NJSA 40:49-7			
	Newport Beach	Yes	Yes	Infraction-1st \$100, 2nd \$200, 3rd+ \$500; Misdemeanor \$1000	Misdemeanor up to 6 months			
	San Diego	66.0404 Director of Environmental Services Department and designees to enforce and arrest	66.0404 Director of Environmental Services Department and designees to enforce and arrest	66.0404 Director of Environmental Services Department and designees to enforce and arrest	66.0404 Director of Environmental Services Department and designees to enforce and arrest			
	Santee	No	Yes	Up to \$1000	Up to 6 months			

## Intent and Use of Draft Model Anti-Scavenging Ordinance

This anti-scavenging draft ordinance was drafted to assist the SBWMA Member Agencies in choosing the appropriate language that will work within their municipal code and current franchise agreement guidelines. This draft provides different options so that Member Agencies can create a custom Anti-Scavenging Ordinance template. While reading the draft document you will see highlighted boxes with different options, you can pick which one that works best and delete the others.

In order to decide on which option you may choose, an “Ordinance Options Matrix” has been prepared which shows the different options available, the benefits and drawbacks of the option, and the options chosen by the cities that were interviewed (for more information see the Anti-Scavenging Ordinance Report).

### Next Steps:

1. Review the Ordinance Options Matrix to understand the different options most widely used.
2. Read the draft ordinance to understand the flow and options available.
3. Fill in the yellow highlighted sections with your city name, municipal code and section number.
4. Pick your option and delete the others.
5. Complete your ordinance.

An ordinance of the City of XXX adding Chapter XXX of Title XXX to the City of XXX municipal code.

**Sections:**

- XXX Purpose and Intent
- XXX Definitions
- XXX Scavenging Prohibited
- XXX Violations
- XXX Violations – Penalties
- XXX Effective Date

**X.X.X. Purpose and Intent.**

<b>Option 1</b>	To reduce the waste stream generated by the citizens of XXX, the City has residential curbside and commercial recycling programs. Scavenging of recyclables from these programs undermines the participation of residents and businesses. It also creates a nuisance, causes an increase in garbage collection fees and potentially increases the chance of other crimes of opportunity. The regulations set forth in this chapter are intended to eliminate scavenging and provide enforcement personnel with the tools needed to issue citations where appropriate.
<b>Option 2</b>	<b>WHEREAS</b> , the theft of recyclable materials creates a nuisance in neighborhoods, adversely affects the revenue stream of the City’s authorized franchised waste and recycling hauler, and could consequently lead to increased garbage collection fees; and  <b>WHEREAS</b> , the City wishes to prevent the unauthorized removal of recyclable materials from both curbside and commercial recycling bins; and  <b>WHEREAS</b> , the theft of recyclable materials is a violation of the California Public Resources Code section 41950 <i>et. Seq.</i> ; and  <b>WHEREAS</b> , the City wishes to issue citations for violations of this state law and corresponding City ordinance as <b>Option 1: infractions or Option 2: misdemeanors or Option 3: criminal charges</b> . <sup>1</sup>

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF XXXX AS FOLLOWS:**

<sup>1</sup> Review “Violations – Penalties” section to confirm which option to choose.



## Sections:

### **X.X.X. Definitions<sup>2</sup>.**

For the purposes of this Chapter, the following words shall have the meanings indicated.

A. "Authorized Recycling Contractor" shall mean a person, firm, partnership, corporation, or other entity authorized under and by virtue of a contract with the City to collect recyclable materials within city limits, such as the franchised waste and recycling hauler.

B. "City" means the City of **XXX**

C. "Container" shall mean any receptacle used for storage of Targeted Recyclable Materials including, but not limited to, metal or plastic cans, Carts, Bins, tubs and Drop Boxes, used by the generator or provided by the hauler.

D. "Recyclable Materials" shall mean Discarded Materials that can be re-used, remanufactured, reconstituted, or Recycled.

E. "Recycling" shall mean the process of sorting, cleansing, treating and reconstituting materials that would otherwise be Disposed of at a landfill for the purpose of returning such materials to the economy in the form of raw materials for new, reused or reconstituted products.

F. "Refuse" shall mean garbage and rubbish.

G. "Salvaging or salvageable" shall mean the controlled and/or authorized storage and removal of solid waste, designated recyclables, reclaimable and/or reusable materials.

H. "Scavenger" shall mean individual(s) who are involved in the unauthorized taking of recyclable materials either in or near a recycling container set out for collection.

I. "Scavenging" shall mean the uncontrolled and/or unauthorized removal of solid waste, designated recyclables, or recoverable materials pursuant to this chapter.

J. "Solid Waste" shall mean all putrescible and non-putrescible solid, semisolid, and liquid wastes, as defined in California Public Resources Code Section 40191. For the purposes of this Agreement, "Solid

<sup>2</sup> Each city may already have definitions for these terms elsewhere in their solid waste ordinances. Cities considering adopting ordinances should ensure the definitions are consistent throughout their municipal code.

Waste” does not include abandoned vehicles and parts thereof, Hazardous Waste or low-level radioactive waste, medical waste, Source Separated Targeted Recyclable Materials, Source Separated Plant Materials, or Source Separated Organic Materials.

## **X.X.X. Scavenging Prohibited**

Scavenging is prohibited in the City. Unless otherwise authorized by the City in writing, recyclable materials may not be removed by anyone other than the franchised waste and recycling hauler.

1. No person, other than the franchised waste and recycling hauler, shall remove recyclable materials which have been segregated from other waste materials and placed at the designated collection location for the purposes of collection and recycling.
2. No person shall scavenge, search through, or remove from a container or other receptacle located on any public street, alley, parkway, right of way or other public property any solid waste collection or recyclable materials which have been placed therein for collection.

Subsection (1) of this section shall not apply to City authorized solid waste collection activities, authorized members of any law enforcement agency or to any members of the same business and their contractors or employees who place solid waste or recyclable materials in a container or other receptacle on a public street, alley, parkway, right of way, or other public property in the City.

Nothing in this chapter shall limit the right of any person to donate, sell or otherwise dispose of his or her own recyclable material.

## **X.X.X. Violations**

No person shall violate any provision or fail to comply with any requirement of this chapter. A person violating a provision or failing to comply with any of the mandatory requirements of this chapter is guilty of an **[Option 1: infraction or Option 2: misdemeanor or Option 3: criminal charges]**.<sup>3</sup>

<sup>3</sup> Review “Violations – Penalties” section to confirm which option to choose.

## **X.X.X. Violations - Penalties**

<b>Option 1</b>	Misdemeanor punishable by up to six months in jail and \$1,000 in civil penalties.
<b>Option 2</b>	A person convicted of an infraction under this chapter shall be punishable by a fine of not more than one hundred dollars for the first violation, two hundred dollars for a second violation within the next twelve months, and five hundred dollars for additional violations within the next twelve months.
<b>Option 3</b>	Repeat scavenging offenders may be prosecuted by the District Attorney's Office on criminal charges if failure to pay fines is associated with scavenging.

## **X.X.X. Effective Date**

This Ordinance shall take effect and be in force thirty (30) days from and after its adoption.

## Appendix D-1: Anti-Scavenging Ordinance Matrix: Purpose and Intent

Purpose and Intent				
Purpose and Intent	Option Description	Benefits	Drawbacks	Municipalities that Use
<b>Option 1</b>	To reduce the waste stream generated by the citizens of XXX, the City has residential curbside and commercial recycling programs. Scavenging of recyclables from these programs undermines the participation of residents and businesses. It also creates a nuisance, causes an increase in garbage collection fees and potentially increases the chance of other crimes of opportunity. The regulations set forth in this chapter are intended to eliminate scavenging and provide enforcement personnel with the tools needed to issue citations where appropriate.	This provides context and enforcement succinctly.	If City does not wish to provide detailed context in this manner.	Encinitas
<b>Option 2</b>	<b>WHEREAS</b> , the theft of recyclable materials creates a nuisance in neighborhoods, adversely affects the revenue stream of the City's authorized recycling agent, and could consequently lead to increased garbage collection fees; and <b>WHEREAS</b> , the City wishes to prevent the unauthorized removal of recyclable materials from both curbside and commercial recycling bins; and <b>WHEREAS</b> , the theft of recyclable materials is a violation of the California Public Resources Code section 41950 et. Seq.; and <b>WHEREAS</b> , the City wishes to issue citations for violations of this state law and corresponding City ordinance as infractions.	The stepwise format provides clear context, states Public Resources Code upfront and enforcement.	If City does not wish to give prior context and state public resources code.	Redwood City
	** These options are really about what the City ordinance requires, both really can be used.			

## Appendix D-2: Anti-Scavenging Ordinance Matrix: Scavenging Prohibited

Scavenging Prohibited				
Scavenging Prohibited	Option Description	Benefits	Drawbacks	Municipalities that Use
<b>Option 1</b>	No person other than an authorized recycling contractor shall remove recyclable material which has been placed at the curbside (consider instead of "curbside" to add: "placed in the designated solid waste storage or collection location"). Any and each violation hereof from one or more recycling collection locations shall constitute a separate and distinct offense punishable as provided in this chapter.	This option states multiple violations from multiple bins.	It only states items placed at curbside; does not provide for those items that are not placed at curbside. Does not state owner of material may remove it.	Sonoma
<b>Option 2</b>	<p>It shall be unlawful for any person, other than the owner thereof, the owner's agents</p> <ol style="list-style-type: none"> <li>1. Tamper or meddle with any container for recyclable materials;</li> <li>2. Tamper or meddle with the contents of any container for recyclable materials;</li> <li>3. Remove the contents of any container for recyclable materials;</li> <li>4. Remove any container for recyclable material from the location where container has been placed by the owner of the container or owner's agent;</li> <li>5. Remove, or tamper or meddle with, any recyclable material set out for collection, pursuant to the provisions of this Title, on private property or on any sidewalk, street or public right-of-way.</li> </ol> <p>The provisions of this section do not apply to:</p> <ol style="list-style-type: none"> <li>1. A permittee performing under the authority of their permit;</li> <li>2. A City agent performing within the authority granted by the City; or</li> <li>3. The owner (or the owner's authorized representative) of the recyclable materials or its container.</li> </ol>	This gives multiple scenarios and locations as to where material is placed.	Without defining "owner" and "permittee" this option could be vague.	Encinitas

Scavenging Prohibited				
Scavenging Prohibited	Option Description	Benefits	Drawbacks	Municipalities that Use
<b>Option 3</b>	Collection, removal, and disposal of refuse may be performed by the Public Works Services Department or its authorized representatives or any person with whom the City has entered into or may enter into contract with for the collection, removal, and disposal of refuse, and it is declared to be a violation for any person other than those as above stated to remove, or convey or cause or permit to be removed or conveyed, any refuse upon or along any public street or alley or other public place in the City without a special written permit as required by this Article.	This states what department is responsible and the need for a permit to remove refuse.	This does not define refuse to include recyclables and laos does not include scavenging on private property.	Redwood City
<b>Option 4</b>	<p>Scavenging is prohibited in the City. Unless otherwise authorized by the City in writing,</p> <ol style="list-style-type: none"> <li>1. No person, other than the authorized recycling agent, shall remove recyclable materials which have been segregated from other waste materials and placed at the designated collection location for the purposes of collection and recycling.</li> <li>2. No person shall scavenge, search through, or remove from a container or other receptacle located on any public street, alley, parkway, right of way or other public property any solid waste collection or recyclable materials which have been placed therein for collection.</li> </ol> <p>Subsection (1) of this section shall not apply to City authorized solid waste collection Nothing in this chapter shall limit the right of any person to donate, sell or otherwise dispose of his or her own recyclable material.</p>	This option is succinct and has information on both waste and recycling stated.	This option does not include scavenging on private property.	Foster City
<b>Option 5</b>	No person shall tamper with, modify, remove from or deposit solid wastes or recyclable materials in any container which has not been provided for his use, without the permission of the container owner.	This option is succinct and has information on both waste and recycling stated.	This option needs to define more clearly who container owner is, i.e. City, business or resident.	Palo Alto
<b>Option 6</b>	A. It shall be unlawful for any person other than authorized City personnel or contract	This states any	This option needs to define what	Chula Vista

Scavenging Prohibited				
Scavenging Prohibited	Option Description	Benefits	Drawbacks	Municipalities that Use
	B. It shall be unlawful for any person to disturb, modify, harm, or otherwise tamper with any container or designated recycling collection or storage location containing designated recyclables, or the contents thereof, or to remove any such container from the location where the same was placed by the generator thereof, or to remove the contents of any such container, unless authorized by the generator of such designated recyclables or duly authorized City personnel or contract or franchise agents(s) (consider removing "agent" and placing "contractor(s)").	container as an option and gives the City more authority.	the designated recyclables and salvageable commodities are.	

## Appendix D-3: Anti-Scavenging Ordinance Matrix: Violations

Violations				
Violations	Option Description	Benefits	Drawbacks	Municipalities that Use
<b>Option 1</b>	No person shall violate any provision or fail to comply with any requirement of this chapter. A person violating a provision or failing to comply with any of the mandatory requirements of this chapter is guilty of an infraction.	The failure to comply gives the City leeway as to what compliance means and how the violation is defined.	There is no jail time in this violation.	Foster City
<b>Option 2</b>	Any person violating this section is guilty of an infraction.	More generic terms and used if the City only wants to issue fines.	There is no jail time in this violation.	Sacramento
<b>Option 3</b>	Scavenging activity is unlawful and is a misdemeanor.	Simple terms and can be used to issue large fines and/or jail time.	The violations are greater and the City will need a District Attorneys to fully prosecute for jail time.	Redwood City
<b>Option 4</b>	Any person violating this section is guilty of an infraction and/or misdemeanor.	This provides options for fines or jail time.	It provides different options, but not a good choice if you want to be more specific.	Sonoma



## Appendix D-4: Anti-Scavenging Ordinance Matrix: Violations - Penalties

Violations - Penalties				
Violations - Penalties	Option Description	Benefits	Drawbacks	Municipalities that Use
<b>Option 1</b>	Misdemeanor punishable by up to six months in jail and \$1,000 in civil penalties.	It contains both fine and jail time.	Will need to have District Attorney onboard to be able to prosecute misdemeanor if jail time required.	Chula Vista
<b>Option 2</b>	A person convicted of an infraction under this chapter shall be punishable by a fine of not more than one hundred dollars for the first violation, two hundred dollars for a second violation within the next twelve months, and five hundred dollars for additional violations within the next twelve months.	This contains a tiered level for fines.	This does not contain jail time, so if a City requires stricter violations or penalties, this may not work.	Foster City
<b>Option 3</b>	Repeat scavenging offenders may be prosecuted by the District Attorney's Office on criminal charges if failure to pay fines associated with scavenging .	This combines option 1 and 2 which provides Cities with the ability to fully prosecute.	City should not choose this option if the City does not want to have the ability to fully prosecute.	None. This statement is what the interviewed municipalities wanted to be able to fully prosecute.