

Meeting Date: 11/26/2013

Report Type: Staff/Discussion

Report ID: 2013-00611

Title: Strategies to Mitigate Illegal Dumping

Location: Citywide

Issue: Illegal dumping of junk and debris in the public right-of-way continues to create health, safety and aesthetic impacts on City streets and neighborhoods. This report outlines the proposed strategy to mitigate illegal dumping through improved collection, enforcement, rewards, and education programs.

Recommendation: Direct staff to proceed with the actions necessary to implement the proposed illegal dumping mitigation strategy.

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Department: General Services

Division: Solid Waste Admin Services

Dept ID: 13001711

Attachments:

1-Description/Analysis

2-Attachment 1

City Attorney Review

Approved as to Form
Sheri Chapman
11/5/2013 10:36:27 AM

City Treasurer Review

Reviewed for Impact on Cash and Debt
John Colville
9/27/2013 9:15:40 AM

Approvals/Acknowledgements

Department Director or Designee: Reina Schwartz - 10/22/2013 4:21:17 PM

Description/Analysis

Issue Detail: Illegal dumping has been a significant problem in the City for decades. In FY2012/13, the Recycling and Solid Waste Division (Solid Waste) collected over 7,600 reported piles of illegally dumped material on City streets. The proposed strategy outlined in Attachment 1 to mitigate illegal dumping includes improvements to collection, enforcement, rewards, and education programs.

Policy Considerations: The proposed mitigation strategy includes the following policy recommendations:

- Amend City Code Section 13.10.130B by:
 - Increasing the maximum reward paid for furnishing information leading to the arrest and misdemeanor conviction for illegal dumping from \$500 to \$1,000.
 - Establishing a maximum reward of \$500 for information leading to the successful completion of the administrative penalty process and case closure.
- Increase the number of allowable annual appointments under the Appointment Based Neighborhood Cleanup Program (ABNCU) program from one to two.

Economic Impacts: None

Environmental Considerations:

California Environmental Quality Act (CEQA): No environmental review is necessary because the recommendation in this report involves a continuing administrative activity and is not considered to be a project in accordance with Section 15378(b)(2) of the CEQA Guidelines.

Sustainability: Not applicable

Commission/Committee Action: None

Rationale for Recommendation: Implementation of the proposed strategies to mitigate illegal dumping will provide City staff with enhanced options for illegal dumping prevention, removal, and enforcement.

Financial Considerations: Increasing the number of allowable annual appointments under the ABNCU program from one to two will have no financial impact. Solid Waste does not propose to increase staff or equipment with the increase in service. The impact to residential customers is potentially increased wait times for the next available appointment. Historical program data suggests the greatest impact on wait times will occur in April and May during spring cleanup.

Any cost associated with outreach and education about the proposed strategies will be funded by existing resources in the Solid Waste multi-year operating project for customer outreach (I14120200, Solid Waste Fund, Fund 6007).

The financial impact of the recommended changes to the reward program is expected to be negligible given that: 1) the majority of illegally dumped material cannot be associated with a property owner resulting in no opportunity for enforcement and reward; and 2) the Notice of Violation process (explained in Attachment 1) typically results in the property owner's removal of illegally dumped material before an administrative penalty process is initiated, thereby removing the potential for a reward payment. Payments under the reward program are funded by the Community Development Department, Neighborhood Code Enforcement operating budget (General Fund, Fund 1001).

Emerging Small Business Development (ESBD): No goods or services are being purchased as a result of this report.

Proposed Strategy to Mitigate Illegal Dumping

Solid Waste proposes the following strategy to mitigate illegal dumping in the City, which includes improved collection, enforcement, rewards, and public education.

Improved Collection

The ABNCU program currently allows residential customers to schedule one appointment for the collection of up to five cubic yards of bulky items per year between February and October at no additional charge. This strategy proposes to increase the number of allowable appointments from one to two per year beginning February 1, 2014. The primary objective of the proposed change is to reduce illegal dumping by providing more opportunities for residential customers to dispose of junk and debris. Solid Waste also offers one free dump coupon per year, which allows customers to self-haul junk and debris to the Sacramento Recycling and Transfer Station. With the proposed change, customers will therefore have three opportunities per year to dispose of junk and debris at no additional charge.

Solid Waste has also identified illegal dumping “hot spots” throughout the City, and these areas will be patrolled and cleaned on a regular basis. The primary objective of this proposed strategy is to keep City streets and neighborhoods clean and send a message that illegal dumping of junk and debris on public streets is unacceptable.

Enforcement

The identified enforcement options available to the City to mitigate illegal dumping include a notice of violation, administrative penalty, and misdemeanor arrest and conviction.

I. Notice of Violation

The notice of violation (“NOV”) provides an effective communication tool for residents with illegal piles of junk and debris in the street and adjacent to their properties. In the past, the enforcement process included, as a first step, an attempt to make verbal contact with suspected violators to provide an opportunity to remove junk and debris from the public right-of-way with no penalty. Under the proposed strategy, this step will be eliminated and staff will immediately issue an NOV for illegally dumped materials in front of or adjacent to a residence.

There has historically been a high degree of voluntary compliance with the issuance of a NOV. The NOV grants residential Solid Waste customers 24 hours to remove the illegally dumped material from the public right-of-way and pursue one of the following four options:

- Schedule an appointment through the ABNCU program (February through October) for the collection of (up to) five cubic yards of junk and debris at no additional charge;

- Request a dump coupon and self-haul the junk and debris to the Sacramento Recycling and Transfer Station at no additional charge;
- Request a Special Collection for a minimum charge of \$125, which is significantly less than the proposed \$500 to \$1,000 fine for illegal dumping;
- Hire a private waste hauler to remove the junk and debris and deliver to a permitted disposal facility.

If the junk and debris remains in the public right-of-way beyond 24 hours of the issuance of the NOV, Solid Waste will remove the pile within two business days and, if possible, pursue an administrative penalty and/or misdemeanor arrest and conviction as described below.

II. Administrative Penalty

If a pile of junk and debris can be traced to a responsible person (or persons) by a witness statement, photograph, or the presence of mail or other documents containing a name and valid address, Solid Waste may issue an administrative penalty. City Code currently allows fines up to \$25,000 for an administrative penalty, and the amount is set at the discretion of the Code Enforcement Officer.

Citizens who receive an administrative penalty have the option to appeal through the hearing process administered by the Community Development Department. Pursuing an administrative penalty does not prevent misdemeanor charges if sufficient evidence is gathered during the investigation.

In an effort to increase enforcement to hold violators accountable for illegal dumping, Solid Waste will primarily use the administrative penalty process, rather than misdemeanor arrests and convictions. Administrative penalties require significantly less staff time and resources, a lower burden of proof, and can be issued by the Recycling and Solid Waste Division without assistance from the Police Department or City Attorney's Office.

III. Misdemeanor Arrest and Conviction

A misdemeanor arrest and conviction is the highest level of enforcement available to the City for an illegal dumping case and may result in a fine and/or jail time. However, a misdemeanor arrest and conviction requires significant staff time and a high burden of proof.

Unless a code enforcement officer or police officer observes someone in the act of illegal dumping, they cannot expediently arrest or cite someone for illegal dumping. A witness statement, a photograph, a license number, or evidence found at an illegal dump site is just a starting point. There must be a follow-up investigation to demonstrate probable cause to believe a particular person illegally dumped the material. This investigation may include interviews with witnesses, a "photo line-up", or other research to prove the identity of a suspect.

If the investigation reveals probable cause to support an arrest for illegal dumping, a police officer drafts an affidavit in support of an arrest warrant. The affidavit is first reviewed by the District Attorney's Office, and then submitted to the Sacramento Superior Court. If the court issues an arrest warrant, a notice is mailed to the violator requesting that they surrender themselves and appear in court. If the violator responds to the notice and appears in court, they are entitled to a jury trial and an opportunity to confront all of the witnesses. If the violator does not respond to the notice, it usually takes a chance encounter with police for the misdemeanor arrest warrant to be served. The process of adjudicating a criminal misdemeanor dumping violation could at best take months and at worst years.

Given the level of staff resources and time required, Solid Waste anticipates using the misdemeanor arrest and conviction process in the more extreme and repeat illegal dumping cases, where there is the strongest evidence and greatest likelihood of conviction.

Updated Reward Program

Currently, City Code Chapter 13.10.130B offers a reward of up to \$500 for information leading to an arrest and misdemeanor conviction for illegal dumping. Solid Waste proposes to amend the City Code to increase the maximum reward amount to \$1,000 for information that leads to an arrest and misdemeanor conviction, and add a new reward of up to \$500 for information leading to the successful completion of the administrative penalty process and case closure. The existing guidelines approved by City Council on August 28, 2002 for the distribution of the rewards will also need to be updated to reflect these changes.

In an effort to ensure that sufficient funds are available and encourage as many different members of the public as possible to report illegal dumping, there shall be a limit of no more than five separate rewards, or partial rewards, with a total sum of \$2,500 per person in any calendar year.

Camera Surveillance

Solid Waste will work with the Sacramento Police Department to deploy surveillance cameras in the vicinity of illegal dumping hot spots around the City. If sufficient evidence is gathered with a camera, Solid Waste and/or the Police Department will pursue appropriate enforcement actions.

Outreach and Education

Solid Waste plans to retool the Cleaner Streets concept used for the former loose-in-the-street program as an education effort to promote both the newly expanded ABNCU program and illegal dumping prevention. The emphasis of the campaign will be on creating cleaner streets and neighborhoods by utilizing City services such as the ABNCU, door-to-door oil and battery collection, free dump coupon, and quickly reporting incidents of illegal dumping by phone or using the 311 smartphone application. The improved reward system will be heavily featured as part of the promotion. The expanded ABNCU program will be renamed and reintroduced, highlighting the option of two pickups per year between February and October. The campaign is estimated to begin in early 2014 and will include media outreach, online and print advertising, social

media efforts, direct mail, website, signage, online videos, neighborhood events and community meetings.

"Envision Sacramento" Comments on Illegal Dumping Ideas

From October 3 – 24th 2013, the City posted an inquiry about illegal dumping on Envision Sacramento. Envision is the city's online tool to gather community input on various city topics and seek thoughts on challenges and opportunities to improve the city. The following topic was posted on the site:

Topic: Illegal Dumping – Creating Cleaner Streets

Illegal dumping of trash and debris on public streets is a problem for most major cities, and Sacramento is not immune. Catching and prosecuting violators is tough without willing witnesses or other solid proof.

We are looking for creative ways to improve prevention and step-up enforcement. Once we are notified of a pile, city crews can collect it within a business day or two; but we want illegal dumping to stop before it occurs and hold accountable those who trash our city streets. What ideas do you have to help reduce illegal dumping?

Twenty four responses have been posted on the site to-date and include the following two main themes and four subthemes:

Theme #1: "Make it easier to get rid of stuff"

- *Do not charge a dump fee – make it free*
- *Provide dumpsters around the City for Free Community Dump Days*

City Response:

The City provides two options to dispose of junk and debris for free. The appointment based neighborhood cleanup program and the dump coupon. Both options provide maximum flexibility and convenience. Customers may use the services when they need it, and the City will collect items in front of the residence in the neighborhood cleanup program. Solid Waste is proposing to increase the appointment program to two pickups per year starting February 1, 2014.

Theme #2: "Increase the level of enforcement for illegal dumping"

- *Use of temporary cameras to deter dumping and capture offenders*
- *Require community service, shaming, jail, fines for offenders who are caught*

City Response:

The proposed strategy to mitigate illegal dumping includes the use of surveillance cameras at illegal dumping hot spots to identify violators, as well as an increased Rewards Program for witnesses who provide information leading to an administrative penalty or misdemeanor arrest and conviction.