

FILED
OFFICE OF THE CITY CLERK
OAKLAND
2008 JUL -2 PM 3:38/4

7 VOTES REQUIRED FOR PASSAGE

APPROVED AS TO FORM AND LEGALITY

INTRODUCED BY COUNCILMEMBER _____

Mark P. Wald

City Attorney

OAKLAND CITY COUNCIL

ORDINANCE No. _____ C.M.S.

EXTENSION THROUGH DECEMBER 16, 2008 OF ORDINANCE NO. 12873 C.M.S., AN INTERIM ORDINANCE, ADOPTED AS AN URGENCY MEASURE PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 65858, ESTABLISHING A TEMPORARY MORATORIUM ON THE ESTABLISHMENT OR EXPANSION OF AN ACTIVITY OR FACILITY THAT INVOLVES PRIMARY RECYCLING AND INTERMEDIATE PROCESSING FACILITIES, TO TAKE EFFECT IMMEDIATELY UPON ADOPTION

WHEREAS, the City Council adopted Ordinance No. 12873 C.M.S. on June 17, 2008; and

WHEREAS, pursuant to State law, first passage of an interim ordinance is only permitted for a period of 45 days; and

WHEREAS, an extension of the interim ordinance through December 16, 2008 is necessary because 45-days is not sufficient time to meet with stakeholders and process any revisions regarding Primary Recycling Collection Centers and Intermediate Processing Facilities; and

WHEREAS, for the reasons set forth above and in Ordinance No. 12873 C.M.S., this ordinance is declared by the Council to be necessary for preserving the public peace, health, or safety and to avoid a current, immediate and direct threat to the health, safety, or welfare of the community, and the "Whereas" clauses above taken together constitute the City Council's statement of the reasons constituting such necessity and urgency; now, therefore

THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

Section 1. The City Council finds and determines the foregoing recitals to be true and correct and hereby makes them a part of this ordinance.

Section 2. The City Council finds and determines, for the reasons stated in the recitals, and in

Ordinance No. 12873 C.M.S., the adoption of this ordinance is exempt from CEQA under Sections 15061(b)(3), 15301, 15302, 15303, 15307, 15308 and 15311 of the State CEQA Guidelines.

Section 3. Ordinance No. 12873 C.M.S. is hereby extended by the City Council through December 16, 2008, and all its term and provisions shall remain in full force and effect.

Section 4. The City Clerk shall certify as to the passage and adoption of this Ordinance causing it to be posted, as required by law, and it shall thereafter be in full force and effect. This Ordinance shall become effective immediately as an interim urgency ordinance, in order to protect the public health, safety and welfare.

Section 5. This Ordinance is enacted pursuant to the City of Oakland's general police powers, Sections 106 of the Charter of the City of Oakland, Article XI of the California Constitution and Government Code section 65858.

Section 6. If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council declares that it would have adopted this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more section, subsection, sentence, clause, or phrase be declared invalid.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

DATE OF ATTESTATION: _____

mpw

NOTICE AND DIGEST

EXTENSION THROUGH DECEMBER 16, 2008 OF ORDINANCE NO. 12873 C.M.S., AN INTERIM ORDINANCE, ADOPTED AS AN URGENCY MEASURE PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 65858, ESTABLISHING A TEMPORARY MORATORIUM ON THE ESTABLISHMENT OF OR EXPANSION OF AN ACTIVITY OR FACILITY THAT INVOLVES PRIMARY RECYCLING AND INTERMEDIATE PROCESSING FACILITIES, TO TAKE EFFECT IMMEDIATELY UPON ADOPTION

Adoption of this ordinance will result in the extension through December 16, 2008 of Ordinance No. 12873 C.M.S., an interim ordinance establishing a temporary citywide moratorium on the establishment of any new or expansion of existing Primary Collection Centers and Intermediate Recycling Processing Facilities, as defined in this ordinance, **except** for zoning applications approved by the City and not yet expired, or zoning applications deemed complete by the City as of the effective date of this ordinance, which shall be permitted to operate and/or proceed pursuant to the then existing regulations.