



# Board Agenda Item 7

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DATE: September 13, 2016  
TO: Board of Supervisors  
SUBMITTED BY: Supervisor Andreas Borgeas  
SUBJECT: Prohibiting Scavenging Ordinance 8.24.060 - Pilot Program

RECOMMENDED ACTION(S):

**Conduct First Hearing and Adopt Ordinance Adding Section 8.24.060 - Prohibiting Scavenging in the Fig Garden Policing District - As a One-Year Anti-Scavenging Pilot Program.**

ALTERNATIVE ACTION(S):

The Board of Supervisors could modify or decline to adopt the one-year pilot program.

FISCAL IMPACT:

Fig Garden Policing District will assume costs associated with enforcement of the pilot program.

DISCUSSION:

Scavenging may generally be defined as the unauthorized foraging or removal of items from a designated trash receptacle. Increasingly scavenging has become a problem in Fresno County's unincorporated areas, particularly in Fig Garden, and it presents a number of community concerns. Scavenging, for example, attracts non-residents to neighborhoods often leading to increased property crimes; scavengers often leave significant litter about after sorting through trash receptacles; and scavengers collect personal information from discarded mail, pharmaceuticals and other materials that lead to identity theft.

Scavenging has been on the rise since 2007 when the economy took a downturn and recyclable payments increased. Last year the Sheriff's Office received 97 calls for service on scavenging and 504 calls for identity theft. A significant number of those calls involved individuals with a criminal history. Fresno County has a unique opportunity to initiate a localized pilot program to help protect the public health and safety of our residents. Statewide, numerous jurisdictions have adopted anti-scavenging ordinances that define the event as a violation along with assessed penalties. For instance, the City of Clovis' anti-scavenging program includes the issuance of misdemeanor citations.

Old Fig Garden is a unique test case for this proposed pilot program for a number of reasons. For example, Old Fig Garden has relatively high incidents of scavenging, both reported and unreported, it has small geographic boundaries, and the homeowners assess themselves for enhanced service in the private policing district. After consultations with Sheriff Margaret Mims, it appears the Fig Garden Policing District, which includes the Fig Garden area, would be an appropriate region within which to implement the pilot program. The one-year anti-scavenging ordinance would help law enforcement identify the effectiveness of the pilot program and the staffing demands for potential implementation in other unincorporated areas of Fresno County.

Some of the historic challenges in dealing with scavenging have included limited law enforcement resources, an absence of an ordinance specifically oriented toward this problem, and the unique grey area of ownership rights over trash. From a legal standpoint it remains unclear whether the homeowner retains property rights to the contents of the receptacle once it is in the public right of way or if such rights transfer to the hauler, the consequence of which determines the appropriate party to levy claims for trespass or theft. Either way, an ordinance like this would empower law enforcement to look after the public safety concerns associated with scavenging without having to rely on the legal standing of the hauler or homeowner.

The anti-scavenging pilot program would be based on the best practice that no person other than an authorized solid waste hauler or homeowner shall remove material which has been placed in a designated solid waste container, collection location, or public right-of-way. In addition, the anti-scavenging pilot program proposes an ordinance prohibiting scavenging and specifies that no person shall open, look into, search through, or remove any of the contents from a container; that no person shall search through or remove any of the contents from refuse deposited in the streets in conjunction with the neighborhood cleanup program. The ordinance exempts the customer receiving the collection service or who is billed the rates, fees, and charges for the collection services, or a person with the customer's consent, exempts any employee, agent, or contracted trash handler during the performance of their duties, and exempts any employee, agent, or contactor of any city, county, state or federal government agency in the performance of their duties. Persons violating this ordinance will be guilty of a misdemeanor.

The goal of the one-year pilot program is to make scavenging more difficult, reduce the nuisance and decrease property and identity crimes. The pilot program set forth is intended to provide enforcement personnel with tools needed to issue citations where appropriate. The success of the pilot program will be based on community awareness and engagement, the management of community expectations, and the law enforcement resources to enforce the ordinance.

We are pleased to announce Sheriff Margaret Mims supports this pilot program. In addition, the Fig Garden Homeowners Association reviewed the item and unanimously voted in support of the pilot program.

OTHER REVIEWING AGENCIES:

Fresno County Counsel  
Fresno County Sheriff  
Fresno County Public Works and Planning

ATTACHMENTS INCLUDED AND/OR ON FILE:

Ordinance 8.24.060  
Chart: Reported Scavenging/Identity Theft Calls  
Map of Fig Garden Policing District  
Support Letter from Fig Garden Homeowners Association  
Support Letter from Sheriff Mims