

ORDINANCE NO. 26219

**AN ORDINANCE OF THE CITY OF SAN JOSE
AMENDING CHAPTER 9.10 OF TITLE 9 OF THE SAN
JOSE MUNICIPAL CODE TO ESTABLISH THE
CONSTRUCTION AND DEMOLITION DIVERSION
DEPOSIT PROGRAM**

WHEREAS, debris generated in construction and demolition projects accounts for a significant portion of the materials disposed of in landfills; and

WHEREAS, a large percentage of such debris is composed of recyclable materials; and

WHEREAS, the City desires to implement a program to encourage the diversion of construction and demolition debris from landfill disposal; and

WHEREAS, an Environmental Impact Report was certified on August 16, 1994, by Resolution No. 65459, and under File No. PP00-06-098 the program was found not to have any significant effects beyond those analyzed in the EIR;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSÉ:

Chapter 9.10 of Title 9 of the San José Municipal Code is amended by adding a part to be numbered and entitled and to read as follows:

Part 15

CONSTRUCTION AND DEMOLITION DIVERSION DEPOSIT PROGRAM

9.10.2400 Establishment.

There is hereby established the Construction and Demolition Diversion Deposit Program.

9.10.2410 Diversion deposit and clearance document required.

- A. Except as otherwise specified in this Part, on or after March 1, 2001, each person who applies for a building permit pursuant to Chapter 24.02 of this Code shall apply for a construction and demolition debris clearance document to be issued by the Director. On or after March 1, 2001, no building permit shall be issued unless the applicant submits the clearance document issued by the Director.

- B. Except as otherwise specified in this Part, on or after July 1, 2001, each person who applies for a building permit pursuant to Chapter 24.02 of this Code shall remit a diversion deposit in the amount set forth by resolution of the City Council. The diversion deposit shall be remitted at the same time the permit application is filed.

9.10.2420 Special exception for roofing projects.

No diversion deposit shall be required for any roofing project until January 1, 2002. On or after January 1, 2002, each person who applies for a building permit for a roofing project shall remit a diversion deposit in the amount set forth by resolution of the City Council.

9.10.2430 Diversion deposit exemptions.

Neither a construction and demolition debris clearance document nor a diversion deposit shall be required for the following:

- A. Work for which a building permit is not required under Section 24.02.120.
- B. New residential construction projects of less than \$115,000 in value.
- C. New non-residential construction projects of less than \$135,000 in value.
- D. Residential alterations of less than \$2,000 in value.
- E. Non-residential alterations of less than \$5,000 in value.
- F. Roofing projects that do not include the tear-off of the existing roof.
- G. Work for which only a plumbing permit, only an electrical or only a mechanical permit is required.

9.10.2440 Refund of diversion deposit.

- A. The Director may authorize the refund of any diversion deposit which was erroneously paid or collected.
- B. The Director may authorize the refund of any diversion deposit when the building permit application is withdrawn or cancelled before any work has begun.
- C. The Director may authorize the refund of a diversion deposit when at least fifty percent (50%) of the waste generated by the project was diverted from landfill disposal.

- D. The Director may authorize a partial refund of a diversion deposit when less than fifty percent (50%) by weight of the waste generated by the project was diverted from landfill disposal. The partial refund shall not exceed that portion of the diversion deposit that is in the same ratio as the demonstrated amount of diverted waste bears to fifty percent (50%) by weight of the total waste generated.
- E. The Director shall not authorize the refund of any diversion deposit, or any portion thereof, unless the original building permit applicant files a written request for refund and provides documentation satisfactory to the Director in support of the request.

9.10.2450 Diversion of waste.

- A. For the purposes of this Part, "diverted" or "diversion" means a reduction of the amount of waste being disposed in landfills by any of the following methods:
 - 1. Use of new construction methods, as described in regulations promulgated by the Director, that reduce the amount of waste generated.
 - 2. On-site re-use of the waste.
 - 3. Delivery of the waste from the site to a Certified Recycling Facility described in Section 9.10.2460.
 - 4. Other methods as approved in regulations promulgated by the Director.
- B. All of the waste diversion methods which may qualify for a refund of a diversion deposit are subject to restrictions and documentation requirements as set forth in regulations promulgated by the Director.

9.10.2460 Certified Recycling Facilities.

- A. For the purposes of this Part, a Certified Recycling Facility means a recycling, composting, materials recovery or re-use facility for which the Director has issued a certification pursuant to regulations promulgated by the Director.
- B. The Director shall issue a certification only if the owner or operator of the facility submits documentation satisfactory to the Director:
 - 1. That the facility has obtained all applicable Federal, State, and local permits, and is in full compliance with all applicable regulations; and

2. The percentage of incoming waste from construction, demolition, and alteration activities that is diverted from landfill disposal meets the required minimum percentage set forth in regulations promulgated by the Director.
- C. The City shall make available to each building permit applicant paying a diversion deposit a current list of Certified Recycling Facilities.

9.10.2470 Use of diversion deposits.

Moneys received by the City as diversion deposits shall be used only for:

- A. Payment of diversion deposit refunds;
- B. Costs of administration of the program established by this Part;
- C. Cost of programs whose purpose is to divert from landfill disposal the waste from construction, demolition and alteration projects; and
- D. Costs of programs whose purpose is to develop or improve the infrastructure needed to divert from landfill disposal the waste from construction, demolition and alteration projects.

PASSED FOR PUBLICATION OF TITLE this 24th day of October, 2000, by the following vote:

AYES: CHAVEZ, DANDO, DIAZ, DIQUISTO, FISCALINI,
LeZOTTE, POWERS, SHIRAKAWA, WOODY, GONZALES

NOES: NONE

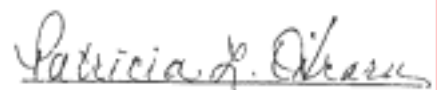
ABSENT: NONE

VACANT: DISTRICT 4



RON GONZALES
Mayor

ATTEST:



PATRICIA L. O' HEARN
City Clerk