

Ordinance #4310

ORDINANCE ADDING CHAPTER 14 TO DIVISION 2 OF TITLE 5 OF THE ORDINANCE CODE OF SAN JOAQUIN COUNTY, REGARDING CONSTRUCTION, DEMOLITION AND LANDSCAPING DEBRIS RECYCLING AND DIVERSION

WHEREAS, the County is committed to protecting the public health, safety, welfare and environment; and that in order to meet these goals, it is necessary that the County promote the reduction of solid waste going to landfills; and

WHEREAS, the California Integrated Waste Management Act of 1989 (California Public Resources Code Sections 40000 et seq.), commonly referred to as Assembly Bill 939 (AB 939), requires the County to prepare, adopt and implement a source reduction and recycling element to reach reduction goals; and

WHEREAS, AB 939 requires the County to divert fifty percent (50%) of materials from being landfilled annually; and

WHEREAS, construction, demolition and landscaping debris represent a significant portion of the solid waste coming from the unincorporated areas of the County that is currently landfilled, much of which is particularly suitable for recycling; and

WHEREAS, the County has a commitment to reduce waste and to comply with State law requiring the establishment of programs for the recycling and salvaging of construction and demolition materials.

NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN JOAQUIN ORDAINS AS FOLLOWS:

Section 1. Chapter 14 of Division 2 of Title 5 of the Ordinance Code of San Joaquin County is added to read as follows:

CHAPTER 14

CONSTRUCTION, DEMOLITION AND LANDSCAPING DEBRIS RECYCLING AND DIVERSION

Sections:

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This Chapter shall be known as the "CONSTRUCTION, DEMOLITION AND LANDSCAPING DEBRIS RECYCLING AND DIVERSION ORDINANCE" of San Joaquin County, and may be so cited.

5-2951 Definitions.

For purposes of this chapter, the following definitions apply:

(a) "Administrative Fee" means a non-refundable fee imposed by this Chapter in accordance with a fee schedule approved by the Board of Supervisors.

(b) "Applicable Project" means any construction, demolition, renovation or landscaping activity subject to the requirements of this Chapter, as set forth in Section 5-2952, Applicable Projects.

(c) "Applicant" means any individual, firm, contractor, limited liability company, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever that applies to the County for the applicable permits or licenses to undertake any construction, demolition or landscape projects within the County.

(d) "Construction" means the building of any facility or structure or any portion thereof including any improvements to an existing facility or structure.

(e) "Construction, Demolition and Landscaping Debris" means materials resulting from the construction, demolition or renovation of

buildings or structures; or materials resulting from landscaping activities, including:

(1) Discarded materials generally considered non-water soluble and non-hazardous in nature, including but not limited to metals, glass, brick, concrete, asphalt material, pipe, gypsum, wallboard, insulation materials, roofing materials and lumber from the construction or demolition of a structure as part of a construction or demolition project or from the renovation of a structure and/or landscaping, including rocks, soils, tree remains, trees, and other vegetative matter resulting from land clearing, excavation, landscaping and development operations for a construction project;

(2) Remnants of new materials, including but not limited to: cardboard, paper, plastic, inert material, wallboard, wood, and metal scraps from any construction, renovation and/or landscape project;

(3) Earthen materials, including but not limited to dirt, clay, soil, loam, sand, rocks, stones and other materials resulting from excavation activities as part of a construction, demolition, renovation or landscaping project;

(4) Fixtures or other finished products that may be re-used in their current state rather than disposed of or processed in a recycling facility, including but not limited to doors, windows, bathroom fixtures, light fixtures, ceiling panels or molding.

(5) Any other non-hazardous wastes that are generated at construction, demolition, renovation or landscaping projects.

(f) "Contractor" means any person or entity holding, or required to hold, a contractor's license of any type under the laws of the State of California, or who performs (whether as contractor, subcontractor, owner-builder, or otherwise) any construction, demolition, remodeling, renovation, or landscaping service relating to buildings or accessory structures in the unincorporated area of San Joaquin County.

(g) "Demolition" means the decimating, razing, tearing down or wrecking of any facility, structure, pavement or building, whether in whole or in part, whether interior or exterior.

(h) "Designated Recyclable and Reusable Materials" means:

(1) Corrugated Cardboard (OCC)

(2) Inert materials generally used in construction or renovation including but not limited to, asphalt, concrete, rock, stone, mortar and brick;

- (3) Metals, including all metal scrap including, but not limited to, pipes, siding, window frames, door frames, flashing materials, and fences;
- (4) Roofing materials including wood shingles and shakes as well as asphalt, stone and slate based roofing material;
- (5) Salvageable materials and structures including, but not limited to doors, windows, fixtures, hardwood flooring, sinks, bathtubs and appliances;
- (6) Vegetative materials;
- (7) Excavation materials including, but not limited to dirt, clay, loam, sand, stones, rocks or any combination thereof;
- (8) Non-hazardous wallboard materials including gypsum and drywall;
- (9) Wood materials including, but not limited to dimensional lumber, fencing or wood that is not chemically treated, creosoted, CCA pressure treated, contaminated, painted or sealed;
- (10) Any other materials from the construction, demolition or renovation of structures that the County determines can be diverted due to the acceptance such materials by recycling facilities, reuse facilities, or accessible markets;
- (i) "Diversion" means the use of material for any purpose other than disposal.
- (j) "Diversion Plan" means a completed County-provided form submitted before the issuance of a building and/or demolition permit, approved by Solid Waste Personnel for the purpose of compliance with this Chapter.
- (k) "Diversion Report" means a completed County-provided form submitted quarterly and upon completion of an Applicable Project that is used by Solid Waste Personnel for the purpose of determining compliance with this Chapter.
- (l) "Excavation" means any digging, tunneling, trenching or scooping where earthen materials are removed from a project site in order to construct, renovate, demolish, remediate or landscape.
- (m) "Good Faith Effort" means and is applicable to projects where the availability of markets for construction and demolition debris were a determining factor in not meeting full compliance and where sufficient documented evidence, such as weight receipts, demonstrate that the Applicant attempted to divert construction and demolition debris but could not achieve full compliance.

(n) "Inert material" means asphalt, concrete, masonry, brick, tile, ceramics, gravel, rock, soil, sand, asphalt, brick, ceramic products, plaster, clay products and similar materials.

(o) "Landscape Professional" means any person that provides landscaping services for a fee within the County.

(p) "Landscaping" means the installation, removal or maintenance of plantings, flowers, shrubs, trees or any other vegetation.

(q) "Non-compliant" means the failure to adhere to the requirements of this Chapter.

(r) "Permit" means a document issued by the Community Development Department authorizing a demolition, construction or renovation project within unincorporated San Joaquin County limits.

(s) "Project" means any construction, demolition, renovation or landscaping activity.

(t) "Recycler" means any person engaged in the business of recycling.

(u) "Recycling" means the process of collecting, sorting, cleansing, treating and/or the reconstitution of materials that would otherwise become solid waste and returning them to the economic mainstream in the form of a raw material for new, reused or reconstituted products which meet the quality standards necessary for use in the marketplace.

(v) "Renovation" means any change, alteration, addition, replacement, or modification to an existing structure.

(w) "Reuse" means further or repeated use of construction and demolition debris.

(x) "Solid Waste Personnel" means persons employed by the San Joaquin County Department of Public Works to administer solid waste programs.

(y) "Structure" means anything composed of parts arranged or assembled together.

(z) "Vegetative materials" means trees, tree parts, shrubs, stumps, logs, brush or any other type of plants that are cleared from a site for construction, demolition, renovation or landscaping purposes.

5-2952 Applicable Projects.

Projects subject to the requirements of this Chapter include any project which consists of one or more of the following:

(a) Construction of a new residential, commercial, industrial or institutional building or structure that is equal to or greater than 1,200 square feet;

- (b) Construction of multifamily dwellings, such as duplexes or apartment complexes;
- (c) Construction of buildings accessory to residential or multifamily dwellings that are equal to or greater than 1,200 square feet;
- (d) Demolition of any building or structure, or a portion thereof, that is equal to or greater than 1,200 square feet;
- (e) Renovation of any building or structure, where the area is equal to or greater than 1,200 square feet; or,
- (f) Other projects deemed applicable as determined by Solid Waste Personnel, including but not limited to the demolition, construction or renovation of roofing, walls, siding, ceiling tile and all other projects where the area or surface area of the project is equal to or greater than 1,200 square feet.
- (g) Landscaping operations whereby Landscape Professionals, as a course of business, perform landscaping functions at one or more locations within the unincorporated County and as a result of these operations collect and dispose of vegetative and/or inert materials.

5-2953 Exemptions.

The following projects shall not be subject to the provisions of this Chapter:

- (a) Construction or demolition necessary to remedy an imminent health or safety condition, or performed in conjunction with an emergency, as determined by the Department of Public Works, including but not limited to fire, earthquake, or flood.
- (b) A project contaminated by hazardous substances or hazardous waste as defined by the state or federal law.
- (c) Construction of agricultural structures, excluding structures used as dwellings by humans.
- (d) Construction, Demolition or Renovation projects that can be demonstrated to have an insignificant waste stream, as determined by Solid Waste Personnel, may be exempted from this Chapter.
- (e) Landscape Professionals who perform Landscaping operations at locations within the unincorporated County areas shall be exempt from the provisions of this Chapter, with the exception of Section 5-2954 Diversion Requirements, and shall make available, upon the request of Solid Waste Personnel, weight receipts and/or other information to verify that collected materials are diverted and/or disposed of in compliance with the requirements of this Chapter.

(f) Other projects may be deemed exempt where they can be demonstrated to be consistent with the intent of this Chapter, as determined by Solid Waste Personnel.

5-2954 Diversion Requirements.

To the highest extent feasible and at a minimum of fifty percent (50%), all construction and demolition debris excluding inert, vegetative and excavation materials, and ninety percent (90%) of inert, vegetative and excavation materials generated from every applicable construction, demolition, or renovation project shall be diverted, by weight, from disposal at landfills by using recycling, reuse and diversion programs. Diversion Reports shall be required for verification of such activities. Acceptable diversion methods are as follows:

(a) Providing or facilitating the verifiable reuse of materials, including, but not limited to, the sale or the donation of the material to an organization that specializes in reusing left over materials.

(b) Delivering all construction and demolition debris solely to a solid waste site designated by the Director of Public Works.

(c) Source separating materials into individual constituents as defined under "Designated Recyclable and Reusable Materials" and directing them to any reuse or recycling facility acceptable to the Director of Public Works. Any remaining materials shall be taken to a solid waste site as designated by the Director of Public Works.

5-2955 Reporting Requirements.

(a) The following plan shall be submitted and approved for all Applicable Projects:

(1) Every Applicant shall submit a properly completed Diversion Plan as a requirement of the construction and demolition process. The plan may cover multiple structures for lots where project activity is occurring at the same time by the same Applicant. The Diversion Plan shall identify the materials to be recycled, reused and/or disposed of and shall list facilities and providers to be used. An Administrative Fee for each Applicable Project must be submitted with the Diversion Plan.

(2) Notwithstanding any other provisions of this Chapter, no construction or demolition permit shall be issued for any Applicable Project unless and until Solid Waste Personnel have approved the Diversion Plan. Solid Waste Personnel shall approve a Diversion Plan only if it is determined that it is complete and meets all requirements set forth in this

subsection (a). If all of requirements have been met, the Diversion Plan shall be marked "Plan Approved", a copy of the plan shall be returned to the Applicant, and the Community Development Department shall be notified that it has been approved.

(3) If Solid Waste Personnel determine that the Diversion Plan is incomplete or fails to meet all requirements set forth in this subsection (a), it shall be returned to the Applicant marked "Plan Denied" or "Further Explanation Required" and shall include a brief notation stating what is required for approval. The Applicant shall then resubmit the Diversion Plan with the required information for subsequent review.

(b) The following documentation shall be submitted upon the completion of all Applicable Projects:

(1) A final Diversion Report shall be returned to Solid Waste Personnel no later than thirty (30) days following finalization of the permit or completion of an Applicable Project demonstrating that compliance with this Chapter has been met.

(2) The documentation accompanying the Diversion Report shall consist of photocopies of receipts and weight tags or other records of measurement or equivalent documentation from recycling facilities, deconstruction contractors, and landfill and disposal facilities. If County-owned facilities are utilized solely, photocopies of weight receipts shall meet the reporting requirements.

(3) All reports and documentation submitted pursuant to this section are subject to verification and approval.

(4) Applicants submitting false information in the form of reports, documents, statements, receipts; weight tags or other records of measurement regarding materials recycled or diverted shall be deemed Non-compliant to this Chapter.

(5) Applicants failing to submit the Diversion Report and documentation within thirty (30) days of project completion shall be deemed Non-compliant to this Chapter.

5-2956 Administrative Fee.

A non-refundable Administrative Fee shall be charged for Applicable Projects according to a fee schedule approved by the San Joaquin County Board of Supervisors.

5-2957 Non-Compliance Fee.

(a) A non-compliance fee shall be charged for each Applicable Project that has been deemed Non-compliant according to a fee schedule approved by the San Joaquin County Board of Supervisors.

(b) Any Applicable Project completed without a permit issued shall be deemed Non-compliant and shall be charged a non-compliance fee according to a fee schedule approved by the San Joaquin County Board of Supervisors.

(c) Good Faith Effort: If Solid Waste Personnel determine that an Applicable Project has not met the requirements of this Chapter, it shall also be determined whether the Applicant has made a good faith effort to comply with this Chapter. In making this determination, the availability of markets for construction and demolition debris, the size of the project and the documented efforts of the Applicant to divert construction and demolition debris shall be considered. If Solid Waste Personnel determine that a good faith effort has been made, a non-compliance fee shall not be charged. If it is determined that a good faith effort has not been made, a non-compliance fee shall be charged according to a fee schedule approved by the San Joaquin County Board of Supervisors.

5-2958 Enforcement Designation.

The San Joaquin County Board of Supervisors shall designate the Director of Public Works as the officer responsible for the administration and enforcement of the provisions of this Ordinance. The Director of Public Works may appoint Solid Waste Personnel to assist in the enforcement of this Ordinance.

5-2959 Enforcement of Ordinance.

Applicants undertaking a construction, demolition, or renovation project by applying for County permits are responsible for compliance with the diversion requirements of this Chapter.

(a) Owner-Applicants shall be responsible for agents, other than paid contractors, that apply for permits on their behalf. Owner-Applicants with unpaid non-compliance fees shall receive a Code Violation recorded on the respective property as outlined in Section 5-2960.

(b) Contractor-Applicants with unpaid non-compliance fees shall be denied future Diversion Plan approvals until unpaid non-compliance fees are paid in full.

5-2960 Notice of Code Violation and Release of Notice of Code Violation.

(a) **Recording Notice:** When Solid Waste Personnel determine that a violation of this Chapter exists against an Owner-Applicant or the agent thereof, a Notice of Code Violation may be recorded against the property. Prior to recordation, the County shall send written notification to the property owner(s) of record of the intent to record the Notice of Code Violation against the property. Notice to the owner(s) shall be sent to the address shown on the most recent tax roll. Failure of the owner to receive such notice shall not affect the Notice of Code Violation.

(b) **Release of Notice:** Solid Waste Personnel shall submit a Release of Notice of Code Violation to the County Recorder when non-complying conditions have been corrected, removed or non-compliance fees have been paid in full.

5-2961 Disposition of Fines.

All fines collected under the provisions of this title shall be paid into the County Treasury, for deposit into the Solid Waste Enterprise Fund.

5-2962 Severability.

If any section, subsection, sentence, clause or phrase of this Chapter is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Chapter. The Board declares that it would have adopted this Chapter, including every section, subsection, sentence, clause and phrase, irrespective of whether one or more sections, subsections, sentences, clauses or phrases is held invalid. To this end, the provisions of this Chapter are declared to be severable.

Section 2. The ordinance shall take effect sixty (60) days after its adoption, and within fifteen (15) days after its passage shall be published at least once in a newspaper of general circulation, printed and published in the County of San Joaquin.

PASSED AND ADOPTED 5/26/09, by the following vote of
the Board of Supervisors, to wit:

AYES: **Villapudua, Bestolarides, Vogel, Ruhstaller, Ornellas**

NOES: **None**

ABSENT: **None**

ATTEST: **LOIS M. SAHYOUN**
Clerk of the Board of Supervisors
of the County of San Joaquin,
State of California

Leroy Ornellas

LEROY ORNELLAS, Chairman
Board of Supervisors
County of San Joaquin,
State of California

By **Caroline Junco**
Deputy Clerk

