

ORDINANCE NO. _____

**ORDINANCE OF THE CITY OF SAN CARLOS
AMENDING THE SAN CARLOS MUNICIPAL CODE, ADDING CHAPTER 8.05
RELATING TO RECYCLING AND DIVERSION OF CONSTRUCTION AND DEMOLITION
DEBRIS**

IT IS ORDAINED by the City Council of the City of San Carlos as follows:

SECTION 1: Chapter 8.05 is hereby added to the San Carlos Municipal Code as follows:

“8.05 Recycling and Diversion of Construction and Demolition Debris.

8.05.010 Findings and Purpose

8.05.020 Definitions

8.05.030 Deconstruction and Salvage and Recovery

8.05.040 Diversion Requirements

8.05.050 Information Required Before Issuance of Permit

8.05.060 Deposit Required

8.05.070 Administrative Fee

8.05.080 On Site Practices

8.05.090 Reporting

8.05.100 Violation a Public Nuisance

8.05.110 Penalties

8.05.120 Responsible Party

8.05.010 FINDINGS AND PURPOSE

(a) The City Council finds that the State of California through its California Waste

Management Act of 1989, Assembly Bill 939 (AB 939), requires that each local jurisdiction in the State divert 50% of solid waste from landfill by December 31,2000, through source reduction, recycling, and composting activities.

(b) The City Council finds that every city and county in California could face fines up to \$10,000 a day for not meeting the above mandated goal.

(c) The City Council finds and determines that the City is committed to protecting the public health, safety, welfare and environment.

(d) In order to meet these goals, it is necessary that the City promote the reduction of solid waste and reduce the stream of solid waste going to landfills.

(e) Debris from demolition and construction of buildings represents a significant portion of the volume presently going to landfill from San Carlos and much of said debris is particularly suitable for reuse and recycling.

(f) The City finds that Reuse and Recycling of certain portions of Construction and Demolition Debris is essential to further the City's efforts to reduce solid waste and comply with AB 939 mandates.

(g) The City finds that, except in unusual circumstances, it is feasible to divert an average of at least sixty percent (60%) of all Construction and Demolition Debris from Construction, Demolition and Renovation Covered Projects.

(h) The City Council recognizes that requiring Construction and Demolition Debris to be recycled and reused may in some respects add modestly to the cost of Construction, Demolition, or Renovation and in other respects may make possible some cost recovery and cost reduction.

(i) It is necessary in order to protect the public health, safety and welfare that the following regulations be adopted.

8.05.020 DEFINITIONS

For purposes of this chapter the following definitions apply:

(a) "Applicant" means any individual, firm, limited liability company, association, partnership, government agency, industry, public or private corporation, or any other person or entity whatsoever who applies to the City for the applicable permits to undertake any Construction, Demolition, or Renovation for a Covered Project within the City.

(b) "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, and who performs (whether as contractor, subcontractor or owner-builder) any Construction, Demolition, and/or Renovation of a Covered Project in the City of San Carlos.

(c) "Construction" means all building, landscaping, remodeling, addition, removal or demolition involving the use or disposal of Designated Recyclable and Reusable Materials as defined in subsection (j) below.

(d) "Construction and Demolition Debris" means:

1. Discarded material generally considered to be not water soluble and non-hazardous in nature, including but not limited to steel, glass, brick, concrete, asphalt material, pipe, gypsum, wallboard, 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, and including rocks, soils, tree remains, trees, and other vegetative matter that normally results from land clearing, landscaping and development operations for a construction project.
2. Clean cardboard, paper, plastic, wood, and metal scraps from any construction and/or landscape project.
3. Non-Construction and Demolition Debris wood scraps.
4. Deminimis amounts of other non-hazardous wastes that are generated at construction or demolition projects, provided such amounts are consistent with best management practices of the industry.
5. Mixing of Construction and Demolition Debris with other types of solid waste will cause it to be classified as other than Construction and Demolition Debris.

(e) "Conversion Rate" means the rate set forth in the standardized Conversion Rate Table approved by the City pursuant to this Article for use in estimating the volume or weight of materials identified in a Waste Management Plan.

(f) "Covered Project" means any Construction, Demolition, and/or Renovation of Covered Projects within the City, the total costs of which are, or are projected to be, greater than or equal to \$10,000 and which will generate more than five (5) tons of Construction and Demolition Debris. In addition any reroofing of residential and commercial structures with wood shake, tile, or concrete are also Covered Projects.

(g) "Deconstruction" means the soft demolition of any facility, structure, or building

through a planned dismantling and salvaging of reusable materials and parts.

(h) "Demolition" means the decimating, razing, ruining, tearing down or wrecking of any facility, structure, pavement or building, whether in whole or in part, whether interior or exterior and/or the removal of landscaping materials, including green waste.

(i) "Deposit" means a cash deposit in the amount of fifty dollars (\$50) for each estimated ton of Construction and/or Demolition Debris from a Covered Project, but not less than \$1,000.

(j) "Designated Recyclable and Reusable Materials" means that portion of Construction and Demolition Debris that includes the following:

1. Masonry building materials including all products generally used in construction including, but not limited to, asphalt, concrete, rock, stone and brick.
2. Wood materials including any and all dimensional lumber, fencing or construction wood that is not chemically treated, creosoted, CCA pressure treated, contaminated or painted.
3. Vegetative materials including trees, tree parts, shrubs, stumps, logs, brush or any other type of plants that are cleared from a site for construction or other use.
4. Earth materials, including dirt and rocks from land clearing activities in preparation for Construction.
5. Metals including all metal scrap such as, but not limited to, pipes, siding, window frames, door frames and fences.
6. Roofing materials including wood shingles as well as asphalt, tile, stone and slate based roofing material.
7. Salvageable materials and structures including, but not limited to, wallboard, doors, cabinets, shelves, furniture, plumbing and electrical fixtures, windows, fixtures, toilets, sinks, bath tubs and appliances. These materials include any painted or otherwise treated wood, such as flooring or decorative woodwork, that can be reused, but may not be acceptable to wood recycling facilities.

(k) "Divert" means to use material for any purpose other than disposal in a landfill or

transformation facility.

(l) "Diversion Requirement" means the diversion of at least sixty percent (60%) of the total Construction and Demolition Debris generated by a Covered Project via Reuse or Recycling.

(m) "Project" means any activity which requires an application for a building or demolition permit or any similar permit from the City.

(n) "Recovery" means the removal and reclamation of those materials from a Project that may have value if reused or recycled.

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

(p) "Renovation" means any change, addition, or modification in an existing structure.

(q) "Reuse" means further or repeated use of Construction or Demolition Debris.

(r) "Salvage" means the controlled removal of Designated Recyclable and Reusable Materials from Construction and Demolition Debris, from a Covered Project, for the purpose of Recycling, Reuse or storage for later Recycling or Reuse.

(s) "Waste Management Plan" means a completed Waste Management Plan (WMP) form and required attachments, approved by the City for the purpose of compliance with this Chapter submitted by the Applicant for any Covered Project.

(t) "WMP Compliance Official" means the City Manager or designated staff person(s) authorized and responsible for implementing this Article.

(u) "Waste Tonnage" means the actual weight of either construction and Demolition Debris, or Designated Recyclable and Reusable Materials as used in this Chapter.

(v) "Waste Management Report" means a completed Waste Management Report (WMR), approved by the City for the purpose of compliance with this Chapter submitted by the Applicant for the Covered Project.

8.05.030 DECONSTRUCTION AND SALVAGE AND RECOVERY

Every Covered Project shall be made available for Deconstruction, Salvage, and

Recovery prior to Demolition. It shall be the responsibility of the Applicant to recover the maximum feasible amount of salvageable Designated Recyclable and Reusable Materials prior to Demolition. In order to provide sufficient time for Deconstruction and Salvage and Recovery to be undertaken, no Demolition may commence until a period of at least five (5) working days has elapsed from the date of issuance of the Demolition permit. Recovered and Salvaged Designated Recyclable and Reusable Material from the Covered Project shall qualify to be counted in meeting the diversion requirements of this Chapter. Recovered or Salvaged Designated Recyclable and Reusable Materials may be given away or sold on the premises, or may be removed to Reuse warehouse facilities for storage or sale. Title to Designated Recyclable and Reusable Materials forwarded to the operator of Recycling facilities will transfer to the service provider upon removal of Designated Recyclable and Reusable Materials from the Covered Project site.

8.05.040 DIVERSION REQUIREMENTS

It is required that at least the following specified percentages of the waste tonnage of Construction and Demolition Debris generated from every Covered Project shall be diverted from going to landfill by using Recycling, Reuse and diversion programs except where the WMP Compliance Official determines that the percentages are not feasible for an individual project and waives or modifies the percentage required. The percentages required are as follows:

(a) Covered projects generating waste comprised of at least 95% inert materials, including dirt, concrete asphalt, brick, and/or cinderblock, shall be required to divert at least 60% of all generated tonnage.

(b) Covered projects generating waste comprised of mixed debris(both structural debris (e.g. wood, metal, wallboard) and inert materials (dirt, concrete, asphalt, brick, and/or cinderblock) shall be required to divert at least 60% of all generated tonnage. However, at least 25% of diverted material shall come from generated tonnage that excludes dirt, concrete, asphalt, brick and/or cinderblock). (e.g. If total tonnage is 100 tons, the total diverted tonnage should equal 60 tons. Of this amount, the total tonnage through materials excluding dirt, concrete, asphalt, brick and/or cinderblock should equal at least 25 tons (25%) and the remainder (35 tons/35%) can be obtained through diversion of inert materials such as dirt, concrete, asphalt, brick, and/or cinderblock.)

(c) Covered Projects generating waste that does not include inert materials (dirt, concrete, asphalt, brick, cinderblock) shall be required to achieve at least sixty percent (60%) diversion of total generated waste.

(d) Reroofing of homes that replace wood shakes, tiles, or concrete, also defined as a separate Covered Project shall also divert sixty percent (60%) of total generated waste.

8.05.050 INFORMATION REQUIRED BEFORE ISSUANCE OF DEMOLITION AND/OR BUILDING PERMIT

Every Applicant shall submit a properly completed "Waste Management Plan", in a form as prescribed by the WMP Compliance Official, to the Department of Planning and Building, as a portion of the building or demolition permit process. The completed WMP shall indicate, at minimum, all of the following: (1) the estimated volume or weight of project Construction and Demolition Debris, by materials type, to be generated; (2) the maximum volume or weight of such materials that can feasibly be diverted via Reuse or Recycling; (3) the vendor or facility that the Applicant proposes to use to collect or receive that material; and (4) the estimated volume or weight of Construction and Demolition Debris that will be land filled. In estimating the volume or weight of materials identified in the WMP, the Applicant shall use the standardized Conversion Rates approved by the City for this purpose. Approval of the form as complete and accurate shall be a condition precedent to issuance of any building or demolition permit. An on-site inspection and/or meeting with the applicant and/or contractor may also be required by the WMP Compliance Official. If the maximum volume or weight of such materials that can feasibly be diverted via Reuse or Recycling, as estimated pursuant to subsection (2) above, is less than the required Diversion Requirements, Applicant must submit information that supports the lower projected Diversion Rate, or the WMP shall be considered to be incomplete.

8.05.060 DEPOSIT REQUIRED

As a condition precedent to issuance of any permit for a building or a demolition permit that involves a Covered Project, the applicant for which a permit is being applied shall post a cash deposit in the amount of fifty dollars (\$50) for each estimated ton of Construction and/or Demolition Debris, but not less than one thousand dollars (\$1,000) (the Deposit). The Deposit shall be returned, without interest, in total or pro rate, upon proof to the satisfaction of the WMP Compliance Official that no less than the required percentages of the Waste Tonnage of Construction and Demolition Debris generated by the Covered Project have been diverted from landfills and have been Recycled or Reused or stored for later Reuse or Recycling. If a lesser percentage of Waste Tonnage of Construction and Demolition Debris than required is diverted, a proportionate share of the Deposit will be returned. The Deposit shall be forfeited entirely or to the pro rate extent that there is a failure to comply with the requirements of this chapter. The City Council may, by formal

resolution, modify the amount of the required Deposit.

8.05.070 ADMINISTRATIVE FEE

As a condition precedent to issuance of any permit for Construction or Demolition for a Covered Project, the applicant shall pay to the City a cash fee sufficient to compensate the City for all expenses incurred in administering the permit. The amount of this fee shall be determined in accordance with the then current Fee Resolution of the City Council determining the same.

8.05.080 ON SITE PRACTICES

During the term of the Covered Project, the Applicant shall Recycle or Reuse the required percentages of materials, and keep records thereof in tonnage or in other measurements approved by the WMP Compliance Official that can be converted to tonnage. The WMP Compliance Official will evaluate and monitor each Covered Project to assist in evaluating the percentage and types of materials Recycled, Salvaged and Recycled or Reused from the Covered Project and to provide technical assistance where appropriate. The required diversion of a minimum of the required percentages of the Designated Recyclable and Reusable Materials shall be measured separately with respect to the demolition segment and the construction segment of a Covered Project where both Construction and Demolition are involved. To the maximum extent feasible, on-site separation of scrap wood and clean green waste in a designated debris box or boxes shall be arranged, in order to permit chipping and mulching for soil enhancement or land cover purposes. In order to protect chipping and grinding machinery, metal and other materials which cannot be chipped or ground shall not be placed in such boxes. On-site separation shall be undertaken for wallboard, dimensional lumber, and cardboard to the extent feasible on new construction.

8.05.090 REPORTING

A. Within sixty (60) days following the completion of the Demolition phase of a Covered Project, and again within sixty (60) days following the completion of the Construction phase of a Covered Project, the Applicant shall, as a condition precedent to final inspection and to issuance of any certificate of occupancy, submit documentation to the WMP Compliance Official which proves compliance with the requirements of Sections 8.05.030 and 8.05.040. The documentation shall consist of a final completed "Waste Management Report (WMR)" showing actual data of tonnage of materials Salvaged for Recycling and Reuse, supported by originals or certified photocopies of receipts and weight tags or other records of measurement from recycling companies, deconstruction contractors, and/or landfill and disposal companies. The WMP Compliance Official will use the WMR, receipts and weight tags to assist in verifying whether materials generated from the site have been or are

to be recycled, reused, salvaged or otherwise disposed of. Applicant shall make reasonable efforts to ensure that all Designated Recyclable and Reuse Materials Salvaged or landfilled are measured and recorded using the most accurate method of measurement available. To the extent practical, all Construction and Demolition Debris shall be weighed by measurement on scales. Such scales shall be in compliance with all regulatory requirements for accuracy and maintenance. For Construction and Demolition Debris for which weighing is not practical due to small size, lack of scales at facility, or other considerations, a volumetric measurement shall be used. For conversion of volumetric measurements to weight, the Applicant shall use the standardized Conversion Rates approved by the City for this purpose.

If a Covered Project involves both Demolition and Construction, the report and documentation for the Demolition project must be submitted and approved by the WMP Compliance Official before issuance of a building permit for the Construction phase of a Covered Project. In the alternative, the Applicant may submit a letter stating that no waste or recyclable materials were generated from the Covered Project, in which case this statement shall be subject to verification by the WMP Compliance Official. Any Deposit posted pursuant to Section 8.05.050 shall be forfeited if the Applicant does not meet the timely reporting requirements of this section.

B. On an annual basis the Waste Management Compliance Official (or other designee) shall compile a report that, at minimum, describes the number and type of permits issued, the number and type of projects covered by diversion requirements, the total tonnage generated and the estimated diversion resulting from these projects. Within 18 months the Waste Management Compliance official (or other designee) shall also review and evaluate the impact of this ordinance for the purpose of making recommendations to improve diversion of waste generated through construction, demolition and renovation activities and improve the cost-effective oversight of this Ordinance.

8.05.100 VIOLATION A PUBLIC NUISANCE

Each violation of the provisions of this chapter shall constitute a public nuisance and be subject to abatement as such.

8.05.110 PENALTIES

Each violation of the provisions of this chapter shall constitute a misdemeanor, and shall be punishable by imprisonment in the county jail for not to exceed six (6) months, or by fine not exceeding one thousand dollars (\$1,000.00), or by both such fine and imprisonment. Each day that a violation continues shall be deemed a new and separate offense.

8.05.120 RESPONSIBLE PARTY

Ever Applicant and/or owner of property on which a Covered Project occurs shall be responsible for compliance with the provisions of this chapter.”

SECTION 2: That the City Council hereby declares that it would have passed this Ordinance sentence by sentence, paragraph by paragraph, and section by section, and does hereby declare that any provisions on this Ordinance are severable and, if for any reason any sentence, paragraph or section of this Ordinance shall be held invalid, such decision shall not affect the validity of the remaining parts of this Ordinance.

SECTION 3: Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of San Carlos hereby declares that it would have adopted this Ordinance and such section, subsection, sentence, clause, phrase or portion may be declared invalid or unconstitutional.

SECTION 4: Pursuant to Section 36937 of the Government Code of the State of California, this Ordinance shall take effect and be in full force and effect thirty (30) days after its final passage.

SECTION 5: The City Clerk shall cause this Ordinance to be published and posted in accordance with the requirements of Section 36933 of the Government Code of the State of California.

Introduced this _____ day of _____, 2000.

PASSED AND ADOPTED as an Ordinance of the City of San Carlos at a regular meeting thereof held on the _____ day of _____, 2000.

AYES, COUNCIL MEMBERS: _____

NOES, COUNCIL MEMBERS: _____

ABSENT, COUNCIL MEMBERS: _____

ABSTAIN COUNCIL MEMBERS: _____

MAYOR of the City of San Carlos

ATTEST:

CITY CLERK of the City of San Carlos