

ORDINANCE NO. 1081

AN ORDINANCE OF THE TOWN OF SAN ANSELMO AMENDING THE MUNICIPAL CODE BY ADDING A NEW CHAPTER 20 TO TITLE 9-BUILDING REGULATIONS, CONCERNING THE COLLECTION, RECYCLING AND DISPOSAL OF WASTE GENERATED FROM CONSTRUCTION, DEMOLITION AND RENOVATION PROJECTS

WHEREAS, the State of California through Assembly Bill 939, the California Integrated Waste Management Act, and Senate Bill 1016, the Solid Waste Per Capita Disposal Measurement Act, requires each local jurisdiction in the state divert 50% of discarded materials from landfill garbage disposal on a per capita basis; and

WHEREAS, every city and county in California, including the Town, could face fines up to \$10,000 a day for not meeting the above mandated goal; and

WHEREAS, the State of California through Assembly Bill 32, the California Global Warming Solutions Act of 2006, requires that commercial generators statewide participate in recycling programs; and

WHEREAS, the Town has conducted a Greenhouse Gas Inventory and determined that approximately 3.1 percent of greenhouse gasses generated by the community of San Anselmo in 2005 was associated with waste disposal; and

WHEREAS, the Town Council on April 26, 2011 approved the San Anselmo Climate Action Plan which includes recommended actions to adopt a policy to achieve zero waste going to landfills and to require diversion of construction and demolition debris from construction, demolition and renovation projects; and

WHEREAS, the Town desires to implement a program to achieve the Marin County Hazardous and Solid Waste Management Joint Powers Authority goal to increase the diversion of materials from landfill and transformation facilities to an eighty percent (80%) diversion level by 2012 and Zero Waste by 2025, ensuring that resources are used to their highest potential and that Marin's ecological footprint is reduced; and

WHEREAS, inert and mixed construction and demolition (C&D) waste constitutes approximately 16% of the materials sent to landfills in Marin County and a similarly large portion of the waste stream in the Town, and these materials have significant potential for reduction and recycling; and

WHEREAS, C&D waste reduction and recycling have been proven to reduce the amount of such waste in landfills, to increase site and worker safety, and to be cost effective; and

WHEREAS, except in unusual circumstances, it is feasible to divert on average one hundred percent (100%) asphalt and concrete, and at least seventy percent (70%) of all remaining C&D debris from most construction, demolition and renovation projects; and

WHEREAS, to ensure compliance with this Ordinance and to ensure that those contractors that comply with the chapter are not placed at a competitive disadvantage, it is necessary to impose a financial incentive as set forth by resolution of the Town Council; and

WHEREAS, to ensure compliance with this Ordinance, facilities will be evaluated annually through an extensive certification process conducted by the Marin County Hazardous and Solid Waste Joint Powers Authority.

NOW, THEREFORE, the Town Council of the Town of San Anselmo does ordain as follows:

SECTION 1:

Title 9

Chapter 20

CONSTRUCTION AND DEMOLITION MATERIALS RECOVERY

Sections:

- | | |
|---------|-----------------------------------------|
| 9-20.01 | Definitions |
| 9-20.02 | C&D Diversion Report required |
| 9-20.03 | C&D Diversion Report exempted |
| 9-20.04 | Certified C&D Recovery Facilities |
| 9-20.05 | Diversion requirements |
| 9-20.06 | Use of Avoided Disposal Regulatory Fees |

9-20.01 Definitions. For the purposes of this chapter, the following words have the following definitions:

“Alternative Daily Cover (ADC)” means a Cover Material, other than organic waste and at least six (6) inches of earthen material, placed on the surface of the active face of the refuse fill area at the end of each operating day at a disposal site to control vectors, fires, odor, blowing litter and scavenging, as defined in Title 27 California Code of Regulations section 20164 .

“Applicant” means any individual, firm, limited liability company, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever who applies to the Town for the applicable permits to undertake any construction, demolition or renovation project within the Town.

"Avoided Disposal Regulatory Fee" means three percent (3%) of the value of the Project, not to exceed ten thousand dollars (\$10,000) or such fee as may hereafter be set by Town Council resolution.

"Certified C&D Recovery Facility" means a recycling, composting, materials recovery or re-use facility determined to process incoming construction and demolition materials to divert from landfill or transformation for which the JPA has issued a certification.

"C&D Diversion Report" means a report submitted by an applicant, on a form approved by the Building Official, which contains an estimate of the amount of C&D waste generated by the project, documentation of the diversion of C&D waste, and such additional information deemed necessary by the Building Official to document accomplishment of the requirements of this chapter.

"Construction and demolition waste (C&D waste)" means the used or discarded materials removed from premises during construction or renovation of a structure resulting from construction, remodeling, repair, deconstruction or demolition operations on any pavement, house, commercial building or other structure.

"Building Official" means the Town's Building Official, including his or her designee.

"Deconstruction Project" means a process to carefully dismantle or remove useable materials from structures, as an alternative to demolition.

"Diversion" or "Diverted" means a reduction of the amount of waste being disposed in a landfill or transformation facility by any of the following methods:

- (1) Use of new construction methods, as described in regulations promulgated by Building Official, 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 C&D Recycling Facility described in Section 9-20.05.
- (4) Other methods as approved in regulations promulgated by the Building Official.

"Joint Powers Authority" or "JPA" means the Marin County Hazardous and Solid Waste Management Joint Powers Authority.

"Project" means any activity, which requires an application for a building or demolition permit, or any similar permit from the Town.

"Recycling" means the process of collecting, sorting, cleansing, treating and reconstituting materials such as newsprint, mixed paper, glass containers, aluminum beverage containers, small scrap and cast aluminum, steel including "tin" cans, empty aerosol cans, bimetal containers, plastic bags, plastic food containers, #1-7 plastics regardless of form or mold, aluminum foil and pans that would otherwise become solid waste and returning them for use or reuse in the form of raw materials for new, used or reconstituted products which meet the quality standard necessary to be used in the market place.

"Reuse" means using an object or material again, either for its original purpose or for a similar purpose, without significantly altering the physical form of the object or material.

"Transformation" means incineration, pyrolysis, distillation, or biological conversion other than composting. "Transformation" does not include composting, gasification, or biomass conversion.

9-20.02 C&D Diversion Report required. Upon the effective date of this chapter, each person who obtains a building permit for a Project subject to this chapter shall submit a C&D Diversion Report to the Building Department prior to final inspection of the project and granting of occupancy. Prior to obtaining any final inspection and grant of occupancy from the Building Department, the person who has obtained a building permit shall pay an Avoided Disposal Regulatory Fee if the Building Official determines that the applicant has not satisfied the diversion requirements of this chapter.

9-20.03 C&D Diversion Report exemptions.

- (a) A C&D Diversion Report shall not be required for the following:
- (1) Deconstruction Projects.
 - (2) Work for which a building permit is not required.
 - (3) Renovations of existing buildings of less than \$10,000 in construction value.
 - (4) Roofing projects.
 - (5) Work for which only a plumbing permit, electrical or mechanical permit is required.
 - (6) Seismic tie-down projects.
 - (7) Installation or replacement of shelves.
 - (8) Installation of pre-fabricated patio enclosures and covers where no foundation or other structural building modifications are required.
 - (9) Installation of swimming pools and spas, provided that the exemption shall apply only to (i) the area to be excavated for the installation of the pool or spa and (ii) the area for the pad for the pool/spa equipment that does not exceed sixteen square feet; and shall not apply to any related construction or alterations necessary for any other equipment or accessories, nor to any other portion of the project.
 - (10) Installation of pre-fabricated accessories such as signs or antennas where not structural building modifications are required.
- (b) No Project shall be separated into smaller projects for the purpose of evading the requirements of this chapter.

9-20.04 Certified C&D Recovery Facilities.

- (a) The JPA may certify a facility as a Certified C&D Recovery Facility if the owner or operator of the facility submits the following documentation satisfactory to the JPA:
- (1) 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 renovation activities that is diverted from landfill disposal, transformation and use as ADC meets the minimum diversion requirement as set forth in Section 9-20.05.
- (b) Facilities that fail to achieve the minimum diversion requirements may request and receive temporary certification from the JPA provided they have:

- (1) Complied with all of the certification requirements other than the minimum diversion requirement;
- (2) Demonstrated, to the JPA's satisfaction, a good faith effort to achieve the minimum diversion requirement; and
- (3) Met any and all other requirements that the JPA may establish for issuing any such temporary certification.

- (c) The Town shall make available to each building permit applicant a current list of Certified C&D Recovery Facilities.

9-20.05 Diversion Requirements. Diversion requirements for a Project and for a Certified C&D Recovery Facility shall be a minimum of seventy percent (70%) on or after the effective date of this chapter, and shall increase to 80% by December 31, 2012, to 85% by December 31, 2015, to 90% by December 31, 2018, and to 94% by December 31, 2025.

9-20.06 Use of Avoided Disposal Regulatory Fees. Moneys received by the Town as Avoided Disposal Regulatory Fees shall be used only for:

- (a) Costs of administration of the program established by this chapter;
- (b) Cost of programs whose purpose is to divert the waste from construction, demolition, and alteration projects from landfill disposal, transformation and use as ADC; and
- (c) Costs of programs whose purpose is to develop or improve the infrastructure needed to divert the waste from construction, demolition and renovation projects from disposal in a landfill, transformation facility or use as ADC.

SECTION 2:

The Town Council hereby finds that adoption of this ordinance is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15308 of the CEQA Guidelines (14 Cal. Code §15308) because it is an action taken by a regulatory agency for the protection of the environment and no exceptions to this categorical exemption apply.

SECTION 3:

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Council hereby declares that it would have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 4:

A summary of this Ordinance shall be published and a certified copy of the full text of this Ordinance shall be posted in the office of the Town Clerk at least five (5) days prior to the Council meeting at which it is adopted.

This Ordinance shall be in full force and effect thirty (30) days after its final passage, and the summary of this Ordinance shall be published within fifteen (15) days after the adoption, together with the names of those Councilmembers voting for or against same, in the Marin Independent Journal, a newspaper of general circulation published and circulated in the Town of San Anselmo, County of Marin, State of California.

Within fifteen (15) days after adoption, the Town Clerk shall also post in the office of the Town of San Anselmo, a certified copy of the full text of this Ordinance along with the names of those Councilmembers voting for or against the Ordinance.

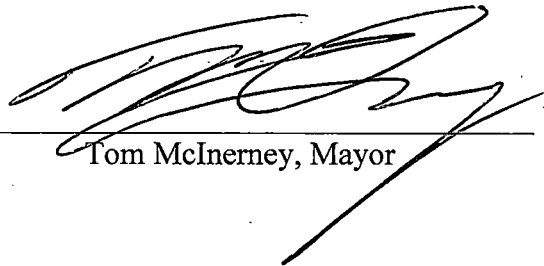
The foregoing Ordinance No. 1081 was read and introduced at a Regular Meeting of the Town Council of the Town of San Anselmo on the 28th day of February, 2012, and thereafter adopted by the Town Council on the 13th of March, 2012 by the following vote:

AYES: Councilmembers Coleman, Greene, Kroot, Lopin, McInerney

NOES: None

ABSENT: None

ABSTAIN: None



Tom McInerney, Mayor

ATTEST:


Barbara Chambers, Town Clerk