

ORDINANCE NO. 1992

AN ORDINANCE ADDING CHAPTER 9.21 TO THE PLEASANTON MUNICIPAL CODE REGARDING CONSTRUCTION AND DEMOLITION DEBRIS

WHEREAS, the State of California requires each local jurisdiction in the state divert 50 percent of discarded materials from landfills from the base year (1990) to December 31, 2000, and thereafter maintain or exceed that diversion rate; and

WHEREAS, by 2010, the voters of Alameda County, through the Waste Reduction and Recycling Act of 1990 (Measure D), have adopted a policy goal to reduce the total tonnage of materials generated in Alameda County and placed in landfills by 75 percent; and

WHEREAS, although construction and demolition debris constitutes a significant amount of the material placed in landfills in Alameda County and contributes to the amount of solid waste in the City, construction and demolition debris has significant potential for recycling and reuse; and

WHEREAS, reusing and recycling construction and demolition debris is essential to further the City's efforts to reduce waste and comply with AB 939 and Measure D goals; and

WHEREAS, except in unusual circumstances, it is feasible to divert an average of at least 50 percent of construction and demolition debris from construction, demolition, and renovation projects.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PLEASANTON DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. The Pleasanton Municipal Code is hereby amended to add a new Chapter 9.21 as follows:

Chapter 9.21 Construction and Demolition Debris

Section 9.21.010. Definitions.

In this chapter, the following definitions apply:

"Applicant" means any individual, public entity or private entity that applies to the City for the applicable permit to undertake a construction, demolition, or renovation project.

"City Manager" means the City Manager or the City Manager's designee.

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

“Construction and Demolition Debris” means Solid Waste and Recyclable Materials generated at premises during construction, demolition, or renovation.

“Conversion Rate” means the rate in the standardized conversion rate table approved by the Compliance Official pursuant to this chapter for use in estimating the volume or weight of materials identified in a Waste Management Plan.

“Diversion Requirement” means the recycling or reuse of at least ninety percent (90%) of Portland cement concrete and asphalt concrete and at least fifty (50) percent or the remaining Construction and Demolition Debris, or the percentage established by the Compliance Official for a Project pursuant to an exemption, of the total Construction and Demolition Debris.

“Diversion Rate” means the percentage of Construction and Demolition Debris that is recycled or reused.

“Franchised Collector” means the individual, public entity or private entity that is operating pursuant to the exclusive Solid Waste collection franchise agreement for the collection of Solid Waste and Recyclable Materials in the City pursuant to Chapter 9.20 of the Pleasanton Municipal Code.

“Project” means any activity involving construction, demolition, or renovation requiring the issuance of a building, demolition, or similar permit. “Project” also includes City-sponsored construction, demolition or renovation.

“Recyclable Materials” means those nonhazardous materials or byproducts which are intended for reuse, remanufacture, or reconstitution for the purpose of using the altered form. Recyclable Materials may include, but are not limited to, aluminum cans, asphalt, cardboard, carpeting, concrete, glass, metals, paper, rubber, textiles, wood.

“Recycle” means the process of collecting, sorting, cleansing, treating, and reconstituting material that would otherwise become Solid Waste, and making it available for reuse.

“Regulated Project” means any construction or renovation project requiring a building or similar permit with a total value of \$125,000 or more, or a demolition project requiring a demolition or similar permit with a total value of \$25,000 or more. The total value shall be calculated by the Compliance Official using the City’s standard commercial and residential formulas.

“Reuse” means further or repeated use of Construction and Demolition Debris.

“Solid Waste” means all non-hazardous putrescible and nonputrescible solid, semi-solid, and associated liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, discarded home and industrial appliances, vegetable, animal or other solid and semi-Solid Wastes, and other discarded materials that have

not been made available for recycling. Solid Waste does not include Recyclable Materials nor hazardous waste which is subject to specific regulations not addressed in this chapter.

“Waste Management Plan” or “WMP” means a plan approved by the Compliance Official, under this chapter, for a Regulated Project.

“Waste Management Plan Fee “or WMP fee” means a nonrefundable fee set by the City Council to administer and implement this chapter.

Section 9.21.020 Regulated Projects.

A. Each Applicant for a Regulated Project shall comply with the diversion requirements of this chapter. Compliance with this chapter shall be a condition of approval for any building or demolition permit issued for a Regulated Project. The failure to impose this condition for any building or demolition permit shall not relieve the Applicant from complying with this chapter.

B. Each Applicant for a Project that is not a Regulated Project is encouraged to achieve a Diversion Rate of at least fifty (50) percent.

Section 9.21.030 Waste Management Plan.

A. WMP Application. Each Applicant of a Regulated Project shall submit a completed WMP application prior to issuance of a City building, demolition, or similar permit. The completed WMP application shall include all of the following and, in estimating the volume or weight of materials identified in the WMP, the Applicant shall use the Conversion Rates approved by the Compliance Official:

1. The estimated quantity, volume or weight, identified by material including mixed debris, of Construction and Demolition Debris to be generated;

2. The maximum quantity, volume or weight of material proposed to meet the Diversion Requirement and the plan for diverting each of the materials, including mixed debris;

3. The estimated quantity, volume or weight of Construction and Demolition Debris that will be placed in a landfill;

4. The estimated Diversion Rate;

5. The Franchise Collector that the Applicant proposes to use to collect or receive Recyclable Materials or, if the Franchise Collector is unable to collect or receive the Recyclable Materials, the name and address of the person who will;

6. The WMP fee; and

7. The total area (in square feet) to be constructed or demolished.

Section 9.21.040 Evaluation of WMP.

A. The Compliance Official shall approve a WMP if the Compliance Official determines that all of the following conditions have been met:

1. The WMP provides all of the information set forth in this Chapter; and
2. The WMP demonstrates a Diversion Rate that meets or exceeds the Diversion Requirement.

B. If the Compliance Official determines that the WMP fails to meet the Diversion Requirement, the Compliance Official shall immediately suspend processing the plan check for the project and either:

1. Return the WMP application to the Applicant marked "Denied," with reasons therefore, and retain a copy of the denial in the Building Division; or
2. Return the WMP to the Applicant marked "Further Explanation Required," with a statement of the additional explanation required, and retain a copy in the Building Division.

C. Approval Required Before Building Permit. Notwithstanding any other provision of this code, no building, demolition, or similar permit shall be issued for any Regulated Project until the Compliance Official has approved the WMP.

D. The Compliance Official shall approve or deny a WMP within ten (10) business days of the Compliance Officer's receipt of a complete WMP application.

Section 9.21.050 Compliance with WMP.

A. Applicant's Documentation. Before the Building Division issues a certificate of occupancy of any Regulated Project, or before the Building Division issues the last certificate of occupancy for units within a Regulated Project that is a phased residential project, the Applicant shall submit to the Compliance Official documentation that the Regulated Project has met the Diversion Requirement. This documentation shall include all of the following:

1. Receipts from the Franchise Collector which collected or received the Applicant's Recyclable Materials and Solid Waste showing the weight or volume of the materials. For materials for which weighing is not practical due to size or other considerations, a volumetric measurement shall be used;
2. Where the Franchise Collector was unable to receive all or some Recyclable Materials, receipts from the collector who collected or received those

Recyclable Materials showing the weight or volume thereof; where weighing is not practical due to size or other considerations, a volumetric measurement shall be used;

3. A copy of the WMP, with the addition of the actual volume or weight of each material diverted and/or placed in a landfill;

4. Any additional information the Applicant believes is relevant in determining efforts to comply in good faith with this chapter.

B. The Compliance Official shall review the documentation under subsection A of this Section and, within twenty (20) business days of the Compliance Official's receipt of the documentation under subsection A, shall determine, as provided in subsection C of this Section, whether the Applicant has complied with the Diversion Requirement.

C. Determination of Compliance. The Compliance Official shall review the information submitted in the WMP and determine whether the Applicant has complied with this chapter.

1. Full Compliance. If the Compliance Official determines that the Applicant has complied with this chapter, the City shall complete the building, demolition, or other similar permit process, including issuing a certificate of occupancy.

2. Good Faith Compliance. If the Compliance Official determines that the Applicant failed to fully comply with this chapter but made a good faith effort to comply, the City shall complete the building, demolition or other similar permit process, including issuing a certificate of occupancy. In making this determination, the Compliance Official shall consider the market for the Recyclable Materials, the Diversion Rate, the size of the Project, the ability of the Franchise Collector to process the Recyclable Materials, and the documented efforts of the Applicant to meet the Diversion Requirement.

3. Noncompliance. If the Compliance Official determines that the Applicant failed to fully comply with this chapter and failed to make a good faith effort to comply with this Chapter, the City shall not complete the building, demolition or other similar permit process. In making this determination, the Compliance Official shall consider the Diversion Rate and Diversion Requirement for the Recyclable Materials, the submittal of documentation detailing the recycling efforts and any other relevant information.

Section 9.21.060 Exemption.

A. Application. If an Applicant for a Regulated Project experiences unusual circumstances making it infeasible to comply with the Diversion Requirement, the Applicant may apply for an exemption at the time that the Applicant submits the WMP.

B. If after reviewing the material submitted by the Applicant and, if necessary, meeting with the Applicant, the Compliance Official determines that meeting the Diversion Requirement is infeasible due to unusual circumstances, the Compliance Official may grant a full or partial exemption. If the Compliance Official grants a partial

exemption, the Compliance Official shall inform the Applicant of the Diversion Requirement for each material.

C. The Compliance Official shall make a decision regarding the application for an exemption within twenty (20) days of receipt thereof.

Section 9.21.070 Appeal.

A. Any Applicant may appeal a determination of the Compliance Official regarding:

- (i) the granting or denial of an exemption pursuant to Section 9.21.060
- (ii) compliance with the WMP

B. The Applicant must file a written appeal with the City Manager within ten (10) business days of the Compliance Official's determination. The appeal shall state the grounds for the appeal.

C. In deciding the appeal, the City Manager may request additional information from the Applicant, the Compliance Official, the Franchise Collector and third parties, including but not limited to, persons other than the Franchise Collector who collect Recyclable Materials. The City Manager shall issue a written decision within twenty (20) business days of receipt of the appeal, unless the Applicant agrees to an extension of time. The City Manager's decision shall be final.

Section 2. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Chapter 9.21, or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Chapter 9.21 or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this Chapter 9.21 irrespective of the fact that one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional or invalid or effective. To this end the provisions of the Article are declared to be severable.

Section 3. A summary of this ordinance shall be published once within fifteen (15) days after its adoption in "The Valley Times," a newspaper of general circulation published in the City of Pleasanton, and the complete ordinance shall be posted for fifteen (15) days in the City Clerk's office within fifteen (15) days after its adoption.

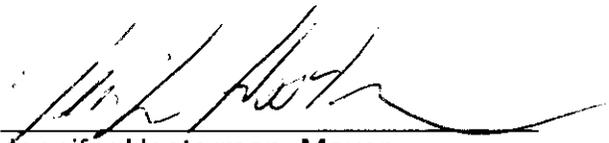
Section 4. This ordinance shall be effective thirty (30) days after its passage and adoption.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Pleasanton on June 16, 2009, by the following vote:

Ayes: Councilmembers Cook-Kallio, Sullivan, Thorne
Noes: None
Absent: Councilmember McGovern, Mayor Hosterman
Abstain: None

And adopted at a regular meeting of the City Council of the City of Pleasanton on July 21, 2009, by the following vote:

Ayes: Councilmembers Cook-Kallio, McGovern, Sullivan, Thorne, Mayor Hosterman
Noes: None
Absent: None
Abstain: None


Jennifer Hosterman, Mayor

ATTEST:


Karen Diaz, City Clerk

APPROVED AS TO FORM:


Michael H. Roush, City Attorney