

ORDINANCE NUMBER O- 19694 (NEW SERIES)

DATE OF FINAL PASSAGE DEC 18 2007

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12/4

AN ORDINANCE AMENDING CHAPTER 6, ARTICLE 6, DIVISION 6 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 66.0601, 66.0602, 66.0604, 66.0606, 66.0607, AND 66.0608, ALL RELATING TO DIVERSION OF CONSTRUCTION AND DEMOLITION DEBRIS FROM LANDFILL DISPOSAL.

WHEREAS, the City operates the Miramar Landfill [Landfill], which currently is the only municipal landfill in the City; and

WHEREAS, the Landfill is expected to close between 2011 and 2013; so preserving Landfill capacity in order to extend the useful life of the Landfill for the benefit of the citizens of the City is of paramount concern; and

WHEREAS, the California Integrated Waste Management Act of 1989, Assembly Bill 939 [AB 939], requires that each local jurisdiction in the State divert 50% of waste from landfill disposal; and

WHEREAS, the City could face fines up to \$10,000 per day if it fails to remain in compliance with AB 939 mandates; and

WHEREAS, at least 35%, or 586,000 tons, of waste going into local landfills each year originates from construction and demolition projects within the City; and

WHEREAS, reusing and recycling construction and demolition debris is necessary both to preserve and extend the useful life of the Landfill and to further efforts to reduce waste and comply with AB 939 mandates; and

WHEREAS, construction and demolition debris recycling is proven to reduce the amount of such material deposited in a landfill; and

WHEREAS, except in unusual circumstances, it generally is feasible to divert most of the construction and demolition debris generated from most construction, demolition, and renovation projects; and

WHEREAS, this ordinance as originally adopted was to become effective only after a certified recycling facility which accepted mixed construction and demolition debris was operating within the City at a 50% diversion rate; and

WHEREAS, a private recycling facility which accepts mixed construction and demolition debris is now operating just outside City limits in a relatively central location and two additional facilities are proposed for development at local landfills within the County of San Diego in the near future; and

WHEREAS, facility certification regulations would be promulgated in a more timely and efficient manner if objections to proposed regulations were appealable to the Mayor, whose decision would be final; and

WHEREAS, for purposes of more effectively administering the diversion deposit process, deposits should be collected at the time of permit issuance rather than permit application; and

WHEREAS, the deposit schedule requires upward revision and the minimum deposit should be increased to remain consistent with the deposit schedule;

NOW THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter 6, Article 6, Division 6, of the San Diego Municipal Code be amended by amending Sections 66.0601, 66.0602, 66.0604, 66.0606, 66.0607, and 66.0608, to read as follows:

Division 6:**Construction and Demolition Debris Diversion Deposit Program****§ 66.0601 Findings**

The Council of the City of San Diego finds and declares that:

- (a) [No change in text.]
- (b) The City has made and continues to make progress in meeting the waste *diversion* requirements imposed by *AB 939*, but additional efforts, particularly in the *diversion of construction and demolition debris*, will assist the City in continuing to meet the goal of *diverting* 50% of its waste from landfill *disposal*.
- (c) [No change in text.]
- (d) Efforts by the City and the private sector to encourage voluntary *construction and demolition debris diversion* have not been as successful as the City had hoped and additional efforts are necessary to ensure continued compliance with *AB 939* requirements.
- (e) [No change in text.]

§ 66.0602 Purpose of Construction and Demolition Debris Diversion Deposit Program

The purpose of this Division is to establish the Construction and Demolition Debris Diversion Deposit Program. This program is intended to increase the *diversion of construction and demolition debris* from landfill *disposal*, conserve the capacity and extend the useful life of the Miramar Landfill, and avoid the potential financial and other consequences to the City of failing to remain in compliance with *AB 939* requirements.

§ 66.0603 Definitions

[No change in text.]

§ 66.0604 Submittal of Waste Management Form and Diversion Deposit

Beginning on the 45th day after the City has notified the public, in the manner described in section 66.0606(e), that a *certified recycling facility* which accepts mixed *construction and demolition debris* is operating at a 50% *diversion* rate, within 25 miles of the City Administration Building located at 202 "C" Street, San Diego, or beginning on July 1, 2008, whichever is later:

- (a) All *applicants* for a Building Permit or a Demolition/Removal Permit, including the City of San Diego, shall submit a properly completed *Waste Management Form Part I* with the Building Permit or Demolition/Removal Permit application, in accordance with the requirements set forth in the Land Development Manual; and
- (b) All *applicants*, including the City of San Diego, shall pay a refundable deposit at the time the Building Permit or Demolition/Removal Permit is issued; and
- (c) [No change in text.]

§ 66.0605 Establishment of Construction and Demolition Debris Diversion Deposits

[No change in text.]

§ 66.0606 Entitlement to Refund of Diversion Deposit

- (a) An *applicant* is eligible for a refund of the deposit paid pursuant to Section 66.0604(b) provided the *applicant* submits the following directly to the *Director* within 180 days of the final inspection date for the *development* for which the deposit was paid:

- (1) A properly completed *Waste Management Form Part II*, in accordance with the requirements set forth in the Land Development Manual, which demonstrates the *construction and demolition debris diversion* the *applicant* achieved for the *development*.
- (2) Evidence satisfactory to the *Director* that the *construction and demolition debris* generated by the *development* was *diverted*, at the applicable *diversion* rate set forth in Section 66.0606(d) below, by one or more of the following methods:
 - (a) on-site reuse of the *construction and demolition debris*;
 - (b) acceptance of the *construction and demolition debris* by a *certified recycling facility*; or
 - (c) other donation or reuse of the *construction and demolition debris* acceptable to the *Director*.

For a commercial *development*, such as a shopping center, with a master developer which manages solid waste generated by the *development* as a whole and which has multiple commercial or retail tenants who may construct their own tenant improvements, the evidence satisfactory to the *Director* described in section 66.0606(a)(2) may include receipts from a *certified recycling facility(ies)* showing the cumulative weight or volume of *construction and demolition debris diverted* from the *development* within the 30 calendar days prior to the final inspection date referred to in section 66.0606(a).

(b) through (c) [No change in text.]

(d) If the *Director* determines the applicant is entitled to a refund, the amount of the refund shall be in the same proportion to the deposit paid by the *applicant* as the *diversion* rate achieved for the *development* is to the applicable *diversion* rate set forth below:

(1) For Building Permits or Demolition/Removal Permits issued on or after the actual effective date of Section 66.0604 through and including 180 calendar days from the actual effective date of Section 66.0604, the *diversion* rate shall be 50% by weight of the total *construction and demolition debris* generated by the *development*; and

(2) For Building Permits or Demolition/Removal Permits issued after 180 calendar days from the actual effective date of Section 66.0604, the *diversion* rate shall be 75% by weight of the total *construction and demolition debris* generated by the *development*, provided that a *certified recycling facility* which accepts mixed *construction and demolition debris* is operating within 25 miles of the City Administration Building located at 202 "C" Street, San Diego, at a 75% *diversion* rate as of 181 calendar days from the actual effective date of Section 66.0604. If such a facility is not in operation as of 181 calendar days from the actual effective date of Section 66.0604, the *diversion* rate shall remain as set forth in Section 66.0606(d)(1) until 30 days after the City has notified the public that such a facility is available, at which time the *diversion* rate shall increase to 75% by weight of the total *construction and demolition debris* generated by the *development*.

(e) through (g) [No change in text.]

- (h) If a Building Permit or Demolition/Removal Permit, for which a deposit has been paid, is subsequently cancelled, abandoned or expires before work on the *development* has commenced, the *Director* shall refund the deposit paid by the *applicant* upon the *applicant's* submittal to the *Director* of satisfactory proof of the cancellation, abandonment or expiration of the permit.
- (i) through (j) [No change in text.]

§ 66.0607 Certified Recycling Facilities

- (a) [No change in text.]
- (b) Within ten working days after publication of the notice adopting the proposed rules and regulations pursuant to Section 66.0607(a), any person in disagreement with the proposed rules and regulations may request in writing to the *Director* that proposed rules and regulations be considered by the City Manager or designee. The proposed rules and regulations shall be considered by the City Manager or designee, who shall issue a written decision respecting the proposed rules and regulations within thirty days of the *Director's* receipt of the written request. The decision of the City Manager or designee with respect to the rules and regulations shall be final.

§ 66.0608 Diversion Deposit Program Exemptions

- (a) [No change in text.]
- (b) The following activities are exempt from this Division:
 - (1) *Development* which is expected to generate only *hazardous waste* and/or *hazardous substances*.

- (2) *Development* for which the *construction and demolition debris* deposit is less than \$200 as calculated by the Development Services Department or its successor.

§ 66.0609 Unrefunded Diversion Deposits and Accrued Interest

[No change in text.]

§ 66.0610 Use of Diversion Deposits and Accrued Interest

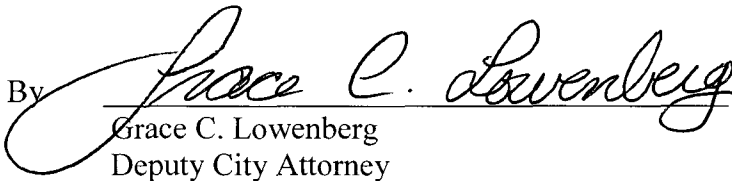
[No change in text.]

Section 2. That the adoption of this ordinance is not a project and, therefore, is not subject to the California Environmental Quality Act [CEQA] pursuant to CEQA Guidelines section 15060(c)(3).

Section 3. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 4. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By 
Grace C. Lowenberg
Deputy City Attorney

GCL:mb:sc:sb
11/06/07
Or.Dept:ESD
O-2008-47

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of DEC 04 2007.

ELIZABETH S. MALAND
City Clerk

By *Mary Sumaya*
Deputy City Clerk

Approved: 12.18.07
(date)

JSL
JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor