

Staff Report

TO: ATASCADERO CITY COUNCIL
DATE:
SUBJECT: CONSIDERATION OF DRAFT CONSTRUCTION AND
DEMOLITION DEBRIS (C&D) ORDINANCE

RECOMMENDATION

Staff recommends the Atascadero City Council consider the C&D Ordinance attached in Exhibit 1, and adopt said ordinance.

FISCAL IMPACT

There is no fiscal impact to the City with adoption of the ordinance; however, there will be minimal additional staff time necessary to review recycling plans and determine compliance. There is no fiscal impact to the building permit applicant unless he/she does not comply with the ordinance and a civil penalty in the amount of 2% of the project's valuation will be assessed.

SUMMARY

On September 13, 2000 the San Luis Obispo County Integrated Waste Management Authority (IWMA) adopted a model Construction and Demolition (C&D) Debris Recycling Ordinance and forwarded it to member jurisdictions for their consideration.

The model ordinance was derived from reviewing similar ordinances throughout the state, and was prepared over the course of a year with comments from the construction industry, building departments and roll-off companies.

The intent of developing the model ordinance was to try and standardize the regulatory procedures for recycling C&D materials throughout the county, making the process consistent for the building community. The key components of the model ordinance are as follows:

1. C&D projects would be required to achieve a 50% recycling rate;
2. Provisions for a "good faith effort" are included if the 50% goal is not met, considering such factors as the availability of markets for the C&D debris, size of the project, and the documented efforts of the applicant to divert the C&D debris;
3. The ordinance would apply only to construction or renovation projects of \$50,000 or more, or demolition projects of more than 1,000 square feet; and
4. A civil penalty calculated as 2% of the total project valuation will be imposed on projects not complying with the 50% recycling rate and are not deemed to have made a "good faith effort".

The ordinance establishes a civil penalty for non-compliance at the completion of the project rather than requiring a performance security as an up-front fee and would be calculated as 2% of the total project valuation. Collecting a penalty at the end of a project instead of a security deposit at the beginning was considered a superior method by staff and local contractors since it will require less staff time to administer, and will be less costly for the applicant.

DISCUSSION

The purpose of adopting this type of ordinance is to help the City meet the State-mandated goal of diverting 50% of the materials going to the landfill by the year 2000 and beyond, and to avoid possible fines or other enforcement action for non-attainment of this goal. The City's Source Reduction and Recycling Element (SRRE) identifies C&D recycling as a critical program in reaching the 50% diversion target.

In early 2001, the City of San Luis Obispo and the City of Arroyo Grande adopted the model C&D ordinance, augmenting their existing requirement that a Recycling Plan be submitted for large projects. In addition, the City of Morro Bay also adopted the model ordinance in March 2002. An example of how much recycling can be accomplished can be seen with the SLO Promenade project, whereby over 90% of the demolition debris was recycled.

Administration and Provisions of the C&D Ordinance

The Chief Building Official or his/her designee is authorized and responsible for implementing the provisions of the ordinance, including handling questionable recycling plans, and tracking results of the program.

Applicants will receive information about the program from the Public Services Department when applying for a land use permit, or when applying for a building or demolition permit. The applicant will fill out and submit the recycling plan form to the Building Department for review. The plan will then either be:

- a. **Approved**, allowing the building or demolition permit to be issued;
- b. **Denied**, not allowing the building or demolition permit to be issued; or
- c. **Returned** to the applicant if determined that additional information is necessary to make a decision as to its adequacy.

When the project is complete, the applicant must return the approved recycling plan with the appropriate documentation, and the compliance official will then make the following determination of whether the applicant has complied with the diversion requirements:

- a. **Full compliance**: the applicant has fully complied with the diversion requirements;
- b. **Substantial compliance**: the applicant has made a "good faith effort" to comply but for an unforeseen reason could not fully comply; or
- c. **Noncompliance**: the applicant is not in substantial compliance or fails to submit the required documentation

If it is determined that an applicant is not in compliance, a civil penalty calculated as two (2) percent of the total project valuation will be assessed, and the certificate of occupancy or final inspection may not be issued until the penalty is paid.

The ordinance does provide exemptions or exceptions to the 50% diversion rate. If an applicant can provide information that supports their assertion that a 50% diversion rate is not feasible, the compliance official can grant a lower diversion rate for a project. If an applicant is not satisfied with any decision made by the compliance official, the applicant can appeal to the Public Services Director whose decision is final.

CONCLUSION

Staff recommends that Council adopt said ordinance the C&D Ordinance attached in Exhibit1

