

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN  
BRUNO AMENDING CHAPTER 10.23 (RECYCLING AND  
DIVERSION OF DEBRIS FROM CONSTRUCTION AND  
DEMOLITION) OF THE CITY OF SAN BRUNO MUNICIPAL CODE  
ESTABLISHING DIVERSION REQUIREMENTS**

The City Council of the City of San Bruno **ORDAINS** as follows:

**SECTION 1.** Chapter 10.23(Recycling and Diversion of Debris from Construction and Demolition) of Title 10 (Municipal Services) of the San Bruno Municipal Code is hereby amended to adhere to Section 4.408.1 (Construction Waste Management) of the 2022 California Green Building Standards Code.

**SECTION 2. FINDINGS.**

**WHEREAS**, a study of nearby jurisdictions has determined that most nearby cities have updated their minimum diversion rate to adhere to Section 4.408.1 (Construction Waste Management) of the 2022 California Green Building Standards Code requirements for a 65 percent minimum diversion rate.

**WHEREAS**, it is in the public interest for the City to establish consistent and detailed standards for minimum diversion rates to ensure the safety and general welfare, proper appearance, and the quality of the city's neighborhoods is preserved while ensuring that development projects such as the renovation, remodel or addition to an existing structure that increases the building's conditioned area, volume or size results in the recycling or salvaging for reuse of materials at a minimum of 65 percent.

**SECTION 3. REGULATION**

San Bruno Municipal Code Chapter 10.23 (Recycling and Diversion of Debris from Construction and Demolition) is amended as shown in underline for additions and ~~strikethrough~~ for deletions, as follows:

**10.23.030 Diversion requirements.**

Notwithstanding Section 10.23.020(A), it is required that at least the following specified percentages of construction and demolition debris waste tonnage generated from every covered project shall be diverted from landfills by using recycling, reuse, salvage and other diversion programs:

A. Projects involving the complete demolition or removal of any residential or commercial building shall be required to divert ~~fifty~~ sixty-five percent of all generated

construction and demolition debris tonnage. When total tonnage generated from such project includes soil, concrete and/or asphalt, the total diversion rate shall remain at fifty sixty-five percent but at least twenty-five percent of diverted material shall come from generated tonnage that excludes soil, concrete and asphalt.

B. Projects involving the construction of any completely new residential or commercial building shall be required to divert fifty sixty-five percent of total generated waste tonnage.

C. Projects involving the alteration of any building, where the value of such alteration exceeds fifty thousand dollars, shall be required to divert at least fifty sixty-five percent of all generated construction and demolition debris tonnage. (Ord. 1902 § 3, 2021; Ord. 1659 § 2, 2002)

#### **10.23.050 Compliance deposit required.**

As a condition precedent to issuance of any building or demolition permit for a covered project, the applicant shall post a cash deposit in the amount of fifty dollars for each estimated ton of generated construction and demolition debris, based on calculations approved by the city. The city council shall establish the minimum deposit and maximum deposit amounts for all covered projects from time to time pursuant to resolution and until so established the minimum deposit shall be not less than one thousand dollars and the maximum deposit amount shall be not more than fifty thousand dollars. The deposit shall be returned, without interest, within a reasonable amount of time not to exceed sixty days following proof to the satisfaction of the building official that no less than the required percentages of debris generated by the project have been diverted from landfill in accordance with the provisions of this chapter. ~~If a lesser percentage of debris is diverted than is required, a proportionate share of the deposit will be returned.~~ The deposit shall be forfeited to the extent that there is a failure to comply with the requirements of this chapter, or if reasonable proof in conformance with this chapter is not provided ~~within one year of the expiration of the building permit or the building permit receiving after 60 calendar days~~ from approved final inspection. (Ord. 1902 § 3, 2021; Ord. 1759 § 2, 2008; Ord. 1659 § 2, 2002).

#### **10.23.080 Reporting.**

A. Within sixty days following the completion of a covered project for demolition (or of the demolition portion of a covered project involving both demolition and new construction), the applicant shall submit documentation to the community development department that complies with the requirements of this chapter.

B. As a condition prior to final inspection and/or to approval of final inspection on a covered project, the applicant shall submit to the community development department documentation that complies with the requirements of this chapter.

C. The documentation shall consist of a final completed report in a format provided by the city describing diversion activities and showing actual tonnage data for diverted and disposed materials, supported by originals or photocopies of receipts and weight tags or other records of measurement from recycling companies, deconstruction contractors and/or landfill and disposal companies. Receipts and weight tags will be used to verify whether materials generated from the site have been or are to be recycled, reused, or salvaged.

D. For covered projects with a value in excess of five hundred thousand dollars, the building official may require, in addition to the documentation specified above, interim reporting during the term of the project. Such reporting shall be used for the sole purpose of verifying that the applicant is making a good faith effort to comply with the requirements of this chapter, and shall be updated monthly.

E. Any deposit posted pursuant to the requirements of this chapter shall be forfeited if the applicant does not furnish required reports ~~within the time reporting requirements of this section~~ sixty (60) calendar days from approved final inspection. (Ord. 1902 § 3, 2021; Ord. 1759 § 4, 2008; Ord. 1659 § 2, 2002)

F. The following materials shall be exempt from reporting and shall not be diverted or disposed of with the designated recyclable and reusable materials: Asbestos, appliances, railroad ties, telephone poles, and pressure-treated wood. Documentation of material types shall be required.

**SECTION 4. NO MANDATORY DUTY OF CARE.** This Ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or parties within the city or outside of the city, so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

**SECTION 5. CONSTITUTIONALITY; SEVERABILITY.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional, invalid or ineffective by a court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective.

**SECTION 6. CEQA EXEMPTION.** The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3) and 15378 (b)(5), that adoption of this Ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project that has the potential for causing a significant effect

on the environment. The Council therefore directs that the Planning Division may file a Notice of Exemption with the San Mateo County Clerk.

**SECTION 7. EFFECTIVE DATE.** This Ordinance shall take effect thirty (30) days from and after the date of its adoption.

**SECTION 8. PUBLICATION.** The City Clerk is directed to cause publication of this Ordinance as required by law.

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**INTRODUCED** on the \_\_\_\_\_ day of \_\_\_\_\_, 2022, and **PASSED AND ADOPTED** by the City Council of the City of San Bruno on this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by the following vote:

AYES: Councilmembers: \_\_\_\_\_

NOES: Councilmembers: \_\_\_\_\_

RECUSED: Councilmembers: \_\_\_\_\_

ABSENT: Councilmembers: \_\_\_\_\_

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Rico E. Medina  
Mayor of the City of San Bruno

ATTEST:

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Vicky Hasha, Deputy City Clerk