



**AGENDA ITEM SUBMITTAL FORM
BOARD OF SUPERVISORS
CLERK OF THE BOARD**

222 East Weber Avenue, Room 701
Stockton, California 95202

For Clerk's Use Only: AGENDA NUMBER

SUBMIT ONE COPY OF THIS FORM WITH EACH BOARD AGENDA ITEM.

At the time of submitting your agenda item documents, please **provide ONE ORIGINAL & 15 COPIES OF THE BOARD LETTER AND ANY ACCOMPANYING DOCUMENTS** (Resolutions, Board Orders, Contracts, etc.) for distribution after Board Approval.

If more than one original is required, you must provide the appropriate number of originals to be executed by the Board of Supervisors.

DATE: OCTOBER 5, 2009 **DEPARTMENT:** PUBLIC WORKS
CONTACT & PHONE #: STEVE WINKLER 468-3031

AGENDA ITEM TITLE: PUBLIC HEARING REGARDING ADOPTION OF NON-COMPLIANCE FEES FOR THE CONSTRUCTION, DEMOLITION AND LANDSCAPE DEBRIS RECYCLING AND DIVERSION ORDINANCE

PROPOSED AGENDA PLACEMENT DATE: OCTOBER 13, 2009 **PROPOSED CALENDAR:** 9:00 A.M.

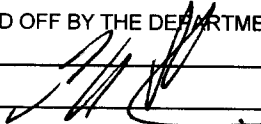
DISTRIBUTION: (MAILING ADDRESSES MUST BE PROVIDED IF NOT A COUNTY DEPARTMENT)

<u>TO:</u>	<u>DOCUMENT</u>	<u># OF COPIES</u>
Board Clerk	Resolution	Original
County Counsel	"	1
Public Works (Central Files: e-copy) (Solid Waste:) (Fiscal)	"	0

List any special instructions to the Clerk of the Board:

FINAL AGENDA PLACEMENT DATE: **FINAL CALENDAR:**

AGENDA ITEMS MUST BE REVIEWED AND SIGNED OFF BY THE DEPARTMENT HEAD, COUNTY ADMINISTRATOR, AND COUNTY COUNSEL.

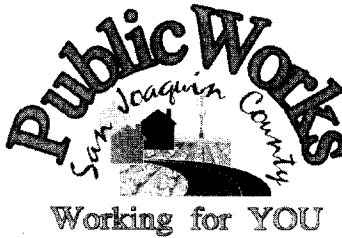
Department Head	Signature 	Date <u>10/5/09</u>
County Administrator	Signature _____	Date _____
County Counsel	Signature _____	Date _____

1/15/02

Distributed by Clerk: _____ Date: _____



THOMAS R. FLINN
DIRECTOR



P. O. BOX 1810 - 1810 E. HAZELTON AVENUE
STOCKTON, CALIFORNIA 95201
(209) 468-3000 FAX (209) 468-2999
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THOMAS M. GAU
CHIEF DEPUTY DIRECTOR

MICHAEL SELLING
DEPUTY DIRECTOR

STEVEN WINKLER
DEPUTY DIRECTOR

ROGER JANES
BUSINESS ADMINISTRATOR

October 9, 2009

Board of Supervisors
44 North San Joaquin Street, Suite 627
Stockton, California 95202

**PUBLIC HEARING REGARDING ADOPTION OF NON-COMPLIANCE FEES
FOR THE CONSTRUCTION, DEMOLITION AND LANDSCAPE
DEBRIS RECYCLING AND DIVERSION ORDINANCE**

Dear Board Members:

IT IS RECOMMENDED:

That the Board of Supervisors:

1. Conduct a Public Hearing to receive testimony regarding proposed Non-Compliance Fees for the Construction, Demolition and Landscape Debris Recycling and Diversion Ordinance, and
2. Adopt a Resolution approving the Non-Compliance Fee Schedule.

REASONS FOR RECOMMENDATION:

State legislation tasks local governments with the responsibility of achieving waste diversion goals and enforcing product disposal bans. In this regard, Assembly Bill 939 requires jurisdictions to divert from disposal 50 percent of all waste generated. In addition, Senate Bill 1020 mandates effective diversion programs as a measure of compliance.

Construction and demolition (C&D) debris constitutes a significant portion of the waste materials managed by San Joaquin County landfills. On May 26, 2009, the Board of Supervisors adopted Ordinance 4310, the "C&D Ordinance," requiring the recycling and diversion of discarded construction, demolition and landscape debris. The Ordinance makes provision for the imposition of both Administrative and Non-Compliance Fees. At the time the Ordinance was adopted, Public Works staff indicated that fee proposals would be developed for further consideration by the Board.

Administrative Fees would typically be imposed to offset application review and processing costs. Non-Compliance Fees cover enforcement costs, and provide an incentive for compliance with the Ordinance. Only the establishment of Non-Compliance Fees is being recommended at this time (Attachment 1). This will provide an incentive for applicants to comply with the C&D Ordinance, without imposing additional application fees on applicable building permits. The proposed Non-Compliance Fees also reinforce Ordinance requirements for unincorporated waste to be deposited at County-designated waste facilities.

PUBLIC HEARING REGARDING PROPOSED FEE SCHEDULES

Applicant Process: The C&D Ordinance currently relies on an administrative process to encourage compliance. Applicants undertaking an applicable C&D project apply for a County building permit and are informed of their responsibility for compliance with the diversion requirements of the C&D Ordinance. The new requirements have been integrated into the permitting process at the Community Development counter. Requirements for Applicable Projects under the ordinance include:

- Signing a Disclosure form acknowledging the recycling requirements.
- Filling out a Diversion Plan prior to pulling a permit.
- Filling out a Diversion Report after project completion.
- Providing documentation showing how project materials were managed.

Public Works will review the diversion plan and the diversion report, including disposal records, submitted by Applicants. In the event that Applicants are found to be non-compliant, they will be charged a fee according to the Non-Compliance Fee Schedule. Collection of these fees will be accomplished using existing County collection procedures. Failure to pay the Non-Compliance Fee will result in "holds" being placed on future permit applications.

Prior to adoption of the C&D Ordinance, Public Works staff contacted local stakeholders in the C&D industry, convening focus groups consisting of licensed commercial/industrial solid waste collectors, and C&D contractors and haulers. The local Builder's Exchange Board reviewed the Ordinance and proposed Fee Schedule. Their feedback supported penalizing contractors who elect not to comply with the rules. Hearing notices regarding Approval of the Non-Compliance Fee Schedule were published on September 26th and October 3rd.

FISCAL IMPACT:

Non-Compliance fees will be used to fund Ordinance enforcement efforts. Any surplus funds will be used to fund Solid Waste's public education and outreach programs. It is unknown at this point how much, if any, Non-Compliance Fee revenue will be generated annually.

ACTION FOLLOWING APPROVAL:

Upon approval by the Board of Supervisors, the Non-Compliance Fee Schedule will become effective immediately. Public Works staff will administer the C&D program and address non-compliance issues, pursuant to the Ordinance.

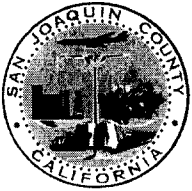
Sincerely,


FOR T. R. FLINN
Director of Public Works

TRF:AH:mk
SW-9G022-M2

c: Community Development Department

Board Clerk
October 13, 2009 Agenda



**SAN JOAQUIN COUNTY
CONSTRUCTION AND DEMOLITION
NON-COMPLIANCE FEE SCHEDULE**



Non-Compliance fees shall be based upon the applicant's history of non-compliance within the preceding twelve months. The preceding twelve months shall start on the date of the current project's determination of non-compliance and shall extend into the past by a period of one year. Current projects deemed non-compliant shall be included in the calculation of instances of historical non-compliance.

Minimum Fee	\$ 500.00
Maximum Fee	\$ 5,000.00
No-Permit Fee* (per Applicable Project)	\$ 500.00

<u>Number of Instances of noncompliance within the preceding twelve months**:</u>	<u>Non-Compliance Fee:</u>
1	\$ 500.00
2	\$ 1,000.00
3	\$ 2,000.00
4	\$ 3,500.00
5 or more	\$ 5,000.00

*No-Permit Fee applies to Applicable Projects completed without applying for or obtaining the proper permit.

**Preceding twelve months means the twelve month period preceding the date of the most current instance of an Applicable Project being determined Non-Compliant pursuant to Chapter 14 of Division 2 of Section 5 of the San Joaquin County Ordinance.

BEFORE THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN JOAQUIN
STATE OF CALIFORNIA

R E S O L U T I O N

R-09-_____

RESOLUTION APPROVING A NON-COMPLIANCE FEE SCHEDULE
FOR THE CONSTRUCTION, DEMOLITION AND LANDSCAPE
DEBRIS RECYCLING AND DIVERSION ORDINANCE

WHEREAS, the State of California has tasked local governments with the responsibility of achieving waste diversion goals and enforcing product disposal bans. In this regard, Assembly Bill 939 requires jurisdictions to divert from disposal 50 percent of all waste generated. In addition, Senate Bill 1020 mandates effective diversion programs as a measure of compliance; and

WHEREAS, On May 26, 2009, the Board of Supervisors adopted Ordinance 4310, the "C&D Ordinance," requiring the recycling and diversion of discarded construction, demolition and landscape (C&D) debris. C&D debris constitutes a significant portion of the waste materials managed by San Joaquin County. Upon adoption, Public Works staff indicated that fees would be developed for further consideration by the Board; and

WHEREAS, Upon approval by the Board of Supervisors, the C&D Ordinance provides for the imposition of both Administrative and Non-Compliance Fees. At this time, only Non-Compliance Fees are being recommended. This will provide an incentive for applicants to comply with the C&D Ordinance without imposing an additional burden on those who comply with the Ordinance Provisions. The proposed Non-Compliance Fees (Attachment 1) will also reinforce Ordinance requirements for unincorporated waste to be deposited at County-designated waste facilities. The recently approved increase in Assembly Bill 939 Compliance Fees will provide initial funding for administration of the C&D Ordinance requirements; and

WHEREAS, a public hearing has been held to receive comments on the proposed Non-Compliance Fee Schedule;

NOW, THEREFORE, BE IT RESOLVED that this Board of Supervisors hereby adopts the Non-Compliance Fee Schedule set forth in Attachment 1, pursuant to Ordinance 4310 - the Construction, Demolition and Landscape Debris Recycling and Diversion Ordinance of San Joaquin County.

PASSED AND ADOPTED _____, by the following vote
of the Board of Supervisors, to wit:

AYES:

NOES:

ABSENT:

ATTEST: LOIS M. SAHYOUN
Clerk of the Board of Supervisors
of the County of San Joaquin,
State of California

LEROY ORNELLAS, Chairman
of the Board of Supervisors
County of San Joaquin,
State of California

By _____ (SEAL)
Deputy Clerk

BEFORE THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN JOAQUIN
STATE OF CALIFORNIA

R E S O L U T I O N

R-09- 525

RESOLUTION APPROVING A NON-COMPLIANCE FEE SCHEDULE
FOR THE CONSTRUCTION, DEMOLITION AND LANDSCAPE
DEBRIS RECYCLING AND DIVERSION ORDINANCE

WHEREAS, the State of California has tasked local governments with the responsibility of achieving waste diversion goals and enforcing product disposal bans. In this regard, Assembly Bill 939 requires jurisdictions to divert from disposal 50 percent of all waste generated. In addition, Senate Bill 1020 mandates effective diversion programs as a measure of compliance; and

WHEREAS, On May 26, 2009, the Board of Supervisors adopted Ordinance 4310, the "C&D Ordinance," requiring the recycling and diversion of discarded construction, demolition and landscape (C&D) debris. C&D debris constitutes a significant portion of the waste materials managed by San Joaquin County. Upon adoption, Public Works staff indicated that fees would be developed for further consideration by the Board; and

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WHEREAS, a public hearing has been held to receive comments on the proposed Non-Compliance Fee Schedule;

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PASSED AND ADOPTED 10/13/09, by the following vote
of the Board of Supervisors, to wit:

AYES: **Villapudua, Bestolarides, Vogel, Ruhstaller, Ornellas**

NOES: **None**

ABSENT: **None**

ATTEST: LOIS M. SAHYOUN
Clerk of the Board of Supervisors
of the County of San Joaquin,
State of California

Leroy Ornellas

LEROY ORNELLAS, Chairman
of the Board of Supervisors
County of San Joaquin,
State of California

By **Caroline Junco**

Deputy Clerk



SW-9G022-M3



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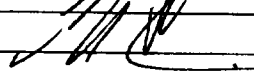
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
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County Administrator	Signature _____	Date _____
County Counsel	Signature _____	Date _____

1/15/02

Distributed by Clerk:  Date: 10/19/09

RECEIVED

10/5/09

Clerk of the Board