



COUNCIL AGENDA: 10-26-10
ITEM: 4.2

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Lee Price, MMC
City Clerk

SUBJECT: SEE BELOW

DATE: 10-13-10

**SUBJECT: ORDINANCE AMENDMENTS TO TITLE 9 – CONSTRUCTION AND
DEMOLITION DIVERSION DEPOSIT PROGRAM**

RECOMMENDATION

As recommended by the Transportation and Environment Committee on October 4, 2010 and outlined in the attached memo previously submitted to the Transportation and Environment Committee, approve an ordinance amending Chapter 9.10 of Title 9 of the San José Municipal Code to allow for construction debris diversion in accordance with the provisions of California Green Building Standards Code.



Memorandum

TO: TRANSPORTATION
AND ENVIRONMENT COMMITTEE

FROM: Joseph Horwedel

SUBJECT: SEE BELOW

DATE: September 17, 2010

Approved

Date

9/21/10

COUNCIL DISTRICT: Citywide
SNI AREA: All

SUBJECT: ADOPTION OF GREEN BUILDING REGULATIONS FOR PRIVATE SECTOR DEVELOPMENT THROUGH PROPOSED CHANGES TO SAN JOSÉ MUNICIPAL CODE TITLE 9 PART 15 AND TITLE 20 CHAPTER 20.90 TO COMPLY WITH 2010 CALIFORNIA GREEN BUILDING STANDARDS CODE (CALGREEN)

RECOMMENDATION

Recommend to City Council adoption of proposed changes to San José Municipal Code Title 9 Part 15 Construction and Demolition Diversion Deposit Program, and Title 20 Chapter 20.90 Parking and Loading, as recommended by staff, to comply with the 2010 California Green Building Standards Code (CALGreen) and maintain the current requirements of the Private Sector Green Building Policy (City Council Policy 6-32) and the Ordinance to Establish Green Building Regulations for Private Development until further analysis is complete on a proposed added option for Green Building certification through the City of San José.

OUTCOME

Council adoption of the proposed changes to San José Municipal Code Title 9 Part 15 Construction and Demolition Diversion Deposit Program, and Title 20 Chapter 20.90 Parking and Loading, as recommended by staff, will bring San José into compliance with CALGreen mandatory requirements for new buildings.

BACKGROUND

In January 2010 the State of California adopted the 2010 State of California Green Building Standards Code (CALGreen), scheduled to become effective in January 2011. CALGreen has

mandatory Green Building provisions for all new residential buildings that are three stories or fewer (including hotels and motels) and all new nonresidential buildings of any size that are not additions to existing buildings. Key CALGreen requirements include:

- 20 percent mandatory reduction in indoor water use;
- Separate water meters for nonresidential buildings' indoor and outdoor water use, with a requirement for moisture-sensing irrigation systems for larger landscape projects;
- Requiring diversion of 50 percent of construction waste from landfills;
- Mandatory inspections of energy systems (i.e. heat furnace, air conditioner, mechanical equipment) for nonresidential buildings over 10,000 square feet to ensure that all are working at their maximum capacity according to their design efficiencies;
- Requiring low-pollutant emitting interior finish materials such as paints, carpet, vinyl flooring and particle board.

The CALGreen draft document and a summary of key provisions are available from the State of California at the following web links:

<http://www.documents.dgs.ca.gov/bsc/documents/2010/Draft-2010-CALGreenCode.pdf>

<http://images.emaildirect.com/clients/govpressoffice847/GreenBuildingCodeOnepager.pdf>

At the T&E Committee meeting held August 16, 2010, City staff summarized stakeholder engagement through June 2010 on how to reconcile compliance with CALGreen with the City of San José's Private Sector Green Building Policy (City Council Policy 6-32) and the Ordinance to Establish Green Building Regulations for Private Development, as well as possible scenarios to explore for updates. Through these efforts, staff has identified potential changes to the San José Municipal Code that are required to comply with CALGreen mandatory provisions that become effective in January 2011.

Proposed changes to life safety and other construction-related requirements, including the local adoption of the state CALGreen code, in the Municipal Code are scheduled to be presented to the Community and Economic Development Committee and the Public Safety, Finance and Strategic Support Committee on September 27, 2010 and October 21, 2010 respectively, and are summarized in a separate memorandum to these Committees.

Staff is summarizing proposed changes to Title 9 and Title 20 of the San José Municipal Code to the Transportation and Environment Committee below in the Analysis section of this memorandum.

ANALYSIS

CALGreen Mandatory Requirements

CALGreen expands the range of buildings subject to mandatory requirements that support energy efficiency, water efficiency, alternative transportation, and other sustainability measures. CALGreen

also allows current local ordinances that are more stringent than CALGreen to satisfy CALGreen's mandatory requirements.

In several categories of Green Building measures, CALGreen's mandatory requirements are already met or complemented by the City of San José's requirements for private-sector development. For example, CALGreen's mandatory Green Building provisions address all new residential buildings that are three stories or fewer (including hotels and motels). The City of San José requires all new residential development that consists of ten units or more to obtain third party certification for Green Building measures through U.S. Green Building Council LEED Certified or higher certification or the Build It Green Green Point Rated 50 points or higher certification. Energy efficiency requirements in CALGreen are 2008 Title 24 standards that are already adopted and implemented by the City of San José.

However, in some categories, such as construction debris diversion and parking standards for alternative transportation, staff has identified that some of the wording of mandatory requirements in CALGreen may not be easily translated to the wording of the City's current requirements. Because some of the code language appears to be substantively different between CALGreen and San José's local ordinances, staff recommends updating applicable sections of Title 9 and Title 20 in the San José Municipal Code to integrate CALGreen requirements comprehensively into the City's ordinances.

Title 9 Part 15 Construction and Demolition Diversion Deposit Program Proposed Changes

CALGreen requires that each site for new building construction "recycle and/or salvage for reuse a minimum of 50% of non-hazardous construction and demolition debris or meet local ordinance, whichever is more stringent." Additionally, for nonresidential buildings, CALGreen requires that for excavated soil and land clearing debris that "100% of trees, stumps, rocks and associated vegetation and soils resulting primarily from land clearing shall be reused or recycled."

To comply with the CALGreen mandatory regulations for debris diversion, staff recommends revisions to Title 9 Part 15 of the San José Municipal Code to establish a requirement that for each building permit application subject to CALGreen the applicant remit fees to the City for the review and certification of documentation for compliance with the construction, excavated soil, and land clearing debris diversion mandatory requirements of the San José Municipal Code and/or of State law. The applicants for building permits subject to the CALGreen mandatory regulations that pay these fees would then be exempt from the diversion deposit requirement for construction waste, excavated soil, and land clearing debris diversion that is otherwise required in the San José Municipal Code.

Title 20 Chapter 20.90 Parking and Loading Proposed Changes

Bicycle Parking Requirements

As proposed, the revisions to the City's Zoning Ordinance Chapter 20.90 Parking and Loading result in bicycle parking standards that are equal to or more stringent than the mandatory requirements for

bicycle parking in CALGreen. The proposed changes comply with CALGreen because CALGreen allows a local jurisdiction to comply with the State's mandatory bicycle parking requirements or meet local ordinance, whichever is stricter.

For new non-residential buildings, CALGreen requires both short-term and long-term bicycle parking spaces for at least 5% of motorized vehicle parking capacity within 200 feet of the visitors' entrance, readily visible to passers-by with a minimum of one two-bike capacity rack for short-term bicycle parking. For buildings with more than 10 tenant-occupants, CALGreen requires long-term secure bicycle parking for 5% of tenant-occupied motorized vehicle parking capacity, with a minimum of one space on-site. CALGreen does not require bicycle parking for residential development.

Currently, Title 20 Chapter 20.90 of the San José Municipal Code (the Zoning Ordinance) requires bicycle parking spaces for at least 5% of motorized vehicle parking capacity within 50 feet of the visitors' entrance for enumerated employment-related land uses and requires one parking space for every four residential units for multi-family housing.

Through revisions to Chapter 20.90 and Chapter 20.70 Downtown Zoning Regulations, staff proposes to expand the range of land uses requiring bicycle parking to include most non-residential uses so that the Zoning Ordinance requirements are more clearly consistent with the City's goals and policies for encouraging and facilitating bicycle transportation in San José. Because staff anticipates that motorized vehicle parking demand may be reduced over time as the City's alternative transportation-related goals and policies are implemented, staff does not recommend using the CALGreen methodology that directly correlates bicycle parking requirements to a percentage of required motorized vehicle parking. Instead, staff recommends correlating bicycle parking spaces to transportation demand by land use through a ratio of required bicycle parking spaces to building square feet, number of employees, or other measures that are based on the attributes of each land use. With this approach, bicycle parking standards should not automatically be reduced if motorized vehicle parking spaces are reduced. Staff is also working on drafting provisions in Chapter 20.90 to address existing buildings that may have space constraints that limit their capacity to provide short-term bicycle parking.

Clean Air Vehicle Requirements

Currently, the San José Municipal Code does not have mandatory parking requirements for clean air vehicles on private property. Staff, therefore, proposes to adopt CALGreen mandatory requirements in Chapters 20.70 and 20.90.

Next Steps

Because changes to Title 20 Chapter 20.90 Parking and Loading to comply with CALGreen involve revisions to the City of San José Zoning Ordinance parking standards, the proposed staff recommendations are also scheduled to be presented to the Planning Commission on October 13, 2010 for the Commission's recommendation to City Council. All the recommendations for changes to the San José Municipal Code to comply with CALGreen mandatory requirements are scheduled to be considered by the City Council in a public hearing on October 26, with a second reading on

November 9, 2010. All of the adopting ordinances and local amendments will become effective January 1, 2011.

PUBLIC OUTREACH

Since January 2010, public outreach on CALGreen mandatory requirements has been conducted by both the State of California and local jurisdictions including the City of San José. Additionally, City of San José staff has actively participated in regional coordination with other local jurisdictions on adoption of CALGreen requirements.

Outreach and Interagency Coordination from July through mid-September 2010

From July through mid-September 2010 City staff has engaged stakeholders on CALGreen mandatory requirements through roundtables, one-on-one interviews, meetings with representatives from local stakeholder organizations, discussions at County-wide and Bay Area-wide forums, and e-mail blasts to stakeholder lists. PBCE staff has presented CALGreen in the context of reconciling the State's mandatory requirements with current and potential revisions to the Private Sector Green Building Policy (City Council Policy 6-32) and the Ordinance to Establish Green Building Regulations for Private Development, and has also presented CALGreen as part of the package of 2010 California Building Standards that staff recommends adopting by ordinance into the San José Municipal Code.

More detailed information on public outreach prior to July 2010 is summarized in memos from the Director of Planning, Building and Code Enforcement (PBCE) to the Transportation and Environment Committee for the meetings held on May 3, 2010 and August 16, 2010. Additional information on public outreach is provided in the memo from the Directors of PBCE and the Fire Department to the Community and Economic Development Committee for the meeting scheduled for September 27, 2010.

COORDINATION

Preparation of this memorandum was coordinated with the City Attorney's Office, City Manager's Office, Environmental Services Department, Public Works, the Department of Transportation, and the Redevelopment Agency.

FISCAL/POLICY ALIGNMENT

The proposed San José Municipal Code revisions are consistent with the City of San José Green Vision and with San José 2020 General Plan goals and policies regarding sustainability and protection of energy, water, and other natural resources. Additionally, green building practices help minimize greenhouse gasses in conformance with AB 32.

T&E COMMITTEE

September 17, 2010

Subject: Private Sector Green Building Regulations for Private Sector Development

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CEQA

The proposed Policy and Ordinance revisions are categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per Section 15308 of the CEQA guidelines regarding Actions by Regulatory Agencies for Protection of the Environment.

/s/

JOSEPH HORWEDEL, DIRECTOR
Planning, Building and Code Enforcement

For questions please contact Laurel Prevetti at 408/535-7901.