

ORDINANCE NO. 2009-01

**AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF SAN JUAN BAUTISTA
(1) AMENDING CERTAIN PROVISIONS OF CHAPTER 5-4,
(2) REPEALING CHAPTER 5-5, AND RELOCATING CERTAIN
PROVISIONS OF SAID REPEALED CHAPTER 5-5 TO CHAPTER 5-4,
OF THE SAN JUAN BAUTISTA MUNICIPAL CODE,
REGARDING THE COLLECTION OF REFUSE AND RECYCLING; AND
(3) ADDING A RECYCLED PRODUCTS PURCHASE PREFERENCE TO
CHAPTER 2-8 OF THE SAN JUAN BAUTISTA MUNICIPAL CODE**

**THE CITY COUNCIL OF THE CITY OF SAN JUAN BAUTISTA HEREBY
ORDAINS AS FOLLOWS:**

SECTION 1. The title of Chapter 5-4 of the San Juan Bautista Municipal Code hereby is amended to: “Refuse Collection and Recycling.”

SECTION 2. Chapter 5-5 of the San Juan Bautista Municipal Code hereby is repealed.

SECTION 3. Section 5-4-100 of the San Juan Bautista Municipal Code hereby is amended to read as follows:

“5-4-100 Definitions.

For the purposes of this Chapter the following words and phrases shall have the meanings respectfully ascribed to them by this Section:

‘Franchisee’ means any person or entity, or the agents or employees thereof, with whom the City shall have duly entered into a franchise agreement for refuse collection and disposal, and for yard and wood waste, recyclables, and bulky items collection, processing, marketing and diversion, under terms and conditions negotiated and contained in such franchise agreement.

‘Refuse’ means all garbage, trash, and rubbish, excluding recyclables, yard and wood waste, and bulky items that are diverted.

‘Premises’ means all real property and/or any improvements situated thereon.”

SECTION 4. Section 5-4-130 of the San Juan Bautista Municipal Code hereby is amended to read as follows:

“5-4-130 Refuse containers – Use required.

(A) No person shall place, deposit, or keep refuse on any premises except in containers or as otherwise provided in this Chapter.

(B) Maximum weight of filled containers: No person shall fill a container for solid waste or recyclables so as to exceed sixty pounds in weight when filled.

(C) Source separation: All persons shall separate all recyclables from other solid waste generated at their premises and shall place the recyclables into a different container as provided by the holder of the franchise so as to facilitate segregation at a material recovery facility. An owner or agent of an owner of a multi-family rental housing property with three or more units shall comply with its separation responsibilities by establishing a collection and storage system at each property.

(D) Household hazardous waste: Every person shall separate household hazardous waste from solid waste and recyclables and shall dispose of it only at a household hazardous waste collection facility or through programs specifically provided by the franchise collector or the City to collect household hazardous waste.”

SECTION 5. Section 5-4-135 of the San Juan Bautista Municipal Code hereby is amended to read as follows:

“5-4-135 Refuse containers – Items prohibited therein.

No person shall place, deposit, or keep in any refuse container any of the following: dead animals, or any refuse from any premises where any infectious or contagious disease has prevailed. The person in possession, charge, or control of any premises wherein or whereon such items are located shall forthwith notify the Director of Public Works (DPW) and shall dispose of the same as directed by the DPW.”

SECTION 6. Section 5-4-240 of the San Juan Bautista Municipal Code hereby is amended to read as follows:

“5-4-240 Mandatory refuse service required – Unlawful to hinder contractor.

(A) It shall be mandatory for all owners, occupants, or persons in possession, charge or control of all places and premises in the City, in or from which refuse is created, accumulated, or produced, to subscribe to, use, and pay for the Franchisee’s refuse collection service in the manner and according to the terms and provisions of this Chapter, and in the manner and according to the terms and provisions of the current City-Franchisee franchise agreement for refuse collection, and the failure to do so shall be unlawful. Provided, that this subsection (A) shall not be applicable to an owner, occupant, or person, described in the first sentence of this subsection (A), who has opted out of mandatory refuse service and has demonstrated to the satisfaction of City either that no refuse is being generated on the premises, or that refuse is being timely removed from the premises and deposited and recycled at a permitted disposal or collection site.

(B) Residential, commercial, and industrial customers of Franchisee shall pay rates then in effect as established by the City-Franchisee franchise agreement.

(C) It shall be unlawful for any person to hinder, threaten, impede or obstruct Franchisee in the performance of its duties in the City.”

SECTION 7. Section 5-4-300 of the San Juan Bautista Municipal Code hereby is amended to read as follows:

“5-4-300 Final decision of City Manager as to proper placing of receptacle for collection.

In all cases of disputes regarding placement of receptacles awaiting collection by Franchisee, the City Manager shall designate the location, consistent with the current City-Franchisee franchise agreement.”

SECTION 8. Section 5-4-305 of the San Juan Bautista Municipal Code hereby is amended to read as follows:

“5-4-305 Receptacles – General provisions.

Refuse receptacles shall be provided by contractor pursuant to the current City-Franchisee franchise agreement. Persons utilizing the receptacles for refuse disposal on premises shall maintain the receptacles in a sanitary condition. Receptacles shall be placed for collection no earlier than 4:00 p.m. on the day preceding the collection day, and shall be removed following collection no later than 6:00 p.m. on collection day.”

SECTION 9. Section 5-4-310 of the San Juan Bautista Municipal Code hereby is repealed.

SECTION 10. Article 5, entitled “Recycling,” hereby is added to Chapter 5-4 of the San Juan Bautista Municipal Code, to read as follows:

“5-4-500 Removal of recyclable materials.

(A) No person, other than Franchisee, shall remove recyclable materials, as defined in the current City-Franchisee franchise agreement, that have been segregated and placed for collection.

(B) No person shall be subject to prosecution for violation of this Section, unless the person knows or should know that the materials would otherwise be collected by Franchisee for the purpose of recycling.

(C) From the time of placement for collection as specified in subsection (A) of this Section, the recyclable materials are the property of Franchisee.

(D) Recycling receptacles are subject to the provisions of Section 5-4-305 of this Chapter.”

“5-4-505 Franchises for Collection of Solid Waste and Recyclable Materials.

(A) City may determine, pursuant to state law, if a franchise for collection of solid waste, except for any materials to be reused or recycled, shall be awarded exclusively or non-exclusively and with or without competitive bidding. The City shall specify the duration of the franchise and shall establish by resolution an appropriate franchise fee.

(B) City may grant non-exclusive collection franchises for disposal of solid waste in roll-off dumpsters and for commercial, and construction and demolition recycling for collection of materials to be reused or recycled. The franchises are to be known as materials collection franchises and shall be granted subject to any franchise fees that may be established, from time to time, by resolution of the City Council. The City shall have the authority to grant non-exclusive collection franchises pursuant to the nonexclusive franchise agreement for collection of materials to be disposed from roll-off dumpsters and/or reused or recycled.

(C) It is unlawful for any person to engage in a commercial enterprise to collect solid waste or recyclables in the city limits unless the person has been granted a franchise

by the City to collect solid waste and/or recyclables, or unless the person is exempt from the franchise requirement.”

“5-4-510 Building permits – diversion plans.

No building permit shall be issued until a solid waste diversion plan has been submitted to and approved by the Building Official. Failure to submit a plan shall prevent the issuance of a building or demolition permit. Permittees are required to divert a minimum of 50% of their waste. Failure to divert 50% of the waste generated from a project will result in a penalty established by resolution of the City Council. Funds generated from any penalties collected will be set aside in a separate fund for waste diversion activities in the City of San Juan Bautista. Final occupancy or sign-off will not be issued until the Permittee has submitted their waste diversion documentation (landfill and/or recycling receipts demonstrating diversion) and/or paid the penalty, if any, to the City of San Juan Bautista. A template to complete a solid waste diversion plan is available for Permittee use.”

SECTION 11. Section 2-8-100 is hereby added to Chapter 2-8 of the San Juan Bautista Municipal Code, to read as follows:

“2-8-100 Purchasing preference for products containing recycled materials.

(A) The City Manager shall establish and maintain procedures and specifications to ensure that City gives preference, in its purchasing decisions, to products containing the maximum amount of recycled materials, where quality and fitness of such products are equal to those containing less or no recycled materials, and where the total cost is not unreasonable in comparison to those containing less or no recycled materials.

(B) ‘Product containing recycled materials’ means, with respect to a paper product, a ‘recycled paper product’ as that term is defined in Section 12301(c), California Public Contract Code; and means, with respect to other products, a ‘recycled product’ as that term is defined in Section 12301(d), California Public Contract Code.

(C) Where the California Public Contract Code or other state law provides for purchasing preferences more extensive than those of this Section, or for additional procedures to increase the use of recycled materials, those provisions of state law shall prevail.”

SECTION 12. Severability. This ordinance and the various parts thereof are hereby declared to be severable. Should any section of this ordinance be declared by a court to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any portion thereof other than the section, or part thereof, so declared to be unconstitutional or invalid.

SECTION 13. Effective Date. This ordinance shall go into effect thirty (30) days after the date of its adoption.

THE FOREGOING ORDINANCE was first read at a meeting of the San Juan Bautista City Council on the 20th day of January, 2009, and was adopted at a regular meeting of the San Juan Bautista City Council on the 17th day of February, 2009, by the following vote:

AYES: Edge, Laverone, Bilich, Hill, Moore

NOES: None

ABSENT: None

ABSTAIN: None

Rick Edge, Mayor

ATTEST:

Linda G. McIntyre, City Clerk

APPROVED AS TO FORM:

George Thacher, City Attorney