

ORDINANCE NO. 18-09

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MAYWOOD, CALIFORNIA, AMENDING ARTICLE 3 TO CHAPTER 6.2 OF THE MAYWOOD MUNICIPAL CODE RELATING TO REQUIREMENTS FOR CERTAIN CONSTRUCTION AND DEMOLITION PROJECTS

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MAYWOOD DOES FIND, DETERMINE AND RESOLVE AS FOLLOWS:

Section 1: Legislative Intent. The purpose of this ordinance is to reduce landfill waste from construction and demolitions activity by requiring those who undertake specific “covered projects” to divert, or recycle, a minimum percentage of the construction and demolition debris resulting from their projects as specified by the California Green Building Standards Code as adopted by reference in Section 8.101 of the Maywood Municipal Code.

Section 2. Application. The following projects are “covered projects” under this ordinance:

- (1) Any residential project subject to the California Building Standards Code Mandatory Measures;
- (2) Any non-residential project subject to the California Green Building Standards Code Mandatory Measures;

Section 3. Applicants. Applicants for a covered project are required to submit a Waste Management Plan, along with the application for a construction and demolition permit, and to submit a Recycling Report prior to the final building inspection.

Section 4. Article 3 of the Chapter 6.2 of the Maywood Municipal Code is amended in its entirety, as follows:

Article 3

CONSTRUCTION AND DEMOLITION DEBRIS RECYCLING

Sections:

6.2.301	Definitions
6-2.302	Threshold for covered projects
6-2.303	Submission of waste management plan
6-2.304	Review of waste management plan
6-2.305	Infeasibility exemption
6-2.307	Submittal of completed waste management plan
6-2.307	Appeal

Article 3- Construction and Demolition Debris Recycling

6-2.301 - Definitions

For the purposes of article, the following definitions shall apply:

COUNCIL AGENDA

ITEM No. 9

- (a) "Applicant" means any individual, firm, limited liability company, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever who applies to the City for the applicable permits to undertake construction, demolition, or renovation project within the City.
- (b) "Construction" means the building or enlargement of any facility or structure or any portion thereof including tenant improvements to an existing facility or structure.
- (c) "Construction and demolition debris" or "C&D debris" means solid waste, such as building materials, packing and inert debris generated by "covered projects." Common C&D materials include but are not limited to: lumber, metals, pipe, wire, sheet metal, asphalt, concrete, stone, brick, slate, masonry, drywall, carpet, carpet padding and foam, packing materials, cardboard, paper, construction materials, doors, windows, fixtures, plastics, appliances, ceiling or floor tiles, green waste or landscape debris related to land development such as soil, brush, trees, rock, branches or stumps ~~means used or discarded materials removed from premises during construction or renovation of a structure resulting from construction, remodeling, repair, or demolition operations on any pavement, house, commercial building, or other structure.~~
- (d) **"Conversion Rate"** (d) "Conversion rate" means the California ~~Integrated Waste Management's~~ Department of Resources Recycling and Recovery's (CalRecycle) accepted conversion rate used in estimating the volume or weight of materials identified in a waste management plan.
- (e) "Covered project" shall have the meaning set forth in Section 6-2.302.
- (f) "Deconstruction" means the process of carefully dismantling a building or structure in order to salvage components for reuse or recycling.
- (g) "Demolition" means the decimating, razing, ruining, tearing down or wrecking of any facility, structure, pavement or building, whether in whole or in part, whether interior or exterior.
- (h) "Divert" and "diversion" means the reuse of construction and demolition debris to avoid disposal in a landfill. ~~Means to use material for any purpose other than disposal in a landfill or transformation facility.~~
- (i) "Diversion requirement" means the diversion of a minimum percentage of the total construction and demolition debris generated by a project as specified in the California Green Building Standards. ~~means the redirection from the waste stream of at least fifty (50%) percent of the total construction and demolition debris generated by a project via reuse or recycling, unless the applicant has been granted an infeasibility exemption, in which case the diversion requirement shall be the maximum feasible diversion rate established by the WMP compliance official for the project.~~
- (j) "Noncovered project" shall have the meaning set forth in Section 6-2.302(b).
- (k) "Project" means any activity, which requires an application for a building or demolition permit, or any similar permit from the City.
- (l) "Performance security" means cash, certified or cashiers' check, certificate of deposit, or other method of payment acceptable to the Director.
- (m) ~~(l)~~ "Recycling" means the process of collecting, sorting, cleansing, treating, and reconstituting materials that would otherwise become solid waste, and returning them to the economic mainstream in the form of raw material for new, reused, or

reconstituted products which meet the quality standards necessary to be used in the marketplace.

- (n) ~~(m)~~ "Renovation" means any change, addition, or modification in an existing structure.
- (o) ~~(n)~~ "Reuse" means further or repeated use of materials in their original form.
- (p) ~~(o)~~ "Salvage" means the controlled removal of construction or demolition debris from a permitted building or demolition site for the purpose of recycling, reuse, or storage for later recycling or reuse.
- (q) ~~(p)~~ "Tenant improvements" means a "project" involving structural or other modifications of an existing property resulting in the generation of C&D debris.
- (r) ~~(q)~~ "Total costs" means the total construction value of the project using standard commercial and residential valuation formulas.
- (s) ~~(r)~~ "Vendor" means a hauler of commercial recycling materials authorized by the City of Maywood.
- (t) ~~(s)~~ "Waste management plan" means a completed WMP form, approved by the City for the purpose of compliance with this article, submitted by the applicant for any covered project. Prior to project start, the WMP shall identify the types of C&D debris materials that will be generated for disposal and recycling. A completed WMP contains actual weight or volume of the material disposed or recycled.
- (u) ~~(t)~~ "WMP compliance official" means the Director of Building and Planning or his or her designee.

6-2.302 - Covered projects

(a) Covered projects. means any residential or non-residential project subject to the California Green Business Standards Code Mandatory Measures. This includes any project, activity or undertaking involving construction, demolition, additions, alterations, remodeling, encroachments, tenant improvements or grading within the city shall be considered a "covered project" for purposes of this chapter when such project, activity or undertaking requires a demolition permit, building permit, encroachment permit and/or grading permit.

~~All construction, demolition, and renovation projects (including tenant improvements) within the City, the total costs of which are, or are projected to be, greater than or equal to Thirty Thousand and No/100ths (\$30,000.00) Dollars, shall comply with this article. For the purposes of determining whether a project meets the foregoing thresholds, all phases of a project and all related projects taking place on a single or adjoining parcels, as determined by the WMP compliance official, shall be deemed a single project.~~

~~(b). Noncovered projects Applicants for construction, demolition, and renovation projects within the City which are not covered projects ("Noncovered Projects") shall be encouraged to divert as much project-related construction and demolition debris as possible.~~

(b) Exceptions means covered C & D Projects described in this section notwithstanding, the following projects, activities or undertaking shall not be considered covered projects within the meaning of this chapter.

1. Any "public works" project as the term is defined under Section 1720 of the California Labor Code; provided where the total estimated project costs is valued at one hundred thousand dollars (\$100,000.00) or less

2. Any project, activity or undertaking for which only a plumbing, electrical or mechanical permit is required; and no waste has been identified through a survey conducted by the Exclusive Hauler prior to the permit being granted
3. A project that does not require a building permit
4. Nuisance and/or weed abatement cleanups.
5. Immediate or emergency demolition required to protect the public health, safety or welfare, as determined by any public safety official or code compliance officer of the city given prior to demolition.
6. A project for which an exception, conditional use permit or design review approval has been obtained from the city prior to the effective date of the ordinance codified in this article.
7. A project for which a valid building permit has been lawfully issued by the city prior to the effective date of the ordinance codified in this article.

(c) Building and demolition permits. No building, site development or demolition permit shall be issued for a covered project unless and until the WMP compliance official has approved a WMP for the project. Compliance with the provisions of this article shall be listed as a condition of approval on any building, site development or demolition permit issued for a covered project.

(d) Projects sponsored by the City or Redevelopment Agency. All construction, demolition and renovation projects sponsored by the City or Redevelopment Agency shall be considered covered projects for the purposes of this chapter. The project sponsor shall submit a WMP to the official prior to beginning any or activities and shall be subject to all applicable provisions of this chapter.

(e) Collection and transportation of C&D debris

It is unlawful to collect, transport or dispose of construction and demolition debris anywhere in the City except as provided for in this chapter. It is unlawful for any person other than persons in possession of an exclusive agreement granted by the City, or those persons employed by such exclusive collector(s) to collect or transport any construction and demolition debris within the City except:

1. Non-fee Recycling Pickup/Sale or Donation of Recyclable Materials.
 - a. Except as otherwise permitted under this subsection, an applicant may allow the third party collection of source separated recyclable materials; provided such service is rendered free of charge or is otherwise rendered in a manner that results in a net payment to the applicant, not the person rendering the service.
 - b. Except as otherwise permitted under this subsection, an applicant may donate or sell source separated recyclable materials to a third party.
 - c. Except as otherwise permitted under this subsection, the processing of solid waste shall be conducted at a duly licensed and/or permitted processing facility approved by the City in writing.

6-2.303 - Submission of waste management plan and Performance Security Deposit

(a) WMP forms. Applicants for building, demolition, or site development permits involving any Covered Project shall complete and submit a Waste Management Plan ("WMP"), on a WMP

form approved by the City for this purpose as part of the application packet for the building, demolition, or site development permit. The completed WMP shall indicate all of the following:

- (1) A list of the C&D debris material types, to be generated;
- (2) The vendor or facility that the applicant proposes to use to collect or receive the materials; and
- (3) Acknowledgement of responsibility. The WMP shall be signed by both the contractor and owner indicating that:
 - (i) understanding of consequences of not ~~meeting the fifty (50%) percent diversion requirement~~ diverting, at a minimum, the percentage of construction and demolition debris as specified by the California Green Building Standards Code including being subject to fines, and
 - (ii) they are responsible for the actions of their subcontractors with regard to this diversion requirement.

(b) Deconstruction. In preparing the WMP, applicants for building, demolition, or site development permits involving the removal of all or part of an existing structure shall consider deconstruction, to the maximum extent feasible, and shall make the materials generated thereby available for salvage prior to landfilling. Materials generated in this process shall be considered divertible C&D debris and included in the amount of waste generated.

Performance Security Deposit and Administrative Fee:

(a) Performance Security Deposit: A performance security deposit shall be provided to the City for any project under active construction to guarantee compliance with the California Green Building Standards Code for waste diversion and completion management plan and reporting.

1. Residential projects up to 3,500 square feet shall submit a security deposit of a flat rate of \$1,000. Projects exceeding 3,500 square feet and multi-family are considered non-residential projects.
2. Non-residential projects shall submit a security deposit of \$1 per square feet of project with a minimum deposit of \$1,000 and a maximum deposit of \$50,000 per phase.
3. Failure to comply with the diversion requirements set forth in the California Green Building Standards Code shall result in forfeiture of the security deposit.
4. The use of a non-permitted hauler (any hauler other than the City's Exclusive Waste Hauler) to haul any waste from the project is subject to deposit forfeiture.
5. The deposit shall be returned in total to the Applicant, promptly and without interest, at the conclusion of the project and upon the Applicant presenting proof satisfactory to the Director that no less than the required percentages of construction and demolition debris generated by the project have been recycled, reused or otherwise diverted from landfills to the extent indicated in the approved Materials Questionnaire.
6. City-sponsored construction, demolition or renovation activities are exempt from providing a performance security deposit

(b) **Administrative Fee** As part of any application for, and prior to the issuance of, any building or demolition permit that involves the creation of construction and demolition debris, every

applicant for covered projects, unless exempt, shall pay to the City a cash fee sufficient to compensate the City for all expenses incurred in reviewing the Materials Questionnaire. The amount of this fee shall be \$65 for applicants using the exclusive waste hauler and \$255 for applicants who elect to self-haul, or as established by resolution of the City Council.

6-2.304 - Review of waste management plan.

(a) Approval: Notwithstanding any other provision of this Code, no building, demolition, or site development permits shall be issued for any covered project, nor shall any demolition, construction or renovation take place on any covered project, unless and until the WMP compliance official has approved the WMP. The WMP compliance official shall only approve a WMP if he or she first determines that all of the following conditions have been met:

- (1) The WMP provides all of the information required by this article;
- (2) The WMP indicates that at least a minimum percentage of the total construction and demolition debris generated by a project as specified in the California Green Building Standards ~~fifty (50%) percent of all C&D debris~~ ~~Sixty five (65%) generated by the project~~ will be diverted.

If the WMP compliance official determines that these two (2) conditions have been met, he or she shall mark the WMP "Approved" and return a copy of the WMP to the applicant.

(b) Nonapproval: If the WMP compliance official determines that the WMP fails to:

- (1) list all C&D materials to be generated,
- (2) indicate that at least a minimum percentage of the total construction and demolition debris generated by a project as specified in the California Green Building Standards ~~fifty (50%) percent of all C&D debris generated by the project~~ will be reused or recycled, or
- (3) have both the contractor's and owner's signatures, he or she shall either:
 - (1) Return the WMP to the applicant marked "Denied," including a statement of reasons, or
 - (2) Return the WMP to the applicant marked "Further Explanation Required," or
 - (3) Return the WMP to the applicant marked "Temporary Permit" which will be valid for the period specified.

6-2.305 - Infeasibility exemption.

(a) Application. If an applicant for a covered project experiences unique circumstances that the applicant believes make it infeasible to comply with the diversion requirement, the applicant may apply for an exemption at the time that he or she submits the WMP. Increased costs to the applicant generally will not be a sufficient basis for an exemption unless such costs are extraordinary. The applicant shall indicate on the WMP the maximum amount of diversion he or she believes is feasible for each material and the specific circumstances that he or she believes make it infeasible to comply with the diversion requirement.

(b) Meeting with WMP compliance official. The WMP compliance official shall review the information supplied by the applicant and may meet with the applicant to discuss possible ways of meeting the diversion requirement. Upon request of the City, the WMP compliance official may request the staff from the solid waste division attend this meeting or may require the

applicant to request a separate meeting with solid waste division staff. Based on the information supplied by the applicant and, if applicable, solid waste division staff, the WMP compliance official shall determine whether it is possible for the applicant to meet the diversion requirement.

(c) Granting of exemption. If the WMP compliance official determines that it is infeasible for the applicant to meet the diversion requirement due to unique circumstances, he or she shall establish a minimum feasible diversion rate for each material and shall indicate this rate on the WMP submitted by the applicant. The WMP compliance official shall return a copy of the WMP to the applicant marked "Approved for Infeasible Exemption."

(d) Denial of exemption. If the WMP compliance official determines that it is feasible for the applicant to meet the diversion requirement, he or she shall so inform the applicant in writing. The applicant shall have thirty (30) days to resubmit a WMP form.

6-2.306 - Submittal of completed waste management plan.

(a) Documentation. No permit or approvals related to the project site shall be issued by the City until the applicant complies with the provisions of this section. The completed WMP must be approved prior to final occupancy. A temporary occupancy may be granted by the Building Official.

The applicant shall submit documentation along with a completed WMP that documents the diversion requirement for the project has been met to the City compliance official in order to receive final occupancy approval. This documentation shall include the following:

- (1) The completed WMP submitted for approval shall list for each construction and demolition material type generated the actual material volume or weight the project generated and receipts from both the disposal and recycling facilities and/or licensed haulers and vendors that received each material showing clearly whether the material was disposed or recycled;
- (2) Any additional information to the applicant believes is relevant to determining its efforts to comply in good faith with this article.

(b) Weighing of wastes. Applicants shall make reasonable efforts to ensure that all C&D debris diverted or landfilled are measured and recorded using the most accurate method of measurement available. To the extent practical, all construction and demolition debris shall be weighed by measurement on scales. Such scales shall be in compliance with all regulatory requirements for accuracy and maintenance. For construction and demolition debris for which weighing is not practical due to small size or other considerations, a volumetric measurement shall be used.

(c) Determination of compliance and release of permit. The WMP compliance official shall review the information submitted under subsection (a) of this section and determine whether the applicant has complied with the diversion requirement, as follows:

- (1) Full compliance. If the WMP compliance officer determines that the applicant has fully complied with the diversion requirement applicable to the project, he or she shall indicate such compliance on the WMP.

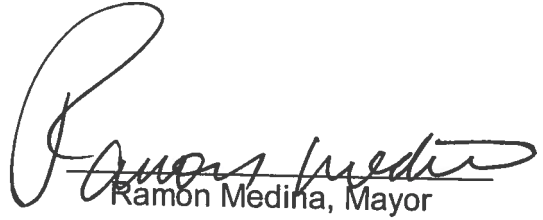
- a. **Calculating Compliance.** As a means of confirming compliance with subsection A of this section, the diversion of *C&D* materials shall be calculated by dividing
- i. the total weight of *C&D* materials generated by, but diverted from a covered project; by
 - ii. the total weight of all wastes generated by the covered project. The total weight of all wastes generated by a covered project equals the sum of:
 1. all *C&D* materials generated by, but diverted from the covered project; plus
 2. the weight of all other waste generated by the covered project. The calculations used to ascertain compliance with the diversion requirements of this section must be based upon the data documented by and derived from weight receipts and recycling receipts issued by any and all facilities that receive an applicant's *C&D* materials and/or non-diverted wastes. On site diversion activities are allowed as long as they are they are identified prior to the commencement of Construction and/or Demolition and have been properly documented toward the overall Project Diversion Rate, such as on-site crushing asphalt and concrete. The City Council, by resolution, may also require such additional documentation as may be required to precisely and reliably verify compliance provided the city's request for such additional documentation does not conflict with approved guidelines or protocols of the California Integrated Waste Management Board.

(2) Good faith effort to comply. If the WMP compliance official determines that the diversion requirement has not been achieved, he or she shall determine on a case-by-case basis whether the applicant has made a good faith effort to comply with this article. In making this determination, the WMP compliance official shall consider the availability of markets for the C&D debris landfilled, the size of the project, and the documented efforts of the applicant to divert C&D debris. If the WMP compliance official determines that the applicant has made a good faith effort to comply with this article, he or she shall so indicate on the WMP.


(3) Noncompliance. If the WMP compliance official determines that the applicant has not made a good faith effort to comply with this article, or if the applicant fails to submit the documentation required by subsection (a) of this section within the required time period, then the applicant shall be in violation of this article and be liable for a civil penalty in an amount to be determined by the WMP compliance official, not to exceed the lesser of fifty (50%) percent of the project cost or One Hundred Thousand and No/100ths (\$100,000.00) Dollars, in addition to any other remedy provided by this article.

6-2.307 - Appeal.

Appeal of a determination made under this article shall be made to the Chief Administrative Officer or his or her designee (who may be the Director of Building and Planning if the Director did not act as WMP compliance official).


Ramon Medina, Mayor

ATTEST: 
Gerardo Mayagoitia, City Clerk

APPROVED AS TO FORM:

Michael Montgomery, City Attorney

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES
CITY OF MAYWOOD

I, Gerardo Mayagoitia, City Clerk of the City of Maywood, California, do hereby certify that the above and foregoing is a true and correct copy of Resolution No. ~~18-09~~ introduced for the first reading on June 13, 2018 and adopted at a regular meeting of the City Council of the City of Maywood on this June 13, 2018, by the following vote, to-wit:

AYES: De La Riva, Alvarez, Villarreal and Median

NAYES: None

ABSENT: Joaquin Lanuza

ABSTAIN: None


City Clerk