

## CHAPTER 8.13. - CONSTRUCTION AND DEMOLITION WASTE MANAGEMENT

### 8.13.010. - Purpose.

It is the purpose and intent of this chapter to require Construction and Demolition waste management to enable the Town to work toward reducing the amount of waste generated within the Town ultimately disposed of in landfills by requiring the Project Applicant for every Project covered by this chapter to divert a minimum of 65 percent of the Construction and Demolition debris resulting from that Project, in compliance with State and local statutory goals and policies, and to create a mechanism to secure compliance with the stated Diversion Requirements.

### 8.13.020. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*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 Town for any Permit, as defined in this chapter, and who is, therefore, responsible for meeting the requirements of this chapter.

*Completion* means the earliest of the following dates: the date a temporary Certificate of Occupancy is issued by the Town for a Project, the date a Certificate of Occupancy is issued by the Town for a Project, or the date the final Town inspection approving the Project is completed.

*Construction* means the building or enlargement of any Structure, or any portion thereof, and includes without limitation alterations or improvements to an existing Structure.

*Construction and Demolition Material* means the excess or discarded material that is removed from a site during or after the Construction or Demolition of any Structure, fence, wall, or paving.

*Conversion Rate* means the rate set forth in the standardized Conversion Rate table for use in estimating the volume or weight of Construction and Demolition debris, approved by the State Department of Resources Recycling and Recovery.

*Covered Project* means any Project meeting the thresholds established in Section [8.13.030](#).

*Demolition* means the razing, tearing down or wrecking of any Structure, wall, fence or paving, whether in whole or in part, whether interior or exterior.

*Diversion Requirement* means the diversion of a minimum of 65 percent of the total Construction and Demolition Material generated by a Project, or the lower percentage requirement granted by exception pursuant to Section [8.13.040](#).

*Divert and Diversion* means the recycling and/or reuse of Construction and Demolition debris to avoid disposal in a landfill.

*Excavation* means digging or removing soil, rocks, gravel, sand from a site, including, but not limited to, such work as is customarily performed in Construction of buildings or dredging or Construction of canals, drainage basins, waterways, lakes, levees, or dams.

*Mining* means any activity governed by the Surface Mining and Reclamation Act of 1975, Public Resources Code § 2710 et seq.

*Permit* means any building or Demolition Permit.

*Project* means any proposal for new or changed use, or for new Construction, alteration or enlargement of any Structure, that requires a Permit from the Town.

*Recycling and Reuse* means the process of collecting, sorting, cleansing, treating, and reconstituting Construction and Demolition debris that would otherwise be disposed of in a landfill for use as raw material for new, reused, or reconstituted products which meet industry standards.

*Structure* means anything constructed or erected that requires a location in the ground, including a building or swimming pool, but not, including a fence or wall used as a fence, or driveways, or walkways.

*Waste Management Plan* means a plan describing the amount of Construction and Demolition Material to be produced by or removed from a Project, and establishing methods by which 50 percent of such material will be diverted.

#### 8.13.030. - Covered Projects.

- (a) Unless otherwise determined to be exempt under Section [8.12.040](#), Covered Projects shall be all those Projects meeting any of the criteria listed in the most current edition of the CalGreen Construction Waste Reduction Requirements, as included herein by reference. Should the State update those standards over time or cease to use such standard, the Town Council may adopt updated standards by resolution. All Covered Projects shall comply with all provisions of this chapter, including, but not limited to, the Diversion Requirement for Construction and Demolition Materials.
- (b) Projects meeting any of the following criteria shall be exempt from the requirements of this chapter, provided that:
  - (1) The Applicant has provided the Town with satisfactory evidence supporting the claimed exemption;
  - (2) The Town has issued a written determination of exemption, which may take the form of a stamp or other notation of exemption on Applicant's application for a building Permit; and
  - (3) Nothing herein shall be deemed to exempt any Project from the requirements of the California Green Building Standards Code or any regulation adopted in connection therewith:
    - a. Projects not meeting any of the criteria described in Subsection (a) of this section;

- b. Immediate or emergency Construction, repair, or Demolition work required to protect the public health or safety in an emergency, as defined in Public Resources Code § 21060.3;
- c. Work for which a building or Demolition Permit is not required by this Code;
- d. A Project for which a valid building Permit has been issued prior to the effective date of the ordinance codified in this chapter and remains in effect at the time of Construction; or
- e. A Town Project for which the notice inviting bids has been published prior to the effective date of the ordinance codified in this chapter.

8.13.040. - Application for exception.

- (a) Prior to commencing Demolition or Construction, an Applicant wishing relief from the requirements of this chapter may seek a complete or partial exception from the requirements of this chapter.
- (b) The exception process shall be initiated by the filing of an application for exception with the Town Manager, and payment of any application fee established by resolution of the Town Council. The Town Council is authorized to establish, by resolution, an application fee in an amount sufficient to recoup the Town's costs in considering an application for exception. The application shall indicate the maximum rate of diversion the Applicant believes is feasible and the specific circumstances the Applicant believes make it infeasible to comply with the Diversion Requirement.
- (c) The Town Manager shall review the exception application and either grant the application, partially grant the application by revising the Diversion Requirements to a level other than that sought by the Applicant or shall deny the application. The Town Manager may, but is not required to, meet with the Applicant to discuss possible means of meeting the Diversion Requirements set forth in this chapter. A decision on the application, or a conclusion that the application is incomplete, shall be rendered within ten business days of receipt of the application.
- (d) In order to grant a complete or partial exception from the requirements of this chapter, the Town Manager must make all of the following findings:
  - (1) There are exceptional or extraordinary circumstances applicable to the Project that do not apply generally to similar Projects, such as contamination of Construction and Demolition Materials by hazardous substances, size and location related to available staging for sorting, Projects specific to nuisance abatement, or low recyclability of specific materials to be used in or removed from the Project;
  - (2) Granting the application will not constitute a grant of special privilege inconsistent with limitations imposed on similar Projects; and

- (3) Cost to the Applicant of strict compliance with the requirements of this chapter is not the primary reason for granting the exemption.

#### 8.13.050. - Compliance and diversion rates.

The Applicant for a Covered Project shall divert or cause to be diverted a minimum of 65 percent of the Construction and Demolition Materials resulting from the Project. Compliance with this requirement and the other provisions of this chapter shall be listed as a condition of approval on all building or Demolition Permits issued for a Covered Project.

#### 8.13.060. - Submission of Waste Management Plan.

The Applicant for each Covered Project shall complete and submit to the Town Manager three copies of a Waste Management Plan, as part of the application packet for a building Permit, and payment of any application fee established by resolution of the Town Council. The Town Council is authorized to establish, by resolution, an application fee in an amount sufficient to recoup the Town's costs in administering this chapter, including, but not limited to, reviewing the Waste Management Plan, processing the Applicant's deposit, and conducting the compliance review required by this chapter. The Waste Management Plan shall include the following information, calculated with the applicable Conversion Rate:

- (a) The estimated volume or weight of Construction and Demolition Material, with separate listings for each type of material.
- (b) The estimated volume or weight of Construction and Demolition Material that can be diverted, with separate listings for each type of material.
- (c) The estimated volume or weight of Construction and Demolition Material that will be landfilled as solid waste.
- (d) The vendor or facility that will collect or receive the Construction and Demolition Material or that will deconstruct the existing Structure. Applicants opting to self-haul Construction and Demolition Material shall comply fully with the terms of this chapter, shall deliver such material only to a facility licensed to provide disposal and diversion services, and shall receive and retain receipts for all such material. Applicants who do not self-haul shall use the services of the solid waste hauler holding an exclusive solid waste franchise from the Town (if an exclusive franchise has been awarded), unless the franchised hauler indicates in writing that it lacks sufficient equipment, expertise, or disposal or diversion capacity to handle Construction and Demolition Material from an Applicant's Project.
- (e) The estimated commencement date for the Demolition or Construction work. Applicants are not required to make detailed measurements; a good-faith estimate of the quantity of each material will suffice.

#### 8.13.070. - Diversion security deposit.

Each Applicant for a Permit for a Covered Project shall submit with the Waste Management Plan a diversion security deposit, in cash or by irrevocable letter of credit or performance bond. The details of the deposit requirement, including, but not limited to, the amount and timing of payment, shall be established by resolution of the Town Council.

#### 8.13.080. - Review of Waste Management Plan.

- (a) Notwithstanding any other provisions of this municipal code, no building Permit shall be issued for any Covered Project unless and until the town manager has approved the Waste Management Plan submitted for the Project. A waste management plan shall be approved or disapproved within fifteen business days of submittal of a complete plan.
- (b) No Waste Management Plan shall be approved unless the town manager makes all of the following findings:
  - 1. The Waste Management Plan provides all of the information required by Section 8.13.060;
  - 2. The Waste Management Plan indicates that at least fifty percent of the Construction and Demolition Material produced by the Project will be diverted, or that an exception has been approved pursuant to Section 8.13.040; and
  - 3. The Applicant has submitted the diversion security deposit required by Section 8.13.070.
- (c) If the Town Manager makes the findings set forth in subsection (b) of this section, he or she shall mark the Waste Management Plan as "approved," retain one copy, and return copies to the Applicant and the community development department. If the town manager disapproves the Waste Management Plan, he or she shall state the grounds for denial in writing, retain one copy, and return copies of the waste management plan and the grounds for denial to the Applicant and the community development department. As an alternative to outright disapproval, the waste management plan may be returned to the Applicant along with a request for additional information.
- (d) If, during the course of the Project, the Applicant determines that the estimated weight or volume of Construction and Demolition Material to be generated and or recovered from the Project is substantially different from the weight or volumes set forth in the Waste Management Plan, the Applicant shall submit an addendum to the original Waste Management Plan.

#### 8.13.090. - Compliance review and refund of security deposit.

- (a) Within 90 days after the Completion of any Covered Project, the Applicant shall submit to the Town Manager documentation concerning the Applicant's compliance with the Diversion Requirements for the Project. This documentation shall include:
  - (1) Receipts from the vendor or facility that collected or received Construction and Demolition Material from the Project, noting the actual weight or volume of material collected or received, including separate summary listings for material diverted and material landfilled; and

- (2) Information concerning the weight or volume of Construction and Demolition Material recycled or reused in the Project.
- (b) Applicants shall make reasonable efforts to ensure that Construction and Demolition Materials, whether diverted or landfilled, are measured and recorded. Volumetric measurements may be used, incorporating standardized Conversion Rates approved by the Town, if any.
- (c) The Town Manager shall review the information submitted under Subsection (a) of this section to determine whether the Applicant has complied with the Diversion Requirement applicable to the Project.
  - (1) If it is determined that the Diversion Requirement has been achieved, the full amount of the diversion security deposit shall be refunded to the Applicant.
  - (2) If it is determined that the Diversion Requirement has not been met, a portion of the diversion security deposit shall be refunded which is equal to the portion of the Diversion Requirement that has been met. Any portion of the diversion security deposit not released to the Applicant shall be forfeited to the Town and shall be used either to offset administrative costs associated with enforcing the requirements of this chapter or for efforts to educate the community about the need for recycling and encourage recycling.

8.13.100. - Violations and enforcement.

- (a) It shall be unlawful and a violation of this chapter to do any of the following:
  - (1) Willfully fail to comply with any provision of this chapter;
  - (2) Provide false or misleading information in any plan, report, or document required by this chapter; or
  - (3) Fail to meet the Diversion Requirement established by this chapter.
- (b) An Applicant shall be guilty of a separate offense for each day during any portion of which a violation under this chapter is committed, continued, or Permitted by the Applicant. For failure to meet the Diversion Requirement, the violation shall be deemed to have commenced at the commencement of Construction or Demolition work, as shown on the Applicant's Waste Management Plan.
- (c) Any person who commits a violation described in Subsection (a)(1) or (2) of this section is guilty of a misdemeanor and shall be punished by a fine of not more than \$1,000.00; provided, however, that the Town prosecutor shall have the discretion to prosecute such violations as infractions.
- (d) Any person who commits a violation described in Subsection (a)(3) of this section after receiving at least one written warning is guilty of an infraction and shall be punished by a fine not to exceed \$100.00 for the first violation, \$200.00 for the second violation within a year, and \$500.00 for each additional violation within one year.

- (e) A violation of any provision of this chapter is declared to be a public nuisance, which may be abated by the Town through any legal means. The penalties and remedies established by this chapter are cumulative and not exclusive, and this chapter shall not preclude any person from seeking any other remedies provided by law.

#### 8.13.110. - Appeals.

- (a) Any Applicant aggrieved by any decision or finding made by the Town Manager in the exercise of the authority granted herein, may appeal such decision or finding. An appeal must be filed within five days after receipt of notice of any protested decision or finding by filing with the Town Clerk, with a copy to the Town Manager, a letter of appeal stating therein the basis for such appeal, including all evidence and legal arguments which the Applicant wishes the Town to consider.
- (b) A hearing shall be held on a date not more than 15 days after receipt by the Town of the letter of appeal. The Applicant shall be given at least five days' notice of the time and place of the hearing. A hearing officer, appointed by the Town Manager, shall give the appellant, and any other interested party, a reasonable opportunity to be heard, in order to show cause why the decision or finding should not be upheld. In all such cases, the burden of proof shall be upon the appellant to show that there was no substantial evidence to support the decision or finding appealed.
- (c) At the conclusion of the hearing, or within five days thereof, the Town shall provide the Applicant with a copy of the hearing officer's decision, which shall be in writing and shall comprise a final and conclusive determination as to the matter appealed.