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Municipality:	City of Oakland
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Title:	City of Oakland Construction & Demolition Debris Recycling Ordinance
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Abstract

As part of Oakland's Sustainable Development Initiative, the city adopted the Construction and Demolition Debris ordinance that requires all new development and sizeable remodeling projects to reuse or recycle 50% or more of their waste and debris. Not only does this prevent construction materials from going to the landfill, but it also reduces the demand for new construction materials.

Resource

City of Oakland Construction and Demolition Debris Recycling Ordinance

Title 15 BUILDINGS AND CONSTRUCTION

Chapter 15.34 CONSTRUCTION AND DEMOLITION DEBRIS WASTE REDUCTION AND RECYCLING REQUIREMENTS

15.34.010 Title.

The provisions of Section 15.34.010 through Section 15.34.090 inclusive, shall be known as the City of Oakland "Construction and demolition debris waste reduction and recycling requirements." (Ord. 12253 § 1 (part), 2000)

15.34.020 Purpose and intent.

The purpose of these provisions is to prescribe requirements designed to meet and further the goals of the California Integrated Waste Management Act of 1989 Assembly Bill 939 and the Alameda County Waste Reduction and Recycling Act of 1990 (Measure D). These requirements shall apply to affected projects as specified in this chapter.

The intent of these provisions is to divert at a minimum fifty (50) percent of C&D debris from landfills; process and return the materials into the economic mainstream thereby conserving natural resources; and stimulate markets for recycled and salvaged materials.

The City Manager or his/her designee is authorized to develop guidelines to implement the requirements of this chapter, which may be amended from time to time. (Ord. 12253 § 1 (part), 2000)

15.34.030 Definitions.

For the purpose of this Chapter 15.34, the following definitions shall apply:

"Addition" means an extension or increase in floor area or height of a building or structure (as adopted in Section 15.04.005).

"Affected project" means a project that requires a waste reduction and recycling plan ("WRRP") because it meets one or more of the following criteria:

1. It is new construction;
2. It is nonresidential or apartment house demolition;
3. It is a nonresidential or apartment house addition or alteration, that has a permit valuation greater than or equal to fifty thousand dollars (\$50,000.00) in year 2000 dollars (subject to inflation adjustments.)

Affected projects exclude projects required to divert C&D debris under the 1997 requirements of the Modifications to the Standard Specifications for Public Works Construction (Ordinance No. 12049 C.M.S.).

"Alteration" means any change, addition or modification in construction or occupancy (as adopted in Section 15.04.005).

"Apartment house" means any building or portion thereof that contains three or more dwelling units and, for the purpose of this chapter, includes residential condominiums (as adopted in Section 15.04.005).

"Appeal" means the process outlined in Section 15.34.090.

"Applicant" means any individual, firm, limited liability company, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity that undertakes any construction, demolition, addition, or alteration project within the city.

"Building official" means the officer or other designated authority charged with the administration and enforcement of the California Building Code ("CBC") and the city's amendments to the CBC (as adopted in Section 15.04.005).

"Construction" means the manner or method of building (as adopted in Section 15.04.005).

"Construction and demolition debris," "C&D debris," or "construction debris" means waste building materials resulting from construction, addition, remodeling, repair, alteration or demolition operations (as adopted in Section 8.28.010 and Section 15.04.005).

"Demolition" means the deconstructing, destroying, razing, tearing down, or wrecking of any facility including its foundation, covered by this chapter. As used herein, the word "demolition" shall include any partial demolition and any interior demolition affecting more than ten percent of the replacement value of the structure as determined by the Building Official. Demolition work includes: (1) proper disposal of recyclables, solid waste, and hazardous materials pursuant to applicable regulations and approved plans, if any, (2) termination of utilities serving the premises including permits and final inspections and approvals, (3) removal of driveways and repair of public sidewalks, as required, and (4) site cleanup and restoration including grading, landscaping, and fencing as required.

"Divert," "diverted," or "diversion" means to use C&D debris for any purpose other than disposal in a landfill, incineration facility, or alternative daily cover. Methods to divert materials from landfills include reuse, salvage, and recycling.

"Diversion attainment" means at least fifty (50) percent by weight of the total C&D debris is diverted on an affected project.

"Hearing Officer" means the city staff designated by the City Manager to whom appeals can be made under this chapter.

"Nonaffected projects" means projects that do not require a WRRP. Applicants for nonaffected projects shall be encouraged to divert at least fifty (50) percent of all project-related C&D debris.

"Recyclables" or "recycle" or "recycling" means residential, commercial, or industrial materials or by-products which are set aside, handled, packaged, or offered for collection in a manner different than solid waste for the purpose of being reused or processed and then returned to the economic mainstream in the form of commodities (as adopted in Section 8.28.010).

"Reuse" means recovering material for repeated use in the same form. This includes materials that are reused at the same location as they are generated.

"Salvage" means the recovering of C&D debris from a building or demolition site for the purpose of recycling, reuse, or proper storage for future recycling or reuse.

"Source separated" means recyclables that have been segregated from solid waste by or for the generator thereof on the premises at which they were generated for handling different from that of solid waste. This does not require that different types of recyclable commodities be separated from each other, except from organic recyclable material (as adopted in Section 8.28.010).

"Summary report" means the report to be submitted to the Building Official at the conclusion of the affected project and prior to the final inspection, issuance of a temporary certificate of occupancy, or certificate of occupancy.

"Targeted materials" means the C&D debris listed on the WRRP form that could potentially be reused, recycled, or salvaged.

"WRRP" means waste reduction and recycling plan.

"WRRP form" means a form, provided by the city for the purpose of compliance with this chapter that must be submitted by the applicant for any affected project.

"WRR Review Official" means the Waste Reduction and Recycling Review Official who is the city staff designated and authorized by the City Manager and is responsible for implementing this chapter. (Ord. 12253 § 1 (part), 2000)

15.34.040 Transportation of C&D debris.

It is unlawful for any person other than the city's licensed franchised collector or those persons employed by the franchise collector to collect or haul any construction and demolition debris within the city except:

A. Source separated construction and demolition debris, including but not limited to those collected by a person under contract to the city and those collected through private arrangements between the generator and the collector. Loads, which consist of mixed paper and which contain more than ten percent by weight of residual, shall not be considered source separated recyclables. Loads which consist of recyclables other than mixed paper and which contain more than five percent by weight of residual shall not be considered source separated recyclables; or,

B. Construction and demolition debris: (1) removed from a premises by a licensed contractor as an incidental part of a total construction, remodeling or demolition service offered by that contractor, rather than as a separately contracted or subcontracted hauling service using debris boxes or similar apparatus, or (2) directly loaded onto a fixed body vehicle and hauled directly to a transfer station, or disposal facility. (Ord. 12253 § 1 (part), 2000)

15.34.050 Submission of a waste reduction and recycling plan (WRRP).

A. WRRP Forms. For affected projects, prior to issuance of a building or demolition permit, the applicant shall complete and submit a WRRP form to the city's Building Official. The completed WRRP form shall delineate all of the following:

1. The estimated volume or weight of the affected project C&D debris to be generated, listed by each type of material; and
2. Volume or weight of the C&D debris to be reused, salvaged or recycled listed by each type of material; and
3. The estimated volume or weight of C&D debris that will be landfilled listed by each type of material. (Ord. 12253 § 1 (part), 2000)

15.34.060 Review of WRRP.

A. Notwithstanding any other provision of this chapter, no building or demolition permit shall be issued by the city for any affected project prior to approval of the WRRP by the WRR Review Official. Approval shall not be required if an emergency demolition is required to protect public health or safety pursuant to Section 15.36.080.

B. Using the established guidelines, the WRR Review Official shall approve a WRRP only if:

1. The WRRP provides all the information set forth in Section 15.34.050 of this chapter; and,
2. The WRRP indicates that at least fifty (50) percent by weight of all C&D debris generated by the project will be diverted; or
3. The Applicant demonstrates good cause as to why at least fifty (50) percent by weight of all C&D debris generated by the project will not be diverted.

If the WRR Review Official fails to approve the WRRP, he/she shall explain in writing the basis for denial. (Ord. 12253 § 1 (part), 2000)

15.34.070 Submission of a completed summary report.

A. Documentation. At the conclusion of each affected project and prior to the final inspection, issuance of temporary certificate of occupancy, or certificate of occupancy by the city, the applicant shall submit to the Building Official a summary report which contains the following documentation:

1. The actual volume or weight of C&D debris that was diverted by type of material, diversion method, and the actual volume or weight of C&D debris that was not diverted;
2. Any additional information the applicant believes is relevant to determining its efforts to comply in good faith with this Chapter 15.34;
3. Any barriers encountered that prohibited diversion of C&D debris; and
4. Any recommended actions that would further the efforts to recycle C&D debris.

B. Determination of Diversion. The WRR Review Official shall review the information submitted under Section 15.34.050(A) to determine whether the applicant has diverted fifty (50) percent by weight of the C&D debris based on established guidelines, as follows:

1. Diversion Attainment. The applicant shall be found to have achieved a diversion attainment if at least fifty (50) percent by weight of the C&D debris generated by the affected project is diverted, and appropriate documentation as outlined in Section 15.34.070 is provided.

2. Good Faith Effort. When the WRR Review Official determines that the affected project has not achieved diversion attainment, he/she shall determine whether the applicant has made a good faith effort to comply with this Chapter 15.34. In making this determination, the WRR Review Official may consider information submitted by the applicant, the availability of markets for the C&D debris that was not diverted, the size and type of project, the documented efforts of the applicant to divert C&D debris, and barriers encountered.

3. Nonattainment. The WRR Review Official shall determine the affected project to have a nonattainment status if he/she determines that the applicant has not made a good faith effort to achieve diversion attainment or if the applicant fails to submit the documentation required by Section 15.34.070. All nonattainment information including applicant name, type and size of project, and any reason for nonattainment shall be documented by the WRR Review Official. (Ord. 12253 § 1 (part), 2000)

15.34.080 City's rights to monitor and inspect.

A. Audit. City's WRR Review Official may inspect and monitor all affected projects to determine levels of actual diversion activities and validate the information provided in the WRRP and summary report.

B. Supporting Documentation. Applicant shall retain the receipts or weight tickets for the quantities of materials reused, salvaged, recycled and landfilled as indicated in the summary report form for one year after the final inspection, and issuance of temporary certificate of occupancy or certificate of occupancy.

C. Materials Targeted for Diversion. The City Manager or his/her designee may change the C&D debris materials targeted for diversion from time to time, based on local markets and conditions to further the intent of this chapter. (Ord. 12253 § 1 (part), 2000)

15.34.090 Appeals.

An appeal of the WRR Official's decision not to approve the WRRP shall be made to the Hearing Officer according to the following appeal procedures:

A. Within ten calendar days after the date of a written decision by the WRR Review Official to deny the WRRP, an appeal in writing from said decision must be filed with the WRR Review Official by the applicant or any other interested party on a form prescribed by the WRR Review Official. The appeal shall state specifically the error, abuse of discretion, or claim where the decision of the WRR Review Official was not supported by substantial evidence in the record.

B. Upon receipt of the appeal, the Hearing Officer shall set the date for consideration thereof and, not less than ten days prior thereto, give a written notice to the applicant and or appellant.

C. In deciding the appeal, the Hearing Officer shall consider the purpose and intent, as well as the letter, of the pertinent provisions of this Chapter 15.34, and shall affirm, modify, or reverse the written decision of the WRR Review Official.

D. The written decision of the Hearing Officer shall be final.

E. Appeal fees shall be in accordance with the city's master fee schedule. (Ord. 12253 § 1 (part), 2000)

State Enabling Statute:

PUBLIC RESOURCES CODE SECTION 40000-40003

40000. The Legislature hereby finds and declares all of the following:

(a) In 1988, Californians disposed of over 38 million tons of solid waste, an amount which is expected to grow if existing solid waste policies are continued. This amounts to more than 1,500 pounds of waste per person living in the state, more than any other state in the country and over twice the per-capita rate of most other industrialized counties.

(b) Over 90 percent of California's solid waste currently is disposed of in landfills, some of which pose a threat to groundwater, air quality, and public health.

(c) While California will exhaust most of its remaining landfill space by the mid-1990's, there presently is no coherent state policy to ensure that the state's solid waste is managed

in an effective and environmentally sound manner for the remainder of the 20th century and beyond.

(d) The amount of solid waste generated in the state coupled with diminishing landfill space and potential adverse environmental impacts from landfilling constitutes an urgent need for state and local agencies to enact and implement an aggressive new integrated waste management program.

(e) The reduction, recycling, or reuse of solid waste generated in the state will, in addition to preserving landfill capacity in California, serve to conserve water, energy, and other natural resources within this state, and to protect the state's environment.

40001. (a) The Legislature declares that the responsibility for solid waste management is a shared responsibility between the state and local governments. The state shall exercise its legal authority in a manner that ensures an effective and coordinated approach to the safe management of all solid waste generated within the state and shall oversee the design and implementation of local integrated waste management plans.

(b) The Legislature further declares that it is the policy of the state to assist local governments in minimizing duplication of effort, and in minimizing the costs incurred, in implementing this division through the development of regional cooperative efforts and other mechanisms which comply with this division.

(c) The Legislature further declares that market development is the key to successful and cost-effective implementation of the 25-percent and 50-percent diversion requirements required pursuant to Section 41780, and that the state must take a leadership role, pursuant to Chapter 1 (commencing with Section 42000) of Part 3, in encouraging the expansion of markets for recycled products by working cooperatively with the public, private, and nonprofit sectors.

40002. As an essential part of the state's comprehensive program for solid waste management, and for the preservation of health and safety, and the well-being of the public, the Legislature declares that it is in the public interest for the state, as sovereign, to authorize and require local agencies, as subdivisions of the state, to make adequate provision for solid waste handling, both within their respective jurisdictions and in response to regional needs consistent with the policies, standards, and requirements of this division and all regulations adopted pursuant to this division. The provisions of this division which authorize and require local agencies to provide adequate solid waste handling and services, and the actions of local agencies taken pursuant thereto, are intended to implement this state policy.

40003. Nothing in this division abrogates, limits, or otherwise affects the duties of the Department of Conservation under the California Beverage Container Recycling and Litter Reduction Act, Division 12.1 (commencing with Section 14500).

References:

City of Oakland Planning and Zoning

<www.oaklandnet.com/government/ceda/revised/planningzoning/Sustainability/default.html>

California Integrated Waste Management Board

<www.ciwmb.ca.gov>