

## Construction and Demolition Ordinance

### 8.108.120 Threshold for covered projects.

(a) **Private Projects.** All construction and demolition projects the total costs of which are, or are projected to be, fifty thousand dollars or greater, or are one thousand square feet or greater, and all demolition-only projects shall be considered covered projects.

(b) **City-Sponsored Projects.** All City-sponsored construction, demolition and renovation projects shall be subject to this Chapter, and consequently, shall be considered covered projects. (Added by Ord. No. 2261CCS § 1, adopted 4/22/08; amended by Ord. No. 2390CCS § 8, adopted 2/28/12)

### 8.108.130 Submission of a waste management plan.

(a) **WMP Forms.** Applicants for construction or demolition permits involving a 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 construction or demolition permit. The completed WMP shall indicate all of the following:

- (1) The estimated volume or weight of the project C&D material, by material type, to be generated;
- (2) The maximum volume or weight of such materials that can feasibly be diverted via reuse or recycling;
- (3) The vendor or facility where the applicant proposes to use to collect or receive that material;
- (4) The estimated volume or weight of C&D materials that will be landfilled in Class III landfills and inert disposal facilities; and
- (5) A commitment that only City permitted waste haulers would be used.

(b) **Calculating Volume and Weight of Material.** In estimating the volume or weight of materials identified in the WMP, the applicant shall use the conversion rates approved by the City for this purpose. (Added by Ord. No. 2261CCS § 1, adopted 4/22/08; amended by Ord. No. 2390CCS § 9, adopted 2/28/12) 8.108.140 Performance security.

The project applicant shall submit a performance security with the WMP. For construction and demolition projects, the amount of the performance security shall be calculated as the lesser of three percent of total project cost or thirty thousand dollars. For demolition-only projects, the amount of the performance security shall be calculated at the rate of one dollar per square foot with a one thousand dollar minimum and thirty-thousand dollar maximum performance security required. (Added by Ord. No. 2261CCS § 1, adopted 4/22/08; amended by Ord. No. 2390CCS § 10, adopted 2/28/12)

### 8.108.150 Review of WMP.

**Approval.** Notwithstanding any other provisions of this Code, no building or demolition permit shall be issued for any covered project unless and until the WMP Compliance Official has reviewed and approved the WMP. Approval shall not be required, however, where an emergency demolition is required to protect public health or safety. 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 set forth in Section 8.108.130.

(2) The WMP indicates that at least seventy percent of all C&D material generated by the project will be diverted or an exemption has been approved pursuant to Section 8.108.170.

(3) The applicant has submitted an appropriate performance security in compliance with Section 8.108.140. (Added by Ord. No. 2261CCS § 1, adopted 4/22/08; amended by Ord. No. 2390CCS § 11, adopted 2/28/12)

#### 8.108.160 Compliance with WMP.

(a) **Documentation.** Within thirty days after the completion of any covered project, the applicant shall submit to the WMP Compliance Official documentation that it has met the diversion requirement for the project. The applicant shall provide a summary of efforts used to meet the diversion requirement and also provide the following documentation:

(1) Receipts from the vendor or facility which collected or received each material showing the actual weight or volume of that material;

(2) Weight slips/count of material salvaged or reused in current project;

(3) A copy of the previously approved WMP for the project adding the actual volume or weight of each material diverted and landfilled;

(4) Any additional information the applicant believes is relevant to determining its efforts to comply in good faith with this Chapter.

(b) **Weighing of Wastes.** Applicants shall ensure that all C&D material diverted or landfilled are measured and recorded using the most accurate method of measurement available. To the extent practical, all C&D material shall be weighted by measurement on scales. Such scales shall be in compliance with all State and County regulatory requirements for accuracy and maintenance. For C&D material for which weighing is not practical due to small size or other considerations, a volumetric measurement shall be used. For conversion of volumetric measurements by weight, the applicant shall use the standardized conversion rates approved by the City for this purpose.

(c) **Determination of Compliance and Release of Performance Security.** The WMP Compliance Official shall review the information submitted under subsection (a) of this Section to determine whether the applicant has complied with the diversion requirement as follows:

(1) **Full Compliance.** If the WMP Compliance Official determines that the applicant has fully complied with the diversion requirement applicable to the project, he or she shall cause the full performance security to be released to the applicant.

(2) **Failure to Comply.** If the WMP Compliance Official determines that the diversion requirement has not been met, he or she shall return only that portion of the performance security equivalent to the portion of C&D material actually diverted compared to the portion that should have been diverted according to the WMP. Any portion of the performance security not released to the applicant shall be forfeited to the City, and shall be used to recover costs associated with sorting mixed C&D loads at the City recycling center. If the WMP Compliance Official determines that the applicant has fully failed to comply with the diversion requirement or if the applicant fails to submit the documentation required by subsection (a) of this Section within the required time period, then the entire performance security shall be forfeited to the City. All forfeited performance securities shall be used to recover costs associated with sorting mixed C&D loads at the City recycling center. (Added by Ord. No. 2261CCS § 1, adopted 4/22/08; amended by Ord. No. 2390CCS § 12, adopted 2/28/12)

#### 8.108.170 Exemption.

(a) **Application.** If an applicant believes it is infeasible to comply with the diversion requirements of this Chapter due to the circumstances delineated in this Section, the applicant may apply for an exemption at the time that he or she submits the required WMP. Exemptions may be granted based on the following considerations:

- (1) Lack of storage space on-site;
- (2) Contamination by hazardous substances;
- (3) Low recyclability of specific materials.

The applicant shall indicate on the WMP the maximum rate 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) **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 determine the maximum feasible diversion rate for each material and shall indicate this rate on the WMP submitted by the applicant.

(c) **Denial of Exemption.** Upon a denial by the WMP Compliance Official, the applicant shall have thirty days to resubmit a WMP form in full compliance with Section 8.108.130. If the applicant fails to resubmit the WMP, or if the resubmitted WMP does not comply with Section 8.108.130, the WMP Compliance Official shall deny the WMP. (Added by Ord. No. 2261CCS § 1, adopted 4/22/08; amended by Ord. No. 2390CCS § 13, adopted 2/28/12)

#### 8.108.180 Appeal.

The applicant or any interested person may appeal to a Hearing Examiner from any ruling of the WMP Compliance Official made pursuant to this Chapter in accordance with Section 6.16.030. Notice of any appeal from the ruling of the WMP Compliance Official must be filed within ten days of the date that such ruling is made. (Added by Ord. No. 2261CCS § 1, adopted 4/22/08; amended by Ord. No. 2390CCS § 14, adopted 2/28/12)

#### 8.108.190 Enforcement.

- (a) The City Attorney may enforce the provisions of this Subpart by means of a civil action.
- (b) Any person who violates any provision of this Subpart shall be subject to administrative fines and administrative penalties pursuant to Chapters 1.09 and 1.10 of this Code.
- (c) **Nonexclusive Remedies and Penalties.** The remedies provided in this Subpart are not exclusive, and nothing in this Subpart shall preclude any person from seeking any other remedies, penalties or procedures provided by law.
- (d) It shall not be a defense to the assessment of any penalty or to any other civil or administrative enforcement action provided for under this Section for a person to assert that any violation of this Subpart was caused by the actions of a person other than the person assessed except if the violation

was caused by the criminal or negligent action of a person who was not an agent, servant, employee or family member of the person.

(e) Any penalty collected hereunder shall be deposited in the Refuse Fund to be used as reimbursement for the Public Works Department's costs and expenses of administration and enforcement of this Chapter. (Added by Ord. No. 2261CCS § 1, adopted 4/22/08; amended by Ord. No. 2390CCS § 15, adopted 2/28/12)

### **8.108.110 Definitions.**

For the purposes of Subpart B of this Chapter, the following definitions shall apply:

(a) "Class III landfill" means a landfill that accepts non-hazardous resources such as household, commercial, and industrial waste, resulting from construction, remodeling, repair, and demolition operations. A Class III landfill must have a solid waste facilities permit from the State of California and be regulated by an Enforcement Agency.

(b) "Construction and demolition material (C&D material)" means building materials and solid waste resulting from construction, remodeling, repair, cleanup, or demolition operations that are not hazardous as defined in California Code of Regulations, Title 22 Section 66261.3 et seq. This term includes, but is not limited to, asphalt, concrete, Portland cement concrete, brick, lumber, gypsum wallboard, cardboard, and other associated packaging, roofing material, ceramic tile, carpeting; plastic pipe and steel. The material may be commingled with rock, soil, tree stumps; and other vegetative matter resulting from land clearing and landscaping for construction or land development projects.

(c) "C&D recycling center" means a facility that receives only C&D material that has been separated for reuse prior to receipt, in which the residual (disposed) amount of waste in the material is less than ten percent of the average weight of material separated for reuse received by the facility over a one-month period.

(d) "City-sponsored project" means a project constructed by the City or a project receiving fifty percent or more of its financing from the City.

(e) "Conversion rate" means the rate set forth in the standardized conversion rate table approved by the City pursuant to this Chapter for use in estimating the volume or weight of materials identified in the waste management plan.

(f) "Covered project" shall have the meaning set forth in Section 8.108.120.

(g) "Divert" means to use material for any purpose other than disposal in a landfill or transformation facility.

(h) "Diversion requirement" means the diversion of at least seventy percent of the total construction and demolition material generated by a project via reuse or recycling, unless the applicant has been granted an exemption pursuant to Section 8.108.170, in which case the diversion requirement shall be the maximum feasible diversion rate established by the waste management plan Compliance Official in relation to the project.

(i) "Project" means any activity which requires an application for a building or demolition permit or any similar permit from the City.

(j) "Recycling" means the process of collecting, sorting, cleansing, treating, and reconstituting materials for the purpose of using the altered form in the manufacture of a new product. Recycling does not include burning, incinerating, or thermally destroying solid waste.

(k) "Reuse" means the use, in the same or similar form as it was produced, of a material which might otherwise be discarded.

(l) "Separated for reuse" means materials, including commingled recyclables, that have been separated or kept separate from the solid waste stream for the purpose of additional sorting or processing of those materials for reuse or recycling in order to return 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, and includes source separated materials.

(m) "Solid waste" as per Public Resources Code Section 40191 means all putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse; paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes. "Solid waste" does not include any of the following wastes:

(1) Hazardous waste, as defined in PRC Section 40141;

(2) Radioactive waste regulated pursuant to the Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the Health and Safety Code);

(3) Medical waste regulated pursuant to the Medical Waste Management Act (Part 14 (commencing with Section 117600) of Division 104 of the Health and Safety Code).

(n) "Source separated materials" means materials that are sorted at the site of generation by individual material type including commingled recyclable materials for the purpose of recycling; i.e., loads of concrete that are source-separated for delivery to a recycling facility.

(o) "Waste hauler" means a company that possesses a valid permit from the City of Santa Monica to collect and transport solid wastes from individuals or businesses for the purpose of recycling or disposal under the City of Santa Monica's name.

(p) "Waste management plan (WMP)" means a completed waste management plan form, approved by the City for the purpose of compliance with this Chapter, submitted by the applicant for any covered or non-covered project.

(q) "Waste management plan compliance official" means the City staff tasked with enforcement of this Subpart. (Added by Ord. No. 2261CCS § 1, adopted 4/22/08; amended by Ord. No. 2390CCS § 7, adopted 2/28/12)