

ORDINANCE NO. 2003-9

AN ORDINANCE OF THE CITY OF LAGUNA HILLS, CALIFORNIA, AMENDING TITLE 5 "HEALTH AND SANITATION" OF THE MUNICIPAL CODE TO ESTABLISH THE CONSTRUCTION AND DEMOLITION WASTE RECYCLING PROGRAM

THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. **Purpose and Findings**

PURPOSE: The City Council declares that the purposes for the adoption of the amendments to the Municipal Code, which are contained herein and referenced as Title 5 of the Municipal Code are:

- To implement a Construction and Demolition Recycling Waste Program in order to protect the public health, safety, and welfare of the community and to achieve the mandate of the California Waste Management Act of 1989.
- To divert construction and renovation waste from landfills.
- To comply with the "Programs Supporting Diversion Activities" of the City's Alternative Diversion Requirement (ADR) approved by the California Integrated Waste Management Board (CIWMB) by adopting a construction and demolition debris ordinance.

FINDINGS: In adopting this Ordinance, the City does hereby find that:

- A. Title 5, Chapter 32 of the City of Laguna Hills Municipal Code regulates the storage, removal, transportation, and disposal of solid waste.
- B. The State of California through its California Waste Management Act of 1989, Assembly Bill 939 (AB 939), requires that each local jurisdiction in the state divert 50% of discarded materials from landfills by December 31, 2000.
- C. Cities and Counties could face fines up to \$10,000 a day for not meeting the 50% diversion mandated goal.
- D. Reusing and recycling construction and demolition waste is essential to further the City's efforts to reduce waste and comply with AB 939.
- E. Senate Bill 1374 (SB 1374) requires the CIWMB to adopt a model ordinance by March 1, 2004, and requires, by an unspecified date, local

jurisdictions to adopt the model ordinance if the local jurisdiction does not have an ordinance already in place.

F. The City's code does not currently require the recycling or reuse of construction and demolition waste.

SECTION 2. The Laguna Hills Municipal Code is hereby amended to add a new chapter to Title 5 "Health and Sanitation" as follows:

### **Chapter 5-48**

## **CONSTRUCTION AND DEMOLITION WASTE RECYCLING PROGRAM**

### **Sections**

<b>5-48.010</b>	<b>Declaration of Purpose</b>
<b>5-48.020</b>	<b>Definitions</b>
<b>5-48.030</b>	<b>Designated Recyclable and Reusable Materials</b>
<b>5-48.040</b>	<b>Minimum Construction &amp; Demolition Debris Diversion Requirements</b>
<b>5-48.050</b>	<b>Covered and Non-Covered Projects</b>
<b>5-48.060</b>	<b>Security Deposit and Waste Reduction and Recycling Plan Required</b>
<b>5-48.070</b>	<b>Exemptions</b>
<b>5-48.080</b>	<b>Refund of Security Deposit</b>
<b>5-48.090</b>	<b>Forfeiture of Security Deposit</b>
<b>5-48.100</b>	<b>Use of Security Deposits</b>
<b>5-48.110</b>	<b>Diversion of Waste</b>
<b>5-48.120</b>	<b>Certified Recycling Facilities</b>
<b>5-48.130</b>	<b>Application Fee</b>
<b>5-48.140</b>	<b>Reporting</b>
<b>5-48.150</b>	<b>Appeal</b>

#### **5-48.010 Declaration of Purpose**

The purpose of this chapter is to promote the recycling of construction and demolition waste in order to protect the public health, safety, and welfare and to meet the city's obligations under AB 939 and its Alternative Diversion Debris Requirement approved by the California Integrated Waste Management Board.

#### **5-48.020 Definitions**

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 any construction, demolition, or renovation project within the City.

- B. "C&D Compliance Official" means the person designated by the City Manager who is authorized and responsible for implementing this chapter.
- C. "City Project C&D Waste Policy" means the City's policy in regards to recycling C&D Waste from landfills for City-owned projects.
- D. "Construction" means the building of any facility or structure or any portion thereof including any tenant improvements to an existing facility or structure.
- E. "Construction and Demolition Waste" 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.
- F. "Construction and Demolition Waste Recycling and Disposal Report Summary" means a completed form submitted by an applicant for any Covered Project approved by the City for the purpose of compliance with this chapter. The form is submitted after completion of a project.
- G. "Covered Project" shall have the meaning set forth in Section 5-48.050 (A).
- H. "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.
- I. "Security Deposit" means the cash or cash equivalent deposit required as security for performance for all covered projects as set forth in Section 5-48.060 (B).
- J. "Diversion Requirement" means the percentage of construction and demolition waste for each project that must be diverted from landfills.
- K. "Divert" means to use material for any purpose other than disposal in a landfill or transformation facility.
- L. "Non-covered Project" shall have the meaning set forth in Section 5-48.050 (B).
- M. "Project" means any activity that requires an application for a building or demolition permit or any similar permit from the City.

N. "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.

O. "Renovation" means any change, addition, or modification in an existing structure.

P. "Reuse" means further or repeated use of construction or demolition waste.

Q. "Salvage" means the controlled removal of construction or demolition waste from a permitted building or demolition site for the purpose of recycling, reuse, or storage for later recycling or reuse.

R. "Waste Reduction and Recycling Plan" means a completed form submitted by an applicant for any Covered Project approved by the City for the purpose of compliance with this ordinance. The form is submitted when applying for a permit.

#### **5-48.030 Designated Recyclable and Reusable Materials**

Designated Recyclable and Reusable Materials means all construction or demolition waste that fits within any of the following categories:

A. Masonry building materials including all products generally used in construction including, but not limited to asphalt, concrete, rock, stone, and brick.

B. Wood materials including any and all dimensional lumber, fencing, or construction wood that is not chemically treated, creosoted, CCA pressure treated, contaminated, or painted.

C. Vegetable materials including trees, tree parts, shrubs, stumps, logs, brush, or any other type of plants that are cleared from a site for construction or other use.

D. Metals including all metal scrap such as, but not limited to, pipes, siding, window frames, door frames, and fences.

E. Roofing materials including wood shingles as well as asphalt, stone, and slate based roofing material.

F. Salvageable materials includes all salvageable materials and structures including, but not limited to wallboard, doors, windows, fixtures, toilets, sinks, bath tubs, and appliances.

- G. Any other construction or demolition debris that is non-hazardous and available for recycling or reuse.

**5-48.040 Minimum Construction & Demolition Debris Diversion Requirements**

All Covered Projects shall reuse, recycle, or divert the minimum percentage amount of Designated Recyclable and Reusable Materials as set forth by City Council Resolution from landfills or disposal sites.

**5-48.050 Covered and Non-Covered Projects**

- A. Covered Projects: All construction, demolition, addition, alteration, and remodel projects within the City requiring a permit, in accordance to the Covered Project threshold as set forth by City Council resolution, are required to divert the Designated Recyclable and Reusable Materials from landfills. The minimum diversion requirement is established by City Council Resolution.

Failure to comply with the diversion requirements of this chapter shall subject the Project Applicant to forfeit their security deposit as set forth in Section 5-48.090. Concurrent permits at the same site shall be considered “one” project for the purposes of this chapter.

- B. Non-covered Projects: Applicants for construction, demolition, addition, alteration, and remodel projects within the City under the thresholds as set forth by City Council resolution shall be encouraged to divert at least fifty (50) percent of all project-related construction and demolition debris.

- C. City-owned Projects: All City-owned construction and demolition projects shall adhere to the “City Project C&D Waste Policy” as established by Resolution of the City Council.

**5-48.060 Security Deposit and Waste Reduction and Recycling Plan Required**

- A. Except as otherwise specified in this chapter, each applicant who applies for a building or an encroachment permit for a Covered Project shall submit a “Waste Reduction and Recycling Plan” as prescribed by the C&D Compliance Official. No building permit, encroachment permit, or an exemption shall be issued for Covered Projects unless a “Waste Reduction and Recycling Plan” has been approved by the C&D Compliance Official.

- B. Except as otherwise specified in this chapter, each applicant who applies for a building or an encroachment permit for a Covered Project, shall remit a security deposit in the amount set forth by Resolution of the City Council. The security deposit shall be remitted at the same time the permit application is filed, and shall be in the form of cash or cash equivalent such as a cashier’s check or credit card payment to the City.

## **5-48.070 Exemptions**

Neither a construction and demolition debris “Waste Reduction and Recycling Plan” nor a security deposit shall be required for the following:

- A. Work for which only a plumbing permit, only an electrical, or only a mechanical permit is required.
- B. Seismic tie-down projects.
- C. Installation of pre-fabricated patio enclosures and covers where no foundation or other structural building modifications are required.
- D. Installation of pre-fabricated accessories such as signs or antennas where no structural building modifications are required.
- E. Other work that the C&D Compliance Official determines will not produce construction or demolition waste.
- F. City Owned Projects.

An application for exemption and the grounds for an exemption shall be submitted to the C&D Compliance official who shall determine if the Exemption is in compliance with this section.

## **5-48.080 Refund of Security Deposit**

- A. The C&D Compliance Official may authorize the refund of any security deposit, which was erroneously paid or collected.
- B. The C&D Compliance Official may authorize the refund of any security deposit when the building permit application is withdrawn or cancelled before any work has begun.
- C. The C&D Compliance Official may authorize the refund of a security deposit when the Applicant has satisfactorily submitted the “Construction and Demolition Waste Recycling and Disposal Report Summary” as identified in section 5-48.140, and at least the minimum diversion requirement as identified in Section 5-48.040 is met.
- D. If the C&D 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 chapter. The C&D Compliance Official may authorize a partial refund of a security deposit when less than the minimum diversion requirement is met. The partial refund shall not exceed that portion of the security deposit that is in the same ratio as the demonstrated amount of diverted waste.

#### **5-48.090 Forfeiture of Security Deposit**

If the C&D Compliance Official determines that the Applicant has not made a good faith effort to comply with this chapter, or if the Applicant fails to submit the documentation required by Section 5-48.060 and 5-48.140 within the required time period, then the deposit shall be forfeited to the City.

#### **5-48.100 Use of Security deposits**

Moneys received by the City as security deposits shall be used only for:

- A. Payment of security deposit refunds;
- B. Administrative costs of the program established by this chapter not covered by the application fee;
- C. Programs to divert from landfill disposal the waste from construction, demolition, and alteration projects, and other recycling programs; and
- D. Programs whose purpose is to develop or improve the infrastructure needed to divert from landfill disposal the waste from construction, demolition, and alteration projects, and other recycling programs.

#### **5-48.110 Diversion of Waste**

For the purposes of this chapter, "diverted" or "diversion" means a reduction of the amount of waste being disposed in landfills by any of the following methods:

- A. Use of new construction methods, as approved by the C&D Compliance Official, that reduce the amount of waste generated.
- B. On-site re-use of the waste.
- C. Delivery of the waste from the site to a certified recycling facility described in Section 5-48.120.
- D. Other methods as approved by the C&D Compliance Official.
- E. All of the waste diversion methods which may qualify for a refund of a diversion deposit are subject to the conditions specified by the C&D Compliance Official.

### **5-48.120 Certified Recycling Facilities**

A. For the purposes of this part, a certified recycling facility means a recycling, composting, materials recovery, or re-use facility for which the C&D Compliance Official has issued a certification pursuant to regulations promulgated by the C&D Compliance Official.

B. The C&D Compliance Official shall approve use of the facilities only if the owner or operator of the facility has submitted or submits documentation satisfactory to the C&D Compliance Official:

- (1) That the facility has obtained all applicable federal, state, and local permits, and is in full compliance with all applicable regulations; and
- (2) The percentage of incoming waste from construction, demolition, and alteration activities that is diverted from landfill disposal meets the required minimum percentage set forth in regulations promulgated by the C&D Compliance Official.

C. The City shall make available to each Applicant an approved list of certified recycling facilities.

### **5-48.130 Application Fee**

As a 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 Waste Reduction and Recycling Plan and reviewing performance of the plan. The amount of this fee shall be set forth in a resolution of the City Council.

### **5-48.140 Reporting**

Within sixty (60) days following the completion of a demolition project, and again within sixty (60) days following the completion of a Covered Project, the applicant shall, as a condition precedent to release of security deposit, submit documentation to the C&D Compliance Official reporting on compliance with the requirements of the Waste Reduction and Recycling Plan. The documentation shall consist of a final completed "Construction and Demolition Waste Recycling and Disposal Report Summary" showing actual data of tonnage of materials recycled and diverted, supported by originals or certified photocopies of receipts and weight tags or other records of measurement from recycling companies, contractors and/or landfill and disposal companies. Receipts and weight tags will be used to verify whether materials generated from the site have been or are to be recycled, reused, salvaged, or to otherwise disposed of.



If a project involves both demolition and construction, the report and documentation for the demolition project must be submitted to, and approved by, the C&D Compliance Official before issuance of a building permit for the construction project. If the applicant has not met the Diversion Requirement for demolition, the C&D Compliance Official may, in addition to other remedies set forth in this chapter, require a higher percentage of diversion for construction than established by City Council Resolution, provided that the higher percentage is no higher than the shortfall in diversion from demolition. In the alternative, the applicant may submit a letter stating that no Designated Recyclable or Reusable materials were generated from the project. In which case, this statement shall be subject to verification by the C&D Compliance Official.

#### **5-48.150 Appeal**

Upon payment of an appeal fee set forth in a Resolution of the City Council, the applicant may appeal to the City Manager a decision of the C&D Compliance Official to deny an exemption or withhold all or any portion of a security deposit. Notice of Appeal from the decision of the C&D Compliance Official must be filed with the City Manager's Office within 10 calendar days of the date of the decision being appealed. The Notice of Appeal shall set forth in concise language that particular decision or decisions complained of and the reason why the person feels aggrieved thereby. Failure to file a notice of appeal within the time prescribed herein shall constitute a waiver of any objection to the decision(s) of the C&D Compliance Official and such decision(s) shall be final; otherwise the decision of the City Manager shall be final.

SECTION 3. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more section, subsection, subdivision, sentence, clause, phrase, or portion thereof be declared invalid or unconstitutional.

SECTION 4. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be posted at the duly designated posting places within the City and published once within fifteen days after passage and adoption as may be required by law; or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the Office of the City Clerk five days prior to the date of adoption of this Ordinance; and, within fifteen days after adoption, the City Clerk shall cause to be published, the aforementioned summary and shall post a certified copy of this Ordinance, together with the vote for and against the same, in the Office of the City Clerk.

PASSED, APPROVED, AND ADOPTED this 28<sup>th</sup> day of October 2003.

  
L. ALLAN SONGSTAD, JR., MAYOR

ATTEST:

  
MARY A. CARLSON, CITY CLERK

STATE OF CALIFORNIA )  
COUNTY OF ORANGE ) ss  
CITY OF LAGUNA HILLS )

I, Mary A. Carlson, City Clerk of the City of Laguna Hills, California, DO HEREBY CERTIFY that the foregoing Ordinance No. 2003-9 was duly introduced and placed upon its first reading at a Regular Meeting of the City Council on the 14<sup>th</sup> day of October 2003, and that thereafter, said Ordinance was duly adopted and passed at a Regular Meeting of the City Council held on the 28<sup>th</sup> day of October 2003, by the following vote, to wit:

AYES: Council Members Bressette, Carruth, Scott, Mayor Pro  
Tempore Lautenschleger, and Mayor Songstad  
NOES: None  
ABSENT: None  
ABSTAIN: None

(SEAL)

  
MARY A. CARLSON, CITY CLERK