

# CONSTRUCTION AND DEMOLITION DEBRIS

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**09.07.01: SHORT TITLE:**

This article shall be known and designated as the *CONSTRUCTION AND DEMOLITION DEBRIS ORDINANCE*. (Ord. 0-05-1181, 9-14-2005)

**09.07.02: PURPOSE:**

The purpose of this article is to reduce the amount of waste from construction and demolition projects in the city of San Marino that is disposed of in landfills by requiring "covered haulers" and applicants for every "covered project" to divert a minimum of fifty percent (50%), by weight, of the construction and demolition debris generated or received. The creation of this compliance program is necessary to secure compliance with the state mandated diversion requirements established by the California integrated waste management act of 1989, as amended. (Ord. 0-05-1181, 9-14-2005)

### **09.07.03: APPLICATION TO COVERED PROJECTS:**

A. Unless otherwise exempt under section [09.07.05](#) of this article, projects by the city or by any applicant meeting the following thresholds shall be considered covered projects, shall meet the diversion requirement and shall comply with all provisions of this article:

1. Residential additions of one thousand (1,000) square feet or more of gross floor area;
2. Tenant improvements of three thousand (3,000) square feet or more of gross floor area;
3. New structures of one thousand (1,000) square feet or more of gross floor area;
4. Demolition of one thousand (1,000) square feet or more of gross floor area; and
5. All city public works and city public construction projects that are awarded pursuant to a competitive bidding procedure.

B. Compliance with the provisions of this article shall be listed as a condition of approval on all building and demolition permits issued for a covered project. (Ord. 0-05-1181, 9-14-2005)

### **09.07.04: REQUIRED DIVERSION RATES:**

A minimum fifty percent (50%), by weight, of the following construction and demolition debris shall be diverted from disposal in a landfill:

- A. All construction and demolition debris resulting from a covered project.

B. All construction and demolition debris received by a covered hauler. (Ord. 0-05-1181, 9-14-2005)

**09.07.05: PROJECTS EXEMPT:**

The following projects are exempt from the requirements of this article:

A. Immediate or emergency demolition required to protect the public health, safety or welfare, as determined by any public safety official of the city, or the city manager or his/her designee prior to demolition.

B. Projects in any single-family residential district that consist solely of construction of a swimming pool.

C. A project for which a variance, conditional use permit or design review approval has been obtained from the city prior to the effective date hereof.

D. A project for which a valid building permit has been lawfully issued by the city prior to the effective date hereof.

E. A public works or public construction project for which the notice inviting bids has been published prior to the effective date hereof. (Ord. 0-05-1181, 9-14-2005)

**09.07.06: WASTE MANAGEMENT PLAN REQUIREMENT:**

All applicants for covered projects shall complete and submit a waste management plan as part of the application packet for a permit issued for a covered project. The waste management plan shall include the following information with any volume to weight conversion rate calculations, and shall be attested by the applicant, under penalty of perjury, as true and correct for all stated facts and as a best estimate based on all information reasonably available about

the project, where all of the facts cannot be ascertained:

- A. The estimated volume or weight of construction and demolition debris;
- B. The estimated volume or weight of construction and demolition debris that will be diverted;
- C. The estimated volume or weight of construction and demolition debris that will be landfilled as solid waste;
- D. The identification of the hauler(s), vendor(s), and facility(ies) that will collect or receive the diverted and landfilled construction or demolition debris or that will deconstruct the structure; and
- E. The estimated dates on which demolition or construction is to commence and conclude. (Ord. 0-05-1181, 9-14-2005)

**09.07.07: REVIEW OF WASTE MANAGEMENT PLAN:**

- A. Approval: Notwithstanding any other provision of this article, no permit shall be issued for any covered project unless and until a waste management plan has been approved, based upon the following findings by the waste management plan compliance official:
  - 1. All of the information required by section [09.07.06](#) of this article has been provided; and
  - 2. The plan establishes a mechanism such that the diversion requirement shall be met.

B. Denial: If the waste management plan compliance official denies the waste management plan, the grounds for denial shall be clearly stated, in writing. (Ord. 0-05-1181, 9-14-2005)

### **09.07.08: WASTE MANAGEMENT PLAN COMPLIANCE REPORTING:**

A. Final Report: No later than thirty (30) days following the completion of a covered project, the applicant shall submit a compliance reporting form, under penalty of perjury, to the waste management plan compliance official. The form shall include the following information:

1. The dates demolition and construction actually commenced and concluded;
2. The actual volume or weight of construction and demolition debris;
3. The actual volume or weight of construction and demolition debris that was diverted;
4. A specification of the method used to determine the volume and weights and a certification that the method used was the most accurate, commercially reasonable method available; and
5. Original receipts from all vendors and facilities that collected or received construction and demolition debris, indicating actual weights and volumes received by each. (Ord. 0-05-1181, 9-14-2005)

### **09.07.09: COVERED HAULER REPORTING:**

A. All covered haulers shall maintain a list of all addresses within the city from which it collects construction and demolition debris. The covered hauler shall provide to the city on or before January 1 and July 1 of each year a written report detailing the total number of addresses from which the covered hauler has provided service for the preceding six (6) months.

B. All covered haulers shall compile and keep the following information with respect to every month during the year and shall deliver a detailed and comprehensive written report thereon, signed by an officer of the covered hauler, to the city manager on or before January 30 and July 30 each year which shall cover the covered hauler's activities during the previous six (6) month period:

1. The list of all addresses within the city from which construction and demolition debris was collected during each month of the reporting period;
2. Total tons of debris collected during each month of the reporting period;
3. The number of roll-off bins provided and serviced during the period;
4. The name, address and telephone number of each solid waste disposal facility used by covered hauler during the six (6) month reporting period;
5. The total tons of construction and demolition debris disposed of in each landfill during each month of the reporting period;
6. Total tons of construction and demolition debris diverted at each facility during each month of the reporting period.

C. All covered haulers shall also provide in a timely manner and at no cost, all data and information required by the city to complete the city's annual report to the California integrated waste management board (CIWMB) and to respond to any requests for information from the city or the CIWMB. (Ord. 0-05-1181, 9-14-2005)

### **09.07.10: EXCEPTION FROM COMPLIANCE:**

Prior to commencing demolition or construction, an applicant wishing relief from the requirements of this article may seek an exception, partial or complete, through the following process:

A. Initiation: This exception process shall be initiated by the filing of a complete exception application with the waste management plan compliance official. The waste management plan compliance official shall determine the completeness of the exception application.

B. Decision/Determination For The Application: Following consideration of the exception application, the waste management plan compliance official shall either make the required findings and approve the application or shall state why the findings cannot be made and deny the application.

C. Findings: All of the following findings must be made in order to approve an exception:

1. There are exceptional or extraordinary circumstances or conditions applicable to the project that do not apply to similar projects;
2. Granting the application will not constitute a grant of special privilege inconsistent with limitations imposed on like projects; and
3. The cost to the applicant of strict compliance with this article is not the primary reason for granting the exception. (Ord. 0-05-1181, 9-14-2005)

### **09.07.11: APPEAL:**

Any person or entity aggrieved by any decision or finding under the provisions of this article with respect to approving or to denying a waste management plan or to granting or denying an application for an exception from compliance with this article, may appeal such decision or finding. An appeal must be filed within five (5) business days after receipt of notice of any protested decision or finding by filing with the city manager a letter of appeal briefly stating therein the basis for such appeal. A hearing officer, appointed by the city 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. At the conclusion of the hearing, the hearing officer shall make a final and conclusive determination. (Ord. 0-05-1181, 9-14-2005)

### **09.07.12: VIOLATION:**

It shall be unlawful and a violation of this article to do any of the following:

- A. To fail to comply with any provision of this article.
- B. To provide false or misleading information in any plan, report or document required in this article.
- C. To fail to meet the diversion requirement for any covered project or by any covered hauler. (Ord. 0-05-1181, 9-14-2005)

### **09.07.13: PROSECUTION OF VIOLATIONS; PENALTIES:**

- A. Misdemeanors: Any person who violates any provision of subsection [09.07.12A](#) or B of this article is guilty of a misdemeanor, unless the city prosecutor, in his or her sole discretion, elects to prosecute the matter as an infraction.
- B. Infractions: Except as set forth in subsection A of this section, any person who violates subsection [09.07.12C](#) of this article or any other provision of this article is guilty of an infraction and shall be punished by a fine. Each person convicted may be deemed guilty of a separate offense for every day during any portion of which any violation is committed or permitted.

C. Fines: In addition to the penalty provision of subsections A and B of this section, violations of this article may be subject to fines, including, but not limited to, civil penalties, administrative fees, and other related charges as established by resolution of the city council.

D. Business License Revocation: In addition to the penalty provisions of this section, covered haulers who fail to meet the required diversion rate and/or submit required reports in accordance with section [09.07.09](#) of this article may have their business license revoked pursuant to section [11.02.14](#) of this code. (Ord. 0-05-1181, 9-14-2005)

#### **09.07.14: REMEDIES NOT EXCLUSIVE:**

To the maximum extent permitted by law, administrative remedies specified in this article are in addition to and do not supersede or limit any and all other remedies, civil or criminal. The remedies provided for herein shall be cumulative and not exclusive. (Ord. 0-05-1181, 9-14-2005)