

**ORDINANCE NO. 1018-C-S**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANTIOCH ADDING AN ARTICLE HEADING TO CHAPTER 3 OF TITLE 6 AND ADDING ARTICLE 2 TO CHAPTER 3 OF TITLE 6 OF THE ANTIOCH MUNICIPAL CODE, DEALING WITH CONSTRUCTION AND DEMOLITION DEBRIS RECYCLING**

The City Council of the City of Antioch does ordain as follows:

**Section 1.** An Article heading is hereby added to precede Section 6-3.01 of the Antioch Municipal Code to read as follows:

***Article 1: Garbage collection and recycling***

**Section 2.** Article 2 is hereby added to Chapter 3 of Title 6 of the Antioch Municipal Code, to read as follows:

***Article 2: Construction and demolition debris recycling.***

**Sections:**

<b>6-3.201</b>	<b>Definitions</b>
<b>6-3.202</b>	<b>Threshold for Covered Projects</b>
<b>6-3.203</b>	<b>Submission of Waste Management Plan</b>
<b>6-3.204</b>	<b>Review of Waste Management Plan</b>
<b>6-3.205</b>	<b>Infeasibility Exemption</b>
<b>6-3.206</b>	<b>Submittal of Completed Waste Management Plan</b>
<b>6-3.207</b>	<b>Appeal</b>

**6-3.201 Definitions**

For the purposes of Article, the following definitions shall apply:

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 construction, demolition, or renovation project within the City.

B. "Construction" means the building of any facility or structure or any portion thereof including tenant improvements to an existing facility or structure.

C. "Construction and Demolition Debris" or "C&D Debris" 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.

D. "Conversion Rate" means the California Integrated Waste Management's accepted conversion rate used in estimating the volume or weight of materials identified in a Waste Management Plan.

E. "Covered Project" shall have the meaning set forth in Section 6-3.202.

F. "Deconstruction" means the process of carefully dismantling a building or structure in order to salvage components for reuse or recycling.

G. "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.

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

I. "Diversion Requirement" means the redirection from the waste stream of at least 50 percent of the total Construction and Demolition Debris generated by a Project via reuse or recycling, unless the Applicant has been granted an Infeasibility Exemption, in which case the Diversion Requirement shall be the maximum feasible diversion rate established by the WMP Compliance Official for the Project.

J. "Noncovered Project" shall have the meaning set forth in Section 6-3.202 (B).

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

L. "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.

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

N. "Reuse" means further or repeated use of materials in their original form.

O. "Salvage" means the controlled removal of Construction or Demolition Debris from a permitted building or demolition site for the purpose of recycling, reuse, or storage for later recycling or reuse.

P. "Tenant improvements" means a "project" involving structural or other modifications of an existing property resulting in the generation of C&D Debris. "Total costs" means the total construction value of the project using standard commercial and residential valuation formulas.

Q. "Vendor" means a hauler of commercial recycling materials authorized by the City of Antioch.

R. "Waste Management Plan" means a completed WMP form, approved by the City for the purpose of compliance with this Article, submitted by the Applicant for any Covered Project. Prior to project start, the WMP shall identify the types of C&D Debris materials that will be generated for disposal and recycling. A completed WMP contains actual weight or volume of the material disposed or recycled.

S. "WMP Compliance Official" means the Community Development Director or his or her designee.

### **6-3.202 Threshold for Covered Projects**

A. **Covered Projects:** All construction, demolition, and renovation projects (including tenant improvements) within the City, the total costs of which are, or are projected to be, greater than or equal to \$75,000.00, shall comply with this Article. For the purposes of determining whether a project meets the foregoing thresholds, all phases of a project and all related projects taking place on a single or adjoining parcels, as determined by the WMP Compliance Official, shall be deemed a single project.

B. **Noncovered Projects:** Applicants for construction, demolition, and renovation projects within the City which are not Covered Projects ("Noncovered Projects") shall be encouraged to divert as much project-related construction and demolition debris as possible

C. **Building and Demolition Permits:** No building, site development or demolition permit shall be issued for a Covered Project unless and until the WMP Compliance Official has approved a WMP for the project. Compliance with the provisions of this Article shall be listed as a condition of approval on any building, site development or demolition permit issued for a Covered Project.

D. **Projects sponsored by the City or Redevelopment Agency.-** All Construction, Demolition and Renovation projects sponsored by the City or Redevelopment Agency shall be considered Covered Projects for the purposes of this chapter. The Project sponsor shall submit a WPM to the official prior to beginning any or activities and shall be subject to all applicable provisions of this chapter.

### **6-3.203 Submission of Waste Management Plan**

A. **WMP Forms:** Applicants for building, demolition, or site development permits involving any 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 building, demolition, or site development permit. The completed WMP shall indicate all of the following:

1. A list of the C&D Debris material types, to be generated;
2. The vendor or facility that the Applicant proposes to use to collect or receive the materials; and
3. Acknowledgement of responsibility - The WMP shall be signed by both the contractor and owner indicating that 1) understanding of consequences of not meeting the 50% diversion requirement including being subject to fines and 2) they are responsible for the actions of their subcontractors with regard to this diversion requirement.

B. **Deconstruction:** In preparing the WMP, applicants for building, demolition, or site development permits involving the removal of all or part of an existing structure shall consider deconstruction, to the maximum extent feasible, and shall make the materials generated thereby available for salvage prior to landfilling. Materials generated in this process shall be considered divertable C&D debris and included in the amount of waste generated.

### **6-3.204 Review of Waste Management Plan**

A. **Approval:** Notwithstanding any other provision of this Code, no building, demolition, or site development permits shall be issued for any Covered Project, nor shall any demolition, construction or renovation take place on any Covered Project, unless and until the WMP Compliance Official has approved the WMP. 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 required by this Article;
2. The WMP indicates that at least 50 percent of all C&D debris generated by the Project will be diverted.

If the WMP Compliance Official determines that these two conditions have been met, he or she shall mark the WMP "Approved" and return a copy of the WMP to the Applicant.

B. **Nonapproval:** If the WMP Compliance Official determines that the WMP fails to 1) list all C&D materials to be generated, 2) indicate that at least 50 percent of all C&D debris generated by the Project will be reused or recycled, or 3) have both the contractor's and owner's signatures, he or she shall either:

1. Return the WMP to the Applicant marked "Denied," including a statement of reasons, or
2. Return the WMP to the Applicant marked "Further Explanation Required", or
3. Return the WMP to the Applicant marked "Temporary Permit" which will be valid for the period specified.

### **6-3.205 Infeasibility Exemption**

A. **Application:** If an Applicant for a Covered Project experiences unique circumstances that the Applicant believes make it infeasible to comply with the Diversion Requirement, the Applicant may apply for an exemption at the time that he or she submits the WMP. Increased costs to the Applicant generally will not be a sufficient basis for an exemption unless such costs are extraordinary. The Applicant shall indicate on the WMP the maximum amount 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. **Meeting with WMP Compliance Official:** The WMP Compliance Official shall review the information supplied by the Applicant and may meet with the Applicant to discuss possible ways of meeting the Diversion Requirement. Upon request of the City, the WMP Compliance Official may request the staff from the Solid Waste Division attend this meeting or may require the Applicant to request a separate meeting with Solid Waste Division staff. Based on the information supplied by the Applicant and, if applicable, Solid Waste Division staff, the WMP Compliance Official shall determine whether it is possible for the Applicant to meet the Diversion Requirement.

C. **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 establish a minimum feasible diversion rate for each material and shall indicate this

rate on the WMP submitted by the Applicant. The WMP Compliance Official shall return a copy of the WMP to the Applicant marked "Approved for Infeasible Exemption."

**D. Denial of Exemption:** If the WMP Compliance Official determines that it is feasible for the Applicant to meet the Diversion Requirement, he or she shall so inform the Applicant in writing. The Applicant shall have 30 days to resubmit a WMP form.

### **6-3.206 Submittal of Completed Waste Management Plan**

**A. Documentation.** No permit or approvals related to the project site shall be issued by the City until the applicant complies with the provisions of this section. The completed WMP must be approved prior to final occupancy. A temporary occupancy may be granted by the Building Official.

The applicant shall submit documentation along with a completed WMP that documents the Diversion requirement for the Project has been met to the City Compliance Official in order to receive final occupancy approval. This documentation shall include the following:

1. The completed WMP submitted for approval shall list for each construction and demolition material type generated the actual material volume or weight the Project generated and receipts from both the disposal and recycling facilities and/or licensed haulers and Vendors that received each material showing clearly whether the material was disposed or recycled;

2. Any additional information to the Applicant believes is relevant to determining its efforts to comply in good faith with this Article.

**B. Weighing of Wastes:** Applicants shall make reasonable efforts to ensure that all C&D debris diverted or landfilled are measured and recorded using the most accurate method of measurement available. To the extent practical, all construction and demolition debris shall be weighed by measurement on scales. Such scales shall be in compliance with all regulatory requirements for accuracy and maintenance. For construction and demolition debris for which weighing is not practical due to small size or other considerations, a volumetric measurement shall be used.

**C. Determination of Compliance and Release of Permit:** The WMP Compliance Official shall review the information submitted under subsection (a) of this Section and determine whether the Applicant has complied with the Diversion Requirement, as follows:

1. Full Compliance: If the WMP Compliance Officer determines that the Applicant has fully complied with the Diversion Requirement applicable to the Project, he or she shall indicate such compliance on the WMP.

2. Good Faith Effort to Comply: If the WMP 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 Article. In making this determination, the WMP Compliance Official shall consider the availability of markets for the C&D debris landfilled, the size of the Project, and the documented efforts of the Applicant to divert C&D debris. If the WMP Compliance Official determines that the Applicant has made a good faith effort to comply with this Article, he or she shall so indicate on the WMP.

3. Noncompliance: If the WMP Compliance Official determines that the Applicant has not made a good faith effort to comply with this Article, or if the Applicant fails to submit the documentation required by subsection (a) of this Section within the required time period, then the Applicant shall be in violation of this Article and be liable for a civil penalty, including that authorized by §9-5.2707.1 of this Code, in addition to any other remedy provided by this Article.

**6-3.207 Appeal**

Appeal of a determination made under this Article shall be made to the Director of Community Development or his or her designee.

**SECTION 3.** This ordinance shall take effect and be enforced thirty (30) days from and after the date of its adoption and shall be published once within fifteen (15) days upon passage and adoption in the Ledger-Dispatch, a newspaper of general circulation printed and published in the City of Antioch.

\* \* \* \* \*

**I HEREBY CERTIFY** that the foregoing ordinance was introduced at a regular meeting of the City Council of the City of Antioch, held on the 23rd day of March, 2004, and passed and adopted at a regular meeting thereof, held on the 13th day of April 2004.

**AYES :** Council Members Kalinowski, Conley, Simonsen and Mayor Pro Tem Davis

**NOES :** None

**ABSENT :** **Mayor Freitas**

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**MAYOR OF THE CITY OF ANTIOCH**

**ATTEST :**

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CITY CLERK OF THE CITY OF ANTIOCH