

ORDINANCE NO. ORD-07-0025

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF LONG BEACH AMENDING THE LONG BEACH
MUNICIPAL CODE BY ADDING CHAPTER 18.97
ESTABLISHING A CONSTRUCTION AND DEMOLITION
RECYCLING PROGRAM

WHEREAS, the State of California through its California Integrated Waste Management Act of 1989, Assembly Bill 939 (AB 939), requires that each local jurisdiction in the state divert fifty percent (50%) of discarded materials (base year 1990) from landfills by December 31, 2000; and

WHEREAS, every city and county in California, including the City, could face fines up to ten thousand dollars (\$10,000.00) a day for not meeting the above mandated goal; and

WHEREAS, approximately twenty-two percent (22%) of the City's solid waste sent to landfills is from construction and demolition activities and the diversion of these materials would have a significant potential for waste reduction and recycling; and

WHEREAS, reusing and recycling construction and demolition materials ("C&D Debris") is essential to further the City's efforts to reduce waste and continue to comply with AB 939; and

WHEREAS, C&D Debris waste reduction and recycling have been proven to reduce the amount of such material which is landfilled, increase worker safety, and be cost effective; and

WHEREAS, to ensure compliance with this Chapter and to ensure that those contractors that comply with this Chapter are not placed at a competitive disadvantage, it is necessary to impose a Performance Security requirement;

NOW, THEREFORE, the City Council of the City of Long Beach ordains as

1 follows:

2 Section 1. Chapter 18.97 is hereby added to the Long Beach Municipal
3 Code to read as follows:

4 Chapter 18.97

5 CONSTRUCTION AND DEMOLITION RECYCLING PROGRAM

6 18.97.010 Definitions.

7 For the purposes of this Chapter, the following definitions shall
8 apply:

9 A. "Applicant" means any individual, firm, limited liability
10 company, association, partnership, political subdivision, government
11 agency, municipality, industry, public or private corporation, or any other
12 entity whatsoever who applies to the City for the applicable permits to
13 undertake any construction, demolition, or renovation project within the City.

14 B. "Class III Landfill" means a landfill that accepts non-
15 hazardous resources such as household, commercial, and industrial waste,
16 resulting from construction, remodeling, repair, and demolition operations.
17 A Class III landfill must have a solid waste facilities permit from the
18 California Integrated Waste Management Board (CIWMB) and is regulated
19 by an Enforcement Agency (as defined in Public Resources Code Section
20 40130).

21 C. "Construction" means the building of any facility or structure or
22 any portion thereof including any tenant improvements to an existing facility
23 or structure.

24 D. "Construction and Demolition Debris" (C&D Debris) means
25 building materials and solid waste resulting from construction, remodeling,
26 repair, cleanup, or demolition operations that are not hazardous as defined
27 in California Code of Regulations, Title 22, Sections 66261.3, et seq. This
28 term includes, but is not limited to, asphalt, concrete, Portland cement

1 concrete, brick, lumber, gypsum wallboard, cardboard, and other
2 associated packaging, roofing material, ceramic tile, carpeting, plastic pipe
3 and steel. The material may be commingled with rock, soil, tree stumps,
4 and other vegetative matter resulting from land clearing and landscaping for
5 construction or land development projects.

6 E. "C&D Recycling Center" means a facility that receives only
7 C&D material that has been separated for reuse prior to receipt, in which
8 the residual (disposed) amount of waste in the material is less than ten
9 percent (10%) of the average weight of material separated for reuse
10 received by the facility over a one month period.

11 F. "City-sponsored project" means a project constructed by the
12 City or a project receiving fifty percent (50%) or more of its financing from
13 the City.

14 G. "Covered Project" shall have the meaning set forth in Section
15 18.97.020.

16 H. "Deconstruction" means the careful dismantling of buildings
17 and structures in order to salvage as much material as possible.

18 I. "Demolition" means the decimating, razing, ruining, tearing
19 down or wrecking of any facility, structure, pavement or building, whether in
20 whole or in part, whether interior or exterior.

21 J. "Disposal" means the final deposition of construction and
22 demolition or inert material, to a Class III Landfill.

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

25 L. "Diversion Requirement" means the diversion of a percentage
26 of the total Construction and Demolition Debris generated by a project via
27 reuse or recycling, unless the Applicant has been granted an exemption
28 pursuant to Section 18.97.070 in which case the Diversion Requirement

1 shall be the maximum feasible diversion rate established by the Waste
2 Management Plan Compliance Official in relation to the project.

3 M. "Enforcement Agency (EA)" means an enforcement agency
4 as defined in Public Resources Code Section 40130.

5 N. "Inert Solids/Inert Waste" means non-liquid solid resources
6 including, but not limited to, soil and concrete, that do not contain
7 hazardous waste or soluble pollutants at concentrations in excess of water
8 quality objectives established by a regional Water Board pursuant to
9 Division 7 (Sections 13000, et seq.) of the California Water Code and does
10 not contain significant quantities of decomposable solid resources.

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

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

17 Q. "Renovation" means any change, addition or modification in
18 an existing structure.

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

21 S. "Solid Waste" means all putrescible and non-putrescible solid,
22 semisolid, and liquid wastes, including garbage, trash, refuse, paper,
23 rubbish, ashes, industrial wastes, demolition and construction wastes,
24 abandoned vehicles and parts thereof, discarded home and industrial
25 appliances, dewatered, treated, or chemically fixed sewage sludge which is
26 not hazardous waste, manure, vegetable or animal solid and semisolid
27 wastes, and other discarded solid and semisolid wastes. "Solid Waste"
28 does not include any of the following wastes:

1 1. Hazardous waste, as defined in Public Resources
2 Code Section 40141.

3 2. Radioactive waste regulated pursuant to the Radiation
4 Control Law [Chapter 8 (commencing with Section 114960) of Part 9 of
5 Division 104 of the Health and Safety Code].

6 3. Medical waste regulated pursuant to the Medical Waste
7 Management Act [Part 14 (commencing with Section 117600) of Division
8 104 of the Health and Safety Code].

9 T. "Waste Management Plan" (WMP) means a completed Waste
10 Management Plan form, approved by the City for the purpose of compliance
11 with this Article, submitted by the Applicant for any Covered or Non-covered
12 Project.

13 U. "Waste Management Plan Attachments" means a list of
14 permitted haulers, reuse facilitators, disposal and recycling facilities,
15 conversions for mass to weight, and green building material suggestions.

16 V. "Waste Management Plan Compliance Official" means the
17 Director of Planning and Buildings or his or her designee.

18
19 18.97.020 Threshold for covered projects.

20 A. Private Projects.

21 1. The following threshold will apply to projects for which
22 a demolition or building permit is issued after October 1, 2007, but before
23 January 1, 2008: All construction projects the total valuation of which are,
24 or are projected to be, seventy-five thousand dollars (\$75,000.00) or greater
25 and all demolition projects of any valuation, ("Covered Projects") shall be
26 required to divert at least sixty percent (60%) of all project-related
27 construction and demolition material in compliance with this Chapter.

28 2. The following threshold will apply to projects for which

1 a demolition or building permit is issued after January 1, 2008: All
2 construction projects the total valuation of which are, or are projected to be,
3 fifty thousand dollars (\$50,000.00) or greater and all demolition projects of
4 any valuation, ("Covered Projects") shall be required to divert at least sixty
5 (60) percent of all project-related construction and demolition material in
6 compliance with this Chapter.

7 B. All City-sponsored construction, demolition and renovation
8 projects shall be subject to this Chapter, and consequently, shall be
9 considered Covered Projects.

10 C. Compliance with this Chapter shall be included as a condition
11 of approval on any construction or demolition permit issued for a Covered
12 Project.

13
14 18.97.030 Submission of a waste management plan.

15 A. Applicants for construction or demolition permits involving a
16 Covered Project shall complete and submit a WMP, on a WMP form
17 approved by the City for this purpose, as part of the application packet for
18 the construction or demolition permit. The completed WMP shall indicate all
19 of the following:

20 1. The estimated volume or weight of the project C&D
21 Debris, by material type, to be generated;

22 2. The maximum volume or weight of such materials that
23 can feasibly be diverted via reuse or recycling. No more than twenty
24 percent (20%) of the sixty percent (60%) diversion rate can be achieved
25 through the recycling or reuse of inert materials unless applicant can
26 demonstrate to the satisfaction of the WMP Compliance Official that
27 sufficient structural materials do not exist for recycling or that forty percent
28 (40%) diversion of total waste through non-inert materials is not feasible.

1 3. The vendor or facility where the Applicant proposes to
2 use to collect or receive that material; and

3 4. The estimated volume or weight of C&D Debris that will
4 be landfilled in Class III Landfills.

5 B. Calculating Volume and Weight of Material: In estimating the
6 volume or weight of materials identified in the WMP, the Applicant shall use
7 the Conversion Rates approved by the City for this purpose.

8 C. Deconstruction: In preparing the WMP, applicants for
9 demolition permits involving the removal of all or part of an existing
10 structure shall consider Deconstruction to the maximum extent feasible, and
11 shall make the materials generated thereby available for salvage prior to
12 landfilling. Deconstruction can be used to meet the sixty percent (60%)
13 diversion requirement provided it is accounted for in the WMP.

14
15 18.97.040 Waste diversion deposit.

16 The project applicant shall submit a waste diversion deposit with
17 the WMP. The amount of the performance security shall be calculated as
18 three percent (3%) of total project valuation, provided, however, that the
19 minimum fee shall not be less than one thousand five hundred dollars
20 (\$1,500.00) and the maximum fee shall not exceed fifty thousand dollars
21 (\$50,000.00).

22
23 18.97.050 Administrative fee.

24 The project applicant shall submit an administrative fee with the
25 WMP. The amount of the administrative fee shall be set by a resolution of
26 the City Council.

27 18.97.060 Review of WMP.

28 A. Notwithstanding any other provisions of this Code, no building

1 or demolition permit shall be issued for any Covered Project unless and
2 until the WMP Compliance Official has reviewed the WMP. Approval shall
3 not be required, however, where an emergency demolition is required to
4 protect public health or safety. The WMP Compliance Official shall only
5 approve a WMP if he or she first determines that all of the following
6 conditions have been met:

7 1. The WMP provides all of the information set forth in
8 Section 18.97.030.

9 2. The WMP indicates that at least sixty percent (60%) of
10 all C&D material generated by the Project will be diverted or an exemption
11 has been approved pursuant to Section 18.97.080.

12 3. The Applicant has submitted an appropriate waste
13 diversion deposit in compliance with Section 18.97.040

14 If the WMP Compliance Official determines that these conditions
15 have been met, he or she shall mark the WMP "Approved," return a copy
16 of the WMP to the Applicant, and notify the Building Bureau that the WMP
17 has been approved.

18 B. If the WMP Compliance Official determines that the WMP fails
19 to meet the conditions specified in subsection A of this Section, he or she
20 shall either:

21 1. Return the WMP to the Applicant marked "Denied,"
22 including a statement of reasons, and so notify the Building Bureau, to
23 ensure that the construction or demolition permit does not issue.

24 2. Return the WMP to the applicant marked "Further
25 Explanation Required."

26 If the Applicant determines during the course of the project that the
27 estimated tonnage of material to be generated and or recovered from the
28 project is substantially different from the WMP, applicant shall submit an

1 addendum to the original WMP.

2
3 18.97.070 Compliance with WMP.

4 A. Within thirty (30) days after the completion of any Covered
5 Project, the Applicant shall submit to the WMP Compliance Official
6 documentation that it has met the Diversion Requirement for the project.
7 Applicant shall provide a summary of efforts used to meet the Diversion
8 Requirement and also provide the following documentation:

9 1. Receipts from the vendor or facility which collected or
10 received each material showing the actual weight or volume of that
11 material.

12 2. Weight slips/count of material salvaged or reused in
13 current project.

14 3. A copy of the previously approved WMP for the project
15 adding the actual volume or weight of each material diverted and landfilled.

16 4. Any additional information the Applicant believes is
17 relevant to determining its efforts to comply in good faith with this Chapter.

18 B. Weighing of Wastes: Applicants shall make reasonable efforts
19 to ensure that all C&D Debris diverted or landfilled are measured and
20 recorded using the most accurate method of measurement available. To
21 the extent practical, all C&D Debris shall be weighted by measurement on
22 scales. Such scales shall be in compliance with all State and County
23 regulatory requirements for accuracy and maintenance. For C&D Debris for
24 which weighing is not practical due to small size or other considerations, a
25 volumetric measurement shall be used. For conversion of volumetric
26 measurements by weight, the Applicant shall use the standardized
27 conversion rates approved by the City for this purpose.

28 C. The WMP Compliance Official shall review the information

1 submitted under subsection A of this Section to determine whether the
2 Applicant has complied with the Diversion Requirement as follows:

3 1. If the WMP Compliance Official determines that the
4 Applicant has fully complied with the Diversion Requirement applicable to
5 the project, he or she shall cause the full waste diversion deposit to be
6 released to the Applicant.

7 2. If the WMP Compliance Official determines that the
8 Diversion Requirement has not been met, he or she shall return only that
9 portion of the performance security equivalent to the portion of C&D Debris
10 actually diverted compared to the portion that should have been diverted
11 according to the WMP. Any portion of the waste diversion deposit not
12 released to the Applicant shall be forfeited to the City, and shall be used to
13 further develop environmental sustainability efforts within the Department of
14 Planning & Building. If the WMP Compliance Official determines that the
15 Applicant has fully failed to comply with the Diversion Requirement or if the
16 Applicant fails to submit the documentation required by subsection A of this
17 Section within the required time period, then the entire waste diversion
18 deposit shall be forfeited to the City. All forfeited waste diversion deposits
19 shall be used to further develop environmental sustainability efforts within
20 the Department of Planning & Building.

21
22 18.97.080 Exemption.

23 A. Application: If an Applicant believes it is infeasible to comply
24 with the diversion requirements of this chapter due to the circumstances
25 delineated in this Section, the Applicant may apply for an exemption at the
26 time that he or she submits the required WMP. Exemptions may be
27 granted based the following considerations:

28 1. An emergency situation exists.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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. 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. The WMP Compliance Official may request that staff from the Environmental Services Bureau attend this meeting or may require the Applicant to request a separate meeting with Environmental Services Bureau staff. Based on the information supplied by the Applicant and, if applicable, Environmental Services Bureau staff, the 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 determine the maximum 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 Exemption" and shall notify the Building Bureau that the WMP has been approved.

D. Denial of Exemption: If the WMP Compliance Official determines that it is possible for the Applicant to meet the Diversion Requirement, he or she shall inform the Applicant in writing. The Applicant shall have thirty (30) days to resubmit a WMP form in full compliance with

1 Section 18.97.030. If the Applicant fails to resubmit the WMP, or if the
2 resubmitted WMP does not comply with Section 18.97.030, the WMP
3 Compliance Official shall deny the WMP.

4
5 18.97.090 Appeal.

6 The applicant or any interested person may appeal to a hearing
7 officer from any ruling of the WMP Compliance Official made pursuant to
8 this Chapter in accordance with Section 18.97.070 Notice of any appeal
9 from the ruling of the WMP Compliance Official must be filed within ten
10 (10) days of the date that such ruling is made. The decision of the
11 Hearing Examiner upon such appeal, relative to any matter within the
12 jurisdiction of the WMP Compliance Official, shall be final and shall not be
13 appealable to the City Council or to any other City body or official.

14
15 Section 2. The City Clerk shall certify to the passage of this ordinance by
16 the City Council and cause it to be posted in three (3) conspicuous places in the City of
17 Long Beach, and it shall take effect on October 1, 2007.

18 ////
19 ////
20 ////
21 ////
22 ////
23 ////
24 ////
25 ////
26 ////
27 ////
28 ////


1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of May 15, 2007, by the following vote:

Ayes: Councilmembers: B. Lowenthal, S. Lowenthal,
DeLong, Schipske, Gabelich,
Lerch.

Noes: Councilmembers: None.

Absent: Councilmembers: O'Donnell, Reyes Uranga.



City Clerk



Mayor

Approved: 5/18/07
(Date)

OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

HAM;fl
5/31/2007
#07-01923