

**TOWN OF FAIRFAX
STAFF REPORT**

To: Mayor, Members of the Town Council
From: Garrett Toy, Town Manager
Date: February 6, 2013
Subject: Discussion and Consideration of Model Ordinances for Mandatory Commercial Recycling and Construction and Demolition Debris Recycling

RECOMMENDATION

Provide staff direction regarding the development of model ordinances for mandatory commercial recycling and construction and demolition debris recycling.

DISCUSSION

This report is broken into two sections: Mandatory Commercial Recycling Ordinance and Construction and Demolition Debris Recycling Ordinance.

Mandatory Commercial Recycling Ordinance

State law requires that businesses by January 1, 2012 take actions to recycle or otherwise divert solid waste from disposal (i.e., transport to landfills). Businesses are defined as any commercial or public entity that generates more than *four* cubic yards of commercial solid waste per week. The definition also includes multifamily residential dwellings of *five* units or more, regardless of the amount of commercial solid waste generated.

The law also requires local government and jurisdictions to develop a commercial recycling program (Program). The Program must include implementing and monitoring a commercial recycling program that fits a community's existing programs and resources as well as provides education and outreach to businesses. A commercial recycling program may include but is not limited to: a) implementing a mandatory commercial recycling policy or ordinance that requires businesses to participate, b) requiring a mandatory program through a franchise agreement, or c) requiring that commercial solid waste from businesses go through either a source separated or mixed waste processing system that diverts materials from disposal.

The Marin County Hazardous Waste and Solid Waste Management Joint Powers Authority (JPA), of which Fairfax is a member, has a diversion goal of 80% in 2012 and Zero Waste by 2025. According to the Marin Sanitary Service Annual report, Fairfax achieved a 64.5% diversion rate for 2012. Of the three options, a mandatory commercial recycling ordinance provides the Town with the most control to maximize its diversion rate.

Attached for your review is a model ordinance prepared by the JPA and a Table (see Table: A-7) showing the communities the JPA researched to develop the model ordinance. Staff is seeking guidance on the type of program the Council would like to adopt. Specifically, staff would like policy direction on the following components of the ordinance (see Comparison Table for more examples):

- Sector (e.g., include special events)
- Garbage collection (e.g., three cubic yards)

- Size of business (e.g., 4 multifamily units or more)
- Designated recyclables (e.g., organic material)
- Exemptions (e.g., lack of space, not allowed by zoning)
- Enforcement method (e.g., notice, fines)

Regardless of the selected option, there will be additional costs to the Town to monitor and implement a Program. The State requires that all Programs have a business outreach and education component as well as a system to identify and monitor businesses to determine if they are in compliance. In addition, there will be the staff time needed to review requests from businesses for exemptions to the requirements. At this time, it is unclear whether the grant funding available from the JPA or other resources will be sufficient to cover such costs, whether the services are contracted out or not.

There will also be an additional burden to businesses to comply, but it is difficult to quantify the impact.

Construction and Demolition Debris Ordinance

Currently, construction waste reduction, disposal, and recycling is addressed under the Town's Building Code via its adoption of the California Green Building Standards Code. However, the sections of the Green Building Standards Code governing construction and demolition debris only apply to new construction. Staff estimates one unit a year would be affected by this requirement.

As a matter of practice, all construction debris taken to the Marin Resource Recovery Center (MRRC) automatically gets sorted to retrieve recyclable materials. Similarly, the Redwood Landfill would sort the debris upon request and payment of an additional fee. However, should construction debris be taken to a non-certified recycling facility, there is no requirement for diversion.

The model ordinance prepared by the JPA is designed to create a process to maximize diversion of construction debris. However, it does create an additional burden as well as a disincentive to those who want to obtain a building permit. Building permits would not be issued without a diversion report and permits would not be finalized unless documentation that the debris was taken to a certified facility was submitted. The impact to staff is nominal depending on the enforcement standard.

Attached for your review is a model ordinance prepared by the JPA and a Table showing the communities the JPA researched to develop the model ordinance. Similar to the above model recycling ordinance, staff is seeking guidance on the type of program the Council would like to adopt. Specifically, staff would like policy direction on the following components of the ordinance (see Comparison Table for more examples):

- Threshold for compliance (e.g., square footage, dollar value)
- Diversion rate (e.g., 50% total, 100% asphalt)
- Enforcement method (e.g., avoidance fee)
- Deposit required

FISCAL IMPACT

There are implementation and monitoring costs associated with the ordinances. Staff anticipates that such costs would be partially offset by grants from the JPA with the balance covered by the Town's general fund which includes franchise fees collected from Marin Sanitary Services.

ATTACHMENTS

Model Mandatory Commercial Recycling Ordinance
Model Construction and Demolition Debris Ordinance
Comparison tables

**TABLE 1
Construction and Demolition Debris Ordinance**

Jurisdiction	Dollar Amount	Threshold		Other	Requirements					Reporting	Enforcement
		Square Footage			Minimum Diversion	Deposit/Fee	Salvage & Deconstruction	Certified Facilities			
MARIN COUNTY											
	no	*New SFD: up to 3,500 sq. ft. - 50 pts req.; 3,500 - 60 pts req. *New 2nd units: +500 sq. ft. - 50 pts req. *New MFD: all - 50 pts req. *New Mixed Use: all - 50 pts req. *Additions: 50% or greater increase in conditioned floor area - 50 pts req.	no	no	no	no	no	no	Green Building Compliance Form and Checklist	no	
Mill Valley	no	500+ sq. ft.	50%	no	no	no	no	no	Waste Management Plan (WMP) and Documentation	Civil penalties not to exceed \$1,000/violation or imprisonment not exceeding 6 months	no
Novato	no	1,000 sq. ft. of building area	50%	no	no	yes	no	no	Resource Management Plan	Exclusive franchise for debris box collection; Deny final occupancy permit; Civil penalty (\$100 first day, \$150 second day, \$200 third day, \$300 fourth day, and \$500 every day after); or assess administrative verification fee of \$500	no
San Rafael	no	no	50%	no	no	no	no	no	Green Building Compliance Checklist and supporting documentation	Civil penalties not to exceed \$2,500/violation	no
Sausalito	no	*All new construction *500+ sq. ft. for additions to existing dwelling units *3,000+ sq. ft. for new construction and additions to non-residential buildings *Town-sponsored projects *New Residential 500+ sq. ft. *New Commercial projects & additions over 2,000 sq. ft. *All residential remodels & additions, new MFD construction, and commercial remodels	no	no	no	no	no	no	WMP		
Tiburon	no		50%	no	no	no	no	no			
Marin County											
ALAMEDA COUNTY											
Albany	Construction and Renovation projects \$75,000+ Demolition projects \$25,000+	no	100% asphalt, concrete and similar materials 50% by weight all other C&D Debris generated	no	Projects not using City's Franchised Hauler The leaser of 3% of project cost or \$10,000	no	no	no	Debris Recycling Statement	Fines not to exceed \$500/violation or imprisonment for up to 6 months Stop work order on a project where work has already commenced	
Berkeley	Construction and Renovation projects \$100,000+ Demolition projects \$50,000	no	100% asphalt and concrete 50% of remaining waste generated	no	no	salvageable materials available for reuse prior to demolition	no	no	Waste Diversion Plan Waste Diversion Report	Fines not to exceed \$1,000/violation or imprisonment for up to 6 months	
Dublin	All projects with building or demolition permit values \$100,000+	no	100% concrete and asphalt 50% remaining waste generated	no	Projects over \$1M pay a Performance Security (\$Sq Ft x(60/2000))x(\$35)=\$2,738	no	no	no	WMP and Waste Reduction and Recycling Form	Fines: First violation \$100 Second violation within a year \$200 Each additional violation within a year \$500	
Emeryville	Construction and Renovation Projects \$50,000+	*Construction and Renovation projects 1,000 sq. ft. or more *All Demolition Projects within the City *All City Projects including Construction, Demolition and Renovation	100% concrete and asphalt 50% of remaining C&D debris	no	no	no	no	no	WMP	Fines: First violation \$100 Second violation within a year \$200 Third violation within a year \$400 Additional penalties within a year charged as a misdemeanor	

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**TABLE 1
Construction and Demolition Debris Ordinance**

Jurisdiction	Threshold			Requirements					Enforcement
	Dollar Amount	Square Footage	Other	Minimum Diversion	Deposit/Fee	Salvage & Deconstruction	Certified Facilities	Reporting	
Fremont	Construction and Renovation Projects \$300,000+ All Demolition Projects	no	no	100% concrete and asphalt 50% remaining waste generated	no	no	no	Waste Handling Plan and Waste Disposal and Diversion Report	Administrative remedy - penalty of \$1,000/ton of material that w to be diverted as set forth in the Waste Handling Plan, but was not demonstrated to have been diverted.
Hayward	Projects valued at \$75,000+ and all City sponsored projects	no	no	100% asphalt, concrete and similar materials 50% of remaining waste generated	no	no	no	Debris Recycling Statement and Summary Report	
Livermore	Projects valued at \$300,000+ for construction or renovation \$40,000 for demolition	no	no	50%	Construction projects valued \$1M+ requires performance security deposit of 1% up to \$100,000 Demolition projects require deposit of \$10,000 plus 1% up to \$100,000	no	no	WMP	Civil Action
Newark	All projects (City and private) valued at \$100,000+ Structure demolition projects \$20,000+	Pavement Demolition 1,000+ sq. ft.	no	100% Asphalt and Concrete 50% remaining waste	no	no	no	WMP	Civil Action
Oakland	All new construction, all demolition projects, commercial projects valued at \$50,000+	no	no	50%	no	no	no	Waste Reduction and Recycling Plan and C&D Debris Summary Report	Administrative Citations & Civil Penalties
Oro Loma Sanitary District	All construction, demolition or renovation projects \$100,000+	no	no	100% Asphalt and Concrete 50% by weight of total of all other C&D Debris generated	no	no	no	Debris Recycling Statement	Fines and penalties
Piedmont	Construction, Demolition, and Renovation projects \$50,000+	no	no	50%	no	Salvage materials to the extent possible	no	Salvage Materials form & Franchised Hauler monthly reports	Franchise Agreement
Pleasanton	Construction or Renovation project of \$125,000+ Demolition project of \$25,000+	no	no	90% portland cement concrete and asphalt and 50% of the remaining C&D debris	WMP Fee	no	no	WMP	Franchise Agreement

TABLE 1
Construction and Demolition Debris Ordinance

Jurisdiction	Dollar Amount	Threshold Square Footage	Other	Requirements					Enforcement
				Minimum Diversion	Deposit/Fee	Salvage & Deconstruction	Certified Facilities	Reporting	
San Leandro	Construction, Demolition, and Renovation projects \$100,000+	no	no	100% asphalt, concrete and similar material and 50% by weight of all other C&D debris generated	no	no	no	Debris Recycling Statement	Civil penalties or Stop work order
Union City	Construction, Demolition, and Renovation projects \$100,000+	Residential remodels increasing square footage 50%+	no	50%	Performance Security and Permit Fee lesser of 3% of project cost or \$10,000	Salvage materials to the extent possible prior to land filling	no	WMP	Civil penalties and fines not to exceed \$100 for the first violation, \$200 for the second and \$500 for each additional within one year.
Alameda County	Construction projects \$100,000+ Demolition projects \$25,000+	no	no	75% of inert solids and 50% of remaining waste generated from Traditional Public Works Projects 50% of debris generated from County Projects	no	no	no	no	Fines and penalties
SANTA CLARA COUNTY									
Palo Alto	All projects requiring a permit for demolition and new construction and projects requiring a permit for renovation or addition valued at \$25,000+	no	no	100% of all C&D debris not salvaged for reuse must be sent to an approved facility for recycling	Administrative Fee	Salvageable materials must be made available for reuse	Yes	WMP	Criminal prosecution, abatement, administrative penalties, and/or civil action
San José	Residential construction projects \$115,000+ Non-Residential construction projects \$135,000+ Residential alterations \$2,000+ Non-Residential alterations \$5,000+	no	Exemptions: Roofing and seismic tie-down projects, replacement of shingles, pre-fab patio enclosures and covers (no foundation/ other structural building mods are required), pools/spas	2010 - 55% 2011 - 60% 2012 - 65% 2013 - 70%	Deposit	no	yes	Document destination of material	Deposit refund based on meeting diversion requirements
CONTRA COSTA COUNTY									
Antioch	All Projects \$75,000+	no	no	50%	no	no	no	WMP	Fines and civil penalties
Brentwood	All Projects \$75,000+	no	no	50%	no	no	no	WMP	Fines and civil penalties
Clayton	no	All projects 500 sq. ft. + requiring a building, grading, or demolition permit	no	50%	Deposit	no	no	WMP	Fines and civil penalties

TABLE 1
Construction and Demolition Debris Ordinance

Jurisdiction	Threshold			Requirements					Enforcement
	Dollar Amount	Square Footage	Other	Minimum Diversion	Deposit/Fee	Salvage & Deconstruction	Certified Facilities	Reporting	
Concord	All demolition projects; Building, Encroachment, or Grading project requiring permit valued at \$50,000+; City-owned/ sponsored project valued at \$150,000+; Roofing/Re-roofing project valued at \$10,000+	no	50% or more of roof area is re-roofed, or requires 5 squares or more of roofing material regardless of permit value	50% C&D materials generated by weight and 75% Inert Debris generated by weight	Program Fee and Performance Security deposit	yes		Final Report	Franchise Hauler
Contra Costa County	no	All construction, renovation or demolition projects for which a building permit or demolition permit is required covering 5,000 sq. ft. or more	no	50%	no	no	no	Debris Recovery Plan	Fines and civil penalties
Lafayette	Construction, demolition and renovation projects \$50,000+	Construction, demolition or renovation projects covering 5,000 sq. ft. or more	no	50%	Performance Security Deposit	Deconstruction to the maximum extent feasible or salvage prior to landfilling	no	WMP	Fines and civil penalties
Martinez	Construction, demolition and renovation projects \$75,000+	Construction, demolition or renovation projects covering 5,000 sq. ft. or more	no	50%	Diversion Security Deposit equal to 1% of total costs for project and an Administrative Fee	Deconstruction to the maximum extent feasible or salvage prior to disposal to recycling center, transformation facility or landfill	no	WMP	Abatement, Civil Action and/or Misdemeanor
Moraga	Construction, demolition and renovation projects \$250,000+	Construction, demolition or renovation projects covering 3,000 sq. ft. or more	no	Substantial C&D debris must be redirected via reuse or recycling	Deposit	Deconstruction to the maximum extent feasible or salvage prior to landfilling	no	WMP	Fines and civil penalties
Orinda	Construction, demolition and renovation projects \$50,000+	Construction, demolition or renovation projects covering 1,000 sq. ft. or more (except Public Agency Projects)	no	50%	Deposit of 2% or \$5,000 whichever is less	Deconstruction to the maximum extent feasible or salvage prior to landfilling	no	WMP	Fines and civil penalties
Pleasant Hill	Construction, demolition and renovation projects \$50,000+	Construction, demolition or renovation projects covering 5,000 sq. ft. or more	no	50%	Performance Security Deposit	Deconstruction to the maximum extent feasible or salvage prior to landfilling	no	WMP	Civil action, Misdemeanor, Public nuisance

TABLE 1 Construction and Demolition Debris Ordinance									
Jurisdiction	Threshold			Requirements				Reporting	Enforcement
	Dollar Amount	Square Footage	Other	Minimum Diversion	Deposit/Fee	Salvage & Deconstruction	Certified Facilities		
San Ramon	All demolition projects and all other projects valued at \$100,000+	no	no	50%	Applicant Fee (Only charged to applicants that do not use the permitted hauler)	no	yes	WMP	Permitted commercial recycling transporter; Approved construction/demolition debris recycling facilities; Fines and civil penalties
SAN MATEO COUNTY									
Atherton	\$50,000+	no	generation of 10 tons or more of construction and demolition debris	60% from demolition and new construction projects 50% from remodeling and re-roofing projects	Deposit \$50/ton (minimum \$1,000 except for re-roofing projects minimum \$500)	no	no	Recycling and Waste Reduction Form	Fines and civil penalties
Brisbane	Renovation, remodel, or addition to existing structure or new construction project valued over \$75,000		no	Demolition: 100% inerts & 50% C&D excluding inerts Construction, remodeling & re-roofing projects: 50% of all C&D tonnage	Deposit \$0.025/estimated pound of C&D debris and an Administrative Fee	Each structure planned for demolition shall be made available for salvage and recovery	no	documentation of compliance within 60 days following completion of project	Fines and civil penalties
San Carlos	\$10,000+ AND 5 tons or more of Construction and Demolition Debris	no	Any re-roofing of residential and commercial structures with wood shake, tile, or concrete	1) Projects comprised of at least 95% inert materials: 60% of all generated debris: 60% of all generating waste comprised of mixed debris: 60% of all generated, 25% shall exclude inert materials 3) Projects generating waste that doesn't include inert materials: 50% of all generated tonnage	Deposit of \$50/estimated ton (not less than \$1,000) and an Administrative Fee	Every project shall be made available for deconstruction, salvage and recovery prior to demolition; 5 day waiting period from issuance of demolition permit	no	WMP and Waste Management Report within 60 days following completion	Fines and civil penalties
SAN FRANCISCO COUNTY									
San Francisco	no	no	All Projects requiring a building or demolition permit from the City or State	65%	no	no	yes	1. Demolition Debris Recovery Plan 2. Plan Report within 30 days of completion 3. Registered facilities annual report	Facility and Transporter Registration

TABLE 1 Construction and Demolition Debris Ordinance									
Jurisdiction	Threshold Square Footage		Other	Requirements			Reporting	Enforcement	
	Dollar Amount			Minimum Diversion	Deposit/Fee	Salvage & Deconstruction			
ORANGE COUNTY									
Orange	no	no	All Projects requiring a building or demolition permit from the City or State	no	Deposit up to \$500	no	yes	receipts, weight tickets, or other documentation	Fines and Civil penalties
Rancho Santa Margarita	\$10,000+	250+ sq. ft.	no	60%	yes	Demolition projects shall be made available for deconstruction, salvage and recovery prior to demolition	yes	Waste reduction and recycling plan Facilities - quarterly reports	Fines and Civil actions, Withhold building permit, Issue stop work notice
LOS ANGELES COUNTY									
Burbank	no	500+ sq. ft. for all New construction; additions; remodels, alterations, and renovations; and tenant improvements	All Demolition projects regardless of size or value	50%	Administrative Fee - \$50 Deposit - \$250-\$1,000: residential \$250-\$5,000: commercial (depending on total tons generated) AB 939		no	WMP and Recycling Summary Report	Forfeit refund of deposit
Los Angeles	no	no	All projects regardless of size or value	Year One: 50% Year Two: 60% Year Three: 70%	Compliance Fee (charged to Haulers); Rebate based on diversion (rebate will be phased out dropping from \$10 to \$5/ton for year one and no rebate for year two onward)		no	Quarterly Reports through certified facilities and haulers	City Certified Facilities and Haulers

**TABLE 2
Multi-Family and Commercial Recycling Ordinance Comparison**

Jurisdiction	Sector	Effective Date	Threshold			Designated Recyclables						Funding	Enforcement Method	
			Garbage Collection		Size of Business/ # of Dwelling Units	Other	Paper/ DOC	Plastic	Glass	Metal	Organic Materials			Other
			Size	Frequency										
Rancho Cordova, CA	MFD and Commercial	December-08	4CY+	Weekly	All business and MFD with 5+ Units		x	x	x	x		Asseptic Packaging	Commercial Franchise Fees	Notice of Violation, Enforcement order (up to \$1,000 per day violation occurs)
Elk Grove, CA	MFD and Commercial	July-10	4CY+	Weekly	all generators	minimum 30% recycling service	x	x	x	x				Recycling plan from all haulers.
Sacramento Regional Solid Waste Authority (Sacramento County & City of Sacramento, CA)	Commercial	May-07	4CY+	Weekly	all businesses		x	x	x	x		Wood	SWA Franchise Fee	Notice of Violation, Enforcement order, penalty of misdemeanor
	MFD	June-09	10CY+	Weekly	5+ Dwelling Units	minimum 30% recycling service	x	x	x	x				
Chula Vista, CA	All Generators of Residential, Commercial & Industrial Recyclables	January-08	all generators	all generators	all generators	all generators	x	x	x	x		White Goods, Used Oil, Used Oil Filters, Yard Waste, Clean Lumber, Concrete and Asphalt		City Manager is responsible for enforcing ordinance
San Carlos, CA	Commercial, MFD and Special Events	April-10	2CY+	Weekly			x	x	x	x	x			3 step enforcement for Contamination/ Other Violations: 1. Issuance of a Courtesy Notice 2. Issuance of a Warning Notice 3. Issuance of a Violation Notice
	Residential/MFD	January-08	MFD generating more than 6 CY waste including recyclables	Weekly	SFD Serviced by City									SFD refuse container containing recycling or Failure to provide recycling service to a residential, commercial or mixed use facility: 1-3 Notices: Tag container advising requirements 4th Notice: \$100 Admin Citation 5+ Notice(s): Admin Citation \$250-\$1,000 If no compliance after \$1,000 citation, refer to City Attorney's office
		February-08			100+ units									
		January-09			50+ units									
		January-10			All apts/condos									
San Diego, CA (City)	Commercial	February-08	Commercial generating more than 6 CY waste including recyclables	Weekly	20,000 sq. ft. +									Franchisee / Recyclable Materials Hauler disposing of recyclables: 1st Offense: Administrative Warning 2nd and 3rd Offense: \$1,000 Admin Citation 4th Offense: Prepare case for City Attorney/refer to ESD Franchise Administrator for evaluation
		January-09			10,000 sq. ft. +									Written notice followed by up to \$1,000 per day a violation occurs, violation as misdemeanor
		January-10			All commercial facilities									
		January-09				special events	x	x	x	x		green waste		Complaint Driven; quarterly reports from each person contracting with a recycling service provider
San Luis Obispo County, CA	All Generators of Residential, and Commercial Recyclables	January-09	all generators	all generators	100+ units		Requires Recycling of 2 materials for commercial and 4 materials for MFD							Recycling and Waste Reduction Plan, Reporting requirements annually for 101 MFD units/businesses 100+ onsite employees and upon request for MFD units fewer than 101/businesses fewer than 100
Austin, TX (City)	MFD/Commercial	1999	all generators	all generators	all generators	all generators	x	x	x	x		yard trim, Christmas Trees		
Montgomery County, MD	Residential and Commercial	February-05	all generators	all generators	all generators	all generators	x	x	x	x				

Model Mandatory Commercial Recycling Ordinance

Endorsed by the Marin County Hazardous and Solid Waste Joint Powers Authority: Date _____

Model Mandatory Commercial Recycling Ordinance

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY COUNCIL OF _____ AMENDING THE MUNICIPAL CODE BY ADDING A NEW ARTICLE XX (ESTABLISH MANDATORY COMMERCIAL RECYCLING WITHIN THE CITY OF _____)

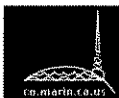
SECTION 1 (ENACTMENT):

The City Council of the City of _____ does ordain this ORDINANCE No. ____ in full, amending the _____ Municipal Code by adding a new Article to the _____ Municipal Code which shall read as follows:

ARTICLE XX.XX REQUIRING MANDATORY COMMERCIAL RECYCLING WITHIN THE CITY OF _____

XX-1 FINDINGS

- A. The City finds that the State of California through its California Waste Management Act of 1989, Assembly Bill 939 (AB 939 passed and signed into law in 1989) and Alternative Compliance Act of 2008 (SB 1016 passed and signed into law in 2008), requires that each local jurisdiction in the state divert 50% of discarded materials from landfill garbage disposal on a per capita basis.
- B. The City finds that every city and county in California, including the City, could face fines up to \$10,000 a day for not meeting the above mandated goal.
- C. The City finds that the State of California through its California Global Warming Solutions Act of 2006 (AB 32 passed and signed into law in 2006), requires that commercial generators statewide participate in recycling programs.
- D. The City continues to make progress in maintaining the disposal reduction requirements of the state recycling law, but additional efforts, particularly in the recycling of paper, cardboard, glass, and other recyclable materials generated by businesses, will assist the City in maintaining and exceeding the goal of diverting waste from landfill disposal. The City desires to implement a program to encourage the Marin County Hazardous and Solid Waste Management Joint Powers Authority (JPA) goal to increase the diversion of materials from landfill and transformation facilities achieving an 80% diversion goal by 2012 and Zero Waste by 2025, ensure that resources are used to their highest potential, reduce upstream waste and reduce Marin's ecological footprint.
- E. The City finds that organic or compostable waste that is buried in the anaerobic conditions of landfills creates methane gas and leachate that may impact air and water quality. Reductions or capture of methane is critical as methane gas from the decomposition of waste is a source of renewable energy, but if not collected and controlled is at least twenty-one times as potent as carbon dioxide in contributing to climate change.

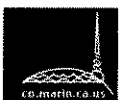


Model Mandatory Commercial Recycling Ordinance

- F. The City finds that reductions in greenhouse gas emissions from solid waste management can be realized by recovering traditional recyclable materials from the waste stream to use in the manufacturing of products from these materials. Traditional recyclable materials have significant intrinsic energy value that displaces fossil fuel energy requirements when introduced back into the manufacturing cycle. Additionally, by remanufacturing products using recycled materials, additional reductions in greenhouse gas emissions are realized through reduced fossil fuel demands in transportation and avoided methane emissions at landfills.
- G. The City finds that efforts by the City and the private sector to encourage voluntary diversion of commercial and special event recyclables materials have not achieved desired levels of diversion.
- H. The City finds that mandatory commercial recycling programs in other cities and counties in California, similar to the one implemented by this Article, have proven successful.
- I. The City agrees to be subject to the terms of this ordinance for all of the City's non-residential facilities and properties, including parks and City buildings, as well as City sponsored or partnered special events.

XX-2 DEFINITIONS

- A. "Authorized Recycler" means any person or business entity which lawfully collects, accepts, transports or otherwise processes recyclable materials from Generators for a fee or profit through a proper permit, business license or other regulatory structure or authorization issued by the City.
- B. "Commercial Facility" means all retail, professional, office, wholesale and industrial facilities, and other commercial enterprises offering goods or services to the public and Multi-Family Dwelling Units located within the boundaries of the City.
- C. "Director" means the City Manager, including his or her designee.
- D. "Franchised Hauler" means a hauler holding a franchise, contract, license or permit issued by the City which authorizes the exclusive or non-exclusive right to provide solid waste handling services within all or part of the jurisdictional boundaries of the City.
- E. "Generator" means an owner or Responsible Party for a Commercial Facility or business, including non-residential property, which generates recyclable or compostable materials as a result of its business, Commercial Facility or property activity. Generator may also include tenants, property managers for facilities with leased space, employees and contractors of Generator, as well as a Responsible Party for Special Events. Generator also includes the City, its facilities, its non-residential properties and Special Events, its sponsors or co-sponsors.
- F. "Multi-Family Dwelling Units" means five (5) or more residential dwelling units located on a single parcel of land and any mobile home park located in the City utilizing a common garbage bin for the accumulation and set-out of garbage.
- G. "Recycling" means the process of collecting, sorting, cleansing, treating and reconstituting materials that would otherwise become solid waste and returning them for use or reuse in the form of raw materials for new, used or reconstituted products which



Model Mandatory Commercial Recycling Ordinance

meeting the quality standard necessary to be used in the market place. Recycling does not include transformation as defined in Public Resources Code §40201.

- H. "Responsible Party" means the individual or entity responsible for the Generator's management of solid waste and/or recycling at the Generator's Commercial Facility, business, non-residential property, or Special Event.
- I. "Source Separate" means the process of removing recyclable materials from solid waste at the place of discard generation, prior to collection, into separate containers that are separately designated from recyclables, compostables, or garbage for the purposes of recycling.
- J. "Special Event" means a community, public, commercial, recreational or social event which may serve food or drink and which may require a permit from the City. Special Events may include the temporary or periodic use of a public street, publicly owned site or facility, or public park and which is expected to have 1,000 or more persons in attendance.

XX-3 SOURCE SEPARATION REQUIREMENTS

- A. Each Generator shall be responsible for ensuring and demonstrating its compliance with the requirements of this ordinance. Each Generator shall:
 - i. Source Separate Recyclable Materials from Solid Waste; and
 - ii. Subscribe to a basic level of Recycling service that includes, at a minimum, the collection of Recyclable Materials; and
 - iii. Enter into a written service agreement with a Franchised Hauler or Authorized Recycler; or
 - iv. Complete and retain on-site a Self Hauling form certifying that all Self Hauling activities will be completed in accordance with this ordinance or any other applicable law or regulation. A copy of such form shall be available to the City Director upon request.
- B. Each Generator shall use containers to collect and store Recyclable Materials and shall designate areas to collect and/or store recyclable materials.
- C. Each Generator shall prominently post and maintain one or more signs in maintenance or work areas or common areas where recyclable materials are collected and/or stored that specify the materials to be Source Separated in addition to collection procedures for such materials.
- D. Each Generator shall notify and instruct employees in writing of applicable Source Separation requirements, including outreach and training on what materials are required to be Source Separate and how to Source Separate such material. A copy of such instruction or training materials shall be provided to the Director or designee upon request.
- E. All recyclable materials shall be placed for collection in covered collection containers conforming to the following requirements. No container shall be loaded beyond its capacity. It shall be the Generator's responsibility to keep the containers used for the storage and collection of recyclable material generated on the premises in a clean and sanitary condition. No material or containers shall be kept or handled in such a manner



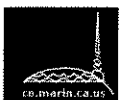
Model Mandatory Commercial Recycling Ordinance

as to become a nuisance. No putrescible materials shall be commingled with recyclables. No recyclable material shall be allowed to become odoriferous or a producer of vermin. Lids on containers shall remain closed at all times while stored or placed for collection. The Director is specifically authorized to promulgate rules and regulations regarding any and all recyclable material containers including as related to the recyclable materials to be placed therein, the placement and maximum weight of high-density materials for collection and the proper use of containers.

- F. Each Generator shall ensure that recyclable materials generated at the Generator's site will be taken only to a recycling or composting facility or make other arrangements to ensure that the materials are recycled or composted and not delivered to a landfill for disposal. Generator shall not dispose of, or arrange for disposal of recyclable materials by placement in a landfill except in an emergency situation, or when no viable markets or recycling facilities are available, as determined by the Director. Further, all Generators are encouraged to consider recycling additional materials, whether or not they have been specifically designated by the Director.
- G. The recycling service agreement and other recycling documents shall be available for inspection by the Director or designee, at the principal location of the Generator's Business, Commercial Facility, Special Event, or non-residential property during normal business hours.
- H. No franchised hauler or authorized recycler shall be held liable for the failure of its customers to comply with such regulations, unless specified in the franchise, contract or permit issued by the City.

XX-4 FRANCHISED HAULERS AND AUTHORIZED RECYCLERS

- A. No person shall provide services as a hauler of recyclables within the boundaries of the City without either being: (1) a Franchised Hauler with the City, or (2) an Authorized Recycler.
- B. Franchised Haulers and Authorized Recyclers shall offer collection service and automatic lift containers, bins or roll-off bins for recyclable materials sufficient to accommodate the quantity and types of recyclable materials to all of its customers and shall provide recycling services as described in Section XX-5.
- C. Franchised Haulers and Authorized Recyclers shall identify automatic lift containers, bins or roll off bins for recyclable materials with its name, recognizable corporate or company logo, and phone number of the Franchised Hauler or Authorized Recycler that is legible from a distance of fifty (50) feet.
- D. Franchised Haulers and Authorized Recyclers shall equip and provide automatic lift containers, bins and roll-off bins for recyclable materials, with locks and/or other suitable features, where feasible, to prevent scavenging. They shall conduct all activities in accordance with applicable laws, City codes and regulations and best management practices. Vehicles and equipment and containers shall be kept in a clean and well-maintained condition.
- E. Franchised Haulers and Authorized Recyclers shall not take a customer's recyclable materials to a landfill or other site for disposal. Such materials shall be taken to a recycling facility or Franchised Haulers and Authorized Recyclers shall make other arrangements for recycling the materials instead of disposal. The Franchised Haulers



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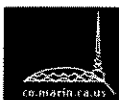
and Authorized Recyclers shall make other arrangements for recycling the materials instead of disposal. The Franchised Haulers and Authorized Recyclers shall maintain a copy of a service agreement and/or receipts documenting that the Generator's recyclable materials have been properly delivered, as well as any documentation evidencing an event of force majeure which prevented the proper delivery of recyclable materials. Such documents shall be available for inspection by the Director at the place of business during normal business hours and maintained for not less than three years.

XX-5 RECYCLING SERVICES

- A. The Recycling services provided by Franchised Haulers and Authorized Recyclers shall include, at a minimum, all of the following:
- i. Collection of recyclable materials at a minimum of two times per month, or more as specified by contract, license or permit;
 - ii. Collection of recyclable materials as identified by Director;
 - iii. Utilization of recycling receptacles which comply with City standards;
 - iv. Appropriate signage on all recycling receptacles, containers, chutes and/or enclosures which allows users to clearly and easily identify which containers to use for recyclables, compostables, or garbage and be color-coded.
 - v. Occupant Education. For Multi-family facilities, the Responsible Party shall provide information about recycling services as follows:
 1. Types of recyclable materials accepted, the location of recycling containers, and the occupant's responsibility to recycle pursuant to this Section. This information shall be distributed to all occupants annually;
 2. All new occupants shall be given information and instructions upon occupancy; and
 3. All occupants shall be given new information and instructions upon any change in recycling service.

XX-6 EXEMPTIONS

- A. The following shall be exempt from the requirements of this Section:
- i. The State of California, a special district or other local public agency other than the City, as defined, or any employee thereof, when collecting or transporting recyclable materials produced by operation or system of the entities described above.
 - ii. Municipal corporations and governmental agencies other than City using their own vehicles and employees engaged in the collection, transportation or disposal of recyclable materials within the boundaries of the City.
- B. Generator shall be exempt from the requirements in this Section if the Business, Commercial Facility or non-residential property generates four (4) cubic yards or less of Solid Waste per week. This exemption does not apply to Special Events unless the Generator demonstrates to the Administrator that the event will produce less than the threshold amount.

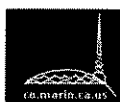


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- C. Generator may not be required to Source Separate recyclable materials if the Generator demonstrates to the Director that there is no collection service or other system available for such materials.
- D. Generator may be exempt from the requirement of this Section if the Generator demonstrates to the Director that there are no recyclable materials being generated by any activities in the Generator's Business, Commercial Facility, or non-residential property.
- E. Space and Zone.
 - i. Generator may be exempted from the requirements of this Section by the Director, if it is determined, through a site visit required by the Generator, that either:
 - 1. There is inadequate storage space for automatic lift containers, bins or roll-off bins for recyclable materials on site and that it is infeasible for the Generator to share automatic lift containers, bins or roll-off bins for recyclable materials with a Generator or an adjoining property; or
 - 2. Compliance with this Section will result in a violation of zoning codes or City regulations for minimum parking spaces.
 - ii. If, after reviewing the site, the Director determines that it is feasible for recycling containers to be placed either on-site or shared with an adjoining business or property, then the Generator will not be exempted from these requirements and will be responsible for full compliance with this Section.
- F. Generators may be exempted from the requirements of this Section when no viable markets or recycling facilities are available, as determined by the Director.
- G. If the Generator seeks an exemption, an application for such exemption shall be submitted on a form prescribed by the Director. After reviewing the exemption request, and after an on-site review, if applicable, the Director shall either approve or disapprove the exemption request.

XX-7 SELF HAUL

- A. Nothing in this ordinance shall preclude any person from self-hauling recyclable materials generated by that person to a recycling facility. A Generator may transport recyclable materials generated at its business or property to a recycling facility (rather than hiring a Franchised Hauler or Authorized Recycler) only if the Generator completes its activity by utilizing a vehicle owned by either the Generator or Generator's employee. This self-haul exemption does not include contracting for or hiring a third party to transport the recyclable materials. A self-hauler must retain on-site a self-hauling form certifying that all self-hauling activities will be completed in accordance with this Section or any other applicable law or regulation. The self-hauling form shall be made available to the Director or designee upon request. At a minimum, the Generator shall provide the following information on the self-hauling form:
 - i. The name, address and telephone number of the Generator's representative that will be signing the self-hauling form.
 - ii. A list of the types of recyclable materials that are being transported.

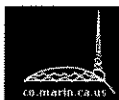


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- iii. For each type of recyclable material, the amount that is being taken from the Generator's business or property to a recycling facility on a quarterly basis.
 - iv. The name and address of the recycling facility.
 - v. A written statement, signed by the Generator or representative, certifying that the Generator is in compliance with the requirements of this Section XX-7.
- B. The Director may restrict or prohibit self-hauling by a Generator if the Director determines, after providing notice and an opportunity for a hearing, that the Generator's self-hauling activities violate the provisions of this Section or any other applicable law or regulation.
- C. Sale or Donation. Nothing in this ordinance shall preclude any Generator from selling or exchanging at fair market value, for reuse or recycling, Source Separated recyclable materials generated from that business, commercial facility or property; or from donating to another entity for reuse or recycling; Source Separated recyclable materials generated from that business, commercial facility or property.

XX-8 SPECIAL EVENT RECYCLING

- A. For a Special Event, in addition to any other conditions the City requires as part of the Special Event permit, the Responsible Party shall provide recycling receptacles throughout the event location to make Source Separation of recyclables, compostables, or garbage convenient for the employees, volunteers, contractors, and customers of the food vendors and attendees of the event.
- B. The minimum number of recycling receptacles shall equal or exceed the number of solid waste receptacles. The solid waste and recycling receptacles shall be placed as close together as possible throughout the event location in order to provide equally convenient access to users.
- C. All of the receptacles must have appropriate signage and be color coded to identify the type of refuse to be deposited and meet any additional design criteria established by the City by regulation.
- D. Food vendors must have at least one separate container each for recyclables, compostables, and trash for use by customers and visitors. Multiple food vendors that provide disposable food service ware and share a common eating area may share an appropriate number, size, and placement of containers for recyclables, compostables, and garbage for convenient use by customers or visitors or have common access to such a container which shall be located within a reasonable proximity of the vendors.
- E. The types of recyclable materials suitable for deposit into each receptacle shall include, at a minimum; plastic bottles and jars, paper, cardboard, glass, newspaper, metal containers, and cans. Each recycling receptacle shall be clearly identified as a recycling receptacle and shall display a list of types of recyclable materials, which may be deposited into the recycling receptacle.
- F. The Responsible Person shall ensure that the recyclable materials deposited into the recycling receptacles are delivered to a recycling facility. The recycling facility may be located at a landfill, but recyclable materials shall not be delivered to a landfill for disposal.



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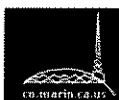
XX-9 OWNERSHIP/SCAVENGING OF RECYCLABLE MATERIALS

- A. All recyclable materials placed in automatic lift containers, bins or roll-off bins for recyclable materials provided by any Franchised Hauler or Authorized Recycler sufficient to accommodate the quantity and types of materials generated by businesses, or non-residential properties, shall be considered owned by and be the responsibility of either the Franchised Hauler or Authorized Recycler. Without permission of either the Franchised Hauler or Authorized Recycler, no person shall collect recyclable materials placed in such automatic lift containers, bins or roll-off bins by customers or Generators.
- B. All recyclable materials placed in recyclable materials containers provided or owned by the Generator, shall be considered owned by and be the responsibility of that Generator until the material is placed at a Franchised Hauler's or Authorized Recycler's designated point of collection or in containers described in paragraph A.
- C. No person other than the person or Business under contract with the Generator of the recyclable materials to collect the recyclable materials, shall remove or otherwise interfere with recyclable materials which have been placed at a designated recycling or recycling materials collection location. Except as authorized under Section XX-6, it shall be unlawful for any person to engage in the business of collecting, removing or transporting, or otherwise organize or direct the collection, removal or transportation of recyclable materials without being a Franchised Hauler or Authorized Recycler.

XX-10 REPORTING

- A. Franchised Haulers and Authorized Recyclers shall provide quarterly reports on the dates described below to the Director identifying, at a minimum, the following information, including Special Events:
 - i. The total number of customers or commercial accounts they have in the City, the name and address of the facility serviced, and the name of the Responsible Party for Solid Waste and recyclable materials management;
 - ii. The frequency of recyclable materials collection service provided to the business, commercial facility or property;
 - iii. The recyclable materials collected per week by volume in cubic yards and tons, measured by the size of applicable containers of and removed by them within the City during the previous year;
 - iv. The location of the recycling facility to which the recyclable materials were taken during the previous quarter; and
 - v. Information about non-compliance by Generators.
 - vi. The quarterly reporting periods shall be as follows:

Reporting Period	Due Date
January 1 - March 30	May 1
April 1 - June 30	August 1
July 1 - September 30	November 1
October 1 - December 31	February 1
- B. If the quarterly report is not filed by the due dates above, the report shall be deemed delinquent, and the Franchised Hauler or Authorized Recycler shall pay to the City a



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delinquent report charge in the amount of \$XXX. If the report remains delinquent for more than fifteen (15) days, the amount shall be increased to \$XXX.

- C. The Franchised Hauler's or Authorized Recycler's failure to file the reports required by this Section shall, at the option of the Agency, constitute cause for termination or suspension of its franchise or other permit status.

XX-11 IMPLEMENTATION AND ENFORCEMENT

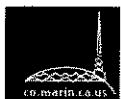
- A. The Director is authorized to administer and enforce the provisions of this Section, beginning with Section XX-1 and following. The Director or anyone designated by the Director to be an enforcement officer may exercise such enforcement powers. To the extent permitted by law, the Director may inspect any collection container, collection vehicle load, or receiving facility for collected garbage or recyclables.
- B. Unless otherwise expressly provided by the City's Code, any person adversely and directly affected by any determination made or action taken by the Director pursuant to the provisions of this Section may file an administrative appeal. If no appeal is filed within the time prescribed and consistent with the City's procedures in the City's Codes, the determination or action of the Director shall be final.
- C. Enforcement (*Choose Option A, B, or C or a combination of the Options*)

Option A. Education [Only]

Education as the sole enforcement mechanism or in combination with other enforcement mechanisms.

Option B. Incremental Notification and Enforcement

- i. If the Franchise hauler or Authorized Recycler first finds incorrect materials in a collection container, they shall notify the Generator by written notice attached to the Recycling container and shall provide a copy of the notice to the Director.
- ii. If the Franchise Hauler or Authorized Recycler finds incorrect materials in a collection container a second time, they shall notify the Generator by a written "Second Notice" attached to the recycling container and shall provide a copy of this Second Notice to the Director for possible follow up and enforcement.
- iii. After the Franchised Hauler or Authorized Recycler has already left two or more tags for that Customer and that type of container, the Franchised Hauler or Authorized Recycler may refuse to empty the container if contamination occurs a third time, subject to California Code of Regulations Title 14, Section 17331, or as determined by the Director. If the container is not emptied, the Franchised Hauler or Authorized Recycler must leave a tag and send a written notice to the Generator, identifying the incorrect materials and describing what action must be taken for the materials to be collected; provided, however, that a Franchised Hauler or Authorized Recycler may not refuse on this basis to empty containers from Multi-family or Commercial properties with multiple tenants and joint account collection service due to excessive contamination, but any manage contaminated loads as solid waste and charge the Generators accordingly.
- iv. The Franchised Hauler or Authorized Recycler shall, in addition to the above, upon request, provide to the Director a list of the names and addresses of those customers or Responsible Parties who have received tags or notices or whose



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containers have not been emptied due to non-compliance with this Section, or copies of the tags or notices. The Franchised Hauler or Authorized Recycler shall also provide to the Director, upon request, a list of the names, addresses, and service levels of the customers and any additional information required by the Director.

Option C. Citations and Fines

i. Administrative Citations

The Director may issue administrative citations for violations of this Section or of any rule or regulation adopted pursuant to the Section, except as otherwise provided in the Section. City's procedures on imposition of administrative fines are hereby incorporated in its entirety and shall govern the imposition, enforcement, collection, and review of administrative citations issued to enforce this Section and any rule or regulation adopted pursuant to the Section; provided, however, that the Director may adopt regulations providing for lesser penalty amounts.

ii. Notices of Violations

A Notice of Violation shall be issued and served upon the Generator, Franchised Hauler or Authorized Recycler for any violations of this Section. Upon curing a violation, the Generator or Responsible Party may request special service of the containers at an additional expense, or may opt to wait until their next scheduled service day for the container to be serviced.

iii. Remedies and Penalties

For the _____ and any subsequent violations, public nuisance proceedings and/or code enforcement proceedings under the City's Code shall apply, in addition to the administrative penalties approved by resolution of the City Board, as modified from time to time. The Director has the authority to impose administrative penalties for the notices of Violations. The amount of the administrative penalty shall not be more than \$1,000 for each day of each violation, provided that in no event shall administrative penalties assessed under this subsection exceed _____ during any calendar year period.

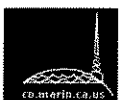
iv. Additional Remedies

1. The Director may seek injunctive relief or civil penalties in the Superior Court in addition to the above remedies and penalties.
2. All administrative civil penalties collected from actions brought from actions brought pursuant to this Section shall be paid to the Director and shall be deposited into a Solid Waste account that is available to fund activities to implement the applicable provisions of this Section.

XX-12 OTHER ACTIONS AND REMDEIES

- A. No other powers affected.

This Section (Section XX-1 and following) does not do any of the following:



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- i. Otherwise affect the authority of the Director, or designee to take any other action authorized by any other provision of law.
- ii. Restrict the power of a city attorney, district attorney or the Attorney General to bring in the name of the people of California, any criminal proceeding otherwise authorized by law.
- iii. Prevent the Director or designee from cooperating with, or participating in, a proceeding specified in XX-11 B above.
- iv. Affect in any way existing contractual arrangements including franchises permits or licenses previously granted or entered into between the Franchised Hauler or Authorized Recycler and City.

B. Cumulative Remedies

Any remedy provided under this section is cumulative to any other remedy provided in equity or at law. Nothing in this article shall be deemed to limit the right of the City or its authorized collection agent(s) to bring a civil action; nor shall a conviction for such violation exempt any person from a civil action brought by the City or its authorized collection agent(s). The fees and penalties imposed under this article shall constitute a civil debt and liability owing to the City from the persons, firms or corporations using or chargeable for such services and shall be collectible in the manner provided by law.

C. Liability

Nothing in this article shall be deemed to impose any liability upon the Agency or upon any of its officers or employees including without limitation under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA).

XX-13 FORMS, REGULATIONS AND GUIDELINES

- A. After public notice and a public hearing, the Director may adopt necessary forms, rules, regulations, and guidelines which may be necessary or desirable to aid in the administration or enforcement of the provisions of this article, including all necessary policies and procedures for the issuance of the permits, administration of this article, collection of fees and bonds and/or indemnities, or proof(s) of insurance.
- B. The City shall provide information on its website regarding what materials are accepted as recyclables, compostables and garbage under this Section.

SECTION 2 (SEVERABILITY):

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Article XX, or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Article XX or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this Article XX irrespective of that fact that one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional or invalid or effective. To this end the provision of this Article are declared to be severable.



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SECTION 3 (EFFECTIVE DATE):

This Article XX shall take effect thirty (30) days after its passage.

SECTION 4 (NOTICE):

[Jurisdiction should insert the relevant notice requirements here]

ADOPTED BY THE FOLLOWING VOTE:

AYES:

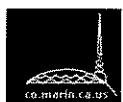
NOES:

ABSENT:

ABSTAIN:

Mayor: _____

City Clerk: _____



Model Construction and Demolition Debris Ordinance

Endorsed by the Marin County Hazardous and Solid Waste Joint Powers Authority: Date _____

Model Construction and Demolition Debris Program Ordinance

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY COUNCIL OF _____ AMENDING THE MUNICIPAL CODE BY ADDING A NEW ARTICLE XX (CONCERNING THE COLLECTION, RECYCLING AND DISPOSAL OF WASTE GENERATED FROM CONSTRUCTION, DEMOLITION, AND RENOVATION PROJECTS WITHIN THE CITY OF _____)

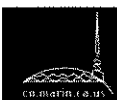
SECTION 1 (ENACTMENT):

The City Council of the City of _____ does ordain this ORDINANCE No. ____ in full, amending the _____ Municipal Code by adding a new Article to the _____ Municipal Code which shall read as follows:

ARTICLE XX.XX COLLECTION, RECYCLING AND DISPOSAL OF WASTE GENERATED FROM CONSTRUCTION, DEMOLITION, AND RENOVATION PROJECTS WITHIN THE CITY OF _____

XX-1 FINDINGS

- A. The City finds that the State of California through its California Waste Management Act of 1989, Assembly Bill 939 (AB 939 passed and signed into law in 1989) and Alternative Compliance Act of 2008 (SB 1016 passed and signed into law in 2008), requires that each local jurisdiction in the state divert 50% of discarded materials from landfill garbage disposal on a per capita basis.
- B. The City finds that every city and county in California, including the City, could face fines up to \$10,000 a day for not meeting the above mandated goal.
- C. The City finds that the State of California through its California Global Warming Solutions Act of 2006 (AB 32 passed and signed into law in 2006), requires that commercial generators statewide participate in recycling programs.
- D. The City finds that in recent years, inerts and mixed Construction and Demolition (C&D) debris constituted approximately 16% of the materials landfilled in Marin County and a similarly large portion of the waste stream in the City. These materials have significant potential for waste reduction and recycling.
- E. The City finds that reusing and recycling C&D debris is essential to further the City's efforts to reduce waste and comply with AB 939, AB 32 and other waste reduction goals.
- F. The City finds that C&D debris waste reduction and recycling have been proven to reduce the amount of such material in landfills, increase site and worker safety, be cost effective, and thereby assist in the protection of public health, safety and welfare.
- G. The City finds that, except in unusual circumstances, it is feasible to divert on average one hundred percent (100%) asphalt and concrete, and at least seventy percent (70%) of all remaining C&D debris from most construction, demolition, and renovation projects.



Model Construction and Demolition Debris Ordinance

- H. The City desires to implement a program to encourage the Marin County Hazardous and Solid Waste Management Joint Powers Authority (JPA) goal to increase the diversion of materials from landfill and transformation facilities to achieve 80% diversion goal by 2012 and Zero Waste by 2025, ensure that resources are used to their highest potential, reduce upstream waste, and reduce Marin's ecological footprint.
- I. The City finds that, to ensure compliance with this Article and to ensure that those contractors that comply with the Article are not placed at a competitive disadvantage, it is necessary to impose a financial incentive as set forth by resolution of the City Council.
- J. The City finds that, to ensure compliance with this Article, facilities will be evaluated annually through an extensive certification process conducted by the JPA.

XX-2 DEFINITIONS

- A. "Alternative Daily Cover (ADC)" means disposal facility cover material, other than organic waste and at least six (6) inches of earthen material, placed on the surface of the active face of the refuse fill area at the end of each operating day to control vectors, fires, odor, blowing litter and scavenging, as defined in Section 20164 of the California Code of Regulations.
- B. "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.
- C. "Avoided Disposal Fee" means three percent (3%) of the value of the project, not to exceed ten thousand dollars (\$10,000).
- D. "Certified Recycling Facility" means a recycling, composting, materials recovery or re-use facility determined to process incoming C&D materials to divert from landfill or transformation for which the certifying agency has issued a certification.
- E. "C&D Diversion Report" means a form issued by the Director to be submitted by the Applicant when applying for a building permit and prior to final inspection and issuance of occupancy permit.
- F. "Director" means the City Manager, including his or her designee.
- G. "Diversion" or "Diverted" means a reduction of the amount of waste being disposed in a landfill or transformation facility by any of the following methods:
 - i. Use of new construction methods, as described in regulations promulgated by Director, that reduce the amount of waste generated.
 - ii. On-site re-use of the waste.
 - iii. Delivery of the waste from the site to a Certified Recycling Facility described in Section XX-5.
 - iv. Other methods as approved in regulations promulgated by the Director.
- H. "Joint Powers Authority" or "JPA" means Marin County Hazardous and Solid Waste Management Joint Powers Authority.

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XX-3 C&D DIVERSION REPORT REQUIRED

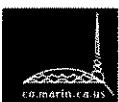
- A. Except as otherwise specified in this Article, on or after _____, 2011, each person who applies for a building permit pursuant to Article XX.XX of this code shall complete a C&D Diversion Report. On or after _____, 2011, no building permit shall be issued unless the applicant submits the C&D Diversion Report.
- B. Except as otherwise specified in this Article, on or after _____, 2011, each person who applies for a building permit pursuant to Article XX.XX of this code shall remit a C&D Diversion Report prior to final inspection and issuance of occupancy permit. An Avoided Disposal Fee may be imposed if a permitted facility is not used or recycling/reuse receipts are not submitted prior to final inspection and issuance of occupancy permit to ensure compliance and to fund enforcement. The Avoided Disposal Fee shall be in based on three percent (3%) of the value of the project, not to exceed ten thousand dollars (\$10,000).

XX-4 C&D DIVERSION REPORT EXEMPTIONS

- A. A C&D Diversion Report shall not be required for the following:
 - i. Deconstruction Projects.
 - ii. Work for which a building permit is not required under Article XX.XX.
 - iii. Residential alterations of less than \$2,000 in value.
 - iv. Non-residential alterations of less than \$5,000 in value.
 - v. Roofing projects.
 - vi. Work for which only a plumbing permit, only an electrical or only a mechanical permit is required.
 - vii. Seismic tie-down projects.
 - viii. The installation or replacement of shelves.
 - ix. Installation of pre-fabricated patio enclosures and covers where no foundation or other structural building modifications are required.
 - x. Installation of swimming pools and spas, provided that the exemption shall apply only to (1) the area to be excavated for the installation of the pool or spa and (2) the area for the pad for the pool/spa equipment that does not exceed sixteen square feet; and shall not apply to any related construction or alterations necessary for any other equipment or accessories, nor to any other portion of the project.
 - xi. Installation of pre-fabricated accessories such as signs or antennas where not structural building modifications are required.
- B. It is unlawful to split or separate a project into small work projects for the purpose of evading the requirements of this Section XX-4.

XX-5 CERTIFIED C&D RECOVERY FACILITIES

- A. The JPA shall issue a certification only if the owner or operator of the facility submits the following documentation satisfactory to the JPA's designee:



Model Construction and Demolition Debris Ordinance

- i. The facility has obtained all applicable Federal, State, and local permits, and is in full compliance with all applicable regulations; and
 - ii. The percentage of incoming waste from construction, demolition, and alteration activities that is diverted from landfill disposal, transformation and use as ADC meets a required minimum of seventy percent (70%) or other amount as set forth in regulations promulgated by the JPA.
- B. The City shall make available to each building permit applicant a current list of certified C&D recovery facilities and certified C&D haulers.

XX-6 USE OF AVOIDED DISPOSAL FEES

- A. Moneys received by the City as Avoided Disposal Fees shall be used only for:
- i. Costs of administration of the program established by this Article;
 - ii. Cost of programs whose purpose is to divert the waste from construction, demolition, and alteration projects from landfill disposal, transformation and use as ADC; and
 - iii. Costs of programs whose purpose is to develop or improve the infrastructure needed to divert the waste from construction, demolition and alteration projects from disposal in a landfill, transformation facility or use as ADC.

SECTION 2 (SEVERABILITY):

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Article XX, or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Article XX or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this Article XX irrespective of that fact that one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional or invalid or effective. To this end the provisions of this Article are declared to be severable.

SECTION 3 (EFFECTIVE DATE):

This Article XX shall take effect thirty (30) days after its passage.

SECTION 4 (NOTICE):

[Jurisdiction should insert the relevant notice requirements here]

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSENT:

ABSTAIN:

Mayor: _____

City Clerk: _____



Model C&D Diversion Report Form

Instructions:

Complete Part 1 when applying for a building permit. Prior to requesting a final inspection and issuance of occupancy permit, submit receipts from Approved Recycling C&D Hauler or C&D Recovery Facility along with this completed form to the Building Division.

Requirements:

- Applies to all construction, demolition and renovation projects requiring one or more building permits.
- 100% asphalt and concrete, and at least 70% of all remaining C&D debris must be diverted from the landfill from construction, demolition, and renovation projects.
- Receipts for recycling/reuse/disposal must be submitted prior to issuance of occupancy permit.

Part 1: Project Information

Permit Number _____ Job Address _____

Type & Size of Project: Demolition _____ sf Remodel _____ sf New/Addition _____ sf

Type of Construction: ☐ Wood frame ☐ Concrete ☐ Steel ☐ Other (specify) _____

Waste Hauler or Recycling Contractor _____

Estimated Project Value \$ _____

Estimated C&D Generation				
Project Type	Project Size		Debris Weight Projection Factor	Estimated Total Project Debris
New construction	_____ sf	X	4 lbs. / sf	= _____ lbs.
Remodeling	_____ sf	X	40 lbs. / sf	= _____ lbs.
Demolition	_____ sf	X	70 lbs. / sf	= _____ lbs.
Demolition, including foundation	_____ sf	X	100 lbs. / sf	= _____ lbs.
PROJECT TOTAL =				_____ lbs.

Approved C&D Haulers

TO BE COMPLETED BY FRANCHISING AGENCIES

Example:

Marin Sanitary Service

535 Jacoby St., San Rafael (415) 465-2601

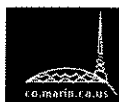
Approved C&D Recovery Facilities

TO BE COMPLETED BY JPA

Example:

Marin Sanitary Service Transfer Station

1060 Andersen Dr., San Rafael (415) 456-2601



Model C&D Diversion Report Form

Part 2: Documentation of Compliance to C&D Ordinance

Complete Part 2a or Part 2b to show compliance with the City's C&D Ordinance requirements listed above.

Part 2a: Documentation Showing Use of an Approved Recycling C&D Hauler/Facility

Submit receipts from Approved C&D Hauler or C&D Recovery Facility along with this completed form to the Building Division prior to requesting a final inspection.

Part 2b: C&D Diversion Report

Document actual waste diversion for you project. (Please attach all receipts.)

Date of Receipt	Salvage/Deconstruction, Reuse or Recycling Facility Name	Materials Diverted	Quantity/Weight of Materials Diverted

Part 3: Actual Project Value and Avoided Disposal Fee

Please fill out the information below as accurately as possible, and submit this completed form along with WEIGHT receipts from your waste hauler/recycler/reuse facility (note that receipts must be for weighed materials, not by material volume) prior to requesting a final inspection.

Value of Project \$_____ X 3% (but no more than \$10,000) = \$_____ Avoided Disposal Fee*

*Amount due prior to issuance of occupancy permit if diversion requirements are not meet.

ADDITIONAL LOCAL RESOURCES: Deconstruction Companies and Reuse Facilities				
Name	Address	City	Phone	Website
The Away Station	109 Broadway	Fairfax	(415) 453-4410	www.theawaystation.org
Beyond Waste	605 W. Sierra	Cotati	(707) 792-2555	www.beyondwaste.com
Recycle Town	500 Mecham Road	Petaluma	(707) 795-3660	www.garbage.org
Heritage Salvage	1473 Petaluma Blvd. S.	Petaluma	(707) 762-6277	www.heritagesalvage.com
The ReUse People	9235 San Leandro Blvd.	Oakland	(510) 522-2722	www.thereusepeople.org
C&K Salvage	718 Douglas Blvd.	Oakland	(510) 569-2070	

