



Staff Report

June 13, 2023

TO: Honorable Mayor and Members of the Town Council
FROM: Merrill Buck, Town Engineer
DATE: June 2, 2023
RE: Waive the Final Reading and Adopt an Ordinance of the Town Council of the Town of Loomis to Add Chapter 11.05 California Green Building Standards Code (CALGreen), to the Loomis Municipal Code.

Recommendation

It is recommended that the Town Council waive the final reading and adopt Ordinance 293, adding Chapter 11.05, California Green Building Standards Code (CALGreen), to the Loomis Municipal Code.

Issue Statement and Discussion

On May 9, 2023, after public comment and deliberations, the Town Council voted 5-0 to introduce and read by title only, an ordinance adding Chapter 11.05, California Green Building Standards Code (CALGreen), to the Loomis Municipal Code. (See Attachment A)

The ordinance is largely responsive to Senate Bill (SB) 1383 which requires jurisdictions to adopt an ordinance or other enforceable requirement that mandates compliance with California Code of Regulations, Title 24, Part 11, known as the California Green Building Standards Code (CALGreen). Specifically, SB 1383 requires compliance with CALGreen Sections 4.408.1, 4.410.2 and 5.410.1 which are related to diversion of residential and non-residential construction and demolition waste and creating space for recycling in new and amended residential and non-residential buildings. As a local jurisdiction, the Town of Loomis is required to adopt and enforce an ordinance that requires compliance with these Sections of CALGreen.

This staff report represents the second and final reading for the ordinance. Should it be adopted by Council, staff will pursue the following next steps.

Provide Outreach and Education

The Town will provide outreach and education materials to building permit applicants informing them of the new construction and demolition debris recycling requirements prior to ordinance effective date.

Develop Internal Process for Program Implementation

The Town is required to review building permits to determine applicability of the code and verify that the project has met the diversion requirements of CALGreen after the project is completed. An internal process will be developed so that the Town can implement a compliant construction and demolition waste recycling program.

Perform Recordkeeping and Reporting

The Town is required to maintain records of projects subject to the CALGreen ordinance and report this information to CalRecycle on an annual basis via CalRecycle's Electronic Annual Reporting system. The Town will develop a recordkeeping protocol for this purpose.

CEQA Requirements

The Town Council finds that this Ordinance is adopted pursuant to CalRecycle's SB 1383 Regulations. The SB 1383 Regulations were the subject of a program environmental impact report (EIR) prepared under the CEQA by CalRecycle. The activities to be carried out under this Ordinance are entirely within the scope of the SB 1383 Regulations and its program EIR. No mitigation measures identified in the EIR are applicable to the Jurisdiction's enactment of this Ordinance. Moreover, none of the conditions requiring a subsequent or supplemental EIR, as described in CEQA, at Public Resources Code Section 21166, and its regulations (CEQA Guidelines) at 14 CCR Sections 15162 and 15163, have occurred. The program EIR therefore adequately analyzes any potential environmental effects of the Ordinance, and no additional environmental review is required.

On a separate and independent basis, this Ordinance is categorically exempt in accordance with Section 15307, as an action taken by a regulatory agency as authorized by California law to assure maintenance or protection of natural resources; and in accordance with Section 15308 as an action taken by a regulatory agency as authorized by California law to assure maintenance or protection of the environment.

Financial and/or Policy Implications

Costs associated with administering the requirements in the ordinance, if adopted, would be the Town's responsibility and include additional building plan review for applicability, inspection for compliance, and enforcement. This will have a minor fiscal impact on the Town, which the Town can consider for cost recovery as part of its next fee schedule update.

Attachments

- A. Ordinance 293 – Adding Chapter 11.05, California Green Building Standards Code (CALGreen)

TOWN OF LOOMIS ORDINANCE NO. 293

AN ORDINANCE OF THE TOWN OF LOOMIS ADDING CHAPTER 11.05 "CALIFORNIA GREEN BUILDING STANDARDS CODE (CALGREEN)" TO THE LOOMIS MUNICIPAL CODE

WHEREAS, on September 19, 2016, California Approved Senate Bill No. 1383, Short-Lived Climate Pollutant Reduction Strategy. 14 CCR, Section 18989.1 requires a jurisdiction to adopt an ordinance or other enforceable requirement that mandates compliance with Sections 4.408.1, 4.410.2 and 5.410.1 of the California Green Building Standards Code, California Code of Regulations, Title 24, Part 11 as amended July 1, 29 2019 and effective January 1, 2020 related to diversion of residential and non-residential construction and demolition waste and space for recycling in new and amended residential and non-residential buildings; and

WHEREAS, as a local jurisdiction, the Town of Loomis is required to adopt and enforce an ordinance, or other enforceable mechanism, that requires compliance with Sections 4.408.1 and 5.408.1 of the California Green Building Standards Code, Part 11, Title 24 of the California Code of Regulations (CCR), as amended July 1, 2022 and effective January 1, 2023, which relate to residential and non-residential construction waste management .

WHEREAS, Reduction, reuse and recycling of construction and demolition (C&D) materials is essential to comply with the 2022 California Green Building Standards Code (CALGreen) (Cal. Code Regs Title 24); and

WHEREAS, CALGreen SB 1383 Baseline Requirements mandate recycling or salvaging for reuse of 65% of nonhazardous C&D materials per Sections 4.408.1 and 5.408.1 of the California Green Building Standards Code, Title 24 of the CCR, Part 11; and

WHEREAS, CalGreen Section 4.410.2 requires construction of new developments of 5 or more dwelling units to provide readily accessible area(s) that serves all buildings on the site and are identified for the depositing, storage and collection of nonhazardous materials for recycling, including (at a minimum) paper, corrugated cardboard, glass, plastics, organic waste, and metals; and

WHEREAS, CalGreen Section 5.410.1 and 5.410.1.1 requires construction of non-residential building and additions of a certain size to provide readily accessible areas that serve the entire building and are identified for the depositing, storage and collection of non-hazardous materials for recycling, including (at a minimum) paper, corrugated cardboard, glass, plastics, organic waste, and metal.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF LOOMIS HEREBY ORDAINS AS FOLLOWS:

Section 1. Purpose and Authority.

The purpose of this chapter is to satisfy the requirements of CalGreen Sections 4.408.1, 4.410.2, 5.408.1, 5.410.1 and 5.410.1.1 and 14 CCR Section 18989.1.

Section 2. Findings. The recitals are true and correct as set forth above and are hereby incorporated by reference.

Section 3. Enactment. Chapter 11.05 of the Loomis Municipal Code is hereby added to read as follows:

11.05 CALIFORNIA GREEN BUILDING STANDARDS CODE (CALGREEN)

11.05.010 Adoption by Reference

There is hereby adopted by reference as if fully set forth herein, the 2022 California Green Building Standards Code (CALGreen), contained in the California Code of Regulations, Title 24, Part 11, published by the International Code Council, and each and all of its regulations and provisions. One copy is on file for use and examination by the public in the office of the building official.

11.05.020 General Provisions

A. Persons applying for a building permit from the Town for Covered Projects shall be responsible for ensuring and demonstrating their compliance with the requirements of this chapter, and any additional requirements imposed by CAL Green.

B. Diversion of construction and demolition (C&D) materials is not required for work for which a building permit is not required or for projects that require a building permit but do not meet the thresholds for recycling C&D materials per CALGreen. It is unlawful to split or separate a project into small work projects for the purpose of evading the requirements of this Section 11.05.020

11.05.030 Threshold for Covered Projects

A. "Covered project" means projects that shall be subject to the requirements of this chapter.

B. Covered Projects.

1. All new construction (residential and non-residential); and
2. Residential additions/alterations that increase the building's conditioned area, volume or size; and
3. Non-residential additions greater than 1,000 square feet and/or Non-residential alterations valued at \$200,000 and more.

11.05.040 C&D Program Guidelines and program oversight

A. The Planning Director or his or her designee is authorized to develop C&D Debris Program Guidelines consistent with this Chapter, to administer the C&D program pursuant to this Chapter and to develop and modify C&D Program Guidelines.

B. The Planning Director or his or her designee shall have the authority to approve C&D Diversion Plans prior to building permit issuance and approve Summary Reports prior to occupancy approval by the Building department.

11.05.050 C&D Diversion Requirement and Responsibility.

A. Covered projects shall comply with the CALGreen diversion requirement of at least 65% diversion of all generated C&D materials from a project, by weight.

B. C& D materials include commonly used or discarded materials removed from deconstruction, demolition, construction, remodeling, repair or renovation operations on any pavement, house, commercial building, or other structure, or from landscaping. Such materials include, but are not limited to, dirt, sand, rock, gravel, bricks, plaster, gypsum wallboard, aluminum, glass, asphalt material, plastics, roofing material, cardboard, carpeting, cinder blocks, concrete, copper, electrical wire, fiberglass, formica, granite, iron, lead, linoleum, marble, plaster, plant debris, pressboard, porcelain, steel, stucco, tile, vinyl, wood, masonry, rocks, trees, remnants of new materials, including paper, plastic, carpet scraps, wood scraps, scrap metal, building materials, packaging and rubble. Construction and demolition debris does not include exempt waste.

C. As used in this chapter, "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:

1. Use of new construction methods, as described in regulations promulgated by the Town, that reduce the amount of waste generated.
2. On-site reuse of the waste.
3. Source separation: sorting of different waste materials at its point of generation for more efficient recycling or final disposal.
5. Other methods as approved in regulations promulgated by the Town.

11.05.060 Building Permit Applicant's Responsibility.

A. All building permit applicants for a covered project shall:

1. Submit a C&D Diversion Plan demonstrating how a 65% diversion rate will be achieved. Such plan is subject to approval by the Director or designee prior to receiving a building permit; and
2. Submit a Waste Management Summary Report providing proof of actual recycling results including submission of tonnage receipts (weight tickets) to demonstrate the 65% recycling rate. Such a plan is subject to approval by the Director or designee prior to receiving a certificate of occupancy

11.05.070 Review of C&D Diversion Plan.

A. Each applicant for a Covered Project shall complete a C&D Diversion Plan and submit the completed plan to the City prior to receiving a building permit. Such plan shall include the following required information:

1. Identification of the construction and demolition waste materials to be diverted from disposal by recycling, reuse on the project or salvage for future use or sale.

2. Specify if construction and demolition waste materials will be sorted on-site (source-separated) or bulk mixed (single stream).
3. Identify diversion facilities where the construction and demolition waste material will be taken.
4. Identify construction methods employed to reduce the amount of construction and demolition waste generated.
5. Specify that the amount of construction and demolition waste materials diverted shall be calculated by weight or volume, but not by both.
6. Use a waste management company, approved by the enforcing agency, which can provide verifiable documentation that the percentage of construction and demolition waste material diverted from the landfill complies with the 65% recycling rate.

B. In completing the C&D Diversion Plan, each building permit applicant for a Covered Project shall do the following:

1. Use any combination of franchised Commercial Recyclers and/or self-haul to collect, haul, Dispose and Recycle C&D Debris generated by the Covered Project. The applicant will submit detailed Project reports and weight or volume records demonstrating compliance with the Diversion requirement.
2. Submit a C&D Summary Report after completion of the project demonstrating implementation of the C&D Diversion Plan prior to occupancy.

11.05.080 Infeasibility exemption.

A. If an applicant for a Covered Project believes that circumstances exist which make it infeasible to comply with the diversion requirement, the applicant may apply for an exemption at the time that he or she submits the C&D Diversion Plan as required by Section 11.05.070 of this chapter. The applicant shall state on the C&D Diversion Plan form the maximum rate of diversion the applicant believes is feasible for each type of C&D material and the specific circumstances why the applicant believes it is infeasible to comply with the diversion requirement.

B. In determining whether to grant or deny an applicant's request for an infeasibility exemption, the Planning Director or his or her designee shall consider the following:

1. The presence or absence of exceptional or extraordinary circumstances or conditions applicable to the project that do not apply to similar projects.
2. Whether the granting the exemption constitutes a grant of special privilege inconsistent with the limitations imposed on like projects.
3. Cost may be a factor in the official's determination, provided that cost is not the primary reason for granting an exemption.

C. Planning Director or his or her designee shall provide a written determination to the request for an infeasibility exemption, no later than thirty (30) days from the receipt of such request. If

the decision is a denial, the written determination shall state the reasons for denial and the applicant shall have thirty (30) days to resubmit a C&D Diversion Plan that complies with Section 11.05.070.

11.05.090 Space for Recycling in New Commercial construction or additions

New commercial construction or additions resulting in more than 30% of the floor area shall provide readily accessible areas identified for the storage and collection of recyclable materials, organic materials and garbage, or shall comply with provision of adequate space for recycling for multi-family and commercial premises pursuant to Sections 4.408.1, 4.410.2, 5.408.1, and 5.410.1 of the California Green Building Standards Code, 24 CCR, Part 11 as amended.

11.05.100 Space for Recycling in New multi-Family Construction

Where five (5) or more dwelling units are constructed on a building site, provide readily accessible areas that serve occupants of all buildings on the site and are identified for the storage and collection of recyclable materials and organic waste materials consistent with the Town three container collection program and comply with provision of adequate space for recycling multi-family and commercial premises pursuant to Sections 4.408.1, 4.410.2, 5.408.1, and 5.410.1 of the California Green Building Standards Code, 24 CCR, Part 11 as amended.

11.05.110 Enforcement

A. Except as otherwise expressly provided, the provisions of this Chapter shall be administered and enforced within the Town by the enforcement officers designated by the City Manager.

B. A violation of the requirements in this Chapter may be assessed civil penalties by means of an administrative citation, subject to the procedures specified in Chapter 1.20 of the Loomis Municipal Code.

C. In addition to other remedies, the Planning Director or his or her designee may maintain a list of repeat offenders of provisions of this chapter and may not approve a future permit for the same contractor as long as a fee or penalty is uncollected for the prior project.

D. The building official is authorized to withhold the final approval of a project until any penalty levied on the applicant is paid in full to the Town.

Section 4. CEQA

The Town Council finds that this Ordinance is adopted pursuant to CalRecycle's SB 1383 Regulations. The SB 1383 Regulations were the subject of a program environmental impact report (EIR) prepared under the CEQA by CalRecycle. The activities to be carried out under this Ordinance are entirely within the scope of the SB 1383 Regulations and its program EIR. No mitigation measures identified in the EIR are applicable to the Jurisdiction's enactment of this Ordinance. Moreover, none of the conditions requiring a subsequent or supplemental EIR, as described in CEQA, at Public Resources Code Section 21166, and its regulations (CEQA Guidelines) at 14 CCR Sections 15162 and 15163, have occurred. The program EIR therefore adequately analyzes any potential environmental effects of the Ordinance, and no additional environmental review is required.

On a separate and independent basis, this Ordinance is categorically exempt in accordance with Section 15307 as an action taken by a regulatory agency as authorized by California law to

assure maintenance or protection of natural resources; and in accordance with Section 15308 as an action taken by a regulatory agency as authorized by California law to assure maintenance or protection of the environment.

Section 5. Severability.

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The Town Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

Section 6. Effective Date and Publication.

This ordinance shall take effect thirty (30) days after its adoption. The Town Clerk is hereby directed to publish a summary of this ordinance within fifteen (15) days after its passage in an adjudicated, published newspaper of general circulation serving the Town of Loomis residents.

The foregoing Ordinance was introduced at a regular meeting of the Council of the Town of Loomis held on _____, 2023, and was ADOPTED AND ORDERED published and posted at a meeting of the Council held on the _____ day of _____, 2023, by the following roll call vote:

AYES:
NOES:
ABSENT:

By: _____
Mayor

ATTEST:

By: _____
Town Clerk