

Ordinance No. 246

AN ORDINANCE OF THE CITY OF EAST PALO ALTO REGULATING THE RECYCLING AND DIVERSION OF CONSTRUCTION AND DEMOLITION DEBRIS

The City Council of the City of East Palo Alto, California, does hereby ordain as follows:

Section 1. **Findings and Purpose**

The City Council of the City of East Palo Alto hereby finds and determines that the City is committed to protecting the public health, safety, welfare and environment; that in order to meet these goals it is necessary that the City promote the reduction of solid waste and reduce the stream of solid waste going to landfills; that under California law as embodied in the California Waste Management Act (California Public Resources Code Sections 40000 et seq.), East Palo Alto is required to prepare, adopt and implement source reduction and recycling elements to reach reduction goals, and is required to make substantial reductions in the volume of waste materials going to landfill, under the threat of penalties of ten thousand dollars (\$10,000) per day; that debris from demolition and construction of buildings and tenant upgrades represents a portion of the volume presently coming from East Palo Alto, and that much of said debris is particularly suitable for recycling; that East Palo Alto's commitment to the reduction of waste and to compliance with state law requires the establishment of programs for recycling and salvaging construction and demolition materials; the City Council recognizes that requiring demolition and construction debris to be recycled and reused may in some respects add modestly to the cost of demolition and in other respects may make possible some cost recovery and cost reduction; and that it is necessary in order to protect the public health, safety and welfare that the following regulations be adopted.

Section 2. **Definitions**

For purposes of this chapter the following definitions apply:

A. "Contractor" means any person or entity holding, or required to hold, a contractor's license of any type under the laws of the State of California, or who performs (whether as contractor, subcontractor or owner-builder) any construction, demolition, remodeling, or landscaping service relating to buildings or accessory structures in East Palo Alto.

B. "Construction" means all building, landscaping, remodeling, addition, removal or destruction involving the use or disposal of designated recyclable and reusable materials as defined in paragraph D below.

C. "Demolition and Construction Debris" shall mean the following, but not limited to:

1. Discarded materials generally considered to be not water soluble and non-hazardous in nature, including but not limited to steel, glass, brick, concrete, asphalt material, pipe, gypsum, wallboard, and lumber from the construction or destruction of a structure as part of a construction or demolition project or from the renovation of a structure and/or landscaping, and including rocks, soils, tree remains, trees, and other vegetative matter that normally results from land clearing, landscaping and development operations for a construction project.
2. Clean cardboard, paper, plastic, wood, and metal scraps from any construction and/or landscape project.
3. Non-construction and demolition debris wood scraps.
4. De-minimis amounts of other non-hazardous wastes that are generated at construction or demolition projects, provided such amounts are consistent with best management practices of the industry.
5. Mixing of construction and demolition debris with other types of solid waste will cause it to be classified as other than construction and demolition debris.

D. "Designated recyclable and reusable materials" shall mean the following, but not limited to:

1. Masonry building materials including all products generally used in construction including, but not limited to, asphalt, concrete, rock, stone and brick.
2. Wood materials including any and all dimensional lumber, fencing or construction wood that is not chemically treated, creosoted, CCA pressure treated, contaminated or painted.
3. Vegetative materials including trees, tree parts, shrubs, stumps, logs, brush or any other type of plants that are cleared from a site for construction or other use.
4. Metals including all metal scrap such as, but not limited to, pipes, siding, window frames, door frames and fences.
5. Roofing Materials including wood shingles as well as asphalt, stone and slate based roofing material.
6. Salvageable Materials includes all salvageable materials and structures including, but not limited to wallboard, doors, windows, fixtures, toilets, sinks, bath tubs and appliances.

7. Any other materials which City officials determine can be diverted due to the identification of a recycling facility, reuse facility, or market accessible to East Palo Alto.

Section 3. **Deconstruction and Salvage and Recovery**

Every structure planned for demolition shall be made available for deconstruction, salvage and recovery prior to demolition and sufficient time shall be provided for this purpose in the demolition time schedule provided by the contractor. It shall be the responsibility of the owner, the general contractor and all subcontractors to recover the maximum feasible amount of salvageable designated recyclable and reusable materials prior to demolition and sufficient time shall be provided for this purpose in the demolition time schedule. In the event that it is determined that no materials can be salvaged for reuse from a particular project, written documentation must be provided to the Public Works Department as to the reasons why salvaging cannot take place. Recovered and salvaged designated recyclable and reusable materials from the deconstruction phase shall qualify to be counted in meeting the diversion requirements of this chapter. Recovered or salvaged materials may be given or sold on the premises, or may be removed to reuse warehouse facilities for storage or sale as long as this is not in any violation of any other government law or City ordinance. Title to recyclable materials forwarded to the operator of recycling facilities or of a landfill that is under contract to the cities in southern San Mateo County will transfer to the service provider upon departure of materials from the site.

Section 4. **Diversion Requirements**

It is required that at least the following specified percentages of the waste tonnage of demolition and construction debris generated from every demolition, remodeling and construction project, as defined below, shall be diverted from going to land fill by using recycling, reuse and diversion programs:

A. Demolition:

All residential and commercial demolition projects in the City of East Palo Alto shall be covered by the following diversion requirement: Sixty percent (60%) of waste tonnage including concrete and asphalt, and twenty-five (25%) percent of waste tonnage excluding concrete and asphalt.

B. New Construction:

All single family residential new construction projects, including at least three single family dwellings, all multi-family residential new construction projects including at

least ten dwelling units, and all commercial new construction projects regardless of size shall be covered by the following diversion requirements: Fifty-five percent (55%) of waste tonnage including concrete and asphalt and twenty percent (20%) of waste tonnage excluding asphalt and concrete.

C. Separate calculations and reports will be required for the demolition and for the construction portion of projects involving both demolition and construction.

Section 5. **Information Required Before Issuance of Permit**

Every applicant shall submit a properly completed "Recycling and Waste Reduction Form" to the Public Works Department as a portion of the building or demolition permit process. The applicant shall provide an accurate estimate of the tonnage or other specified units of construction and/or demolition debris to be generated from the construction and demolition on the site. Approval of the form, by the Director of Public Works or his/her designee, as complete and accurate shall be a condition precedent to issuance of any building or demolition permit.

The Public Works Department will review the Recycling and Waste Reduction Form for the purpose of confirming the accuracy of the estimated waste generation and gathering data on the amount of waste generated for the project in the City of East Palo Alto. Projects required to meet specific diversion goals will be required to submit a written waste reduction and recycling plan to be reviewed by the Director of Public Works, or his/her designee.

Section 6. **Deposit Required**

As a condition precedent to issuance of any permit for a building or a demolition permit that involves the production of solid waste destined to be delivered to a landfill, the applicant shall post a cash deposit in the amount as set forth in the City's most current fee schedule, for each estimated ton of generated construction and/or demolition debris. The deposit shall be returned, without interest, in total or in proportion, upon proof to the satisfaction of the Director of Public Works, or his/her designee, that no less than the required percentages or proven proportion of those percentages of the tons of debris generated by the demolition and /or construction project have been diverted from landfills and have been recycled or reused. If a lesser percentage of tons or cubic yards than required is diverted, a proportionate share of the deposit will be returned. The deposit shall be forfeited entirely or to the extent that there is a failure to comply with the requirements of this chapter, but shall not prevent the City from seeking or receiving restitution beyond the amount of the deposit as applicable to the project.

Section 7. **Administrative Fee**

As a condition precedent to issuance of any permit for a building or a demolition permit that involves the production of solid waste destined to be delivered to a landfill, the applicant shall pay to the City fee sufficient to compensate the City for all expenses incurred in administering the permit. The amount of this fee shall be determined in accordance with the then current resolution of the City Council determining the same.

Section 8. **On Site Practices**

During the term of the demolition or construction project, the contractor shall recycle or divert the required percentages of materials, and keep records thereof in tonnage or in other measurements that can be converted to tonnage. The Public Works Department will evaluate and monitor each project to gauge the percentage of materials recycled, salvaged and disposed from the project. The required diversion of a minimum of the required percentages of the demolition and construction debris will be measured separately with respect to the demolition segment and the construction segment of a project where both demolition and construction are involved. On-site separation of scrap wood and clean green waste in a designated debris box or boxes shall be arranged, in order to permit chipping and mulching for soil enhancement or land cover purposes to the maximum extent feasible. Metal and other materials which cannot be chipped or ground shall not be placed in such boxes, in order to protect chipping and grinding machinery. On-site separation shall be undertaken for wallboard to the extent feasible on new construction.

Section 9. **Reporting**

A. Within sixty (60) days following the completion of the demolition project, and again within sixty (60) days following the completion of the construction project, the contractor shall, as a condition precedent to final inspection and to issuance of any certificate of occupancy, submit documentation to the Public Works Department which proves compliance with the requirements of Sections 4 and 8. The documentation shall consist of a final completed "Recycling and Waste Reduction Form" showing actual data of tonnage of materials recycled and diverted, supported by originals or certified photocopies of receipts and weight tags or other records of measurement from recycling companies, deconstruction contractors and/or landfill and disposal companies. Receipts and weight tags will be used to verify whether materials generated from the site have been, or will be recycled, reused, salvaged or otherwise disposed of. If mixed debris is taken to a facility which provides both mixed C&D processing and disposal services, documentation must be provided to show that the delivered materials were processed for recycling and also indicate the average diversion rate achieved by the facility from mixed load processing. If a project involves both demolition and construction, the report and

documentation for the demolition project must be submitted and approved by the Public Works Department before issuance of a building permit for the construction project. In the alternative, the permittee may submit a letter stating that no waste or recyclable materials were generated from project, in which case this statement shall be subject to verification by the Public Works Department. Any deposit posted pursuant to Section 6 shall be forfeited if the permittee does not meet the timely reporting requirements of this section.

B. On an annual basis the Department of Public Works shall compile a report that describes the number and type of permits issued, the number and type of projects covered by diversion requirements, the total tonnage generated and the estimated diversion resulting from these projects. Within 18 months the Department of Public Works shall also review and evaluate the impact of this Ordinance for the purpose of making recommendations to improve diversion of waste generated through construction, demolition and remodeling activities and improve the cost-effective oversight of the Ordinance.

Section 10. **Violation as a Public Nuisance**

Each violation of the provisions of this chapter shall constitute a public nuisance and be subject to abatement as such, pursuant to the provisions of applicable state and local laws.. The costs of abatement of any such nuisance shall be a lien upon the property involved.

Section 11. **Penalties**

Each violation of the provisions of this ordinance shall constitute a misdemeanor, and shall be punishable by imprisonment in the county jail for not to exceed six (6) months, or by fine not exceeding one thousand dollars (\$1,000.00), or by both such fine and imprisonment. Each day that a violation continues shall be deemed a new and separate offense.

Section 12. **Severability**

If any section, subsection, sentence, clause, phrase, or portion of this ordinance or the application thereof to any person or circumstances is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof nor other applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

Section 13. **Effective Date**

This ordinance shall be effective from and after thirty (30) days following its adoption.

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The above and foregoing ordinance was adopted at a regular meeting of the East Palo Alto City Council held on November 6, 2000 upon the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

Sharifa Wilson, Mayor

Attest:

City Clerk

Approved as to form and content:

City Attorney