

**ORDINANCE NO. \_\_\_\_\_**

**ORDINANCE OF THE TOWN OF PORTOLA VALLEY  
AMENDING THE PORTOLA VALLEY MUNICIPAL CODE, ADDING CHAPTER 8.10  
RELATING TO RECYCLING AND DIVERSION OF CONSTRUCTION AND  
DEMOLITION DEBRIS**

The Town Council of the Town of Portola Valley does ORDAIN as follows:

1. Chapter 8.10 [Recycling and Diversion of Construction and Demolition Debris] is hereby added to Title 8 [Health and Safety] of the Portola Valley Municipal Code to read as follows:

“8.10 Recycling and Diversion of Construction and Demolition Debris.

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### **8.10.010 Findings and purpose**

A. The Town Council finds that the State of California through its California Waste Management Act of 1989, Assembly Bill 939 (AB 939), requires that each local jurisdiction in the State divert fifty percent (50%) of solid waste from landfill by December 31, 2000, through source reduction, recycling, and composting activities.

B. The Town Council finds that every city and county in California could face fines up to Ten Thousand Dollars (\$10,000) a day for not meeting the above-mandated goal.

C. The Town Council finds and determines that the Town is committed to protecting the public health, safety, welfare and environment.

D. In order to meet these goals, it is necessary that the Town promote the reduction of solid waste and reduce the stream of solid waste going to landfills.

E. Debris from demolition and construction of buildings represents a significant portion of the volume presently going to landfill(s) from Portola Valley and much of said debris is particularly suitable for recycling.

F. The Town finds that reuse and recycling of certain portions of Construction and Demolition Debris is essential to further the Town's efforts to reduce solid waste and comply with AB 939 mandates.

G. The Town finds that, except in unusual circumstances, it is feasible to divert an average of at least fifty percent (50%) of all Construction and Demolition Debris from Construction, Demolition and Renovation Covered Projects.

H. The Town Council recognizes that requiring Construction and Demolition 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.

I. It is necessary in order to protect the public's health, safety and welfare, that the following regulations be adopted.

### **8.10.020 Definitions**

For purposes of this chapter only the following definitions apply:

A. "Applicant" means any individual, firm, limited liability company,

association, partnership, government agency, industry, public or private corporation, or any other person or entity whatsoever who applies to the Town for a permit to undertake any Construction, Demolition, or Renovation for a Covered Project within the Town.

B. “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, and who performs (whether as contractor, subcontractor or owner-builder) any Construction, Demolition, and/or Renovation of a Covered Project in the Town of Portola Valley.

C. “Construction” means all building, landscaping, remodeling, addition, removal or demolition involving the use or disposal of Designated Recyclable and Reusable Materials as defined in subsection (J) below.

D. “Construction and Demolition Debris” means:

1. Discarded material generally considered to be not water soluble hazardous in nature, including but not limited to steel, glass, brick, concrete, asphalt pipe, gypsum, wallboard, and lumber from the Construction or Demolition of a structure of a Construction or Demolition project or from the Renovation of a structure, landscaping, and including rocks, soils, tree remains, trees, and other vegetative material normally results from land clearing, landscaping and development operations for a project.

2. Clean cardboard, paper, plastic, wood, and metal scrap from a construction project.

3. De minimus amounts of other non-hazardous wastes that are generated from construction or demolition projects, provided such amounts are consistent with current management practices of the industry.

E. “Conversion Rate” means the most current rates set forth in the standardized “Weight Conversion Charts” developed, approved and disseminated by the California Integrated Waste Management Board for use in estimating the volume or weight of materials identified in a Waste Management Plan.

F. “Covered Project” means any Construction, Demolition, and/or Renovation of a Project within the Town, the total costs of which are, or are projected to be, greater than or equal to Five Thousand Dollars (\$5,000), or which will generate more than ten (10) tons of Construction and Demolition Debris.

G. “Deconstruction” means the soft demolition of any facility, structure, or building through a planned dismantling and salvaging of reusable materials and parts.

H. "Demolition" means the decimating, razing, ruining, tearing down or wrecking of any facility, structure, pavement or building, whether in whole or in part, whether interior or exterior and/or the removal of landscaping materials, including green waste.

I. "Deposit" means a cash deposit in the amount of Fifty Dollars (\$50) for each estimated ton of Construction and/or Demolition Debris from a Covered Project, but not less than Five Thousand Dollars (\$5,000).

J. "Designated Recyclable and Reusable Materials" means that portion of Construction and Demolition Debris that includes the following:

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, but not limited to, 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, including but not limited to, 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. Earth materials, including, but not limited to, dirt and rocks from land clearing activities in preparation for Construction.
5. Metals including all metal scrap including, but not limited to, pipes, siding, window frames, door frames and fences.
6. Roofing materials including, but not limited to, wood shingles as well as asphalt, tile, stone and slate based roofing material.
7. Salvageable materials and structures including, but not limited to, wallboard, doors, cabinets,

shelves, furniture, plumbing and electrical fixtures, windows, fixtures, toilets, sinks, bath tubs and appliances.

K. “Divert” means to use material for any purpose other than disposal in a landfill or transformation facility.

L. “Diversion Requirement” means the diversion of at least sixty percent (60%) of the total Construction and Demolition Debris generated by a Covered Project via Reuse or Recycling.

M. “Project” means any activity which requires an application for a building or demolition permit or any similar permit from the Town.

N. “Recovery” means the removal and reclamation of those materials from a Project that may have value if reused or recycled.

O. “Recycling” means the process of collecting, sorting, cleansing, treating, and reconstituting materials that would otherwise become solid waste, and returning them to the economic mainstream in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace.

P. “Renovation” means any change, addition, or modification in an existing structure.

Q. “Reuse” means further or repeated use of Construction or Demolition Debris.

R. “Salvage” means the controlled removal of Designated Recyclable and Reusable Materials from Construction and Demolition Debris from a Covered Project, for the purpose of Recycling, Reuse or storage for later Recycling or Reuse.

S. “Waste Management Plan” means a completed Waste Management Plan (WMP) form, approved by the Town for the purpose of compliance with this Chapter submitted by the Applicant for any Covered Project.

T. “WMP Compliance Official” means the Town Administrator or designated staff person(s) authorized and responsible for implementing this Chapter.

U. “Waste Tonnage” means the actual weight of either Construction and Demolition Debris, or Designated Recyclable and Reusable Materials as used in this Chapter.

### **8.10.030 Deconstruction and salvage and recovery**

Every Covered Project shall be made available for Deconstruction, Salvage, and Recovery prior to Demolition. It shall be the responsibility of the Applicant to recover the maximum feasible amount of salvageable Designated Recyclable and Reusable Materials prior to Demolition. In order to provide sufficient time for Deconstruction and Salvage and Recovery to be undertaken, no Demolition may commence until a period of five (5) working days has elapsed from the date of issuance of the Demolition permit. Recovered and Salvaged Designated Recyclable and Reusable Material from the Covered Project shall qualify to be counted in meeting the diversion requirements of this Chapter. Recovered or Salvaged Designated Recyclable and Reusable Materials may be given away or sold on the premises, or may be removed to Reuse warehouse facilities for storage or sale.

### **8.10.040 Diversion requirements**

It is required that at least the following specified percentages of the waste tonnage of Construction and Demolition Debris generated from every Covered Project shall be diverted from landfill by using Recycling, Reuse and diversion programs:

- A. Demolition: Sixty percent (60%) of Waste Tonnage from Construction and Demolition Debris that includes concrete and asphalt; and fifteen percent (15%) of Waste Tonnage that does not include concrete and asphalt.
- B. Re-roofing as a separate Covered Project: Sixty percent (60%) of Waste Tonnage from Construction and Demolition Debris.
- A. Construction and Remodeling: Sixty percent (60%) of Waste Tonnage from Construction and Demolition Debris.

### **8.10.050 Information required before issuance of demolition**

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Every Applicant shall submit a properly completed "Waste Management Plan," in a form as prescribed by the WMP Compliance Official to the WMP Compliance Official, as a portion of the building or demolition permit process. The completed WMP shall indicate all of the following: (1) the estimated volume or weight of project Construction and Demolition Debris, by material type, to be generated; (2) the maximum volume or weight of such materials that can feasibly be diverted via Reuse or Recycling; (3) the vendor that the Applicant proposes to use to haul the materials, the facility to which the materials will be hauled, and the facility's requirement for diversion of the materials; and (4) the estimated volume or weight of Construction and Demolition Debris that will be land filled. In estimating the volume or weight of materials identified in the WMP, the Applicant shall use the standardized Conversion Rates approved by the Town for this

purpose. Approval of the form as complete and accurate shall be a condition precedent to issuance of any building or demolition permit. If the maximum volume or weight of such materials that can feasibly be diverted via Reuse or Recycling, as estimated pursuant to subsection (2) above, is less than the required Diversion Requirements, Applicant must submit information that supports the lower projected Diversion Rate, or the WMP shall be considered to be incomplete.

#### **8.10.060 Deposit required**

As a condition precedent to issuance of any permit for a Construction or Building for a Covered Project, the Applicant shall post a cash deposit in the amount of Fifty Dollars (\$50) for each estimated ton of Construction and/or Demolition Debris, but not less than Five Thousand Dollars (\$5,000) (the Deposit). The Deposit shall be returned, without interest, in total or pro rated, upon proof to the satisfaction of the WMP Compliance Official that no less than the required percentages of the Waste Tonnage of Construction and Demolition Debris generated by the Covered Project have been diverted from landfills and have been Recycled or Reused or stored for later Reuse or Recycling. If a lesser percentage of Waste Tonnage of Construction and Demolition Debris than required is diverted, a proportionate share of the Deposit will be returned. The Deposit shall be forfeited entirely or to the pro rated extent that there is a failure to comply with the requirements of this chapter. The Town Council may, by formal resolution, modify the amount of the required Deposit.

#### **8.10.070 Administrative fee**

As a condition precedent to issuance of any permit for Construction or Demolition for a Covered Project, the Applicant shall pay to the Town a cash fee sufficient to compensate the Town for all expenses incurred in administering the permit. The amount of the fee shall be determined in accordance with the then current Fee Resolution of the Town Council.

#### **8.10.080 On-Site practices**

During the term of the Covered Project, the Applicant shall Recycle or Reuse the required percentages of materials, and keep records of the tonnage or the other measurements approved by the WMP Compliance Official that can be converted to tonnage. The WMP Compliance Official will evaluate and monitor each Covered Project to gauge the percentage of materials Recycled, Salvaged and Recycled or Reused from the Covered Project. The required diversion of a minimum of the required percentages of the Designated Recyclable and Reusable Materials shall be measured separately with respect to the demolition segment and the construction segment of a Covered Project where both Construction and Demolition are involved. To the maximum extent feasible, each of the seven categories of Designated Recyclable and Reusable Materials, as set forth in 8.10.020 J.1, shall be separated on-site, and separately

transported to a processor, in order to permit maximum diversion. For Deconstruction and/or Demolition Projects, on-site separation shall include salvageable materials (appliances, fixtures, plumbing, etc.) and dimensional lumber. For all other Construction Projects on-site separation shall include dimensional lumber, wallboard and cardboard.

### **8.10.090 Reporting**

Within sixty (60) days following the completion of the Demolition phase of a Covered Project, and again within sixty (60) days following the completion of the Construction phase of a Covered Project, the Applicant shall, as a condition precedent to final inspection and to issuance of any certificate of occupancy, submit documentation to the WMP Compliance Official which proves compliance with the requirements of Sections 8.10.030 and 8.10.040. The documentation shall consist of a final completed "Waste Management Plan" showing actual data of Waste Tonnage, 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 are to be recycled, reused, salvaged or otherwise disposed of. The Applicant shall make reasonable efforts to ensure that all Designated Recyclable and Reuse Materials Salvaged or landfilled are measured and recorded using the most accurate method of measurement available. To the extent practical, all Construction and Demolition Debris shall be weighed by measurement on scales. Such scales shall be in compliance with all regulatory requirements for accuracy and maintenance. For Construction and Demolition Debris for which weighing is not practical due to small size or other considerations, a volumetric measurement shall be used. For conversion of volumetric measurements to weight, the Applicant shall use the standardized Conversion Rates approved by the Town for this purpose.

If a Covered Project involves both Demolition and Construction, the report and documentation for the Demolition project must be submitted and approved by the WMP Compliance Official before issuance of a building permit for the Construction phase of a Covered Project. In the alternative, the Applicant may submit a letter stating that no waste or recyclable materials were generated from the Covered Project, in which case this statement shall be subject to verification by the WMP Compliance Official. Any Deposit posted pursuant to Section 8.05.050, shall be forfeited if the Applicant does not meet the timely reporting requirements of this section.

### **8.10.100 Violation a public nuisance**

Each violation of the provisions of this chapter shall constitute a public nuisance and be subject to abatement as such. Remedies shall include, but not be limited to, those set forth in Chapter 1.12 of the Portola Valley Municipal Code [Code-Compliance-



Judicial and Administrative Remedies] and Chapter 8.12 [Nuisance Abatement].

#### **8.10.110 Penalties**

Each violation of the provisions of this chapter 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.

#### **8.10.120 Responsible party**

Every Applicant and/or owner of property on which a Covered Project occurs shall be responsible for compliance with the provisions of this chapter.

2. Severability. If any part of this ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance or the applicability of this ordinance to other situations.

3. CEQA. This Ordinance is categorically exempt (class 8) under the California Environmental Quality Act.

4. Effective Date. Posting. This ordinance shall become effective thirty (30) days from the date of its passage, and shall be posted within the Town of Portola Valley in three (3) public places.

ABSTENTIONS: None

ABSENT: Mayor Driscoll

By: Michael W. Carls  
Vice Mayor

ATTEST

Mary A. Helfrich  
Deputy Town Clerk

APPROVED AS TO FORM:

Margaret A. Sloan  
Town Attorney