

## GREEN ORDINANCE

This ordinance was presented to the City Council on May 24, 2007. A public hearing was held in Council Chambers on June 14, 2007 and the ordinance subsequently adopted.

### TITLE 15 Buildings and Construction

#### Article II Miscellaneous Regulations

#### Chapter 15.44 Green Building and Construction and Demolition Debris Recycling

##### Sections

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##### **Section 15.44.010 Title and purpose**

The ordinance codified in this chapter shall be known as the City of Newark "Green Building and Construction and Demolition Recycling" ordinance. Green Building is a whole systems approach to the design, construction, and operation of buildings that helps mitigate the environmental, economic, and social impacts of buildings. Green building practices recognize the relationship between natural and built environments and seek to minimize the use of energy, water, and other natural resources and provide a healthy, productive indoor environment. The purpose of the Green Building and Construction and Demolition Debris Recycling Ordinance is to

minimize or avoid a variety of adverse impacts by regulating the design, construction, and operation of buildings and landscaping.

#### **Section 15.44.020 Definitions**

As used in this chapter:

(a) "City" means the City of Newark.

"Construction" means the building of any facility or structure or any portion thereof, including any improvements, alterations, or additions to an existing facility or structure.

(b) "Construction and Demolition Debris" means used or discarded materials generated and/or removed from residential, commercial, or industrial premises as a consequence of construction or demolition.

(c) "Covered Project" shall have the meaning set forth in Section 15.44.040 of this Chapter.

(d) "Demolition" means the destroying, razing, tearing down, or wrecking of any pavement, street, driveway, house, building, or other structure or improvement regardless of the nature of such structure or improvement whether in whole or in part, whether interior or exterior.

(e) "Divert" means to use material for any purpose other than disposal in a landfill or transformation facility.

(f) "LEED" means the Leadership in Energy and Environmental Design developed by the U.S. Green Building Council.

(g) "Project" means any activity involving construction, demolition, or renovation, and which requires issuance of a permit from the City.

(h) "Recycling" means the process of collecting, sorting, cleansing, treating, and/or reconstituting of 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.

(i) "Traditional Public Works Projects" mean heavy construction projects such as pump stations, flood control improvements, roads, bridges, as well as traffic lights, sidewalks, bike paths, bus stops, street median projects, and associated infrastructure on City-owned and maintained property.

(j) "Transformation Facility" means a facility that burns solid waste to produce heat or electricity.

(k) "Waste Management Plan" (WMP) means a completed form, approved by the City, for the purpose of compliance with this Chapter, submitted by the applicant for any covered or noncovered Project.

#### **Section 15.44.030 Construction and Demolition Debris Recycling**

All covered projects identified in Section 15.44.040 shall divert one hundred percent (100%) of all Portland cement concrete and asphalt concrete and an average of no less than fifty percent (50%) of all remaining construction and/or demolition debris. Quantities shall be based upon weight unless volume is a more appropriate

measurement. Exceptions to the minimum percentages of diverted material may be granted by the Community Development Director provided the applicant can demonstrate that achieving a minimum required diversion rate is not feasible.

**Section 15.44.040 Covered Projects Subject to Construction and Demolition Debris Recycling**

All City or privately owned construction projects whose total costs are greater than \$100,000, or structure demolition projects whose total costs are greater than \$20,000, or pavement demolition projects involving over 1,000 square feet of removed pavement, are covered projects subject to the requirements of Section 15.44.030.

**Section 15.44.050 Waste Management Plan**

A. When required by this Chapter, applicants shall complete a Waste Management Plan (WMP) on a form provided by the City which the Community Development Director shall review and approve prior to the issuance of any permit associated with such WMP. At the conclusion of a project which required the submission of a WMP the City shall review the completed WMP. Each WMP shall contain the following information:

1. The address of the project and the applicant's name, business address, and phone number.
2. The estimated volume or weight of project construction and demolition debris for each type of recyclable material.
3. The estimated maximum volume or weight of materials listed in "B" that can feasibly be diverted via reuse or recycling.
4. The vendor or facility that the applicant proposes to use to collect or receive diverted material.
5. The estimated volume or weight of construction and demolition debris that will be landfilled.
6. The actual volume or weight of diverted material (provided prior to the completion of the project).

B. Projects subject to Section 15.44.040 but not required to complete and follow a WMP shall comply with prescriptive recycling standards developed by the City. The City's prescriptive recycling standards shall include the following:

1. Descriptions of materials that can be recycled.
2. Names and locations of vendors and facilities that will receive recyclable materials.
3. Instructions that will assist applicants in complying with this Chapter.
4. The minimum percentages of various materials that must be recycled.

C. All projects requiring development review and approval by the Planning Commission or City Council and subject to Section 15.44.040 shall prepare a WMP and submit it to the City for review and approval. The City may require that applicants provide written documentation demonstrating compliance with the WMP approved for

their respective project if not already required by a City Council resolution.

D. All projects subject to Section 15.44.040, but not requiring review and approval by the Planning Commission or City Council, shall, at their option, either prepare a WMP and submit it to the City for review and approval, or follow prescriptive recycling standards developed by the City. The City may require that applicants provide written documentation demonstrating compliance with the WMP approved for their respective project or the City prescriptive recycling standards.

#### **Section 15.44.060 Green Building Practices for City Buildings**

A. All City building projects with over 5,000 square feet of new or added gross floor area and submitted for a building permit after the effective date of this ordinance, shall be certified as meeting the Leadership in Energy and Environmental Design (LEED) "Silver" rating or a City approved equivalent. Certification shall be performed by a LEED Accredited Professional, the City Architect, or the architect of record. The LEED "Silver" standards applicable under this Chapter shall be those LEED "Silver" standards in effect on the effective date of this ordinance, unless other LEED standards are selected by City Council by resolution.

B. All City building projects with 5,000 square feet or less of new, altered, or added gross floor area and submitted for a building permit after June 24, 2007, shall be designed and constructed using as many green practices as appropriate and feasible.

C. Traditional Public Works projects are exempt from the standards and requirements of this Chapter.

#### **Section 15.44.070 Voluntary Green Building Practices for Private Buildings**

Developers of private property are encouraged to incorporate as many green practices as appropriate and feasible in buildings and structures constructed within the City of Newark.

#### **Section 15.44.080 Bay Friendly Landscaping Practices**

A. The City shall follow the City of Newark's Bay Friendly Landscape Guide whenever additions, renovations, or replacements are made to City owned or controlled landscape areas.

B. All projects requiring development review and approval by the Planning Commission or City Council and that involve landscaping shall follow the City of Newark's Bay Friendly Landscape Guide in the design of landscaped areas.

C. Landscapers of private property not otherwise required to follow the City of Newark's Bay Friendly Landscape Guide are encouraged to incorporate as many Bay friendly landscape practices as appropriate and feasible in projects involving additions, renovations, or replacements in landscaped areas.

#### **Section 15.44.090 Incorporating Green Features in Updates to the General Plan and Area Specific Plans.**

Environmentally friendly community design concepts shall be encouraged when updating the General Plan and Area Specific Plans.

**Section 15.44.100 Environmentally Preferable Purchasing**

A. It is the policy of the City of Newark to institute practices that reduce waste by increasing product efficiency and effectiveness; purchase products that minimize environmental impacts, toxics, pollution, and hazards to worker and community safety to the greatest extent practicable; and purchase products that include recycled content, are durable and long-lasting, conserve energy and water, use agricultural fibers and residues, reduce greenhouse gas emissions, use unbleached or chlorine free manufacturing processes, are lead-free and mercury-free, and use wood from sustainably harvested forests.

B. The City shall follow the City of Newark Environmentally Preferable Purchasing Policy Handbook when making purchases for products for use by the City.

**Section 15.44.110 Violations**

A violation of this chapter is deemed an infraction.

