

**ORDINANCE NO. 5 - 00**

**AN ORDINANCE OF THE CITY COUNCIL OF DUBLIN  
AMENDING THE MUNICIPAL CODE BY ADDING A NEW CHAPTER 7.30  
(REQUIREMENT TO SUBMIT AND COMPLY WITH A WASTE MANAGEMENT PLAN  
FOR CERTAIN CONSTRUCTION, DEMOLITION, AND RENOVATION PROJECTS  
WITHIN THE CITY OF DUBLIN) TO TAKE EFFECT IMMEDIATELY**

**SECTION 1 FINDINGS.** The City Council of the City of Dublin does ordain as follows:

- a. The City 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 50% of discarded materials (base year 1990, state methodology) from landfill by December 31, 2000.
- 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 voters of Alameda County, through the Waste Reduction and Recycling Act of 1990 (Measure D), have adopted a policy goal to reduce the total tonnage landfilled of materials generated in Alameda County by 75% by the year 2010.
- d. The City finds that in 1995, Construction and Demolition (C&D) debris constituted approximately 16% of the materials landfilled in Alameda County and approximately 30% 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 and Measure D goals.
- f. The City finds that C&D debris waste reduction and recycling have been proven to reduce the amount of such material which is landfilled, increase site and worker safety, and be cost effective.
- g. The City finds that, except in unusual circumstances, it is feasible to divert an average of at least fifty (50) percent of all C&D debris from construction, demolition, and renovation projects.
- h. The City finds that, to ensure compliance with this Chapter and to ensure that those contractors that comply with this Chapter are not placed at a competitive disadvantage, it is necessary to impose a Performance Security requirement.

**SECTION 2. CODE SECTIONS.**

The following sections are hereby added to the Dublin Municipal Code.

**CHAPTER 7.30. REQUIREMENT TO SUBMIT AND COMPLY WITH A WASTE  
MANAGEMENT PLAN FOR CERTAIN CONSTRUCTION, DEMOLITION,  
AND RENOVATION PROJECTS WITHIN THE CITY OF DUBLIN.**

## ARTICLE 2 DEFINITIONS

For the purposes of this Chapter 7.30, the following definitions shall apply:

**7.30.010.** "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.

**7.30.020.** "Construction" means the building of any facility or structure or any portion thereof including any tenant improvements to an existing facility or structure.

**7.30.030.** "Construction and Demolition Debris" means used or discarded materials removed from premises during construction or renovation of a structure resulting from construction, remodeling, repair, or demolition operations on any pavement, house, commercial building, or other structure.

**7.30.040.** "Conversion Rate" means the rate set forth in the standardized Conversion Rate Table approved by the City pursuant to this Chapter for use in estimating the volume or weight of materials identified in a Waste Management Plan.

**7.30.050.** "Covered Project" shall have the meaning set forth in Section 7.30.210 of this Chapter.

**7.30.060.** "Deconstruction" means the process of carefully dismantling a building or structure in order to salvage components for reuse and recycling.

**7.30.070.** "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.

**7.30.090.** "Divert" means to use material for any purpose other than disposal in a landfill or transformation facility.

**7.30.100.** "Diversion Requirement" means the diversion of at least fifty (50) percent of the total Construction and Demolition Debris generated by a Project via reuse or recycling, unless the Applicant has been granted an Infeasible Exemption pursuant to Article 8 of this Chapter, in which case the Diversion Requirement shall be the maximum feasible diversion rate established by the WMP Compliance Official for the Project.

**7.30.110.** "Noncovered Project" shall have the meaning set forth in Section 7.30.220 of this Chapter.

**7.30.120.** "Performance Security" means any performance bond, surety bond, money order, letter of credit, or certificate of deposit submitted to the City pursuant to Article 5 of this Chapter.

**7.30.130.** "Project" means any activity which requires an application for a building or demolition permit or any similar permit from the City.

7.30.140. "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.

7.30.150. "Renovation" means any change, addition, or modification in an existing structure.

7.30.160. "Reuse" means further or repeated use of Construction or Demolition Debris.

7.30.170. "Salvage" means the controlled removal of Construction or Demolition Debris from a permitted building or demolition site for the purpose of recycling, reuse, or storage for later recycling or reuse.

7.30.180. "Total Costs" means the total construction value of the project as calculated by the Building & Safety Division using the City's standard commercial and residential valuation formulas.

7.30.190. "Waste Management Plan" means a completed WMP form, approved by the City for the purpose of compliance with this Chapter, submitted by the Applicant for any Covered or Noncovered Project.

7.30.200. "WMP Compliance Official" means the designated staff person(s) authorized and responsible for implementing this Chapter.

### ARTICLE-3 THRESHOLD FOR COVERED PROJECTS

7.30.210. Covered Projects: All construction, demolition, and renovation projects within the City, the total costs of which are greater than or equal to \$100,000 ("Covered Projects") shall comply with this Chapter 7.30. Failure to comply with any of the terms of this Chapter 7.30 shall subject the Project Applicant to the full range of enforcement mechanisms set forth in Article 10, below.

7.30.220. Noncovered Projects: Applicants for construction, demolition, and renovation projects within the City whose total costs are less than \$100,000 ("Noncovered Projects") shall be encouraged to divert at least fifty (50) percent of all project-related construction and demolition debris.

7.30.230. City-Sponsored Projects: All City-sponsored construction, demolition, and renovation Projects, whose total costs are equal to or greater than \$100,000, shall be considered "Covered Projects" for the purposes of this Chapter 7.30 and shall submit a Waste Management Plan to the WMP Compliance Official prior to beginning any construction or demolition activities and shall be subject to all applicable provisions of Chapter 7.30.

7.30.240. Compliance as a Condition of Approval: Compliance with the provisions of this Chapter shall be listed as a condition of approval on any building or demolition permit issued for a Covered Project. Failure to include such a condition shall not relieve the Project Applicant from complying with this Chapter.



## ARTICLE-4 SUBMISSION OF WASTE MANAGEMENT PLAN

**7.30.250. WMP Forms:** Applicants for a plan check involving any Covered Project shall complete and submit a Waste Management Plan ("WMP"), on a WMP form approved by the City for this purpose. The WMP shall be submitted for review with the first plan check of an individual project or at the first check of a residential master plan in the case of a residential project. The completed WMP shall indicate all of the following:

- (1) the estimated volume or weight of project C&D debris, by materials 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 or facility that the Applicant proposes to use to collect or receive that material;
- (4) the estimated volume or weight of C&D materials that will be landfilled; and
- (5) the total square footage of the project.

**7.30.260. Calculating Volume and Weight of Debris:** In estimating the volume or weight of materials identified in the WMP, the Applicant shall use the standardized Conversion Rates approved by the City for this purpose.

**7.30.270 Deconstruction:** In preparing the WMP, applicants for a plan check involving the removal of all or part of an existing structure shall consider deconstruction, to the maximum extent feasible, and shall make the materials generated thereby available for salvage prior to landfilling.

## ARTICLE-5 PERFORMANCE SECURITY

**7.30.280. Time and Amount of Security:** The Applicant for any Covered Project with a total project value greater than or equal to \$1,000,000, shall submit a Performance Security before the issuance of a Building or Demolition Permit. For residential projects, a Performance Security shall be submitted for each phase and shall be calculated using the following formula:  $(\text{Project Square Footage}) \times (60/2000) \times (\$35) + \$2,738$ . This means that the total square footage of the project shall be multiplied by the average waste generation for all projects types per ton, which is 60 pounds per square foot of project. That number shall then be multiplied by Thirty-Five Dollars (\$35) which is the cost of landfilling one ton of material. (This \$35 shall be increased annually on July 1, beginning on July 1, 2001, by the increase in the Engineering News Record Cost Construction Index (20 city average) over the preceding July 1 rate.) That number shall then be increased by the project's portion of the estimated fine per day that the City would incur for violation of AB 939, which is Two Thousand Seven Hundred Thirty-Eight Dollars (\$2,738). This number results from the fact that C&D waste equals thirty percent (30%) of waste disposed in landfill, based on 400 completed projects per year, with a Ten Thousand Dollar (\$10,000) per day fine that the City will pay for the violation of AB 939 for 365 days before achieving 50% diversion  $[(.30 \times (\$10,000 \times 365)) / 400]$ .

**7.30.290. Form of Security:** Acceptable forms of Performance Security include the following: Performance Bonds; Surety Bonds; Money Orders; Letters of Credit; Certificates of Deposit, and Cash.

## ARTICLE-6 REVIEW OF WMP

**7.30.300. Approval:** Notwithstanding any other provision of this Code, no plan check shall be approved for any Covered Project unless and until the WMP Compliance Official has approved the WMP. Approval shall not be required, however, where an emergency demolition is required to protect public health or safety. The WMP Compliance Official shall only approve a WMP if he or she first determines

that all of the following conditions have been met:

- (1) the WMP provides all of the information set forth in Article 4 of this Chapter and
- (2) the WMP indicates that at least fifty (50) percent of all C&D debris generated by the Project will be diverted.

If the WMP Compliance Official determines that all of the above conditions have been met, he or she shall mark the WMP "Approved", return a copy of the WMP to the Applicant, and notify the Building & Safety Division that the WMP has been approved.

**7.30.310. Nonapproval:** If the WMP Compliance Official determines that the WMP is incomplete or fails to indicate that at least fifty (50) percent of all C&D debris generated by the Project will be reused or recycled, he or she shall either:

- (1) Return the WMP to the Applicant marked "Denied", including a statement of reasons, and so notify the Building & Safety Division, which shall then immediately stop processing the plan check, or
- (2) Return the WMP to the Applicant marked "Further Explanation Required."

## **ARTICLE-7 COMPLIANCE WITH WMP**

**7.30.320. Documentation:** Within 30 days after the issuance of a certificate of occupancy, or at the time of issuing the last certificate of occupancy for units within a residential phased project of any Covered Project, the Applicant shall submit to the WMP Compliance Official documentation that it has met the Diversion Requirement for the Project. The Diversion Requirement shall be that the Applicant has diverted at least fifty (50) percent of the total C&D debris generated by the Project via reuse or recycling, unless the Applicant has been granted an Impossibility Exemption pursuant to Article 8 of this Chapter, in which case the Diversion Requirement shall be the maximum feasible diversion rate established by the WMP Compliance Official for the Project. This documentation shall include all of the following:

- (1) Receipts from the vendor or facility which collected or received each material showing the actual weight or volume of that material;
- (2) A copy of the previously approved WMP for the Project adding the actual volume or weight of each material diverted and landfilled;
- (3) Any additional information the Applicant believes is relevant to determining its efforts to comply in good faith with this Chapter 7.30.

**7.30.330. Weighing of Wastes:** Applicants shall make reasonable efforts to ensure that all C&D debris diverted or landfilled is measured and recorded using the most accurate method of measurement available. To the extent practical, all C&D debris shall be weighed by measurement on scales. Such scales shall be in compliance with all regulatory requirements for accuracy and maintenance. For C&D 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 City for this purpose.

**7.30.340.** Determination of Compliance and Release of Performance Security: The WMP Compliance Official shall review the information submitted under Section 7.30.320 of this Chapter and determine whether the Applicant has complied with the Diversion Requirement, as follows:

**7.30.350** Full Compliance: If the WMP Compliance Official determines that the Applicant has fully complied with the Diversion Requirement applicable to the Project, he or she shall cause the full Performance Security to be released to the Applicant within 30 days of the Applicant's submission of the documentation required under Section 7.30.320 of this Chapter.

**7.30.360** Good Faith Effort to Comply: If the WMP Compliance Official determines that the Diversion Requirement has not been achieved, he or she shall determine on a case-by-case basis whether the Applicant has made a good faith effort to comply with this Chapter 7.30. In making this determination, the WMP Compliance Official shall consider the availability of markets for the C&D debris landfilled, the size of the Project, and the documented efforts of the Applicant to divert C&D debris. If the WMP Compliance Official determines that the Applicant has made a good faith effort to comply with this Chapter 7.30, he or she shall release the Performance Security, or a percentage thereof, to the Applicant within 30 days of the Applicant's submission of the documentation required under Section 7.30.320 of this Chapter.

**7.30.370.** Noncompliance: If the WMP Compliance Official determines that the Applicant has not made a good faith effort to comply with this Chapter 7.30, or if the Applicant fails to submit the documentation required by 7.30.320 of this Chapter within the required time period, then the Performance Security shall be forfeited to the City. All forfeited Performance Securities shall be deposited into a special account and used for the purposes of promoting recycling within the City.

## **ARTICLE-8 INFEASIBLE EXEMPTION**

**7.30.380.** Application: If an Applicant for a Covered Project experiences unique circumstances that the Applicant believes 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 WMP required under Article 4 of this Chapter. The Applicant shall indicate on the WMP the maximum rate of diversion he or she believes is feasible for each material and the specific circumstances that he or she believes make it infeasible to comply with the Diversion Requirement.

**7.30.390.** Meeting with WMP Compliance Official: The WMP Compliance Official shall review the information supplied by the Applicant and may meet with the Applicant to discuss possible ways of meeting the Diversion Requirement. Upon request of the City, the WMP Compliance Official may request that staff from the Alameda County Waste Management Authority attend this meeting or may require the Applicant to request a separate meeting with Alameda County Waste Management Authority staff. Based on the information supplied by the Applicant and, if applicable, Alameda County Waste Management Authority staff, the WMP Compliance Official shall determine whether it is possible for the Applicant to meet the Diversion Requirement.

**7.30.400.** Granting of Exemption: If the WMP Compliance Official determines that it is infeasible for the Applicant to meet the Diversion Requirement due to unique circumstances, he or she shall determine the maximum feasible diversion rate for each material and shall indicate this rate on the WMP submitted by the Applicant. The WMP Compliance Official shall return a copy of the WMP to the Applicant marked "Approved for Infeasible Exemption" and shall notify the Building & Safety Division that the WMP has been approved.

**7.30.410. Denial of Exemption:** If the WMP Compliance Official determines that it is possible for the Applicant to meet the Diversion Requirement, he or she shall so inform the Applicant in writing. The Applicant shall have 30 days to resubmit a WMP form in full compliance with Article 4 of this Chapter. If the Applicant fails to resubmit the WMP, or if the resubmitted WMP does not comply with Article 4 of this Chapter, the WMP Compliance Official shall deny the WMP in accordance with Section 7.30.310 of this Chapter.

## **ARTICLE-9 APPEAL**

**7.30.420.** Appeals of a determination made under this Chapter shall be made to the City Council pursuant to Section 1.04.050 of the Dublin Municipal Code and shall be limited to the following issues: (1) the granting or denial of an exemption; (2) whether the applicant has made a good faith effort to comply with the WMP, and (3) the amount of security to be released.

## **ARTICLE-10 ENFORCEMENT**

**7.30.430.** Violation of any provision of this Chapter 7.30 may be enforced by civil action including an action for injunctive relief. In any civil enforcement action, administrative or judicial, the City shall be entitled to recover its attorneys' fees and costs from a person who is determined by a court of competent jurisdiction to have violated this Chapter 7.30.

**7.30.440.** Violation of any provision of this Chapter 7.30 shall constitute an infraction punishable by a fine not to exceed \$100 for the first violation, a fine not to exceed \$200 for the second violation within one year, and a fine not to exceed \$500 for each additional violation within one year. There shall be a separate infraction for each day on which a violation occurs. Where the violation is the failure to achieve the Diversion Requirement applicable to the Project and the C & D materials from the Project have already been landfilled, the violation shall be deemed to have ceased after a period of ten days. The City shall recover costs and attorneys' fees incurred in connection with enforcement of this Chapter.

**7.30.450.** Enforcement pursuant to this Article shall be undertaken by the City through its Community Development Director and the City Attorney.

## **SECTION 3 SEVERABILITY**

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Chapter 7.30, 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 Chapter 7.30 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 Chapter 7.30 irrespective of the 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 Chapter are declared to be severable.

## **SECTION 4 EFFECTIVE DATE AND POSTING OF ORDINANCE**

It is necessary that this ordinance take effect immediately to ensure that the City will meet the requirements of AB 939. Failure to meet these requirements would subject the City to \$10,000 per day in penalties by the Integrated Waste Management Board. Such penalties would be a severe burden on the

City. Diversion of C&D waste pursuant to this Chapter would assist the City in meeting the diversion requirements of AB 939. This ordinance is therefore required for the immediate preservation of the public peace, health and safety, and this ordinance shall take effect immediately pursuant to Government Code §36937(b).

The City Clerk of the City of Dublin shall cause this Ordinance to be posted in at least three (3) public places in the City of Dublin in accordance with Section 36933 of the Government Code of the State of California.

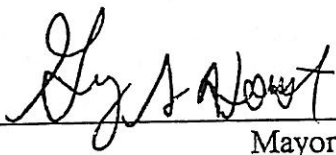
PASSED, APPROVED AND ADOPTED by the City Council of the City of Dublin this 15<sup>th</sup> day of February, 2000, by the following vote:

AYES: *Councilmembers Howard, McCormick, Vice Mayor Lockhart and Mayor Houston*

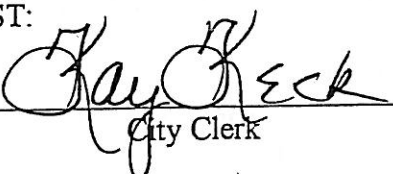
NOES: *None*

ABSTAIN: *None*

ABSENT: *Councilmember Zika*

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk

K<sup>2</sup>/G/2-15-00/ord-constr-demo.doc (Item 6.2)



**RESOLUTION NO. 89 - 08**

**A RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF DUBLIN**

**\* \* \* \* \***

**ESTABLISHING A GOAL OF 75% REDUCTION OF WASTE GOING TO THE LANDFILL BY  
2010 FOR THE CITY OF DUBLIN IN ACCORDANCE WITH THE COUNTYWIDE 75%  
WASTE REDUCTION GOAL**

**WHEREAS**, the California Integrated Waste Management Act of 1989 mandated that every city and county in the State reduce the quantity of solid waste disposed within their jurisdiction and disposed in landfills by fifty percent by the year 2000; and

**WHEREAS**, the City of Dublin has met the 50% waste reduction goal; and

**WHEREAS**, the Alameda County Waste Reduction and Recycling Initiative Charter Amendment (Measure D) established a Countywide goal of 75% reduction of waste going to landfills; and

**WHEREAS**, the Alameda County Integrated Waste Management Plan also established a Countywide goal of 75% reduction of waste going to landfills by 2010; and

**WHEREAS**, the City of Dublin wishes to do its part to help achieve the Countywide goal of 75% reduction of waste going into landfills by 2010 by establishing a similar goal; and

**WHEREAS**, the City of Dublin has adopted a number of policies and programs that support this goal including a Construction & Demolition Ordinance, a Green Building Ordinance, Operational Guidelines for Green Building Practices for the City of Dublin Municipal Operations, an Environmental Purchasing Policy, a Residential Food Scrap Program, a Commercial Recycling Program, and a Curbside Recycling Program.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Dublin does hereby adopt the goal of 75% reduction of waste going to landfills by 2010 for the City of Dublin in accordance with the Countywide 75% waste reduction goal using the existing State of California diversion rate calculation methodology for measurement.

**BE IT FURTHER RESOLVED** that City of Dublin Staff will work with StopWaste.Org to accomplish this goal and present strategies and programs to Council for consideration as necessary.

**PASSED, APPROVED AND ADOPTED** this 3rd day of June, 2008, by the following vote:

**AYES:** Councilmembers Hildenbrand, Oravetz, Sbranti and Scholz, and Mayor Lockhart

**NOES:** None

**ABSENT:** None

**ABSTAIN:** None

**ATTEST:**

  
Deputy City Clerk

  
Mayor

